tional services for exceptional children; to establish a National Clearinghouse on Exceptional Children, and for other purposes; to the Committee on Education and Labor.

By Mr. VANIK (for himself, Mr. CONYERS, Ms. COLLINS of Illinois, Mr. EDWARDS of California, Mr. HARRINGTON, Mr. MOAKLEY, Mr. RODINO, Ms. SCHROEDER, and Mr. WON PAT):

H.R. 12621. A bill to amend the Internal Revenue Code of 1954 to provide for an energy conservation tax and an increase in the tax on gasoline, to establish the Energy Development and Supply Trust Fund, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 12622. A bill to authorize certain revenues from leases on the Outer Continental Shelf to be made available to coastal and other States; to the Committee on the Judiciary.

By Mr. YOUNG of South Carolina:

H.R. 12623. A bill to repeal the Daylight Savings Act of 1973; to the Committee on Interstate and Foreign Commerce.

By Mr. RHODES (for himself, Mr. ADDABBO, Mr. BELL, Mr. BIESTER, Mrs. BOGGS, Mr. BRINKLEY, Mr. CARTER, Mr. DENT, Mr. DAN DANIEL, Mr. DOMINICK V. DANIELS, Mr. FRENZEL, Mr. HINSHAW, Mrs. HOLT, Mr. GAYDOS, Mr. LOTT, Mr. MARTIN of North Carolina, Mr. MILLER, Mr. REGULA, Mr. ROBINSON of Virginia, Mr. RUNNELS, Mr. STARK, Mr. SYMINGTON, Mr. WHITE, Mr. WHITEHURST, and Mr. WINN):

H.J. Res. 891. Joint resolution to authorize and request the president to issue annually a proclamation designating the fourth Sunday of November each year as "National Grandparents' Day"; to the Committee on the Judiciary.

By Mr. RHODES (for himself, Mr. YOUNG of Florida, and Mr. ZWACH):

H.J. Res. 892. Joint resolution to authorize and request the President to issue annually a proclamation designating the fourth Sunday of November each year as "National Grandparents' Day"; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. DEVINE):

H.J. Res. 893. Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC–43 (Sub-No. 2); to the Committee on Interstate and Foreign Commerce.

By Mr. CARTER:

H. Con. Res. 426. Concurrent resolution to extend the congratulations of the Congress on the 100th anniversary of Eastern Kentucky University's role in higher education; to the Committee on the Judiciary.

By Mr. DUNCAN:

H. Res. 813. Resolution providing for the disapproval of the recommendations of the President of the United States with respect to the rates of pay of offices and positions within the purview of the Federal Salary Act of 1967 (81 Stat. 643; Public Law 90–206) transmitted by the President to the Congress in the budget for fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. DULSKI:

H. Res. 814. Resolution providing for funds for the investigations and studies authorized by House Resolution 180; to the Committee on House Administration.

By Mr. ANDREWS of North Carolina:

H. Res. 815. Resolution to amend the Rules of the House of Representatives to establish as a standing committee of the House the Committee on Energy, and for other purposes; to the Committee on Rules.

By Mr. BRAY (for himself, Mr. HUDNUT, Mr. MAYNE, and Mr. DENNIS):

H. Res. 816. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. BROTZMAN:

H. Res. 817. Resolution disapproving the recommendations of the President with respect to the rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. GROSS (for himself, Mr. DENNIS, Mr. HILLIS, Mr. ZION, Mr. DEVINE, Mr. CLANCY, Mr. WYLIE, Mr. MONTGOMERY, and Mrs. HOLT):

H. Res. 818. Resolution in support of continued undiluted U.S. sovereignty and jurisdiction over the U.S.-owned Canal Zone on the Isthmus of Panama; to the Committee on Foreign Affairs.

By Mr. HUNT:

H. Res. 819. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H. Res. 820. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. PETTIS:

H. Res. 821. A resolution disapproving the recommendations of the President with respect to the rates of pay of Members of Congress transmitted to the Congress in the appendix to the budget for the fiscal year 1975, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ICHORD (for himself, Mr. DENT, Mr. ASPIN, Mr. BURGENER, Mr. GIAIMO, Mr. MATHIAS of California, Mr. MURPHY of New York, Mr. BAKER, Mr. FAUNTROY, Mr. DINGELL, Mr. ROBINSON of Virginia, Mr. WOLFF, Mr. METCALFE, Mr. TAYLOR of North Carolina, Mr. FLOWERS, Mr. JOHNSON of California, Mr. SLACK, Mr. BROYHILL of North Carolina, Mr. CARTER, Mr. GROSS, Mr. STRATTON, Mr. GUYER, Mr. PRICE of Texas, Mr. RYAN, and Mr. WALDIE):

H. Res. 825. Resolution declaring the sense of the House with respect to a prohibition of extension of credit by the Export-Import Bank of the United States; to the Committee on Banking and Currency.

By Mr. MAYNE:

H. Res. 826. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H. Res. 827. Resolution disapproving the recommendations of the President with respect to the rates of pay of Federal officials transmitted to the Congress in the budget for the fiscal year ending June 30, 1975; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII,

346. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to consideration of the needs of the physically handicapped in the formulation of a gasoline rationing plan; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BROYHILL of Virginia:

H.R. 12624. A bill for the relief of Branislav Maksimovich; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 12625. A bill for the relief of Gabor and Susan Domokos; to the Committee on the Judiciary.

By Mr. SCHERLE:

H.R. 12626. A bill for the relief of Lt. (junior grade) Charles W. Baker, Medical Service Corps, U.S. Navy; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska:

H.R. 12627. 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 the American fisheries; to the Committee on Merchant Marine and Fisheries.

By Mr. WHALEN:

H. Con. Res. 427. Concurrent resolution in recognition of the 100th anniversary of Sigma Kappa Sorosity; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

389. The SPEAKER presented a petition of Anne C. Martindell, Princeton, N.J., relative to impeachment of the President; to the Committee on the Judiciary.

SENATE—*Tuesday, February 5, 1974*

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

PRAYER

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

Our Father God, we need Thee every hour of every day. We need Thee not alone in difficulties or in crises but in the solitary moment and in daily work. As we open our hearts to Thee, wilt Thou enter our hearts afresh to give new power for new tasks. Show us Thy will for our times. In this quiet moment we plead—"Speak, Lord; for Thy servant heareth" (I Samuel 3:9), and hearing Thee, may we obey.

We pray in His name who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 5, 1974.

To the Senate:

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

JAMES O. EASTLAND,
President pro tempore.

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

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I understand that the Senate has convened in executive session. I therefore ask unanimous consent that the Senate return to legislative session and that at the hour of 11 o'clock a.m. today the Senate go back into executive session.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, February 4, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader desire recognition at this time?

Mr. HUGH SCOTT. Mr. President, I yield back my time.

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Wisconsin (Mr. PROXMIRE) for not to exceed 15 minutes.

PROXMIRE SALT II PROPOSAL

Mr. PROXMIRE. Mr. President, it is apparent that the Secretary of Defense would welcome a public dialog on the strategic relationship between the United States and U.S.S.R. In the weeks to come I intend to speak several times on various aspects of this relationship. I invite my colleagues to join with me in sounding out new ideas and proposing bargaining strategies. I hope such a discussion can be joined without recourse to politics or inflexible ideology. It is a time for thoughtful inspection of the issues.

Today I will look at several stark questions facing the SALT II negotiations. Let me say at the beginning that the following concepts and conclusions are not intended to be taken as absolutes. They are only a starting point.

WHAT IS THE U.S.S.R. DOING TO INCREASE ITS LAND-BASED STRATEGIC POWERS?

Mr. President, I do not take recent Soviet advances in missile technology lightly. But neither do I jump to unwarranted assumptions. First let us look at the facts.

The present Soviet land-based force is composed of 1,010 SS–11's, 60 SS–13's, 288 SS–9's, 209 SS–7's and SS–8's for a total of 1,567. The SS–11's, 13's, and SS–9's could be called second generation missile systems following on the heels of the first Soviet ICBM's based on the SS–6, 7, and 8.

In addition there are 51 unfilled silos which eventually could contain some 20 SS–11, which are still being deployed and 31 other missiles. These 51 silos plus the 1,567 total already deployed yields the 1,610 numerical limitation imposed by the interim agreement.

In addition to these previous deployments and silos, the U.S.S.R. has an extensive research and development program underway in land-based missiles. In fact they have four distinct missile systems in flight testing stage simultaneously. This must be an extraordinarily expensive program. I estimate that if the United States had four missile programs in flight testing at the present time it would cost about $2 billion a year.

It appears that the U.S.S.R. is testing missiles to replace the SS–9, SS–11, and SS–13, their 3-second generation systems. To replace the SS–9, a SS–X–18 two-stage liquid missile has been tested. The SS–X–17, a two-stage liquid missile and the SS–X–19, also a two-stage liquid missile, are being examined as replacements for the SS–11. Most likely, only one of these will be deployed. The follow-on to the three-stage solid propellant SS–13 is the SS–X–16, also a solid propellent system that is speculated to have a mobile capability.

All of these new missiles but the SS–X–16 have been tested with the multiple independently targeted reentry systems—MIRV. The SS–X–18 has been tested with six MIRV warheads of about 1 megaton each. The SS–X–17 and SS–X–19 have smaller reentry vehicles; four for the former and an undetermined number for the latter. The SS–X–17 carried the first true Soviet MIRV system. The SS–X–16 probably is also MIRV capable but no tests have yet been confirmed.

Soviet MIRV technology has changed dramatically from the rudimentary tests first begun in August of 1968 which were actually unguided reentry vehicles. Even though high U.S. defense officials called these triplet tests a MIRV system, most U.S. experts knew better. Now, however, the U.S.S.R. is using onboard computers which give a true MIRV capability much like the first U.S. MIRV tested in August 1968 on the Poseidon and Minuteman III. Furthermore, the new MIRV missiles have a greater throw-weight than those they will replace.

SHOULD THE UNITED STATES BE SURPRISED AND ALARMED BY THESE PROGRAMS?

With these public facts as the backdrop, the primary question should be "Just how threatening are these programs—should we be in the panic suggested by recent columnists?" Concern? Yes. But panic—absolutely not.

Anyone who suggests that these developments are totally unexpected is a victim of his own lack of foresight. First, the Soviets told us bluntly during and after the SALT I negotiations that they would continue to pursue every program not explicitly limited by the interim agreement.

Second, to suggest that the new Soviet programs are alarming is to overlook the historical factors implicit in Soviet research and development programs. It is my opinion that the Soviet research and development effort is locked into certain conservative design and testing practices. They are patient to the point of absurdity. They will test a bad system time after time until they get it to work. They hang onto obsolete concepts. They have a bias toward upgrading in size instead of technological change. They are faced with terrible institutional and bureaucratic constraints.

These Soviet missile programs were not initiated overnight. They were conceived in some cases before SALT I negotiations began and now they are continuing in part for the reasons listed above—institutional and conservative design commitments above and beyond the normal military and political pressures.

Therefore, I reject the call to panic being sounded in certain quarters. It should be pointed out that the Secretary of Defense has clearly indicated that the Soviet MIRV program has not caught us by surprise, nor has their research and development on new missiles. Only the breadth of the programs has posed serious questioning of intent and capability.

SOVIET WEAKNESSES

Now I would like to point out the deficiencies in the Soviet missile program. Too often we only hear about Soviet successess and not the failures. There is a feeling that the U.S.S.R. is moving with amazing speed and outpacing the United States in every field. Such simply is not the case.

First, it should be kept in mind that the Soviet MIRV program is a number of years behind the United States both in basic MIRV technology and in missile accuracy. True Soviet MIRV testing only began in 1973, 5 years after comparable U.S. efforts. U.S. MIRV deployment began in 1970 with the Minuteman III while the U.S.S.R. has yet to deploy any. Current projections indicate a Soviet deployment beginning in 1975 with a number equal to the United States in the ground by 1979 or later. Therefore, Soviet initial deployment will follow United States by 5 years but this gap will likely close through the deployment years.

Second, we should not overlook the difficulties of MIRV technology. U.S. programs have not proceeded without problems, some of them quite severe. Warhead packaging, especially in small sizes, requires advanced atomic energy techniques. Guidance requires sophisticated computer technology—an area in which the Soviet Union badly lags behind the

United States. Furthermore, there are reliability problems at launch, inflight, and in terminal phases. The U.S. Mark III has experienced extreme difficulties in the latter. In short, the Soviets have a long road ahead of them and we should resist the temptation to assume that all their programs will move smoothly.

Third, the Pentagon has been claiming that the Soviets had a MIRV capability since 1969. Finally, fact has caught up with fiction.

It should also be pointed out that after a certain point, MIRV accuracy improvement becomes extremely difficult and expensive. Corrections have to be made for gravitational aberrations and wind shear. While it is possible to develop a highly accurate MIRV, it is very, very difficult and the U.S.S.R. is far from this state-of-the-art.

WHERE DOES THIS LEAVE SALT II?

Having taken a look at both sides of the question of current Soviet programs, it is now appropriate to ask where does this lead us in the short, medium, and long run? My answer is that over the short run, for the period of the interim agreement terminating in 1977, there is no danger. Over the medium period, through the early 1980's, there is no cause for panic but certain tendencies are of concern. Over the long run, we could be in trouble if corrections are not embodied in a new agreement.

Let us look first at the Soviet viewpoint:

The Soviets see the United States with a significant lead in MIRV technology. A Soviet planner would say not only is the US MIRVing its 550 land based Minuteman IIIs but it could go on to MIRV the entire force of 1,000. Furthermore they (the US) have 31 Poseidon submarines with 10–14 MIRVs per missile while we (the USSR) have nothing similar and are not even testing a sea based MIRV. The US ABM is more sophisticated than the Moscow system and research is continuing on the Site Defense System which looks like the US intends to abrogate the Interim Agreement.

The B–1 bomber will be more advanced than any Soviet aircraft and the SRAM missiles the US aircraft carry are most effective. We (the USSR) have nothing to compare with the B–1. And the US is not sitting still. They are pressing the state of the art with their enormous technical competence in the ABRES program where warhead accuracy is improved and maneuvering warheads already have been tested.

The Trident program has been accelerated indicating that the Americans are conducting a crash program in sea based weapons. And, of course, they lead in anti-submarine warfare.

This is all not to mention one of the most dangerous US capabilities of all, the thousands of land and sea based aircraft stationed around the periphery of the USSR that can carry nuclear payloads well into the country. Leningrad for example is only minutes away from US tactical strategic aircraft in Germany.

US aircraft carriers roam the oceans and we know they carry nuclear weapons even if their mission allegedly is tactical. Everything the US is doing is provocative. It looks like they are preparing for a new arms race once the Interim Agreement is up in 1977.

Such might a conservative Soviet military planner say.

From the U.S. viewpoint, there is a danger that Soviet land-based programs will eventually combine numbers with MIRV technology to form a force of 6,000 to 7,000 high-yield, accurate warheads exceeding by an order of magnitude the 1,054 U.S. ICBM's. While the United States has intentionally deployed only low-yield warheads in order to avoid any appearance of a first strike capability, Soviet programs are not so constrained.

These not unexpected Soviet developments are important milestones and could constitute a major counterforce threat against U.S. land-based strategic missiles.

The United States entered into the interim agreement on strategic arms offensives, willing to accept certain quantitative discrepancies because of our qualitative advantages, but as the U.S.S.R. closes the technological gap, the waning nature of our advantage is demonstrated. This reduction of our relative qualitative advantage is such as to erode our relative qualitative advantage. Such is the honestly held and logical feeling of many U.S. military experts.

IS THERE ANY WAY OUT?

The problems facing the U.S. negotiators at SALT II are real. Undoubtedly the U.S. team has prepared a negotiating position that is sound. What, then, can a Member of Congress contribute?

The following proposal, which I will offer in a minute, is not designed to be a complete or entirely satisfactory solution. The problems are too complex for that. But this proposal does one important thing. It says clearly that it is time to have a reduction in land-based missiles—the most threatening element of the strategic relationship. Steps must be taken to bring a systematic and orderly cutback in land-based missiles. We must start now before the pressures on both sides grow so enormous that any cutback is unacceptable. To wait is to let the future be decided by fear rather than planning.

THE PROXMIRE PROPOSAL

The crucial element in any land-based arms control after SALT I is the balancing of Soviet quantity for U.S. quality. We must reach some point where the two are relatively equal. Senator JACKSON has proposed a reduction to 800 land-based missiles. While I support that position, I think it is extremely unlikely that the Soviet Union would agree to immediately cut its missile force by 818 while the United States only reduced by 254. On the face of it, this does not look reasonable.

Somehow, certain crossover points must be found where U.S. technology is matched by Soviet technology but Soviet numbers are lowered to U.S. levels. This cannot be done instantaneously, because it takes time for technology to develop and time for missile systems to be disbanded. The exact timing of such a balanced phase-down will be debated by the specialists, and there may be many crossover points.

However, I propose an arrangement involving a 7-year asymmetrical percentage reduction in land-based missile forces. Beginning with the 1,054 U.S. land-based missiles, 10 percent of the remaining U.S. force would be reduced yearly, leaving 505 after 7 complete cycles. Since the Soviet Union starts from a higher level permitted by SALT I of 1,618 land-based missiles, their reduction would be only 15 percent of remaining forces over 7 years, resulting in a total of 504 missiles. The following chart shows the year-by-year reductions.

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

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

7-YEAR ASYMMETRICAL PERCENTAGE REDUCTION IN LAND-BASED MISSILES[1]

Yearend	United States (10 percent)	Soviet Union (15 percent)	Gap
	1,054	1,618	564
1	949	1,375	426
2	854	1,169	315
3	769	994	225
4	692	845	153
5	623	698	75
6	561	593	32
7	505	504	1

[1] Computed on constant percentage reduction of remaining forces.

Note: Additional restraints: 1. MIRV limitation; 2. Large silo limitation.

Mr. PROXMIRE. It should be emphasized that a year-by-year approach provides certain advantages. First, it permits the deliberate and continual reinforcement of yearly action. Each side can check for compliance with the assurance that a violation would not entail any immediate danger to national security, since the numbers would be small.

Second, it provides the timing necessary for Soviet technology to catch up with us in terms of MIRV—a technology they are determined to acquire in any event—only now the United States would control the timing to some degree.

Third, the asymmetrical reduction would bring the numbers in line, thus permitting the numbers-quality trade off, to be reached in a calculated step by step procedure.

This arrangement cannot stand alone. It has to be reinforced by certain other agreements. There would have to be a large silo limitation similar to the SALT I number. And there would have to be some agreement on the potential MIRVing of the smaller forces on both sides. Neither of these problems is insurmountable.

It may be that after a number of years of mutual reinforcement, the two countries will decide to reduce land based missiles to an even lower level. That is one of the potential benefits from a graduated reduction schedule. In any event, it would reduce the pressure in both countries to rapidly procure and deploy new strategic systems in quantity. Undoubtedly, both sides would end up with a small modern land-based missile force, but the numbers would be far lower than today.

PITFALLS

No proposal is without pitfalls. Several important caveats should be examined. For example, it may be that the military pressures on both countries are too great

for any reduction and that arms control can only be reached at successively higher levels of nuclear weaponry. While this is a strange thought to some, including myself, it has been considered as a necessary evil by others.

There is also the possibility that counterpart programs are forcing the arms competition—that U.S. research forces the Soviet Union to assume the worst and develop their own programs while the converse happens in this country.

We must also guard against the mirror imaging effect. We cannot always assume that our technology or doctrine is the perfect mirror of the other nation.

There is the fear that any proposal for dramatically reducing the number of land-based missiles will have undesirable side effects from the standpoint of making the remaining smaller missile forces more vulnerable. If the Triad is retained, as I believe it should be, this fear can be dispelled, for there is enough sea-based assured destruction capability or sufficiency, or essential equivalence—call it what you want—to predetermine any outcome.

This leads to another theoretical problem, that of forcing a sea-based arms race. If land-based missiles are reduced, the proposition goes, it will simply force both countries to complete all-out at sea and no real problems will be solved. While there is some truth to this, I believe the stability resulting from a land-based phasedown would be far more substantial than any anticipated fears regarding a new sea-based arms race.

It has also been mentioned that the U.S. Air Force and the Soviet SRF would object to any phase down for bureaucratic reasons. I find this quite likely. In such a case, national interest will have to prevail perhaps sweetend by providing the "hurt" service with certain other obligations to fulfill.

This is only a partial list of the many complex issues associated with a land-based phase down but it can be observed that there are no easy answers. In such cases it often is best to seize the initiative and move cautiously but firmly. That is the essence of my proposal.

Mr. President, at a later date I intend to discuss other matters of interest in the debate over nuclear sufficiency; namely, the newly reaffirmed interest in assigning military targets to U.S. missile forces. This, too, plays an important role at SALT. In the meantime, I urge the SALT negotiators to consider limited phase-down proposals, and I urge my fellow Members of Congress to recognize the extent of the Soviet land-based programs but not to react with alarm. Furthermore, I call upon the Soviet Union to show restraint in its SALT proposals and energetic testing programs.

Mr. MANSFIELD. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield.

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Wisconsin for initiating a debate on questions which are of primary import at the present time.

Frankly, I am somewhat disturbed by the lack of progress being made in the SALT II talks. It is my understanding that the terms laid down by the Soviet Union are terms which we cannot even consider, nor can they be considered as a basis for further discussion. Perhaps that will change.

I am in accord with what the distinguished Senator says. I do not believe that the answer is in arms limitation so much as it is in arms reduction. That is the trend of the Senator's thinking, and that is one way, in my opinion, in which we could bring about a reduction in expenditures by both countries—reductions which could be used for constructive purposes rather than potentially destructive purposes, reductions which would benefit the people of both nations and the world, reductions which would take off our backs this onerous burden which afflicts us to such a great degree and seems to be spiraling up and up all the time.

So I commend the distinguised Senator. I am glad that this is only the first in a series, and I look forward to listening to what else he has to say in the days and weeks ahead.

Mr. PROXMIRE. I thank the distinguished majority leader. He has put his finger on exactly what can motivate this kind of program successfully. I did not put as much emphasis on it as I might have.

We are all aware of our $304 billion budget and the enormous burden it puts on the American people, with its inflationary impact. We should try to work with the Soviet Union to get a mutual reduction. They have an even stronger economic incentive than we have. Their country is only half as productive as ours, their population is bigger than ours, and so their arms burden in relation to their needs is much heavier than ours. I think this constitutes a clear community of interest which should help us achieve progress, if we pursue it with patience and determination.

I thank the distinguished majority leader.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the Chair recognizes the distinguished Senator from Iowa (Mr. HUGHES) for not to exceed 15 minutes.

THE PENTAGON-NSC SPY MYSTERY: FULL INVESTIGATION IS ESSENTIAL

Mr. HUGHES. Mr. President, no objective is more important to the preservation of our democratic system than the vigilant maintenance of civilian control over our military establishment.

No force poses a greater threat to civilian control than the obsession for secrecy in government beyond the rational needs of national security.

When circumstances are brought to light wherein there is evidence to believe that the highest echelons of the military have been spying on the highest echelons of our civilian command and the civilian command has determined that it is necessary to retaliate with intraagency counterespionage against our top military brass, we have a situation that demands full public investigation and not casual coverup.

Such a situation confronts us at this time, and this is why I have taken the floor today to express my concern to my colleagues in the Senate and the people of this country.

In the past 2 years, as a member of the Armed Services Committee, I have pressed for, and received, detailed investigations of serious charges of military misconduct and the breakdown of our command and control system in the war in Southeast Asia. The distinguished chairman of that committee (Mr. STENNIS) and last year's distinguished acting chairman (Mr. SYMINGTON) have cooperated fully and displayed strong leadership in getting at the truth about General Lavelle's secret war and the clandestine Cambodia bombing. I am deeply grateful to them and to the members of the committee.

Now we have another matter which I believe deserves their full attention and the attention of the Nation. As has been my custom in the past, I want once again to report to the full Senate on a matter that I consider to be of the utmost urgency to our national security and to the preservation of our freedoms.

As you know, over the past several months, there have been news reports alleging the attempted subversion of our decisionmaking processes through illegal spying and the theft of highly classified documents. At first, these were suppressed by the high officials of our Government as being too sensitive to our national security to delve into. More recently, they have been dismissed by these same officials as being inconsequential and simply the result of "overexuberance and some impropriety" on the part of "overzealous men" who held no positions of real authority.

Events that are as yet only partially revealed appear at times like Gilbert and Sullivan operetta and at times like high tragedy. But whether ludicrous or ominous, they bear upon the highest decision levels of our Government and cannot be casually explained away. We cannot afford to jeopardize our free system any more by accident than by evil design.

As a consequence, the time has come to get the core of the strange, covert struggle for information that appears to have taken place between the Pentagon and the White House over a period of years.

News reports in recent weeks have begun to peel off the leaves of the artichoke, but we still do not know how close we are to the heart.

These reports say that military men surreptitiously obtained and secretly forwarded to the Chairman of the Joint Chiefs of Staff highly classified documents on U.S. diplomatic strategy in 1970 and 1971. Admiral Moorer has admitted receiving such documents, but he says took no special notice of them.

Press accounts also say that the so-called plumbers group investigated news leaks of classified information and uncovered an organized network of military

spying on civilian officials. Official explanations of these reports have been cut off behind a curtain of national security.

Last year the President admitted that news leaks prompted the wiretapping of the home phones of several U.S. officials, including some with no access whatsoever to national security information, as well as taps on the phones of several newsmen.

Now we know that the internal spying was far more widespread than originally admitted. There is at least one report of counterspying by civilian officials who tapped the phone of the Secretary of Defense's military assistant, Gen. Robert Pursley.

Months ago, the White House moved to forestall further investigation into this matter, stating that it was serious, highly sensitive, and would be damaging if revealed. News reports indicated that it was too sensitive to national security for the Watergate Committee to deal with.

Now the official version has changed. The Secretary of Defense says that the stories are "blown out of all context." Admiral Moorer reportedly dismisses that matter as the result of overzealousness by low-ranking personnel.

Since when have we been so cavalier about matters involving the highest, most sensitive affairs of the state? If the top agencies of our Government cannot trust one another, how can we expect the American people to trust their Government?

We need to get at the truth. If this incident was merely a minor indiscretion by one enlisted man, there should be no objection to prompt and full disclosure—before public suspicion is further inflamed by persisting attempts to cover up.

If, on the other hand, this was a serious subversion by the military of duly constituted civilian authority, then Congress and the public need to know that this spy network has been purged and reassured that civilian supremacy has been reestablished.

A thorough investigation will take valuable time and effort, Mr. President. I am mindful of the many other urgent matters that demand our attention, both in the Armed Services Committee and in the Senate.

But tell me if there is any greater priority than the insuring the civilian control of our Government? A few weeks in February may save us in some future time from "Seven Days in May."

When these news stories first appeared, I wrote to Chairman STENNIS of the Armed Services Committee, as follows:

I am sure that you and the other members of the committee are as upset as I am about recent news reports alleging that there has been military spying on civilian officials in high echelons of our Government. The Lavelle and Cambodia bombing investigations revealed serious problems in the command and control and reporting systems in the military. However, these new allegations raise the even more dangerous implication of an established system of military penetration of civilian command and policy structures in flagrant disobedience of civilian authority.

"In order for the committee to exercise its oversight responsibilities on the Defense Department, as well as to obtain the information necessary to judge the need for correction legislation vis a vis the chain of command and the protection of classified information, I believe the committee has the responsibility to investigate these recent allegations fully."

As a first step, I suggested the calling of Admiral Moorer and Secretary Kissinger, which the committee has now done by scheduling a closed hearing tomorrow. In a subsequent letter, I pointed out that we have learned from past experience not to be satisfied with initial denials or superficial explanations from only two or three people, regardless of who they are. We need to hear from all of the witness who can provide the relevant facts to enable us to put the puzzle together.

It was in this way that we uncovered the whole truth about the secret war in Cambodia and about the unauthorized bombing and falsified reports ordered by General Lavelle.

It is my hope that the Armed Services Committee staff will be directed to develop information and potential witness lists to answer the following major questions:

Were the Joint Chiefs denied information essential to their role in protecting our national security?

Did military personnel use surreptitious means to provide highly sensitive information to unauthorized persons? If so, to what extent is this an established and ongoing practice of the military?

What procedural changes and disciplinary actions were taken when these practices were discovered?

Did the plumbers operation uncover facts about unauthorized disclosure of classified information which would be useful to the committee in formulating legislation to assure the security of legitimate secret information?

On the basis of news reports alone, I think it is clear that we need to question Mr. David Young and see his report on this investigation. We should also hear from Adm. Robert O. Welander and PO Charles F. Radford, who were said to have obtained the documents. Navy Capts. Harry D. Train II and Arthur K. Knoizen, alleged recipients of the purloined documents on behalf of Admiral Moorer, should also be called, as should W. Donald Stewart, Inspector General of the Defense Investigative Service. I think that General Pursley may also have information on the alleged counterspying by civilian officials.

While I recognize that some of the matters involved in this case may deserve classification, I believe that the bulk of the information can be and should be presented in open sessions of the committee. After all, Admiral Moorer and Secretary Kissinger have already provided brief statements for the committee which are not classified for security reasons. Moreover, we are investigating something which hopefully ended more than 2 years ago and thus involves no currently sensitive matters and I say "hopefully."

The experience last summer was highly constructive, in my view, when we had thorough, open hearings on the secret Cambodia bombing. Though these matters had been secret when they were taking place, administration officials found no reason at that time not to be frank and revealing in open sessions.

What is at stake here, once again, is the credibility and trustworthiness of our most trusted officials. If some of these men were involved in clandestine tactics which subverted our free system of civilian-controlled Government, we need to know it and prevent it from recurring.

We also need to know what, if any, disciplinary action has been or will be taken.

Mr. President, I do not question the integrity or patriotism of our military leaders. I know that they want and need explicit guidance from civilian authorities if they are to develop policies and programs which are consistent with our diplomacy.

But we all should know, from bitter experience, that there is a tendency toward tunnel vision in the bureaucracy, and that the national interest is sometimes confused with a department or agency's special interest.

Perhaps it is time once again to remind our people and our military leaders of what Maj. Hal Knight told the Armed Services Committee last July when he came forward to tell about the secret Cambodia bombing and the falsified reports used to conceal it. Major Knight said:

I didn't take an oath to support the military; I took an oath to support the Constitution.

Mr. President, at a time when the major percentage of the peoples of the world live their lives in lock-step to the marching orders of dictators or juntas, it is well to remind ourselves that today, as in the early days of this beloved Republic, "eternal vigilance is the price of liberty."

Mr. President, I ask unanimous consent that the various news reports about alleged spying by military personnel on civilian officials of our Government be included in the RECORD.

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

[From the Chicago Tribune, Jan. 12, 1974]

SECURITY LEAKS CONFIRMED: WHITE HOUSE BLAMES KISSINGER STAFF CLERK

(By Jim Squires and Jon Margolis)

WASHINGTON, January 11.—The White House confirmed today that top-secret information was deliberately being leaked from the National Security Council in 1971, but blamed it on a low-level clerical employe.

The statement was issued at the Western White House in San Clemente, Cal., in response to a Tribune story which reported that a 1971 White House probe had uncovered a spying operation by top-ranking military officials against National Security Adviser Henry Kissinger.

The White House statement did not dispute The Tribune's account, saying only that it conveyed "an incorrect impression" about the "knowledge and actions" of Adm. Thomas Moorer, chairman of the Joint Chiefs of Staff. The Tribune story said a "spy" within Kissingers NSC staff was passing information to the Joint Chiefs including Moorer.

"Today's news accounts relating to the Joint Chiefs of Staff and National Security

Council touch on a matter peripheral to a national security issue which was found to involve deliberate leaks to the media of extremely sensitive information of interest to other nations," the statement said. ". . . For the present . . . the most that can be properly stated is that today's news accounts convey an incorrect impression of the knowledge and actions of the chairman of the Joint Chiefs of Staff; that the matter was investigated at the time, that the source of these leaks was a low level employe whose clerical tasks gave him access to highly-classified information and that today's news stories are based on fragmentary accounts of the incident."

Pentagon sources said the employe referred to was a Navy enlisted man who worked for Rear Adm. Robert O. Welander, then Moorer's national security assistant and liaison with the NSC.

Other sources familiar with the 1971 investigation said the enlisted man was accused of passing information which eventually was leaked to newsmen in early 1971.

These sources added, however, that the White House probe also resulted in informal allegations of "interoffice spying activities" against several higher-ranking officials, including Moorer.

While the White House statement said The Tribune's story was based on "fragmentary accounts," it neither confirmed nor denied the report that a military spy operation existed.

ABC News reported tonight that Gen. Alexander Haig Jr., Kissinger's deputy at NSC and now White House chief of staff, played a key role in transferring information to the JCS. It said Haig denied any complicity. But when asked if he had encouraged anyone else to pass information to the military, ABC quoted Haig as replying: "Not intentionally. But I cannot be responsible for others misreading my position."

The sources said that Welander was quietly transferred in early 1972 as a result of the probe and given a series of "minor" commands, including a cruiser-destroyer flotilla that was scheduled to be decommissioned in two months. Now an assistant deputy chief of naval operations for planning and policy, Welander could not be reached for comment today. A Navy information officer said Welander would make no statement.

An administration source said Welander, who came to the NSC staff in April, 1971, "left abruptly" after the leak of top secret information to columnist Jack Anderson in late 1971. The documents quoted by Anderson disclosed that President Nixon and Kissinger were pursuing a secret policy favoring Pakistan in the Pakistan-India conflict while the U.S. maintained a "neutral" position publicly.

The source added, however, that he knew of nothing to implicate Welander in the military spying operation and suggested he may have only been a "sacrifice" to quell the controversy.

The clerical employee mentioned by the White House, these sources said, was later specifically accused of passing the information to Anderson.

The White House probe, conducted by the plumbers investigative unit under White House aide John Ehrlichman, were assigned in July, 1971, to trace down a series of leaks of sensitive information to the news media.

Sources familiar with the investigation have told The Tribune that results of this probe included allegations that some military officials had been eavesdropping and spying within the National Security Council in an effort to keep up with the secret strategy being pursued by Nixon and Kissinger.

One former government official said the joint chiefs specifically were upset by a Kissinger decision to bypass the military with some sensitive intelligence information and, in some instances, the pursuit of foreign policy goals with which they disagreed.

The sources suggested, for example, that it was in the military's interest that the secret Pakistan position be disclosed because the military, specifically the Navy, preferred the U.S. to "tilt" toward India because it wanted to establish a base in the Indian Ocean.

Another insider pointed out that the July 23, 1971, leak of the U.S. fallback position in the Strategic Arms Limitation Talks was also in the interest of some military officials, who opposed the limitations being proposed.

Moorer, in a statement, termed "ridiculous" and "ludricrous" any suggestion that he ever received any information thru anything other than authorized channels. He said he had never been denied access to any information by Kissinger.

The White House has previously acknowledged the role of the plumbers in investigating the SALT leaks and disclosure of the Pentagon Papers by Daniel Ellsberg, including a burglary of Ellsberg's psychiatrist's office. However, it had refused publicly, until today, to disclose the nature of the Plumbers' investigation into the military leaks from the NSC.

Ranking members of the Watergate committee and the House and Senate Armed Services Committees have been briefed on the matter, as have former Special Prosecutor Archibald Cox and his successor, Leon Jaworski. Some officials who have been briefed have privately confided they see no national security implications and have urged Nixon to make the full story known.

The White House statement today said the administration "still considers it inappropriate for public disclosure," but that "it may be that at a later time the facts can be made public without detriment to the national interest."

[From the Chicago Tribune, Jan. 13. 1974]

SECRETS LEAKED TO MOORER

(By Jon Margolis and Jim Squires)

WASHINGTON, January 12.—An angry President Nixon wanted to fire Adm. Thomas Moorer, chairman of the joint chiefs of staff, in 1971 after White House spies told him that military spies were spying on Henry Kissinger.

Kissinger, now United States secretary of State, was Nixon's national security adviser in 1971.

This account, obtained independently from two separate sources, appears to substantiate reports from other sources that the White House Plumbers had produced evidence indicating unauthorized information was passed to Moorer and other military officials.

It is not known what changed President Nixon's mind, but the answer appears to lie in facts surrounding the investigation still being kept secret by the White House as a national security matter.

Altho it would not deny the reports of a military spying and eavesdropping operations within the National Security Council, the White House suggested Friday that a Navy enlisted man, identified as Yeoman IC Charles Radford, was solely responsible for deliberate leaks of classified information. Radford, now in an Oregon naval reserve unit, could not be reached for comment.

According to accounts of the military spying operation supplied The Tribune, some of the information obtained by military spies later leaked out to the press. It was to find the sources of these leaks that Nixon established the "Plumbers" unit in 1971.

The White House explanation about the enlisted man also does not explain why Moorer's representative to Kissinger's staff, Rear Adm. Robert O. Welander, abruptly left the National Security office early in 1972. Welander was reassigned to a series of flotilla commands in the Washington area.

Despite apparent inconsistencies, high-level White House aides were offering no explanations today. Senior White House officials contend that providing details would risk national security.

"It is impossible to explain this to you," said one top official, "because even the explanation is classified."

But attempts to push aside the cloak of national security are being made by both the Senate Watergate committee and the special prosecutor's office. The minority staff of the Watergate committee is known to be investigating whether Navy men other than one enlisted man were responsible for the National Security Council leaks.

Sen. Howard Baker [R., Tenn.], the committee's vice chairman, has twice asked the White House to relieve him of his pledge not to discuss the matter, White House sources said. Baker was described as doubting that genuine national security issues were at stake.

Since the administration refuses to present its own case, it is difficult to give its side of the story supporting the argument that real national security matters are involved. But from what has been said in the past, and from apparent hints in recent statements, it seems that the following matters have concerned the White House:

A leak to a New York Times reporter in 1971 which the Central Intelligence Agency claims endangered an Indian national who was feeding information about the Soviet Union to the U.S.

Leaks about the U.S. plans for the SALT disarmament talks in 1971, and about Nixon's orders to "tilt" toward Pakistan in its war with India late that year. It is that information which was available at Kissinger's office, and which White House officials say the Navy enlisted men gave or sold to newsmen.

Fear that it would become known that the U.S. learned a copy of the Pentagon Papers were delivered to the Soviet Embassy here through a Russian intelligence agent acting as a double agent for the U.S.

At the time, in 1971, administration officials apparently feared all the leaks might be coming from one source or related sources. Several persons have said that John Mitchell, then the attorney general, was convinced there was a centralized conspiracy going on, and so informed the President.

By the administration's own accounts, there was no such conspiracy. There is also some doubt as to how reliable that Russian agent was, and how secret the Indian agent is.

Top administration officials are also contending that any elaboration on the various spy plots would reveal to foreign powers the organizational setup of U.S. intelligence agencies. One government official, for example, also suggested that detailing interdepartmental splits between civilian and military officials puts the country at a disadvantage and is a legitimate national security danger.

But by conceding that there is such a basic rift, the officials are almost conceding that there was more to the joint chiefs spying effort than a lone enlisted man.

There are other inconsistencies which government investigators are looking into.

One factor is suspicion that two of the celebrated leaks—about the pro-Pakistan

"tilt" and the SALT talks—served the interests of the military brass. The joint chiefs were reportedly unhappy about a SALT agreement and the coming U.S.-Soviet detente. And the Navy at least was worried about supporting landlocked Pakistan over India, with its long coastline along the Indian Ocean where so many Soviet warships sail.

Several sources who used to work at the National Security Council said they expected Moorer's liaison at their office to be keeping him informed of Kissinger's action. "That's what a liaison man is," one said, "a spy."

On the other hand, they agreed that Adm. Welander's abrupt departure early in 1972 was unusual, and may have indicated that someone was exceeding the boundaries of routine liaison intelligence-gathering. Those boundaries do not encompass copying documents or eavesdropping, the former officials said.

One former staff member said it would not have been difficult to spirit things out of the NSC office. He said that in the mailroom, where the copying was done, "security so far as copying documents was pretty lax because everyone was more or less trusted."

Welander, whose office was reportedly across the hall from the mailroom, had been suspected in the past by some officials of leaking the pro-Pakistan story to columnist Jack Anderson. Anderson denied it at the time. Two former members of the NSC staff said they also doubted that Welander had leaked the documents. They said they thought the leaks came from higher officials of the Defense Department, but they conceded they had no hard evidence. Now, the White House is suggesting it came from the lowest ranking Navy man on the NSC staff.

Most of the former NSC staff members said they always assumed that when Gen. Alexander Haig was Kissinger's top aide, he was filtering information back to the Joint Chiefs. Haig, now White House Chief of Staff, denied taking part in a spy operation.

But when he was asked whether he encouraged anyone else to convey information back to the military brass, he was quoted as saying: "Not intentionally. But I cannot be responsible for others misreading my position."

[From the New York Times, Jan. 12, 1974]

WHITE HOUSE STATEMENT

SAN CLEMENTE, CALIF., January 11.—Following is a statement issued by the President's office on the passing of information from the National Security Council to the Pentagon:

Today's news accounts relating to the Joint Chiefs of Staff and National Security Council touch on a matter peripheral to a national security issue which was found to involve deliberate leaks to the media of extremely sensitive information of interest to other nations.

This incident has been referred to on several occasions in recent months, and the Administration still considers it inappropriate for public disclosure. It may be that at a later time the facts can be made public without detriment to the national interest.

For the present, however, most that can properly be stated is that today's news accounts convey an incorrect impression of the knowledge and actions of the chairman of the Joint Chiefs of Staff; that the matter was investigated at the time; that the source of these leaks was a low-level employe whose clerical tasks gave him access to highly classified information, and that today's news stories are based on fragmentary accounts of the incident.

At the President's direction, the information regarding this case has been provided on a confidential basis to the chairmen of the Armed Services Committees of the House and Senate, the special prosecutors and the chairman and vice chairman of the Senate Select Committee.

[From the New York Times, Jan. 12, 1974]

A MILITARY RING LINKED TO SPYING ON WHITE HOUSE

(By Seymour M. Hersh)

WASHINGTON, January 11.—The White House investigative unit known as the plumbers uncovered evidence in late 1971 that a "ring" of military officers was attempting to relay highly classified information on the China talks and other matters to officials in the Pentagon, well-informed sources report.

Some of the officials were assigned to the National Security Council.

The secret inquiry, headed by David R. Young Jr., then a co-director of the plumbers, was said to have determined that at least two military officers had participated in apparently illegal activities—including the ransacking of classified files and the unauthorized photo-copying of documents—in an apparent attempt to keep high Pentagon officials up-to-date on White House negotiations.

Although no charges were filed formally, the sources added, as many as six military men were reassigned after the investigation.

NIXON CONCERN RECALLED

It was this investigation, reliable sources said, that has been repeatedly cited by President Nixon as the "national security" matter that justified his initial attempt last spring to limit the Justice Department's investigation of the plumbers.

The sources said that Mr. Young and Henry A. Kissinger, now the Secretary of State and then head of the National Security Council, suspected that reports on the White House's negotiations with China, North Vietnam and the Soviet Union were being leaked to Secretary of Defense Melvin R. Laird and Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

Details of the negotiations were officially limited to a few officials in the White House and the National Security Council's staff.

ADMIRAL REPORTED REASSIGNED

The highest ranking officer reassigned, sources said, was Rear Adm. Robert O. Welander, who was then serving as the liaison officer between the Joint Chiefs of Staff and the Security Council.

Neither Admiral Welander nor Mr. Laird, now a White House aide, could be reached today, but Admiral Moorer denounced the allegation that he had received classified information through indirect channels as "ludicrous."

During Mr. Young's investigation, sources said, he was ordered to report periodically to Gen. Alexander M. Haig Jr., then Mr. Kissinger's key deputy in the National Security Council and now the White House chief of staff. This was the first indication that Mr. Young, a former aide to Mr. Kissinger, maintained a professional relationship with the council while serving with the plumbers. Mr. Kissinger had repeatedly denied any knowledge of the plumbers' activities.

An account of the secret White House investigation was initially published today by The Chicago Tribune, which said that the case was the "mysterious" national security matter so often cited by President Nixon to justify his decision to set up the plumbers in mid-1971.

A New York Times investigation, however, had previously established that there was a wide diversity of opinion among high-level White House aides over the significance and accuracy of the plumbers' findings.

One group, while acknowledging that some military men assigned to the National Security Council had copied documents to which they did not formally have access, described the incident as "just plain in-house rinky-dink stuff" and said that no link had been made between the officers and any public dissemination of classified papers, including the India-Pakistan documents.

ANOTHER VIEWPOINT

Another group, which includes some of Mr. Young's former colleagues and personal acquaintances, said that the plumbers "really did uncover a ring of some sort inside the N.S.C." One source said that one of the military men working in the council was "actually going through other people's files."

The sources all agreed, however, that Mr. Young's inquiry into possible wrongdoing inside the Security Council did not begin until late 1971, after the publication of the Anderson papers, and could not have been involved, as reported, in Mr. Nixon's decision to set up the plumbers unit six months earlier.

The Times investigation also determined that those few officials who were apprised of the National Security Council inquiry were divided about the propriety of keeping it secret.

For example, details of the plumbers inquiry were provided at a secret briefing last summer to Senator Sam J. Ervin Jr., Democrat of North Carolina, and Howard H. Baker Jr., Republican of Tennessee. The two ranking members of the Senate Watergate committee reportedly agreed subsequently to keep the information secret, although Mr. Baker said publicly at the time that he was doing so only at the specific request of the White House.

Some White House advisers had reportedly urged that details of the N.S.C. inquiry be made public last year, apparently to buttress the White House's contention that significant national security issues were at stake in the plumbers activities. But the advocates of disclosure were overruled by a faction headed by J. Fred Buzhardt Jr., the White House counsel, who was then deeply involved in Watergate matters.

HAD OTHER ROLES, TOO

But it was Mr. Buzhardt, sources said, who was also responsible for coordinating the Pentagon's activities in connection with the plumbers investigation in late 1971. At that time, Mr. Buzhardt was the general counsel of the Department of Defense.

White House and Justice Department officials who have been fully appraised of the plumbers inquiry agreed in interviews, however, that the questions about the military's activities inside the National Security Council needed to be explored in public.

"Obviously," one senior official said, "this kind of information should be investigated. It isn't something that should be adjudicated inside the Washington rumor mill."

The official's point was that not much had been proved about the activities—and the intent—of the military men involved in some of the incidents in late 1971.

One clue to the incompleteness of the plumbers inquiry was provided by President Nixon at a news conference on Feb. 10, 1972, three months after publication of the India-Pakistan papers by Mr. Anderson.

"We have a lot of circumstantial evidence" on the identity of Mr. Anderson's source, the President said, adding, "As a lawyer, I can say that we do not have evidence that I consider adequate or the Attorney General considers adequate to take to court."

INQUIRY CONTINUING

"You can be sure that the investigation is continuing," Mr. Nixon said. "If the investigation gets a break which provides the

kind of evidence which will stand up in court, we will present it. But we cannot go to court on circumstantial evidence."

Five days later, Mr. Anderson publicly declared that the White House, in effect had punished the wrong man by "banishing Admiral Welander from his Joint Chiefs of Staff position to sea duty. "I never talked to Welander," Mr. Anderson said. "He gave me nothing."

Admiral Welander was later reassigned to the Pentagon, and is now serving as assistant deputy chief of naval operations for plans and policy, considered to be a choice Navy assignment.

In a telephone interview today from Chicago, Mr. Anderson reiterated his belief that "they did not get my source." He also ridiculed the plumbers' apparent belief that he had been provided the India-Pakistan papers by a member of the military. "The idea that somebody came and dropped these papers on me is crazy," the columnist said.

Sources said that a complicating factor in assessing the plumbers inquiry was that—as one well-informed official put it—"There were power struggles and paranoia all over the White House."

Mr. Kissinger was known to be deeply upset at the possibility of premature disclosure—both to the public and to the various involved agencies in the Government, such as the Pentagon and the State Department—of his diplomatic initiatives. The year 1971 was a banner year for the White House's secret initiatives involving the rapprochment with China and the secret strategic arms limitations talks with the Soviet Union.

"What we need to know," one source said, "are answers to the following: To what extent was it a Pentagon scheme? And who was behind it?"

If some of the allegations about military conduct eventually prove to be true, this official added, "then we had the rudiments of the kind of thing that leads to a military takeover."

[From the New York Times, Jan. 13, 1974]

BLACKMAIL LAID TO OFFICIAL NAMED AS PENTAGON SPY

(By Seymour M. Hersh)

WASHINGTON, January 12.—The White House told the Senate Watergate committee last summer that a young Government official accused of passing National Security Council documents to the Pentagon had, in effect, "blackmailed" his way out of trouble by threatening to make the secret material public, well-placed sources said today.

The sources cited an inquiry initiated in late 1971 by David R. Young Jr., a member of the White House "plumbers" group established to stop leaks of information. The inquiry began shortly after publication of the India-Pakistan papers by Jack Anderson, the columnist, indicated that what amounted to a "ring" of American military spying was going on inside the National Security Council, the sources said.

The spying operations, the sources said, involved the passing of highly classified material from the National Security Council to the Pentagon. It was centered in the office of Rear Adm. Robert O. Welander, who was then the military liaison officer attached to the council, the sources said.

One of Admiral Welander's aides, Yeoman 1st Cl. Charles E. Radford, was determined to be part of the military information network, the sources said, as were others whom the sources would only describe as "Government officials."

The New York Times reported today that as many as six officials inside the White House and Pentagon may have been involved in the military spy network. The sources refused to say whether the official who made the blackmail demand was working for the White House or for Pentagon at the time.

It was one of those other involved officials, the sources said the Watergate committee was told, who "actually demanded a very high post in Government in return for silence" after being confronted by the White House investigators. "There was an element of blackmail," one source said.

"He didn't get it," a source said of the Government official's demand for a top job. "But even after the threat, he was kept on in the Government."

Two informed sources expressed dismay at the White House's apparent bowing to the alleged blackmail threat. "Why didn't they just arrest him and get it over with?" One fully informed source asked.

It was this specific information, they said, that was regarded by President Nixon as too damaging to release publicly when the plumbers' activities became known. "The President always felt that this was dynamite," a source said.

CONFIRMED IN ESSENCE

A White House official, in confirming today the broad outlines of the threat and blackmail account, suggested that Mr. Nixon believed its public disclosure would put the "whole military command structure on the line." He did not amplify on the remark.

Mr. Nixon has repeatedly cited a mysterious "national security" matter that, he argued, prevented full discolsure of all the activities of the White House plumbers group. That group, headed by Mr. Young, was also involved in the breakin at the office of the former psychiatrist of Dr. Daniel Ellsberg, who said he was responsible for giving to the press the secret Pentagon study of the Vietnam war.

That break-in, in Los Angeles, took place more than three months before the December, 1971, publication of the India-Pakistan papers and the subsequent inquiry into military spying inside the National Security Council, an arm of the Presidency. When the internal Nixon Administration documents on the India-Pakistan War were published by Mr. Anderson, this touched off an intensive investigation by Mr. Young that led to the spy ring, the sources said.

CHINA TRIP IN PLANNING

The New York Times and other newspapers reported today that the spy network itself was the basis of the "national security" concern. It was only after publication of that account that some sources chose to disclose the blackmail threat.

At the time of the threat by the unidentified Government official, the sources said, the White House was in the midst of secret, intensive planning for Mr. Nixon's subsequent trips in 1972 to China and the Soviet Union. Details of those visits were tightly controlled by Henry A. Kissinger, Mr. Nixon's national security adviser, and were not provided to high officials of the Pentagon and the State Department.

It was this communications gap, the sources said, that led to the military spy network.

BRIEFING FOR SENATORS

The sources said that the Senate Watergate committee was initially told of the alleged blackmail scheme at a secret briefing last summer for Senator Sam J. Ervin Jr., Democrat of North Carolina, chairman of the committee, and Senator Howard H. Baker Jr. of Tennessee, the ranking Republican member.

The briefing itself arose after John D. Ehrlichman, Mr. Nixon's former chief domestic adviser, told the Senate committee in public testimony last July that the White House plumbers group, which he supervised, had been involved in some highly classified matters that had nothing to do with the Watergate scandal.

The private meeting was arranged, and the White House sent two of its key attorneys, Leonard Garment and J. Fred Buzhardt Jr., to brief Mr. Ervin and Mr. Baker.

[From the New York Times, Jan. 14, 1974]

REPORT ON DATA LEAK SAID TO HAVE NAMED MOORER

(By Seymour M. Hersh)

WASHINGTON, January 13.—David R. Young Jr., a member of the White House "plumbers" group, concluded in a report submitted in early 1972 to President Nixon that Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, had received secret National Security Council documents taken from the office of Henry A. Kissinger, well placed sources said today.

Mr. Young's report, described by some sources as "book length," was said to have summarized his investigation into an alleged military intelligence operation inside the White House. The sources said that Mr. Young had concluded that classified materials were provided both to Admiral Moorer's office and to Jack Anderson, the columnist, whose publication in December, 1971, of White House papers on the India-Pakistan war initially prompted the inquiry.

The existence of Mr. Young's formal report became known as the mystery deepened and questions mounted over the military intelligence operation.

The New York Times reported today that one of the officials who participated in Mr. Young's inquiry had later sought to "blackmail" his way into a more important job by threatening to make the secret material public as well as to expose the existence of the military activities inside the White House.

No one in the White House would respond to telephone calls today.

On Friday, the White House said that the source of some "deliberate leaks to the media" had been traced to a "low-level employe whose clerical tasks gave him access to highly classified information." The statement made no mention of the allegation of military snooping inside the White House. Admiral Moorer has denied any knowledge of the alleged intelligence operation.

HANDLING OF YEOMAN

One basic question as a result of the accounts made public thus far arises over the handling of Yeoman 1st Cl. Charles E. Radford, a former member of the military liaison unit inside the National Security Council who was identified in Mr. Young's report, according to sources, as the main source for the leaks. Sources said he was also the "low-level employe" referred to by the White House.

Yeoman Radford was never formally charged with any offense and is still on active duty with the Navy at a Reserve center in Salem, Ore. He has refused to comment on the issue, telling one newsman today that he had been ordered by Navy officials not to talk. A Navy officer on duty in the Pentagon said, however, that he knew of no such order.

Another question revolves around the status of Admiral Moorer.

Sources said that Mr. Young had established that Yeoman Radford, said to be an excellent secretary, was formally assigned to Admiral Moorer's staff while working for the National Security Council and had at one time worked in offices across a Penta-

gon hall from the admiral's personal quarters.

A number of former and present Government officials interviewed by The Times in recent days wondered why, in the face of the reported evidence amassed by Mr. Young, Mr. Nixon reappointed the admiral to a second two-year term as chairman of the Joint Chiefs of Staff in mid-1972.

The Chicago Tribune reported today that President Nixon became so angered when he first learned of Admiral Moorer's alleged involvement in the security council intelligence operation that he wanted to oust him.

Asked about that report, a source close to the admiral described the Nixon-Moorer relationship as "very good" and said that the Admiral had been advised by the President in February, 1972, that he was going to be reappointed as J.C.S. chairman, the nation's highest military job.

This Navy source also said that Rear Adm. Robert C. Welander, the head of the military liaison office in the National Security Council, had been responsible for the abrupt transfer of Yeoman Radford after publication of the India-Pakistan papers. Mr. Young, however, was known to have reported that Admiral Welander had been involved in the passing of information from Mr. Kissinger's office to Admiral Moorer's office.

Sources interviewed today continued to be sharply divided on the significance of the military's alleged internecine spying operation.

A number of White House and Senate officials have said that it was this operation—investigated by Mr. Young—that President Nixon had in mind when he talked of important "national security" considerations that prompted him earlier last year to urge that ongoing Justice Department inquiries into the plumbers be stopped.

Last month The New York Times reported that some of Mr. Nixon's other "national security" considerations—including the possible exposure of a Soviet spy and a Central Intelligence Agency informant—had left many Government officials unconvinced of the validity of the President's belief. One well placed source said then that his concerns were not "national security but Nixon security."

Others echoed today those sentiments regarding the significance of the alleged military spying activities with one official categorizing the military activities as "nothing more than a bunch of paranoids running after each other."

Others closely connected to the yearlong Watergate investigation, however, cautioned that, as one put it, "there's a very critical area in there that hasn't come out yet," a reference to the alleged military spying activities.

Another official said that he had heard of "other things" regarding Mr. Young's inquiry that "strike me as better national security reasons."

Some former National Security Council aides, while acknowledging that all of the facts about Mr. Young's investigation have not been made known, insisted nonetheless in interviews that the alleged military spying activities were not necessarily sinister.

"Neither the State Department nor the Pentagon knew what was going on," one former Government aide said "And they both wanted to know what the state of play was."

He added that the State Department's equivalent to the alleged military activities would have been the relaying of any possible information about Mr. Kissinger's activities during overseas visits to then Secretary of State William P. Rogers.

"My intuitive feeling is that you'll find similar kind of stuff if you look at State," this source said.

[From the New York Times, Jan. 15, 1974]

STENNIS TO EXAMINE "SPYING" BY MILITARY

(By Seymour M. Hersh)

WASHINGTON, January 14.—Senator John C. Stennis, Democratic chairman of the Senate Armed Services Committee, said today that he planned to begin an informal inquiry this week into alleged military spying inside the White House.

In a telephone interview from his office in DeKalb, Miss., Mr. Stennis said, "I certainly want to take a look at this matter and I don't expect them [the White House] to hold anything back."

The New York Times reported today that David R. Young Jr., a member of the White House "plumbers" group, had submitted a long report to President Nixon early in 1972 in which he concluded that Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff, had received secret National Security Council documents and information taken from the office of Henry A. Kissinger, Mr. Nixon's national security adviser.

In the interview, Mr. Stennis also said—in apparent contradiction of a White House statement issued in California late last week—that he was not officially briefed on the alleged military spying until after the first newspaper reports were published.

"Until that story broke I didn't know anything about it, not a thing," Mr. Stennis said. "I was not confided in anything at all."

The White House statement, issued Friday, noted that "information regarding this case has been provided on a confidential basis" to both Mr. Stennis and Representative F. Edward Hébert, chairman of the House Armed Services Committee. Mr. Hébert, in a telephone interview today from New Orleans, acknowledged that he also had not been told of the matter until it had appeared in the newspapers.

Mr. Stennis cautioned that he did not want to commit his committee publicly either to a full investigation or to hearings into the matter. But he did note that "as far as the published implications that Admiral Moorer was spying on Kissinger, it'd take hard substantial facts to prove it."

Mr. Stennis said he planned to return to Washington late this week to take up the question of alleged military spying and other matters.

The White House continued to maintain its policy of not commenting on the allegations of military spying. At the daily news briefing today, Gerald L. Warren, deputy press secretary, refused—despite more than a dozen queries—to go beyond the White House statement of last Friday.

Mr. Kissinger, who is now Secretary of State, has also refused to discuss, during his current Mideast trip, the alleged military spying. Mr. Young, who was indicted last fall in California for his role in the plumbers' break-in at the office of the former psychiatrist of Dr. Daniel Ellsberg. In September, 1971, reportedly first learned of the alleged military spy ring while investigating the publication of the India-Pakistan papers by Jack Anderson, the columnist.

One source who worked closely with the plumbers in late 1971 said today that "Jack Anderson was one of their major projects."

He added that Mr. Anderson's name was inscribed on a blackboard, or bulletin board, that the plumbers maintained inside Room 16, their secure office in the basement of the Executive Office Building next to the White House.

There were reliable indications today that the special Watergate prosecution office headed by Leon Jaworski was considering an expansion of its inquiry to include the allegations of military spying. Officially, however, a spokesman for Mr. Jaworski said "No comment," when asked about the matter.

Samuel Dash, chief counsel of the Senate Watergate committee, flatly ruled out today any inquiry into the alleged military spying, telling reporters that he and Senator Sam J. Ervin, Jr., Democrat of North Carolina the committee chairman believed that the issue "was not relevant to the business of the committee."

Still left unclear was the relationship of the alleged White House military spying to "national security." Sources again confirmed today that the reported spying was the mysterious national security matter repeatedly referred to by President Nixon in recent months to justify his initial request last spring that the Justice Department not investigate the plumbers.

[From the New York Times, Jan. 15, 1974]

OFFICIALS DOUBT PENTAGON BROKE FEDERAL LAW IN ALLEGED 'SPYING'

(By John M. Crewdson)

WASHINGTON, January 14.—Government officials familiar with the espionage statutes said today that they doubted Federal laws had been violated by the principals in an alleged plot to divert secret National Security Council documents to military leaders at the Pentagon.

Moreover, most of the officials said, the details of the affair reported thus far do not assume the proportions of a critical "national security" matter, which President Nixon has cited as grounds for restricting an inquiry by Watergate prosecutors into the White House's special investigations unit.

One Justice Department lawyer, noting news accounts that highly classified papers had been taken from the office of Henry A. Kissinger, then Mr. Nixon's National Security adviser, by military liaison aides, said that any illegality would probably depend on who received such documents and whether they were ultimately used to "injure" the United States.

MOORER REPORTEDLY RECIPIENT

The New York Times reported today that the special investigations unit, also known as the "plumber," had concluded that some of the documents reached Adm. Thomas H. Moorer, the chairman of the Joint Chiefs of Staff.

Other accounts have described the Joint Chiefs as resentful because of their belief that they had been "cut off" from Mr. Kissinger's policy planning in several areas, including the 1972 diplomatic initiatives toward the Soviet Union and China and the strategic arms limitation talks.

Without certain knowledge of the nature of the documents purportedly removed from Mr. Kissinger's office, the Justice Department official explained, he could not say definitely that no illegality had occurred.

But he pointed out that Admiral Moorer, as the nation's highest-ranking military officer, would almost certainly be "cleared for everything" in the way of classified national security information.

SEPARATE "DISTRIBUTION SYSTEM"

That official and others familiar with operations of the National Security Council noted, however, that a separate "distribution system" was also used within the Government to keep officials regardless of their classification clearances, from having access to information they had no "need to know."

If reports are correct, distribution lists on papers allegedly gleaned from Mr. Kissinger's files by members of the Pentagon's National Security Council liaison office and passed to the Defense Department would not have included the names of high-ranking military officers who eventually received them.

One official conceded today that "the lack of a 'need to know'" with respect to a particular document "probably makes you a person not entitled to receive it, based on the statute."

"But the fact that you're giving it to someone who has an appropriate classification weighs heavily against any prosecution, if he didn't use it for some private purpose or to injure the county," he said.

A former National Security Council staff member, asked what sort of documents would normally have been kept from the military by civilian planners, replied that, although the council's formal policy papers would have been distributed to them, Presidential papers and those dealing with Mr. Kissinger's personal diplomatic activities would not.

He noted that members of the military liaison office are not paid by the council and are not included among its staff but he characterized reports of the unauthorized dissemination by them of such private papers as little more than a "bureaucratic no-no."

Another official with many years' experience in domestic intelligence investigations declare that the alleged scheme to divert information was "absolutely not a national security matter, absolutely not."

"Which foreign country were the generals working for?" he asked.

[From the New York Times, Jan. 16, 1974]

WHITE HOUSE OFFICIALS BELITTLE REPORTED MILITARY ESPIONAGE

(By Seymour M. Hersh)

WASHINGTON, January 15.—High White House officials sought today to minimize the significance of an alleged military spy ring inside the White House and characterized a confidential report on such activities filed by David R. Young Jr. as "ludicrous."

The officials, who would not be quoted by name, described the affair as simply the case of a young Navy yeoman who, as one put it, "was told to keep his eyes open and who went ape."

Well placed sources have previously told The New York Times that Mr. Young's report, one of his last actions as a member of the White House investigation unit known as the "plumbers," concluded that the Pentagon had been receiving National Security Council documents taken from the office of Henry A. Kissinger, then President Nixon's national security adviser.

Mr. Young's report was said to have indicated that a number of military men, including two on Mr. Kissinger's staff, were involved in an attempt in late 1971 to obtain information in the Administration's diplomatic initiatives with China, the Soviet Union and North Vietnam.

The Young inquiry began after the publication in December, 1971, of the White House India-Pakistan papers by Jack Anderson, the columnist, and quickly evolved into a full-scale inquiry into Pentagon spying, sources have said. The papers disclosed that the White House, while allegedly neutral in that dispute, was secretly "tilting" its policy in favor of Pakistan.

Mr. Young's conclusions, submitted in early 1972 in a report to President Nixon, were depicted today by the White House officials as being "terribly" out of proportion and far overdrawn.

As portrayed by these officials, the reported action of the yeoman, identified as Charles E. Radford of Salem, Ore., in passing documents to the Pentagon "didn't make any difference" because the military was being kept fully informed at the time of all National Security Council activities. One official depicted Yeoman Radford as an "eager beaver."

EARLIER LEAK REPORTED

These officials said that the national security problems posed by the sailor's activities revolved around the alleged leaking of classified documents, including the India-Pakistan papers, to Mr. Anderson. Other extremely sensitive materials had been leaked by Yeoman Radford, these officials indicated, prior to the December publication of the White House minutes of security council meetings on India-Pakistan.

The version of events presented today seemed to conflict with Mr. Nixon's assertion last fall that the national security considerations in the military spying matter—although he did not specifically identify it as such at the time—were of even greater consequence than some of the other issues.

The New York Times reported in December that the President sought earlier last year to prevent a Justice Department inquiry into the plumbers for fear of compromising a number of Government secrets, including a Soviet spy working for the United States, a Central Intelligence Agency informant in India, and some nuclear targeting information.

SENSITIVE POINTS

Last November, Mr. Nixon told the Associated Press Managing Editors Association that he had sought to limit the plumbers inquiry "because there were some very highly sensitive matters involved, not only in [Daniel] Ellsberg and also another so sensitive that even Senator Ervin and Senator Baker [the chairman and vice chairman of the Senate Watergate Committee] have decided that they should not delve further into them."

A number of Senate sources have acknowledged that the military spying was the other "so sensitive" matter mentioned by Mr. Nixon. Sources said it was privately discussed last summer by the White House with Senators Sam J. Ervin Jr., Democrat of North Carolina, and Howard H. Baker Jr., Republican of Tennessee, who subsequently agreed not to investigate it in connection with the then ongoing Watergate hearings.

In his November speech, the President also said, "I don't mean that we are going to throw the cloak of national security over something because we are guilty of something. I am simply saying that where the national security would be disserved by having an investigation, the President has the responsibility to protect it, and I am going to do so."

When news accounts of the military spying ring first appeared last week, one high White House official commented that public disclosure of the incident would put the "whole military command structure on the line."

The White House officials who discussed the matter today, however, cast the incident in a much lesser light. They described Adm. Thomas H. Moorer, the chairman of the Joint Chiefs of Staff who allegedly received the material, as having been kept fully informed by the White House.

Asked why yeoman Radford, who has denied the unauthorized passing of any material, was not discharged from the service or in other ways punished, an official remarked "This fellow had a lot of hot stuff and if you move against him, he could pass it around."

In view of that risk, the official added, it was decided to transfer yeoman Radford quietly out of the White House. He was then serving as an aide to the military liaison officer assigned to the National Security Council.

The White House officials also confirmed that a member of Mr. Young's investigating team had attempted to blackmail his way into a high-level Defense Department position by threatening last spring to reveal publicly details of the military spy operation.

OFFICIAL NOT DISMISSED

Although the demand was categorically rejected, the officials said, the investigator—who still works at the Pentagon—was not discharged because the White House felt that potential national security damage he could cause by talking precluded such action.

Senator John C. Stennis, Democrat of Mississippi who is chairman of the Senate Armed Services Committee, has said that he will begin an informal inquiry into the matter late this week. A similar investigation was reported today to be under way in the Pentagon.

A Pentagon spokesman announced that James R. Schlesinger, the Secretary of Defense, had begun asking some questions about the alleged spy ring. The spokesman said Mr. Schlesinger "at this point has seen nothing that would impair his confidence in the professional qualities of Admiral Moorer."

Sources have said that Mr. Young's investigation concluded that the misappropriated National Security Council documents had ended up in the admiral's office. He has denied any knowledge of or involvement in the "unauthorized gathering" of such information.

[From the Washington, Post, Jan. 16, 1974]

PENTAGON SPYING

(By Michael Getler)

Defense Secretary James R. Schlesinger has begun an informal investigation into allegations that White House documents on secret U.S. diplomacy were being passed to the Pentagon without authorization in 1971, the Defense Department said yesterday.

At the same time, the Pentagon also moved to take some of the heat off the chairman of the Joint Chiefs of Staff, Adm. Thomas H. Moorer, who has been named in some accounts of the alleged spying as the recipient of such unauthorized documents.

Questioned again yesterday on the episode, Pentagon spokesman Jerry W. Fridheim repeatedly pointed out that Moorer in June, 1972—well after the alleged spying incidents took place and had been secretly investigated by the White House "plumbers" group—had been reappointed by President Nixon to a second two-year term as the nation's top military officer.

The implication of Friedheim's remarks was that the admiral would not have been reappointed if the President had any reason to be unhappy with Moorer or suspicious of his loyalty.

Friedheim and Schlesinger had already talked to Moorer about the allegations, that Moorer had repeated his public denials of any involvement, and that Schlesinger "at this point has seen nothing that would impair his confidence in the professional capabilities of Adm. Moorer," nor, Friedheim added, "his personal dedication and honesty."

At the same time, Friedheim indicated that Schlesinger's personal questioning of people with knowledge of the affair had only just begun, and that "I don't think he has drawn any conclusions."

Schlesinger also is expected to discuss the situation with former Defense Secretary Melvin R. Laird and White House counsel J. Fred Buzhardt, who was the Pentagon's chief legal officer during Laird's 1969–1973 tenure at the Defense Department.

Friedheim indicated that Laird had also ordered an investigation into leaks to the press in July, 1971, of the U.S.-Soviet nuclear arms talks and when White House documents on the India-Pakistan war appeared in Jack Anderson's column in December, 1971.

Friedheim claimed he did not know if a report was filed on the Laird investigation of the Anderson leak. It was that leak which was the focal point for the White House plumbers investigation and the key to allegations of a military spying ring in the White House bent either on better-informing their bosses in the Pentagon of secret shifts in U.S. policy or perhaps of embarrassing the architect of that policy, Dr. Henry A. Kissinger.

If there is a Laird report, that could provide a different assessment of the White House-Pentagon links than one allegedly included in a White House plumbers report by David Young which reportedly links Moorer to receipt of some unauthorized documentation.

Meanwhile, Sen. John C. Stennis (D–Miss.), chairman of the Senate Armed Services Committee, told reporters that he, too, plans to begin an informal inquiry into the allegations of unauthorized data-gathering, but that he would await the return of his committee and Congress next week before deciding on whether to hold hearings and a full investigation.

[From the New York Times, Jan. 17, 1974]

NATIONAL SECURITY: A NIXON RATIONALE FOR SECRECY FACES NEW CHALLENGES

(By Seymour M. Hersh)

WASHINGTON, January 16.—Nearly all the "national security" questions involved in the Watergate case have now been made public, and in the wake of this disclosure critics are still raising questions about President Nixon's intentions when he invoked national security last April to halt a Justice Department inquiry into the White House investigative unit called the "plumbers."

At that time, Mr. Nixon insisted that no details of the September, 1971, break-in at the office of Dr. Daniel Ellsberg's psychiatrist be forwarded to the Los Angeles court where Dr. Ellsberg was on trial for his role in the Pentagon papers case.

The break-in was directed by E. Howard Hunt Jr. and G. Gordon Liddy of the plumbers team, who were later convicted for their involvement in the burglary and bugging of the Watergate offices of the Democratic National Committee in June, 1972.

While the President was subsequently persuaded to change his mind about sending the Ellsberg material to Los Angeles, he did not change his mind, as his public statements showed, about the importance of national security in relation to the plumbers.

The plumbers were a four-man investigating unit, jointly headed by Egil Krogh Jr. and David R. Young Jr., the existence of which was known to only a handful inside the White House and elsewhere. Mr. Nixon has depicted the secrecy about the unit as a function of "national security," but other Government officials believe the secrecy was meant to hide the group's existence from the normal police agencies inside the Federal bureaucracy.

THREE MAJOR ISSUES

A similar ambiguity marks the known "national security" issues involved in the plumbers' operation.

Last month, The New York Times reported on three major security issues behind the President's concern.

One was a fear that Dr. Ellsberg—who said he provided the Pentagon papers to the press—may have been an informer capable of turning over nuclear targeting secrets and code-breaking information to the Soviet Union. But no evidence was gathered to link Dr. Ellsberg to the Russians—a fact most certainly known to the White House by April, 1973. (The Pentagon papers were first published in The New York Times in June, 1971).

A second cause for concern was the belief that an agent of the K.G.B., the Soviet intelligence agency, would be compromised by continued Justice Department inquiry into the plumbers. The agent, who had been a counterspy for the United States since the mid-nineteen-sixties, had informed the Federal Bureau of Investigation that a set of the Pentagon papers had been delivered to the Soviet Embassy in Washington in late June, 1971.

FEAR ABOUT INDIA

But the agent has long been a source of controversy inside the Government. Many reliable intelligence officials have said that the K.G.B. man was an agent provocateur, rather than an authentic informer.

The third concern revolved around possible jeopardy to a Central Intelligence Agency informer inside the Indian Government. But there was no outcry in India when existence of the agent was made known last month. And one well-informed intelligence official, asked then about the Indian agent, said, "The issue involved here isn't national security; it's Nixon security."

What White House and other sources consider to be the President's final major "national security" concern—the in-house snooping by the military on the White House itself—has been widely publicized in recent days. Once again, there have been contradictions over the significance of the alleged spying, which was investigated by Mr. Young—at President Nixon's specific direction—in late 1971.

When newspaper accounts of the Young investigation were initially printed last week, White House officials privately depicted it as an extremely serious security matter. One aide said the President chose not to disclose the situation in order to protect the "whole military command structure."

Beginning yesterday, however, high White House officials took a different tack, depicting the incident as the work of an "eager-beaver" Navy enlisted man. He was said to have funneled material in 1971 from the office of Henry A. Kissinger, then Mr. Nixon's national security adviser, to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

A POWERFUL APPEAL

Today a Pentagon spokesman, William Beecher, said that some defense officials believed the alleged spying was merely the result of "overexuberance and some impropriety" on the part of some military men assigned to liaison duty with Mr. Kissinger's staff.

Yet, President Nixon, in a speech last November, had described the incident as being "so sensitive" that the chairman of the Senate Watergate committee, Sam J. Ervin Jr., Democrat of North Carolina, and the vice chairman, Howard H. Baker Jr., Republican of Tennessee, "have decided that they should not delve further" into it.

The power of a "national security" appeal—especially when invoked by the President—can be measured by the Senate's subsequent decision, based only on the facts as presented by the White House, not to investigate the spying allegations.

If the matter were as important as the White House indicated, the committee might have asked why no one was punished for it. If no one was punished, was genuine national security involved?

A DELETED PARAGRAPH

The Senate committee also agreed with a White House request to delete a paragraph—for "national security" reasons—from a plumber document released to the press last August. The paragraph dealt only with a request to British intelligence to determine whether Dr. Ellsburg had been approached by Soviet espionage agents while a student in England in the early nineteen-fifties. There was much published and private speculation, never confirmed, that the paragraph concerned matters far more significant.

Many knowledgeable officials, including some who have been involved in Watergate matters for more than a year, are now convinced that the "national security" issue was raised by the White House as a means of forestalling a detailed scrutiny of the Ellsburg break-in, as well as of the White House plans for gaining political advantage out of the Ellsburg trial. If so, they say, this could amount to obstruction of justice, a charge that is also being mentioned in connection with the apparent alteration of Watergate tape recordings.

[From the New York Times, Jan. 23, 1974]

KISSINGER SAYS HE HEARD TAPE OF "PLUMBERS" INQUIRY

(By Seymour M. Hersh)

WASHINGTON, January 22.—In what seemed to be a direct contradiction of his sworn testimony, Secretary of State Kissinger acknowledged today that he had listened to a tape recording of an interrogation conducted by David R. Young Jr., a White House aide, shortly after publication of the secret India-Pakistan papers in December, 1971.

Mr. Kissinger said the tape recording had dealt with Mr. Young's questioning of Rear Adm. Robert O. Welander about the alleged funneling of National Security Council documents from the White House to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

"I was amazed by this allegation," Mr. Kissinger said at a State Department news briefing.

This marked the first time that the Secretary of State, who was President Nixon's national security adviser at the time of alleged military snooping, has acknowledged that he knew anything about Mr. Young's activities with the so-called "plumbers" unit.

This intelligence team had been secretly set up by President Nixon in July, 1971, in an effort to track down and prevent news leaks. In September, 1971, the group was responsible for the burglary of the office of Dr. Daniel Ellsberg's former psychiatrist in Los Angeles.

Until today, Mr. Kissinger had repeatedly and emphatically denied any knowledge of Mr. Young's activities with the plumbers unit once Mr. Young, formerly a personal aide to Mr. Kissinger, left the National Security Council staff in mid-1971.

Last Sept. 7 he told the Senate Foreign Relations Committee during confirmation hearings on his nomination to be Secretary of State: "I have no knowledge of any such activities that David Young may have engaged in. I did not know of the existence of the plumbers group by that or any other name. Nor did I know that David Young was concerned with internal security matters."

Three days later, during further testimony, Mr. Kissinger pointedly noted, "and I must repeat what I said on Friday [Sept. 7], that I was not aware even of the location of his office or duties, nor did I have any contact with him."

Asked generally at his briefing today about the military snooping allegations, Mr. Kissinger said the investigation had initially been placed in the hands of John D. Ehrlichman, President Nixon's former domestic affairs adviser, who was in over-all charge of the four-man plumbers unit, jointly headed by Mr. Young and Egil Krogh, Jr.

"Several weeks later," the Secretary of

State recounted, "Mr. Ehrlichman let me see, or rather listen to, the interrogation of Admiral Welander with respect to the [leak of the India-Pakistan papers to Jack Anderson, the columnist]. And in the course of this interrogation there was developed an allegation not only with respect to the source of the leak but also about the unauthorized transfer of documents from my office to the office of the chairman of the Joint Chiefs of Staff."

Mr. Kissinger, upon further questioning, conceded that Mr. Young had conducted the interrogation of Admiral Welander on the tape, but insisted that "I did not know that David Young was conducting an investigation into the matter of the Anderson leaks."

EXPLAINS SEEMING CONTRADICTION

He explained this apparent contradiction by telling newspapermen that "one would not suppose that David Young was conducting an investigation" because Mr. Young had been the person questioning the admiral on the tape.

The Secretary of State explained further that he had "assumed" that Mr. Young had simply been designated by Mr. Ehrlichman to interrogate the admiral.

His implication clearly was that he did not necessarily connect Mr. Young's interrogation of the admiral with his broader role as a plumber in investigating news leaks.

"I reaffirm here," Mr. Kissinger said, "every word that I have said to the Senate Foreign Relations Committee and I assert that they were fully consistent with the allegations of the unnamed sources that have been made while I was on my trip last week."

(Most of the news accounts of Mr. Young's investigation into the alleged military snooping ring were published during the Secretary of State's 10-day Mideast trip that ended yesterday.)

"To be specific," Mr. Kissinger added, "I did not know that David Young was conducting an investigation into the matter of the Anderson leaks."

However, sources with access to the detailed workings of the plumbers unit have told The New York Times that Mr. Kissinger was involved in the initial Presidential decision in July, 1971, to set up the plumbers unit and learned then of the role Mr. Young was to play in it.

AGREES WITH MOORER

Mr. Kissinger also expressed agreement today with Admiral Moorer's statement—made on television last week—that there was no reason to set up a military spying operation because all national security information flowed freely between the National Security Council and the Pentagon.

Admiral Moorer's statement was coupled with an admission that he—previous denials to the contrary—had received unauthorized materials taken by "overzealous" military officials from Mr. Kissinger's White House office.

In agreeing about the easy flow of information, Mr. Kissinger said, "I have no reason to question the argument that has been made by Admiral Moorer that this incident of the unauthorized transfer of papers from my office to his office reflected overzealousness on the part of subordinates and in any case gave him no information that he did not already possess."

Many of Mr. Kissinger's former aides have told the Times, however, that the Pentagon and the State Department were both deliberately cut off throughout 1971 from sensitive information on Mr. Kissinger's direct orders. In that year, Mr. Kissinger successfully made his secret trip to China.

NO CHARGES FILED

Sources have told The Times that Mr. Young stumbled onto the alleged military snooping ring while investigating the publication of the India-Pakistan papers by Mr. Anderson. The papers dealt with Government policy on the India-Pakistan war.

Mr. Young concluded his inquiry, the sources said, by forwarding a long written report to President Nixon informing him that the military liaison office in the National Security Council, then headed by Admiral Welander, had been responsible for providing the unauthorized material to Admiral Moorer.

Both Admiral Welander and his aide, Yeoman 1st Cl. Charles E. Radford, had been banished from the White House by early 1972, the sources said. No charges were filed in the incident, although sources close to Mr. Young say that his final report also concluded that Yeoman Radford had provided the India-Pakistan documents to Mr. Anderson. Both Yeoman Radford and Mr. Anderson have denied that reported allegation.

LEARNS OF YOUNG REPORT

These sources, interviewed during the last week, have also characterized Mr. Kissinger's reaction to the reported military snoopings—which allegedly came during his highly secret negotiations with China, the Soviet Union and North Vietnam—as one of extreme outrage.

Mr. Kissinger also told newsmen today that he did not know until reading newspaper accounts last week that Mr. Young had filed a report on the alleged military snooping to the President, nor did he know that the then Secretary of Defense, Melvin R. Laird, had prepared a separate study.

"These reports must have come to conclusions similar to the one I have outlined here," the Secretary of State said, "because no disciplinary action was taken."

The lack of disciplinary action has prompted some officials in the White House and Senate to suggest privately that a full-scale investigation of the allegations—including Mr. Kissinger's role, if any—be conducted by the Senate.

In line with that, Mr. Kissinger said today that he had telephoned Senators John C. Stennis, Democrat of Mississippi, chairman of the Armed Services Committee, and J. W. Fulbright, Democrat of Arkansas, chairman of the Foreign Relations Committee, to tell them he would "be prepared to meet with their committees to answer any questions they might have on this subject."

SPYING IN THE WHITE HOUSE SAID TO HAVE BEGUN IN 1970

(By Seymour M. Hersh)

WASHINGTON February 2.—Military spying inside the White House began in the fall of 1970, a few months after Adm. Thomas H. Moorer became chairman of the Joint Chiefs of Staff and more than a year earlier than has been previously reported, closely involved sources said.

The spying involved as many as five high-ranking officers who regularly received and delivered over the next 15 months classified documents pilfered by a Navy yeoman, these sources said.

A New York Times investigation shows that the spying began within weeks after Yeoman 1st Cl. Charles F. Radford was assigned in September, 1970, to the military liaison unit set up by the Defense Department inside the National Security Council.

The sources said that Petty Officer Radford confessed to Pentagon investigators in December, 1971, shortly after he was suspected of leaking White House documents on the India-Pakistan war to Jack Anderson, the columnist, that he had begun pilfering documents more than a year earlier at the express directions of Rear Adm. Rembrandt C. Robinson.

Admiral Robinson, who was replaced in March of 1971 by Rear Adm. Robert O. Welander in the military liaison position, was killed in a helicopter crash in Southeast Asia in 1972.

Petty Officer Radford has repeatedly denied leaking any material to Mr. Anderson and he has also denied knowing of any security leaks to Admiral Moorer's office.

REFUSES TO COMMENT

Admiral Moorer's spokesman, Navy Capt. J. C. Mackercher issued the following statement today after being informed of The Time's account: "The chairman's office has no comment on these charges any more that it has had on the innumerable other charges that have been made by unidentified sources."

As chairman of the Joint Chiefs, Admiral Moorer is a statutory member of the National Security Council. The documents and materials in question, however, were explicitly denied to his office and to high officials in the State Department on the orders of Mr. Kissinger and President Nixon.

During the period of Yeoman Radford's activities, the White House was involved in intensely secret negotiations with China, the Soviet Union and North Vietnam. Former White House aides have acknowledged that details of those talks were restricted to a very few officials in the White House.

Since the allegations of military spying first became public more than two weeks ago, high-ranking officers in the White House and Pentagon have repeatedly referred to it as the work of two "overzealous" men—a reference Admiral Welander and Yeoman Radford—who were taking documents in an effort to please their superior, Admiral Moorer.

Admiral Moorer, after first denying any knowledge of the military spying, conceded on Jan. 18 that he had received "a file" of unauthorized material that he publicly depicted as "just a collection of, you know, roughs and carbon copies, and things of that kind."

The Times's informed sources said that Petty Officer Radford had been urged to pilfer documents during his daily workings as a stenographer-clerk inside the National Security Council and had also been encouraged to get what he could while serving as an aide on overseas missions undertaken by the head of the council, Henry A. Kissinger and his chief deputy, then Gen. Alexander M. Haig Jr. of the Army. Mr. Kissinger is now Secretary of State and General Haig is White House chief of staff.

Among the documents taken by Yeoman Radford and supplied to Admiral Moorer's office, the knowledgeable sources said, were copies of "eyes only" messages intended solely for President Nixon and Mr. Kissinger from such key diplomats as Ambassador Ellsworth Bunker in South Vietnam and Ambassador Emory C. Swank in Cambodia.

One high-ranking White House official acknowledged in an interview this week that the military spying inside the National Security Council had begun under Admiral Robinson—and not Admiral Welander. But this official noted that he had been informed by a Pentagon investigator that "very little of importance was taken—just one or two papers."

This official also disputed a reporter's contention that the White House and Pentagon had been misleading in their public statements on the spying allegation. "I don't think there's been any injustice to the facts," the official said.

In a news conference on Jan. 24, Secretary of Defense James R. Schlesinger declared that his review of the Pentagon investigation of the allegations had determined that "the material in question consisted of two collections of material." The Defense Secretary then added, "Admiral Moorer was not, in my judgment, at all familiar with

the exuberant methods that had been used to collect this material."

The Times's sources said, however, that a special report on the military spying allegations prepared by David R. Young Jr., a former member of the so-called "plumbers" investigations unit, concluded in early 1972 that Admiral Moorer was directly involved in the operation.

The sources said that Mr. Young's report, which has been characterized as "ludicrous" by J. Fred Buzhardt Jr., former Pentagon General counsel who is now a White House aide, has not been personally reviewed by Secretary Schlesinger.

The Senate Armed Services Committee has summoned Admiral Moorer and Mr. Kissinger to a closed hearing Wednesday on the spying allegations but, committee sources said, Senator John C. Stennis, Democrat of Mississippi, the chairman, has not yet agreed to request Mr. Young or Yeoman Radford to testify.

Still unclear, the well-placed sources said, was the exact role played by Admiral Moorer in the military spy ring.

He became chairman of the joint chiefs, America's highest military [illegible] July, 1970, replacing Army General E[illegible] G Wheeler, who had served as chairman for six years. Admiral Moorer was reappointed by President Nixon to a second two-year term in mid-1972, after the spying incident

In a telephone interview yesterday, General Wheeler declared "I certainly didn't do anything like this" when he was chairman.

The retired officer, who now lives in West Virginia, noted that Admiral Robinson was his liaison aide to the National Security Council in early 1970 and continued on that job with Admiral Moorer.

"I don't think that Robby [Admiral Robinson] would dream up anything like this," General Wheeler added.

The liaison office was set up, he said, early in the Kennedy Administration to facilitate the flow of high-level White House information to the Joint Chiefs of Staff. It was shut down literally "overnight," the informed sources said, after Mr. Kissinger learned of the military spying in December, 1971.

The closely involved sources said that Yeoman Radford had told investigators that the pilfered documents were hand-carried in sealed envelopes either by himself, Admiral Robinson or Admiral Welander from the White House military liaison office to Admiral Moorer's office, where they were given to his senior aide and executive assistant at that time, Capt. Harry D. Train 2d. Later deliveries, the sources said, were made to Navy Capt. Arthur K. Knoizen, Captain Train's replacement.

Some information was also separately delivered by Admiral Welander to an Air Force captain who was assigned to the Joint Chiefs of Staff, these sources said.

Yeoman Radford has further told investigators, the sources said, that on occasion, Admiral Robinson relayed personal compliments from Admiral Moorer to make the petty officers aware that—as a source put it—"Admiral Moorer was pleased with the information."

The pilfering of documents from the National Security Council was always treated as a highly clandestine operation by the military men involved, these sources said, with the materials kept in a special safe by Yeoman Radford's desk in the Pentagon.

The military liaison group divided their working days between the Security Council offices in the Executive Office Building near the White House and the Joint Chiefs' in the Pentagon.

Yeoman Radford, 30 years old, was considered an expert stenographer and clerk by Mr. Kissinger, General Haig, and many aides on the National Security Council, the sources said. He has described his double agent's role inside the White House to investigators, these sources said, as a "perfect thing" because he had "everybody's confidence."

The taking of documents was depicted by Yeoman Radford as nearly an everyday occurrence, but he has told investigators, The Time's sources said, that the various overseas meetings and trips undertaken by Mr. Kissinger and General Haig were considered "special items."

During his 15 months with the military liaison office, the petty officer traveled to Southeast Asia, Paris and to Pakistan with Mr. Kissinger during the highly secret China trip in July, 1971. After returning from these trips, the sources said, the petty officer would relay documents that he had pilfered either to Admiral Robinson or Admiral Welander or directly to Admiral Moorer's office.

Both Mr. Kissinger and General Haig were said to be furious upon learning of the pilfering.

A full statement by Yeoman Radford was given to a Pentagon investigator, W. Donald Stewart, in December, 1971, sources said. The sources added that Petty Officer Radford and Admiral Welander were repeatedly interrogated about their activities during tape recorded sessions in the Pentagon. Admiral Robinson was recalled from sea duty in Southeast Asia for interrogation, the sources said.

A number of sources have said that Mr. Young and other Government investigators had also accumulated evidence indicating that Yeoman Radford had been responsible for providing Mr. Anderson with the India-Pakistan papers and other top-secret material.

No charges were filed in connection with that aspect of the inquiry, however nor, apparently, did President Nixon take any action against Admiral Moorer for his role in receiving the documents.

Admiral Welander was immediately transferred out of the White House but given a much-sought-after sea command early in 1972. He is now serving in a key Pentagon post for the Navy. Yeoman Radford was transferred to a Navy Reserve center in Salem, Oreg., and recently announced his intention to leave the service.

President Nixon has not spoken out on the issue since it arose, although White House officials have confirmed that the spying was one of the "national security" secrets cited by the President last spring when he sought to curtail the Justice Department investigation into the four-man plumbers team.

The plumbers, headed by Mr. Young and Egil Krogh Jr., were also responsible for the burglary of Dr. Daniel Ellsberg's former psychiatrist in September of 1973.

The subject of military spying was first touched on during John D. Ehrlichman's testimony last July before the Senate Watergate committee, although it was not dealt with in specific terms. Mr. Ehrlichman, President Nixon's former domestic adviser who was in over-all charge of the plumbers team, refused to discuss the issue in public, but did arrange for a private White House briefing for some committee members.

It was at this briefing provided in part by Mr. Buzhardt, that the military spying was depicted as being of the utmost "national security" consideration.

[From the Washington (D.C.) Post, Jan. 13, 1974]

NIXON CLAIM OF SECURITY IS DISPUTED

(By Laurence Stern and Michael Getler)

A secret diplomacy that reversed the main currents of United States foreign policy led to extraordinary struggles for information between the Pentagon and the White House during 1971.

The diplomacy, which embraced a wide range of initiatives including rapprochement with the Soviet Union and China as well as a break-through on strategic arms negotiations, was limited to the President, his national security affairs adviser, Henry A. Kissinger, and a few staff aides.

One high-ranking former official said the extraordinary intra-governmental secrecy precautions applied by Kissinger constituted "a war against the bureaucracy to a remarkable degree."

Another former national security policy-maker based in the White House said, "it was always the operating principle that important things were kept out of the National Security Council system completely." This excluded the military from virtually all access to the new diplomatic initiatives.

The atmosphere of privacy that enveloped the Nixon administration's foreign and national security policies extended to the State Department and the Arms Control and Disarmament Agency, which was responsible for developing strategic arms policy.

"There was a strong feeling that the whole NSC mechanism was a shell game managed by Henry," said a former official.

Kissinger's advocates, on the other hand, argue that in order to achieve the Nixon administration's new objectives it was vital to operate secretly in order to shut out those in the bureaucracy who were committed to traditional Cold War doctrine.

It was in this context, according to informed officials, that the unauthorized transfer of National Security Council minutes and documents was carried out by Pentagon military representatives in the White House.

The material specifically included transcripts of deliberations by the NSC's Washington Special Action Group (WASAG) on the Indo-Pakistani war in December, 1971. But it included other sensitive records from the various NSC subcommittees over which Kissinger presided as special assistant for national security affairs.

In a new development yesterday the White House branded as "inaccurate" a Chicago Sun-Times report that Kissinger ordered a phone tapped in 1971 in the office of then-Secretary of Defense Melvin R. Laird.

Authoritative sources insisted yesterday that the report alludes to the previously announced tapping of the telephone of Lt. Gen. Robert E. Pursley, former senior military assistant to Laird. The Pursley tap was one of 17 FBI wiretaps ordered by the President after consultation with then Attorney General John N. Mitchell and with Kissinger. The list included 13 government officials and four newspapermen.

The Sun-Times also reported a wireless microphone was placed in the White House office of Wayne Smith, former NSC staff assistant to Kissinger. There were suspicions, the newspaper said, that the bugging was carried out by military officials.

Smith said yesterday the first word he had on the bug was the Sun-Times report. He said the thought never occurred to him that he might be a target for eavesdropping while he was in the government. But after the surfacing of the Watergate affair he acknowledged that he thought he might have been the target of eavesdropping. His office was a focal point for both strategic arms and Vietnam policy.

Smith stressed however, that he had no evidence at all that his office had in fact been bugged.

The year 1971 was a critical one for all the major lines of innovation in Nixon administration foreign policy.

On May 20, 1971, President Nixon and Soviet Party leader Leonid I. Brezhnev made a dramatic joint announcement that was

to break the deadlock on the first stage of the strategic arms limitation agreement. Knowledgeable officials contend that Laird, Secretary of State William P. Rogers and Gerard Smith, chief of the SALT negotiating delegation, were kept in the dark until the eve of the public announcement.

"A lot of noses got out of joint on that one," said an authoritative source.

Kissinger's dealings with the Soviet Union on SALT were of critical concern to the Pentagon. U.S. strategic military policy toward the Soviet Union is an important determinant of the size of the Pentagon's budget, its missile force and its targeting program.

The Army's main role is to contain the Soviet Union in Europe. The Navy's is to keep open the Atlantic sea lanes. And the primary role of the Air Force is to maintain parity if not dominance in air space against the Soviet Union, the only world power with missile and bomber delivery systems capable of destroying the United States.

Under the circumstances, according to one former official, the military "was surprisingly docile" in its dealings with the NSC. "I am not aware of what I would call a really bruising struggle . . . You could never have something like the Admiral's Revolt (of the post-World War II period) over the big bomber," he said.

Kissinger anticipated deep and organized opposition to his policies, a knowledgeable former official reported, but it never formed. "Much of the bitterness and bitchiness in the bureaucracy was based on the belief that it was a rigged game and that they would never know until the final moment what the game was," this former official said.

The President announced his China trip in July, 1971, and his visit to the Soviet Union the following October. Foreign affairs strategists in the White House and State Department questioned the wisdom of announcing the trip to Moscow eight months in advance. Their reasoning was that it would give the Soviet Union enough time to put Mr. Nixon in a diplomatic bind because of the heavy pressure on him to conclude a deal in Moscow. There is a consensus within government that the analysts were right.

In January, 1971, the President also stunned the bureaucracy with his disclosure of Kissinger's secret diplomacy in Vietnam. The revelation of Kissinger's solo negotiations with the North Vietnamese was news even to many officials working on the negotiations.

One of the continuing enigmas in the strained relations between the Pentagon and White House is the role of Alexander M. Haig Jr., then Kissinger's top aide, who maintained contact with his old colleagues across the Potomac River.

Haig, according to an American Broadcasting Co. report, played a key role in transferring NSC information to the Joint Chiefs of Staff. The network quoted Haig as denying the report with the observation that, "I cannot be responsible for others misreading my position."

In the view of informed officials, the so-called spying episode between the White House and Pentagon was in no way a "Seven Days in May" scenario with overtones of military challenge to civilian authority.

"The military was trying to maintain what had been legally accessible in the past and which was slowly being choked off," observed an official outside the Pentagon.

Several knowledgeable sources discounted recent press reports that the mutual surveillance incident was the one cited by President Nixon as the "national security" matter that figured in efforts last spring to limit investigation of the White House plumbers.

"I can think of a number of national security-related matters in the investigation of greater consequence than this one," said one source with full access to the Watergate prosecution.

[From the Washington Post, Jan. 1, 1974]

THE "PLUMBERS"

(By Bob Woodward and Carl Bernstein)

President Nixon has made unwarranted use of the term "national security" for 18 months to restrict the investigation into the White House "plumbers" unit and to prevent disclosure of secret White House operations, according to several senior officials in the White House, Justice Department and FBI.

In recent months White House officials had made it known that there were three specific national security matters that might be revealed in any thorough investigation of the plumbers, the special group of White House operatives responsible for investigating news leaks.

The last of those three national security matters was revealed last week when it was learned that military liaison aides in the White House had passed information from Dr. Henry A. Kissinger's files to the Pentagon, and perhaps to columnist Jack Anderson, in 1971, touching off a White House investigation partly conducted by the plumbers.

The other two national security matters, the sources said, were the existence of a "defector in place" (working for the U.S. government as a double agent) in the Soviet Embassy and the use of a CIA source in the Indian government who might have been compromised by a 1971 story in the New York Times. Both of these matters actually had been discussed in news accounts long ago.

Four high-level government sources, noting that all three matters have now been disclosed, said yesterday that they are not the kind of particularly sensitive national security issues that should have been used to block investigations of any wrongdoing by the plumbers.

"Now it's all public and you can see that national security was invoked because it would scare everyone and be the best justification . . . you can see that no government is going to fall," said one White House source who was previously unwilling to discuss this question.

Another well placed source said: "Someone may try to bring in some war plans and tangle them all up in this, but national security looks like part of the coverup to me."

However, one source said that this does not mean that other national security issues now unknown to these sources may not be raised in the future by the President in connection with the plumbers or the Watergate affair.

The plumbers conducted the burglary of Daniel Ellsberg's psychiatrist in 1971, and two of the plumbers, G. Gordon Liddy and E. Howard Hunt Jr., were involved in the Watergate bugging and burglaries. Following the June 17, 1972, Watergate arrests, the White House first cited national security reasons for restricting investigations of the plumbers and the Watergate affair.

In a November, 1973, press conference, President Nixon said the plumbers' investigations of news leaks had involved "leaks which were seriously damaging to the national security including one that I have pointed out that was so serious that even Sen. Ervin and Sen. Baker agreed it should not be disclosed."

Sen. Sam J. Ervin Jr. (D-N.C.) is chairman of the Senate Watergate committee and Sen. Howard Baker (R-Tenn.) is its vice chairman.

Numerous sources said that the national security matter referred to by Mr. Nixon, and which was disclosed to Ervin and Baker, is the unauthorized distribution in 1971 of Kissinger's documents to the Pentagon by military liaison aides in the White House.

While repeatedly declining to discuss the nature of this national security matter, Sen. Baker has said that its seriousness might help explain some of the Watergate-related activity of White House staff members who had thought that national security had somehow been threatened.

Sen. Ervin last week told a reporter that he also would not discuss the subject in detail, but he said he thought it "was totally unrelated to Watergate and would help explain nothing."

Sources inside the White House and federal investigative agencies said yesterday that the White House was helping give circulation to the story about the unauthorized distribution of Kissinger documents to the Pentagon.

One White House source said that "someone here is trying to make the Pentagon-Kissinger affair look like Seven Days in May", a popular novel in which the military tries to take over control of the U.S. Government. "It's nothing of the kind," this source said, adding that the central figure in the unauthorized copying and distribution of Kissinger's classified documents was a Navy Yeoman, Charles E. Radford, who was transferred from the White House to a Naval Reserve unit in Oregon and not prosecuted.

President Nixon said last year that he had ordered that the original FBI investigation of the Watergate affair be restricted in 1972 to avoid exposing "either an unrelated covert activity of the CIA or the activities of the White House investigations unit" (the official name for the plumbers).

In April, 1973, the President also attempted to prevent the Justice Department from disclosing the plumbers' burglary of Ellsberg's psychiatrist to the Los Angeles court where Ellsberg was on trial. The information was eventually forwarded to the court only after then-Attorney General Richard G. Kleindienst insisted on it.

Then, in the summer and fall of last year, J. Fred Buzhardt, the White House special counsel advising the President on Watergate, attempted to discourage criminal indictments of White House aides involved in the plumbers' activities.

Informed sources said that Buzhardt argued that indictments of former presidential aides John D. Ehrlichman, Charles W. Colson and Egil (Bud) Krogh Jr.—all with connections to the plumbers—could threaten the national security because the three men might disclose other national security matters as part of their defense.

Sources said this week that Buzhardt specifically mentioned three items that might compromise national security: the unauthorized distribution of Kissinger's papers; the Soviet defectors; and the CIA informer in the Indian government.

The White House has denied that Buzhardt was attempting to discourage indictments of any specific individuals. However, sources familiar with Buzhardt's discussions with government prosecutors said that Buzhardt made himself clear. "Fred is always indirect," one source said, "but he left his message with three names on it—Ehrlichman, Colson and Krogh."

Colson has written and sent a 41-page memo to Special Watergate Prosecutor Leon Jaworski arguing that if he is indicted in the Ellsberg case he will defend himself by requesting that highly sensitive national security matters be introduced in court, according to a CBS news report on Friday.

CBS reporter Lesley Stahl quoted the Colson memo as saying that, if indicted, Colson would also ask that President Nixon be called to testify at the trial.

A reliable government source confirmed this report for The Washington Post yesterday.

In addition, a White House source said this week that President Nixon's new special Watergate defense counsel, James D. St. Clair, represented Colson for several weeks last year. The source said that St. Clair was brought into Colson's defense when it appeared that Colson's chief defense counsel, his law partner David I. Shapiro, might be a witness in the case.

St. Clair no longer represents Colson. And Colson made no objection to the White House request that St. Clair take up the President's defense instead of his own, the source said.

[From the Washington Post, Jan. 12, 1974]

PENTAGON GOT SECRET DATA OF KISSINGER'S

(By Bob Woodward and Carl Bernstein)

Military liaison aides in the White House passed information from Dr. Henry A. Kissinger's files and meetings to the Pentagon in 1971 without Kissinger's authorization, according to informed sources.

The information, which included copies of classified documents and verbatim notes or secret tape recordings of National Security Council meetings, was sought by high Pentagon officers who were uncertain about radically shifting U.S. foreign policy toward Russia, China, and other countries, the sources said.

At least two military aides to the National Security Council, the top foreign policy making body in the White House, were removed when Kissinger, then the President's chief national security adviser, learned of the distribution of unauthorized information to the Pentagon, the sources said.

The two ousted aides are Navy Rear Admiral Robert O. Welander, who was in charge of liaison between the Joint Chiefs of Staff and the White House, and Navy Yeoman, First Class Charles E. Radford, who was an aide to Welander.

Radford, apparently the central figure in the matter, was found to be making copies of National Security Council documents with some regularity, specifically when he traveled with Kissinger and General Alexander M. Haig, then Kissinger's deputy and now the White House chief of staff, the sources said.

Radford also was suspected by the White House of leaking National Security Council documents to syndicated columnist Jack Anderson. As part of the investigation of Radford, his telephone was tapped from about December, 1971, to June, 1972, under an order given to the FBI by former Attorney General John N. Mitchell.

The investigation that reportedly uncovered the information-gathering activities of both Radford and Welander was ordered by an angry Kissinger after documents on U.S. policy in the India-Pakistan war were leaked to columnist Anderson in late 1971.

White House and FBI sources said that information from the tap on Radford's telephone was regularly routed to David Young, a former Kissinger aide who helped run the White House "plumbers" operation which investigated government leaks to the news media.

Two sources said that the unauthorized distribution of this information is the mysterious national security matter that the President, Buzhardt and the Senate Watergate committee have mentioned in connection with investigations of the plumbers. Four other sources said, however, that news accounts characterizing this information distribution as spying on or surveillance of Kissinger are wrong.

The investigation of the leak to columnist Anderson, directed by J. Fred Buzhardt, then the Pentagon general counsel and now White House counsel, never established that Welander or Radford did anything wrong, the sources said. In addition, the sources said, it was never clear who in the Pentagon set up or benefited from the unauthorized pipeline of information from Kissinger's files and meetings.

Even though Admiral Thomas H. Moorer, the chairman of the Joint Chiefs of Staff, sat in on most National Security Council meetings, sources said that Welander, also present at the meetings, made copious notes or tape recorded the meetings and sent the information to other senior military officers.

Welander could not be reached for comment yesterday, but last week he denied any involvement in any unauthorized distribution of National Security Council material.

Radford told a reporter two weeks ago that he had been falsely accused of leaking information to columnist Anderson, who, Radford said, is a personal friend of his. "I went through a merry-go-round of interrogation," Radford said. "And I agreed to never talk about what happened and I never will."

A spokesman for Admiral Moorer said yesterday: "The chairman and the chiefs (of the military services) at no time have authorized, accepted or countenanced the unauthorized gathering of information or data from Dr. Kissinger's office."

In one of the leaked secret documents published by Anderson in late 1971, Kissinger was quoted as saying: "I am getting hell every half hour from the President that we are not being tough enough on India . . . He wants to tilt in favor of Pakistan" in the India-Pakistan war.

The sources said that Kissinger became angry when he learned that such detailed, verbatim notes were being taken of the meetings and ordered the practice stopped.

Some sources said yesterday that Welander's notes were not the documents leaked to Anderson. They said Welander was removed from his National Secutrity Council post only because Radford had worked for him. Welander's job was eliminated after his transfer in late 1971.

Other government sources said that Kissinger had for some time intended to eliminate the military liaison to the National Security Council and the Anderson leak merely gave him a reason. In addition to the chairman of the Joint Chiefs of Staff, the President, Vice President, and Secretaries of State and Defense, among others, sit on the National Security Council when it irregularly meets.

FBI and other sources said yesterday that the tap on Yeoman Radford's phone was conducted under the authority of the attorney general to order wiretaps in national security cases. However, the tap was removed several days after a U.S. Supreme Court decision on June 19, 1972, which narrowed the authority of the government to conduct such national security wiretaps.

Under the ruling, the court said that the government did not have a right to wiretap without court orders in so-called "domestic" intelligence cases that do not involve foreign espionage.

President Nixon and former White House aide John D. Ehrlichman discussed the Supreme Court decision for four minutes during a morning meeting on June 20, 1972, a day after the decision, according to White House papers filed in court late last year.

The President has claimed executive privilege on the conversation with Ehrlichman when it turned up on one of the White House tape recordings subpoenaed by the special Watergate prosecutor. After listening to the tape, U.S. District Court Chief Judge John J. Sirica granted the claim of executive privilege on December 19. Sirica said in his ruling that "nothing in the conversaton relates to Watergate."

Radford was transferred from the National Security Council position to a Naval reserve unit in Oregon. Welander is now assistant deputy chief of naval operations for plans and policy, an important job in the Navy hierarchy that Pentagon officials said would not have been given to anyone suspected of unauthorized distribution of classified material.

In a statement issued yesterday, the White House said that "the source of these leaks was a low-level employee whose clerical tasks gave him access to highly classified information."

[From the Washington Post, Jan. 18, 1974]

CHASING A SPY RING—ITS SECRET IS SAFELY LOCKED AWAY IN CONFUSION

(By Laurence Stern)

It has been a wondrous and confusing week in the annals of Watergate journalism.

The tale of the alleged Pentagon spy ring opened with dark overtones of "Seven Days in May." But as the story evolved it was veering toward "Catch-22" with accents of "M*A*S*H."

If there was a grave national security issue at the heart of the matter, as the President and his attorneys have indicated, the secret was still secure with the network of "well placed," or "informed," or "authoritative" anonymous sources who have been talking to reporters over the past few days.

Did Henry Kissinger order a wiretap on the office of former Defense Secretary Melvin R. Laird? (Chicago Sun-Times).

Did President Nixon want to fire Adm. Thomas Moorer, chairman of the Joint Chiefs of Staff, because of the alleged spy ring? (Chicago Tribune).

Was the file-snitching operation the handiwork of a full-fledged "military spy network" (New York Times), or of principally two officers? (Washington Post)

Was it a major breach of White House secrets, as some sources indicated, or was it "rinky-dink," as other informants insisted?

It all seemed to boil down to which paper you read and what informed sources they quoted.

When the spy story broke under bold banner headlines in the Chicago Tribune and on the Scripps-Howard wire last Friday, informed sources were claiming that Admiral Moorer was receiving documents stolen by military subordinates in the White House.

The next day, Saturday, the Chicago Sun-Times reported that an aroused Kissinger, the President's senior NSC staffer, ordered a wiretap in the office of then-Secretary of Defense Melvin R. Laird. The Sun-Times further reported that before the Laird tap was installed a "bug" was implanted in the White House office of Kissinger aide Wayne Smith, an NSC analyst privy to strategic arms and Vietnam strategy secrets.

And so there unfolded in the press the specter of a full-scale cloak-and-dagger struggle between White House and Pentagon with national security secrets spilling out as a byproduct of the hostilities.

Was the alleged military spying episode the much-advertised national security matter cited by the President and his lawyers in connection with the White House "plumbers" investigation by federal Watergate prosecutors?

Yes, some sources told The New York Times and The Washington Post. No, said other sources to both newspapers.

It was a crucial difference. The While House had invoked the danger of a national security breach when it sought last summer to discourage criminal indictments of key aides associated with the "plumbers'" activities—specifically John D. Ehrlichman, Charles Colson and Egil (Bud) Krogh. So The Washington Post was informed, at any rate, by informed sources.

The White House said last Friday that its national security concern in the military spying episode was that it involved "deliberate leaks to the media" of sensitive information of interest to foreign powers.

This was presumably an allusion to the leak of minutes of White House meetings,

chaired by Kissinger, on the administration's strategy in the Indo-Pakistan war during December, 1971. It was this series of meetings during which Kissinger was quoted by columnist Jack Anderson as announcing that the President favored a policy of "tilting" toward Pakistan.

The main consequence of the leak to Anderson was to confirm what was already publicly evident from the pattern of the Nixon administration's diplomacy toward the crisis on the subcontinent—that official U.S. policy was tilted toward Pakistan. The Paks had been important brokers in arranging for President Nixon's trip to China.

Columnist Anderson wrote yesterday that the "plumbers' " investigation of the leak led to discovery of the alleged military spying episode.

But there has been no explanation by the White House what national security interest might be endangered by prosecution of the White House special investigation unit operating under Ehrlichman's direction.

Journalistic and public confusion over the details, the seriousness and significance of the so-called spy story seemed to stem from the varying source channels tapped by the reporters who covered the story.

Some White House officials registered the highest concern with one presidential aide contending (The New York Times) that Mr. Nixon wanted it kept secret to protect the "whole military command structure."

Last Sunday "senior officials in the White House, Justice Department and FBI" told The Washington Post that the White House had made unwarranted use of the national security issue to restrict investigation of the "plumbers."

On Wednesday the Times appeared to reach a similar conclusion. Its sources were now saying that the spying episode had been blown out of proportion.

Yesterday FBI sources told The Washington Post that the only information picked up on the tap of one of the prime military spying suspects, Yeoman Charles Radford, were a series of obscene phone calls made by an associate of the yeoman's.

And the Pentagon on Wednesday came up with its own preliminary finding on the document-snitching affair.

"There was some over-exuberance and some impropriety," said Defense Department spokesman William Beecher, "in the liaison activity between the Joint Chiefs of Staff and the National Security Council."

But, Beecher cautioned, Defense Secretary James R. Schlesinger still "'isn't satisfied that he's got the whole story."

Nor, it might be added, is any newspaperman who has covered the confusing series of events. And certainly not the reader—in Chicago or Washington or New York.

[From Time magazine, Jan. 28, 1974]

AN EXCESSIVE NEED TO KNOW

Was it an updating of *Seven Days in May*, Fletcher Knebel's 1962 novel in which the military tries to take over the U.S. Government? According to news accounts, the Pentagon had planned a spy ring in the White House to ransack Henry Kissinger's classified files and copy documents relating to the National Security Council's most sensitive deliberations. The stolen information was then relayed to Admiral Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, and other Pentagon brass.

The bizarre—but basically true—tale raised a host of disturbing questions. Why did the military have to resort to spying to get information that it claimed was essential to maintain the nation's defenses? Was the Pentagon prying into matters that were none of its business? Were some leaders of the armed forces contemplating a coup? As it turned out, the story of the Pentagon v. the White House was not quite *Seven Days in May* but several deeply disquieting days in January (when the story first surfaced). It was something less than apocalyptic, but troubling nonetheless to a nation already alarmed about Government duplicity and secrecy. By authorizing the secret surveillance in the first place, but initially denying and finally admitting complicity in the affair, America's military found itself caught in the same kind of unseemly episode that has besmirched the record of the Nixon Administration.

THE PLUMBERS

The Pentagon's snooping occurred in 1971, when the Administration was engaged in a series of delicate foreign policy initiatives—an open-door policy with Peking, arms talks with Moscow, parleys with Hanoi to end the war in Southeast Asia. Fearing that publicity might imperil these negotiations, Nixon and his national security adviser, Kissinger, resolved to keep them secret. Not even Secretary of Defense Melvin Laird and Secretary of State William Rogers were to be fully informed.

For all the precautions, there were still leaks. In June the New York *Times* began publishing the Pentagon papers. As Nixon later contended: 'There was every reason to believe this was a security leak of unprecedented proportions." To find out who was responsible, Nixon created the plumbers, an investigative unit designed to locate and seal off leaks. Yet the unauthorized disclosures continued. In July a *Times* story outlined the U.S. negotiating positions at the Strategic Arms Limitation Talks (SALT) in Helsinki.

In December 1971, Columnist Jack Anderson obtained documents that quoted Kissinger as telling his staff that Nixon wanted the U.S. to "tilt" toward Pakistan during its war with India. Infuriated, Kissinger demanded a White House investigation of the leak.

The plumbers soon turned up a prime suspect: Yeoman First Class Charles E. Radford, now 30. He was serving as admiral's writer (military parlance for secretary-stenographer) to Rear Admiral Robert O. Welander, now 49, who was the Joint Chiefs' liaison to the National Security Council. Welander's job was to attend NSC meetings, take notes and brief the Chiefs on what happened, as well as to pass on other authorized data about foreign policy.

All this was strictly legitimate; swiping secret documents was not. Because somebody was getting such documents out of the NSC, however, Kissinger requested and then Attorney General John Mitchell ordered that the FBI tap the telephones of Radford and four associates for a six-month period. Radford, a convert to the Church of Jesus Christ of Latter-day Saints, admits knowing Anderson—they worshiped at the same Mormon church in Washington—but he denies that he was the source of the leak.

Despite such denials, the plumbers concluded that Radford and perhaps also Welander were clandestinely delivering national security information to the Joint Chiefs. But when the investigators followed the trail to the Pentagon and proposed giving lie detector tests to military personnel, Defense Secretary Laird threw them out. Laird also ordered J. Fred Buzhardt, then the Pentagon's general counsel, to find out what was going on. Buzhardt reported back that Radford and Welander had indeed provided high-ranking officers with copies of purloined classified information. Among these were documents obtained by Radford when he was Kissinger's secretary-stenographer on trips abroad; one of these trips may have been the secret visit to China in July 1971, five months before the snooping was discovered. Buzhardt did not implicate Moorer; that was done in a report to the White House in early 1972 by David Young, who had been transferred from Kissinger's staff to the plumbers' unit.

NO DISCIPLINE

Despite Young's findings the Administration decided for several reasons not to discipline anyone involved. Nixon did not want to broadcast the quarrel between Kissinger and the military while delicate negotiations were under way. Evidence of Moorer's involvement was not conclusive at that point, and the President feared that punishing Radford and Welander might somehow cause more diplomatic secrets to be revealed to the public. Radford was shifted to Salem, Ore., where he now works as a personnel administrator at the U.S. Naval and Marine Corps Reserve Training Center. Welander was sent to Charleston, S.C.; he commanded a flotilla of destroyers there until May 1973, when he became an Assistant Deputy Chief of Naval Operations in the Pentagon. In June 1972, Nixon reappointed Moorer Chairman of the Joint Chiefs. To prevent future military snooping, Kissinger abolished the Joint Chiefs' liaison with the Security Council.

When the story of the stolen documents finally broke this month, a Pentagon spokesman tried to dismiss it as the result of "overzealousness and overexuberance" on the part of low-ranking staff members. Some officers privately said, however, that far from being gungho, Radford and Delander did no more than what is expected of most liaison personnel. The military, loathing surprises, takes extraordinary steps to keep itself apprised of what is going on in Washington. At least 515 liaison officers are assigned to civilian agencies; there are even five in the U.S. Postal Service. Declared one retired admiral: "Military people are spying on every branch of Government. There are ten of them on Capitol Hill; [part of] their job is to report back not only normal information but also the eating and drinking habits of everybody up there. We had a hard time cracking the General Accounting Office, but now the Navy has a commander at the GAO to keep it informed." Said another naval officer: "We used to handle cable traffic for the State Department, and we weren't above picking off a few messages."

"BACK CHANNEL"

At first Moorer dismissed the whole snooping story as "ludicrous" and declared that he had never authorized anything like it. Last week, however, he admitted on NBC's *Today* show that he had received some illicitly obtained documents from Kissinger's office in the form of "roughs" and "carbon copies." He had not closed off this "back channel" of information, he said, because everything he got was "essentially useless." In any case, he later got the same information through regular contacts with the White House. Moorer's confession left many viewers incredulous. Was he saying that, if the information he was receiving on the "back channel" had proved to be essentially useful, he would have choked off the spies? That seemed so implausible as to be ludicrous indeed.

For their part, Administration officials initially depicted the snooping affair of newsmen as extremely serious and as justifying the work of the plumbers. (That work included the burglary of the office of Daniel Ellsburg's psychiatrist.) By last week White House officials were shifting gears and insisting that the snooping case was really unimportant after all. Just why they did so is unclear. Perhaps the Administration realized that few people would accept the Pentagon's spying as the real reason why Nixon did not want the plumbers to be fully investigated. In any case, both the White House and the Pentagon obviously hoped that the story of the snooping affair would quickly fade away.

[From the Washington Post, Jan. 19, 1974]

REROUTING SECRET DATA DISCLOSED

SACRAMENTO, CALIF., January 19.—Top secret messages intended for Ambassador

Ellsworth Bunker or other high civilian officials in Saigon were routinely passed on to the Joint Chiefs of Staff, says a man who worked as a document coordinator in South Vietnam.

Steven M. Davis, 23, said in an interview that it was common practice at the ITT communications center in Saigon for such messages to be retransmitted to Adm. Thomas Moorer, chairman of the joint chiefs. Davis said he worked as a civilian top secret document coordinator at the communications center from January to June in 1973.

Davis said he worked for Federal Electronic Corp., an ITT subsidiary.

Asked about Davis' charges, Frank Rauzi, security manager for the corporation, based in Paramus, N.J., said the "allegations are not entirely wrong, but they were investigated fully by ITT and the military . . . I wouldn't say it didn't happen. It could be. Possibly, yes."

Davis said that while he was on duty he handled all top secret messages coming into the center. "I would deliver the message, and as far as I was concerned that was it," he said.

"Then all of a sudden I would notice that all these other officers had the message and it was being retransmitted to Hawaii, to Thailand, to the JCS," he said.

"I have never in my life seen things so messed up. People with the Joint Chiefs of Staff weren't supposed to get messages, they got them. People in the embassy weren't supposed to get messages, they got them.

Davis, who lives in a Sacramento suburb, said messages sent to the joint chiefs included information on the strategic arms limitation talks, Vietnam negotiations, State Department business and CIA investigations.

"These messages were coming from the Secretary of State, they were coming from the White House, they were coming from the CIA," Davis said. "A lot of them specifically had to do with Bunker. None of this information was supposed to go anywhere else. It was supposed to be kept in these types of channels."

Davis said he protested the security violations to his superiors but was told to keep quiet. He said he was fired after telling the CIA about the practices.

Pentagon officials had no immediate comment on Davis' assertion.

[From the Washington (D.C.) Star-News, Jan. 29, 1974]

PENTAGON ACTED ON SPYING, LAIRD CLAIMS

The Pentagon discovered and stopped military spying in Henry A. Kissinger's office before the White House "plumbers" first learned of it, former Defense Secretary Melvin R. Laird said today.

In a breakfast meeting with reporters, Laird, who on Friday leaves his post as a presidential counselor to become an executive of the Reader's Digest, also predicted that a move to impeach President Nixon would be defeated in the House by a margin of 75 to 125 votes.

Laird said that when he was secretary of defense in December 1971, the Pentagon realized that material from Kissinger's National Security Council was being passed surreptitiously to the office of Adm. Thomas H. Moorer, chairman of the Joint Chiefs of Staff.

"Admiral Moorer directed the admiral involved (Rear Adm. Robert O. Welander) to go to Henry Kissinger," Laird related. "Henry Kissinger was out of town so he went to Al Haig. Haig reported it to Ehrlichman. Then the (plumbers) investigation started."

Kissinger, now secretary of state, was then director of the NSC. Alexander M. Haig, now White House chief of staff, was Kissinger's deputy. John D. Ehrlichman was Nixon's chief domestic adviser and the White House official in charge of the plumbers, a special investigative unit which later burglarized the office of Daniel Ellsberg's psychiatrist.

Welander headed the military liaison with the NSC. The liaison office was abolished and Welander was shifted to other activities immediately after the incident was discovered.

The investigation of charges of military spying on Kissinger was one of the "national security" activities relied upon by the White House in seeking to keep secret the details of the plumbers' operations.

Moorer has said that he received improperly obtained material from Kissinger's office but paid little attention to it because it was "essentially useless" to him.

Moorer said Welander delivered to his office copies of working papers and rough drafts from Kissinger's office. Moorer said the material was copied by a clerk in Welander's office, Navy Yeoman Charles E. Radford.

In addition to insisting that the plumbers did not uncover the Welander-Radford activity, Laird said there was "no evidence at all" that the military was trying to sabotage Kissinger or his diplomatic activities.

Laird was sharply critical of Kissinger on another matter: The secretary of State's complaint that America's NATO allies did not support the U.S. when American forces were put on alert in response to Soviet actions in the Mideast.

[From the New York Times, Jan. 22, 1974]

MILITARY WATERGATE?

The strange case of the admirals, the yeoman and the Kissinger files is beginning to appear as silly as the Watergate "caper"—and perhaps as serious.

More questions were raised than answered by the Chairman of the Joint Chiefs of Staff, Admiral Moorer, when he acknowledged publicly that he was a receiver of purloined White House documents. The papers were removed from Henry Kissinger's National Security Council offices by Navy Yeoman Radford, an enlisted clerk, and brought by hand to Admiral Moorer's desk by Radford's superior, Rear Admiral Welander, the Pentagon's liaison officer at the N.S.C.

Admiral Moorer denies that he knew at the time that the papers were obtained improperly. He scoffs at the report that a military "spy ring" functioned with his knowledge to inform the Chiefs of Staff of Mr. Kissinger's secret negotiations in 1971 with North Vietnam, China and Russia and in regard to the Strategic Arms Limitations talks (SALT I). Yet, when a White House investigation revealed the illicit means through which the documents came into his hands, Admiral Moorer merely transferred Radford and Welander instead of disciplining or court-martialing them. The White House and Admiral Moorer are now minimizing the breach of security as simply a matter of "overzealousness" and "overexuberance."

Fundamental issues of national policy are raised by the allegations of military spying on the White House and the subsequent cover-up. It occurred at a time of major relaxation of civilian control of the military under former Defense Secretary Laird. Simultaneously there was a sharp increase in the influence of the Joint Chiefs of Staff on national security policy, as promised by President Nixon in his 1968 campaign attacks on the civilian "whiz kids" brought into the Pentagon by former Secretary McNamara.

During this period a trend was established that has resulted in the appointment of generals and admirals to eleven of the less than fifty key policy-making positions of Deputy Assistant Secretary of Defense—positions created over the past quarter-century as part of an effort to provide unified civilian control over the three armed services. The question now is not only whether civilian control has been relaxed too much, but whether the military are beginning to become "politicized" to a degree that has been seen in other countries but never before in the United States.

Has overinvolvement in high policy decisions led some military leaders to reach for even more influence? The documents misappropriated from Mr. Kissinger's files reportedly contained invaluable ammunition for the internecine policy wars that go on behind the scene in Washington, although Admiral Moorer states that those he saw dealt only with military matters concerning Vietnam.

Enough is now known to justify open Congressional hearings so that the country can judge for itself what the facts are.

[From the Washington Post, Jan. 15, 1974]

THE PENTAGON SPYING CASE

What follows is a summary of those intricate and intriguing news accounts that have appeared in the last few days and dealt with a strange internecine conflict within the administration.

In mid-1971, the military command in the Pentagon, apparently feeling closed out of the President's tightly held major diplomatic initiatives, arranged on its own to get certain documents and notes of meetings from the White House. Some of this material seems to have found its way to columnist Jack Anderson. When Anderson published an account of a National Security Council meeting on the Indo-Pakistani war in December, 1971, an angry Henry Kissinger—he was then Mr. Nixon's national security adviser in the White House—ordered an investigation of the leak. The "plumbers," established some months earlier, turned to the task and found a "ring" of military personnel taking unauthorized information from Dr. Kissinger's files and meetings.

What then happened to those somehow involved? One junior person reportedly attempted "blackmail" by threatening to expose the operation to public view if he were not given a "very high post"; he did not get such a post but was not disciplined and was kept on in the government. The Joint Chiefs of Staff liaison at the NSC, a rear admiral, was given a new and important Pentagon position; he denies involvement. A clerical aide, a yeoman, was transferred; he says he promised the Navy "to never talk about what happened." A supposed recipient of the information, Adm. Thomas H. Moorer, who is the country's top military officer, was reappointed to a second two-year term as chairman of the Joint Chiefs; he denies any link to unauthorized information "from Dr. Kissinger's office."

As for Mr. Nixon, for 18 months, ever since the existence of the "plumbers" came to light, he has resisted investigation of them on grounds that disclosure would harm the "national security." A number of officials now privately say that the Pentagon spying case is what he had particularly in mind. In its single public comment on the Pentagon spying case, made last Friday in response to the first limited press reports on it, the White House did not explicitly acknowledge even that a charge of Pentagon spying had been made. Rather, the statement singled out "deliberate leaks to the media of extremely sensitive information of interest to other nations" and said "the source of these leaks was a low-level employee [apparently the yeoman] whose clerical tasks gave him access to highly classified information." (Columnist Anderson denies the yeoman was his source.) Further disclosures would be "inappropriate," the White House said. "It may be that at a later time the facts can be made public without detriment to the national interest."

In brief: The Pentagon spied on Dr. Kissinger. When the operation came to light inside the government, it was covered up; the principals were given minimal or no reason for personal embarrassment, and preemptive disclosure of the matter was made to key legislators—complete with the usual "na-

tional security" argument for maintaining the strictest secrecy. Now that the operation has come to public attention, the White House is trying to breeze right by.

No doubt this is not the full story. It is enough to make plain, however, that the "villain" of this piece, as of so many others, is President Nixon's obsession with secrecy, rationalized without warrant or compelling justification as an imperative of "national security." In making his openings to Peking and Moscow and in searching for a way out of Vietnam, he had a broad choice between soliciting, on the one hand, the understanding and support of the Executive bureaucracy—and, in their respective times and ways, the Congress and the public—and, on the other hand, conducting a lone operation. Mr. Nixon chose the latter course. Did he think the Pentagon would sabotage his diplomacy? Even for a President with Mr. Nixon's savvy for the possibilities of political ambush from the right, this seems an exaggerated not to say offensive consideration. Whatever his reason, his choice led in this instance to a shabby espionage operation that induces one not so much to gasp as to cringe. Discovery of the operation led all too inevitably to a coverup—and perhaps not only between the President and the Pentagon. Dr. Kissinger offered the Senate seemingly categorical assurances that he had no knowledge of the intelligence activities of David Young, his former aide who—according to the new report—ran the investigation, which Kissinger ordered, that unearthed the Pentagon plot. These assurances look very strange now.

None of us needed at this time yet another demonstration of the dangers of running the presidency as though it were a game of solitaire. Quite enough damage to our institutions and our values has already been done. But we keep learning more and it is still not possible to tell when the lesson will be done.

[From the Los Angeles Times, Jan. 17, 1974]

MILITARY SPYING SIGNIFIES A REAL DANGER

(By Max Lerner)

NEW YORK.—The stories from Washington about military spying inside the federal government during 1971 don't mean that the military elite is about to take over the civilian government. But they do mean that no government today can be complacent about the role of its generals and admirals—not even the United States, which has prided itself on an unbroken tradition of civilian control of the military.

In their larger outline, the stories seem to be saying that the Joint Chiefs of Staff, along with the Defense Department, were pretty unhappy about what might be going on inside Henry A. Kissinger's office in the National Security Council. It was the time of the secret preparations for the détente with China and Russia, which couldn't have added to their felicity. So they took the course of using their liaison people as spies.

Some material seems to have reached Adm. Thomas H. Moorer, the head of the Joint Chiefs. When President Nixon heard this—so the story goes—he was in a rage and wanted to fire Moorer, but was dissuaded. No one was punished. It would have broken too many things wide open.

It is a tangled story, pieced together by New York, Washington and Chicago papers. Some details may be off, but the main thrust has the sound of truth.

It was not spying in the traditional sense, involving the tapping of one nation's secrets by another. It was high-stake infighting between agencies of the same government, using sneaky, covert means.

Call it interagency spying. Those who commanded it did it as part of a power struggle to influence high policy, doubtless out of patriotic motives. That may be what a Washington official meant when he said that the Pentagon people "simply wanted to know what the state of play was."

Yet far more was involved than idle curiosity. The whole story shows that government isn't a polite textbook operation. Any administration in Washington is a lethal jungle where officials appointed by the same President, waving the same party banners, playing golf and drinking cocktails together, use fang and claw on high-stake issues.

Whether in Paris, Bonn, Moscow, Peking or Washington, interagency spying is par for the course, as it is inside big corporations.

But when it involves military men, it gets more dangerous. They have the arms, and with nuclear powers the arms are nuclear and the stakes are accordingly sky-high.

I have talked with enough defense officers in every service to know that they take the tradition of civilian control seriously. But if you are one of the Joint Chiefs or high in the Defense Department (note the recent figures on the growing number of generals and admirals holding high posts in the presumably civilian Pentagon), you will worry about the state of American arms. And your worries may touch a sensitive nerve.

Call this the battle point—the point at which a military man gets aroused enough to do battle for his beliefs about American military strength. It is the point where he may feel that the Russians are achieving weapons primacy over the Americans.

Every man has a don't-touch-me point. This is the military man's don't-touch-me. Thus, the key to military-civilians politics is no longer what Madison or Hamilton thought it was. In the years ahead, it will have to do with the nuclear arsenals of the great powers—their competitive race, their efforts to reach agreements as in the SALT talks, their residual threats to each other.

Mostly, we have done our thinking about military takeovers in terms of the military regimes in Latin America, Asia and Africa, and in Greece and Spain in Europe. But none of these is a nuclear power. The United States and Russia and China are.

When Gen. Lin Piao plotted to join Chinese with Soviet power, and his plot failed, Mao Tse-tung and Chou En-lai hunted him down until his plane crashed. Gen. Grechko goes along with Leonid Brezhnev's American detente, but only because of Russia's economic need. If the detente threatened the demand of the Russian military elite for a two-front nuclear force that could overpower China's and face America's on at least an equal basis, Brezhnev would be done for.

The battle point of American military leaders will come if and when they are convinced that civilian leaders have turned America into a second-rate power and given the Russians primacy over the United States on land and sea, in the air, in nuclear weapons.

That was what the spying was really about. And if that point really comes, they won't stop at spying, and I fear that they will have a big segment of opinion behind them.

[From the New York Times, Jan 30, 1974]

CONGRESS ASLEEP

The Nixon Administration has conspicuously failed in its responsibility to tell the truth to the public about the military spying on civilian officials in 1971–72. Secretary of State Kissinger plays down his own role in this murky affair. Secretary of Defense Schlesinger deprecates its importance. The White House refuses to comment.

In these circumstances, Congress has a clear duty to conduct a thorough and searching public investigation. But in this matter Congress, too, is falling down in its responsibilities. The Senate Foreign Relations Committee is apathetic. Senator Stennis, chairman of the Senate Armed Services Committee, has done nothing beyond holding a private meeting with the chief offender Admiral Thomas L. Moorer, the chairman of the Joint Chiefs.

Admiral Moorer has admitted receiving confidential documents from Henry A. Kissinger's White House office that were surreptitiously obtained by two military officers assgned as liaison between Mr. Kissinger and the Joint Chiefs. When the White House "plumbers" investigated this high-level spying and discovered the source of the leakage, the two military men—a rear admiral and his clerk—were transferred but not otherwise disciplined.

Everyone involved is now eager to minimize this episode. But the very intensity of the denials suggests that there is a good deal more involved than has yet been revealed. Although Secretary Schlesinger insists "the thing has been blown out of all context," Egil Krogh, recently convicted former chief of the plumbers, asserted last weekend that if Mr. Schlesinger had read the "foot-thick" report prepared for the President about the extent of the Pentagon's spying effort, he would not dismiss the matter so casually.

In any bureaucracy, information is power. But what is at stake here is something more important than a bureaucratic power struggle between Mr. Kissinger and the Joint Chiefs of Staff for control of policy. What is involved are the critical principles of civilian supremacy over the military and of executive branch responsiveness to the public acting through its elected Congress. The power of the military can be contained only if the President and his chief civilian subordinates maintain effective control at all times.

It is up to Congress on behalf of the people to see that such control is real and is diligently exercised. But the relevant committees of Congress dealing with the military, the intelligence community and foreign affairs are too easily bemused by the civilian and military officials whose official conduct they are supposed to be monitoring. Instead of asking the necessary rude questions and transacting the public's business in public, the members of these committees are too easily satisfied by confidential briefings in which the policymakers may titillate them with secret information.

Even worse, members allow their chairmen to usurp authority that belongs to the committees as a whole. For example, why does Admiral Moorer think that a cozy private chat with Senator Stennis will suffice to hush any complaints on Capitol Hill? Presumably, it is because the members of the Armed Services Committee and of the rest of Congress have shown in practice that they are willing to abdicate their supervisory responsibilities to Senator Stennis. This practice of confiding in a few favored, reliable committee chairmen is what enabled the Administration to hoodwink Congress and the country about the bombing of Cambodia for four years.

When will Congress learn that this irresponsible secrecy is undercutting public confidence in government? When will Congress insist that civilian and military official explain their actions in public and demonstrate that basic trust in the people in which this Republic is founded?

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. At this time, in accordance with the previous order, the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD) is to be recognized.

Mr. MANSFIELD. Mr. President, under his authority, I will accept that time and suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, informed the Senate that, pursuant to the provision of 16 United States Code 513, the Speaker had appointed Mr. LOTT as a member of the National Forest Reservation Commission, to fill the existing vacancy thereon.

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

H.R. 4861. An act to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes; and

H.R. 8977. An act to establish in the State of Florida the Egmont Key National Wildlife Refuge.

HOUSE BILLS REFERRED

The following bills were each read twice by their titles and referred, as indicated:

H.R. 4861. An act to amend the act of October 4, 1961, providing for the preservation and protection of certain lands known as Piscataway Park in Prince Georges and Charles Counties, Md., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

H.R. 8977. An act to establish in the State of Florida the Egmont ey National Wildlife Refuge. Referred to the Committee on Commerce.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements therein limited to 3 minutes.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. TUNNEY). Without objection, it is so ordered.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION BY NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator, National Aeronautics and Space Administration transmitting a draft of proposed legislation to authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes (with accompanying papers). Referred to the Committee on Aeronautics and Space Sciences.

REPORT ON REAPPORTIONMENT OF AN APPROPRIATION

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that the appropriation to the Department of the Interior's Bureau of Land Management "Management of Lands and Resources, for fiscal year 1974, has been apportioned on a basis which indicates the necessity for a supplemental estimate of appropriations. Referred to the Committee on Appropriations.

REPORT OF DEFENSE CIVIL PREPAREDNESS AGENCY

A letter from the Director, Defense Civil Preparedness Agency, reporting, pursuant to law, on its activities for the quarter ended December 31, 1973. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY DEPARTMENT OF DEFENSE

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1975 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons, and research, development, test and evaluation for the Armed Forces, and to prescribe the authorized strength for each active duty component and of the Selected Reserve of each Reserve component of the Armed Forces and of civilian personnel of the Department of Defense, and to authorize the military training student loads and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

A letter from the Secretary of Defense, transmitting a draft of proposed legislation to authorize appropriations during the fiscal year 1974 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, and other weapons and research, development, test and evaluation for the Armed Forces, and to authorize construction at certain installations, and for other purposes (with accompanying papers). Referred to the Committee on Armed Services.

PROPOSED LEGISLATION BY THE DEPARTMENT OF THE AIR FORCE

A letter from the Acting Assistant Secretary has Manpower and Reserve Affairs. Department of the Air Force, transmitting a draft of proposed legislation to extend the time limit for the award of certain military decorations (with accompanying papers). Referred to the Committee on Armed Services.

REPORT ON PROPOSED CLOSURE OF CERTAIN MILITARY INSTALLATIONS

A letter from the Assistant Secretary of the Army (Installations and Logistics), transmitting, pursuant to law, the justification for the proposed closure of certain military installations in the United States (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF OFFICE OF EMERGENCY PREPAREDNESS

A letter from the Director, Office of Emergency Preparedness, Executive Office of the President, transmitting, pursuant to law, a report of that office, for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION BY FEDERAL HOME LOAN BANK BOARD

A letter from the Chairman, Federal Home Loan Bank Board, transmitting a draft of proposed legislation to provide for the chartering of Federal stock savings and loan associations, to regulate unitary savings and loan holding companies and for other purposes (wtih accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF JOINT COMMITTEE ON DEFENSE PRODUCTION

A letter from the Chairman, Joint Committee on Defense Production, Congress of the United States, transmitting, pursuant to law, a report of that Joint Committee, for the fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT ON RAIL SERVICE IN THE MIDWEST AND NORTHEAST REGION

A letter from the Secretary of Transportation, transmitting, pursuant to law, a report on rail service in the Midwest and Northeast Region, dated February 1, 1974 (with an accompanying report). Referred to the Committee on Commerce.

PROPOSED LEGISLATION BY DEPARTMENT OF TRANSPORTATION

A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC–43 (Sub. No. 2) (with an accompanying paper). Referred to the Committee on Commerce.

REPORT OF WASHINGTON GAS LIGHT CO.

A letter from the Comptroller, Washington Gas Light Co., transmitting, pursuant to law, a balance sheet of the company as of December 31, 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

REPORT OF DISTRICT OF COLUMBIA ARMORY BOARD

A letter from the Chairman, District of Columbia Armory Board, transmitting, pursuant to law, the annual report of the Board for 1973 (with an accompanying report). Referred to the Committee on the District of Columbia.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to impose a tax on windfall profits by producers of crude oil (with accompanying papers). Referred to the Committee on Finance.

REPORT ON INTERNATIONAL AGREEMENTS

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

REPORT ON ASSISTANCE-RELATED FUNDS OBLIGATED FOR CAMBODIA

A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting, pursuant to law, a report on assistance-related funds obligated for Cambodia, for the second quarter of fiscal year 1974 (with an accompanying report). Referred to the Committee on Foreign Relations.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Design and Administration of the Adverse Action and Appeal Systems Need to be Improved," Civil Service Commission, dated February 5, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

REPORT ON APPLICATIONS FOR CONDITIONAL ENTRY INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on applications for conditional entry into the United States of certain aliens. Referred to the Committee on the Judiciary.

REPORT ON PERMANENT RESIDENCE STATUS FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, reporting, pursuant to law, on the granting of permanent residence status to certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT ON TEMPORARY ADMISSION INTO THE UNITED STATES OF CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders entered relating to temporary admission into the United States of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT OF THE FEDERAL JUDICIAL CENTER

A letter from the Director, the Federal Judicial Center, transmitting, pursuant to law, a report of that Center, for the year 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

FINAL ACCOUNTING REPORT OF NATIONAL PARKS CENTENNIAL COMMISSION

A letter from the Chairman, National Parks Centennial Commission, transmitting, pursuant to law, a final accounting report of that Commission (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT OF BOYS' CLUBS OF AMERICA

A letter from the Director, National Development and Finance Services, transmitting, pursuant to law, a report of the Boys' Clubs of America, for the year ended September 30, 1973 (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT OF NATIONAL PARKS CENTENNIAL COMMISSION

A letter from the Chairman, National Parks Centennial Commission, transmitting, pursuant to law, a report of that Commission (with an accompanying report). Referred to the Committee on the Judiciary.

REPORT ON AGE DISCRIMINATION IN EMPLOYMENT

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on Age Discrimination in Employment, for the year 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ON MINIMUM WAGE AND MAXIMUM HOURS STANDARDS

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on Minimum Wage and Maximum Hours Standards, dated January 1974 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

REPORT ENTITLED "FINANCING POSTSECONDARY EDUCATION IN THE UNITED STATES"

A letter from the Chairman, National Commission on the Financing of Postsecondary Education, transmitting, pursuant to law, its report entitled "Financing Postsecondary Education in the United States" (with accompanying papers). Referred to the Committee on Labor and Public Welfare.

REPORT OF RAILROAD RETIREMENT BOARD

A letter from the Secretary, Railroad Retirement Board, transmitting, pursuant to law, a report on positions in grades GS–16, 17 and 18, for calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

REPORT ON GRADES GS–16, 17, AND 18

A letter from the Chairman, U.S. Civil Service Commission, transmitting, pursuant to law, a report on grades GS–16, 17, and 18 for the calendar year 1973 (with accompanying papers). Referred to the Committee on Post Office and Civil Service.

REPORT ON CERTAIN POSITIONS

A letter from the Administrator, National Aeronautics and Space Administration, transmitting, pursuant to law, a report on certain civilian positions in that Administration, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

REPORT ON GRADES GS–16, 17, AND 18

A letter from the Assistant Secretary of Defense, Manpower and Reserve Affairs, transmitting, pursuant to law, a report on grades GS–16, 17, and 18, for the calendar year 1973 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

REPORT OF FEDERAL BUREAU OF INVESTIGATION

A letter from the Director, Federal Bureau of Investigation, Department of Justice, transmitting, pursuant to law, a report on positions in grades GS–16, 17, and 18 (with an accompanying report). Referred to the Committee on Post Office and Civil Service.

DECISION OF BOARD OF VETERANS APPEALS

A letter from the Chairman, Board of Veterans Appeals, transmitting, pursuant to law, a decision of the Board in the appeal of Robert L. Flint (with an accompanying paper). Referred to the Committee on Veterans' Affairs.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. ALLEN):

Petitions of sundry citizens praying for the use of DDT under certain emergency conditions. Referred to the Committee on Agriculture and Forestry.

A joint resolution of the Legislature of the State of Montana. Referred to the Committee on the Judiciary:

"H.J. RES. 4

"A joint resolution of the Senate and the House of Representatives of the State of Montana ratifying the proposed amendment to the Constitution of the United States relating to equal rights on account of sex

"Whereas, the ninety-second congress of the United States of America at its second session, in both houses, by a constitutional majority of two-thirds (2/3) thereof, adopted the following proposition to amend the constitution of the United States of America in the following words:

"'Joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for men and women

"*'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein)*, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"'ARTICLE —

"'SECTION 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

"'SEC. 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

"'SEC. 3. This amendment shall take effect two years after the date of ratification.'

"Now, therefore, be it resolved by the Senate and the House of Representatives of the State of Montana:

"That the proposed amendment to the Constitution of the United States of America be and the same is hereby ratified, and

"Be it further resolved, that certified copies of this resolution be forwarded by the secretary of state to the administrator of the general services administration, Washington, D.C., and the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States."

Resolutions of the Legislature of the Commonwealth of Massachusetts. Referred to the Committee on Appropriations:

"RESOLUTIONS

"Memorializing the Congress of the United States and the Members thereof from the Commonwealth of Massachusetts to take such immediate action as may be necessary to provide for the construction of the Lincoln-Dickey Dam in Maine for the purpose of supplying the New England area with an adequate supply of inexpensive electric power

"Whereas, New England has long suffered from the lack of an adequate supply of inexpensive energy power; and

"Whereas, The present energy crisis points up the absolute necessity for immediate action to provide an additional supply of such energy power to our area; and

"Whereas, The construction of the Lincoln-Dickey Dam in Maine for the purpose of supplying the New England area with a supply of such energy power has been advocated by many persons including former Presidents Kennedy and Johnson; therefore be it

"Resolved, That the Massachusetts House of Representatives respectfully requests the Congress of the United States to appropriate sufficient money for the construction of the Lincoln-Dickey Dam for the purpose of supplying electric energy to the New England area; and be it further

"Resolved, That the Massachusetts House of Representatives urgently requests each member of Congress to take immediate action, both collectively and individually, to assure the passage of legislation assuring the construction of the Lincoln-Dickey Dam and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Clerk of the House of Representatives to the President of the United States, to the Federal Energy Director, William E. Simon, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, January 17, 1974."

A resolution of the Senate of the State of West Virginia. Referred to the Committee on the Judiciary:

"SENATE RESOLUTION No. 10

"Memorializing the Congress of the United States to approve House Joint Resolution No. 261, introduced on January 30, 1973, proposing an amendment to the Constitution of the United States guaranteeing the right to life to the unborn, the ill, the aged or the incapacitated

"Resolved by the Senate:

"That the Congress of the United States be urged and requested to approve the amendment to the United States Constitution introduced in House Joint Resolution No. 261, which reads as follows:

"'Proposing an amendment to the Constitution of the United States guaranteeing

the right to life to the unborn, the ill, the aged or the incapacitated. To be ratified by the states within seven years of Congressional approval.

" 'ARTICLE —

" 'SECTION 1. Neither the United States nor any state shall deprive any human being, from the moment of conception, of life without due process of law; nor deny to any human being, from the moment of conception, within its jurisdiction, the equal protection of the laws.

" 'SEC. 2. Neither the United States nor any state shall deprive any human being of life on account of illness, age or incapacity.

" 'SEC. 3. Congress and the several states shall have the power to enforce this article by appropriate legislation,' and, be it

"Resolved further, That the Clerk of the Senate notify the Congress of the United States of this action by forwarding to the appropriate officers of each House of Congress a certified copy of this Resolution."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McINTYRE, from the Committee on Banking, Housing and Urban Affairs, with an amendment:

S. Res. 173. A resolution that the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate in order to reduce any unnecessary reporting burden on broker-dealers and help to assure the continued participation of small broker-dealers in the United States securities markets (Rept. No. 93–677).

By Mr. STEVENS, for Mr. JACKSON, from the Committee on Interior and Insular Affairs, without amendment:

S. 184. A bill to authorize and direct the Secretary of the Interior to sell interests of the United States in certain lands located in the State of Alaska to the Gospel Missionary Union (Rept. No. 93–678).

By Mr. STEVENS, for Mr. JACKSON, from the Committee on Interior and Insular Affairs, with amendments:

S. 194. A bill to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands (Rept. No. 93–679).

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

S.J. Res. 185. A joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. Mc 43 (Sub-No. 2). Considered and passed, without amendment.

OVERSEAS PRIVATE INVESTMENT CORPORATION AMENDMENTS—REPORT OF A COMMITTEE (S. REPT. NO. 93–676)

Mr. CHURCH. Mr. President, I send to the desk for purposes of filing a report of the Committee on Foreign Relations on the Overseas Private Investment Corporation Amendments Act (S. 2957), and I ask unanimous consent that the report be printed, together with minority views and additional views.

The PRESIDING OFFICER. The report will be received and printed.

GENOCIDE CONVENTION—UNDERSTANDINGS (EXEC. NOS. 93–2 AND 93–3)

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

As in executive session, Mr. MCCLURE submitted two understandings, intended to be proposed by him, to Executive O (81st Cong., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. CHURCH:

S. 2957. An original bill reported from the Committee on Foreign Relations, relating to the activities of the Overseas Private Investment Corporation. Placed on the calendar.

By Mr. CURTIS:

S. 2958. A bill to amend title XI of the Social Security Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs. Referred to the Committee on Finance.

By Mr. PERCY:

S. 2959. A bill to provide for equal educational opportunity for women, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. HANSEN (for himself and Mr. HARTKE) (by request):

S. 2960. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons. Referred to the Committee on Veterans' Affairs.

By Mr. JOHNSTON:

S. 2961. A bill to amend the Economic Stabilization Act of 1970 in order to encourage prompt decontrol of wages and prices, to provide standards governing the imposition of controls after September 1, 1974, to provide for systematic gathering of relevant data, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. GURNEY:

S. 2962. A bill to authorize the Administrator of the Federal Energy Office to take certain action so as to assure the maintenance of operations involving the transporting, by truck or trucks, of perishable produce. Referred to the Committee on Commerce.

By Mr. ERVIN (for himself, Mr. HRUSKA, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, Mr. TUNNEY, Mr. YOUNG, Mr. BROOKE, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. FONG):

S. 2963. A bill to protect the constitutional rights and privacy of individuals upon whom criminal justice information and criminal justice intelligence information have been collected and to control the collection and dissemination of criminal justice information and criminal justice intelligence information, and for other purposes. Referred to the Committee on the Judiciary.

(The remarks by Senator ERVIN when he introduced the bill and the ensuing debate are printed later in today's proceedings under the appropriate heading.)

By Mr. HRUSKA (for himself, Mr. ERVIN, Mr. BROOKE, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. FONG, Mr. GURNEY, Mr. MATHIAS, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. YOUNG):

S. 2964. A bill to facilitate and regulate the exchange of criminal justice information. Referred to the Committee on the Judiciary.

(The remarks by Senator HRUSKA when he introduced the bill and the ensuing debate are printed later in today's proceedings under the appropriate heading.)

By Mr. MAGNUSON (for himself, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. COTTON, Mr. BEALL, Mr. DOLE, Mr. JAVITS, Mr. ROBERT C. BYRD, Mr. BAKER, Mr. PASTORE, Mr. ALLEN, Mr. HARTKE, Mr. HART, Mr. CANNON, Mr. LONG, Mr. MOSS, Mr. HOLLINGS, Mr. INOUYE, Mr. TUNNEY, Mr. STEVENSON, Mr. PEARSON, Mr. GRIFFIN, Mr. COOK, Mr. STEVENS, Mr. DOMENICI, Mr. GURNEY, Mr. RANDOLPH, and Mr. METZENBAUM):

S.J. Res. 185. A joint resolution for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub–No. 2):. Referred to the Committee on Commerce. Subsequently it was reported by the committee and passed.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PERCY:

S. 2959. A bill to provide for equal educational opportunity for women, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. PERCY. Mr. President, I am happy today to introduce the Women's Equal Educational Opportunity Act of 1974, but it is a sad commentary on the status of women in this country that such legislation is necessary.

There has always been a fundamental belief in this country in educational equality. Yet, according to the Carnegie Commission on Higher Education, women account for the largest untapped supply of superior intelligence in the Nation. Study after study has exposed sex discrimination at all levels of our educational system. Barriers that confront women on the educational ladder range from female stereotyping in grade school, to the exclusion of girls and women from classes and programs designed for men, to the relegation of women to low-paying, low-level positions in schools, colleges, and universities.

Administrative positions at every level of the educational system are dominated by men, and in recent years women have lost rather than gained ground: First, in 1970–71, 67 percent of all public school teachers were women, but only 15 percent of the principals and 0.06 percent of the superintendents were female; second, while 85 percent of all elementary teachers are women, only 19.6 percent of elementary principals are female, compared with 56 percent in 1950; third, of nearly 16,000 senior high school principals, only 1.4 percent are women, compared with 6 percent in 1950; fourth, in 1972 only two State departments of education were headed by women; fifth, the proportion of women faculty has dropped continuously during the past 100 years from a third of the positions in 1870 to less than a fourth today; and sixth, of 953 4-year college presidents, only 32 are women.

At each level of advancement within the American educational system, the percentage of women declines: Women comprise 50.4 percent of the country's high school graduates, 43.1 percent of those who receive bachelor's degrees, 40 percent of those with master's degrees, and only 13 percent of the doctorates.

Although women make up 24 percent of college and university faculties, only 8.6 percent are full professors.

Physical education is one of the most discriminatory areas in education. A report on the Ann Arbor schools revealed that the budget for boys' interscholastic sports was 10 times as high as the corresponding female budget. The five major collegiate athletic conferences award some 5,000 football scholarships worth about $10 million. As many as 50,000 men each year earn a college education on athletic scholarships, while fewer than 50 women have any kind of athletic scholarship.

Studies on elementary school text books have documented pervasive sex stereotyping. In a survey of 134 books used by the New Jersey school system and published by 18 major textbook companies, Women on Words and Images found that readers center around boys and men more than twice as much as they focus on girls and women; biographies concentrate on men six times as much as they do on women; and men appear in 147 career possibilities while women are seen in only 25. Moreover, content analyses of "active mastery" stories indicate that where the main character exhibits cleverness, problem-solving ability, bravery, acquisition of skills, and adventurousness, males are the protagonists four times as often as females. By contrast, girls are more often portrayed as passive and dependent, lacking in initiative or ambition, practicing domesticity, and being generally incompetent as well as being inferior to the opposite sex.

Tracking by sex in vocational and manpower training programs is commonplace. And separate does not mean equal. Vocational training programs reflect rigid notions of appropriate masculine and feminine occupations. Thus, women are directed to much too narrow a range of occupations, mainly homemaking, clerical, and health occupations which promise little pay and poor chances for advancement. The Department of Labor's individual referral service, for example, has assigned male trainees from the Manpower Development and Training Act program to prepare for 177 different occupations, while female trainees were assigned to only 12 occupations. Moreover, the average female trainee earns less after such training than the average male trainee does before undergoing training.

Every year over 200,000 young women under 18 give birth. About two-thirds of the Nation's school districts expel mothers-to-be at the first sign of pregnancy, while school-aged fathers are rarely even censured.

Sexism in our educational system runs deep. The standard in our schools, after decades of coeducation is still male. All aspects of the curriculum, school structure, classroom organization, teacher attitudes toward students and extracurricular activities tend to enhance the male self-image and to promote identification with masculine traits and accomplishments. Take sex stereotyping as an example. Although rigid designation of one set of interests and behavior to only one sex limits the potential of each and is detrimental to both sexes, it is particularly damaging to women because of the inequality of the roles presented and assigned.

Whitney Darrow's popular children's book "I'm Glad I'm a Boy. I'm Glad I'm a Girl" illustrates this inequality of role assignment clearly as society exists today—

Boys have trucks. Girls have dolls.
Boys are doctors. Girls are nurses.
Boys are presidents. Girls are first ladies.
Boys fix things. Girls need things fixed.
Boys build houses. Girls keep houses.

The consequences of sexism in education are unfortunate. To subject women to 12 and more school years of persistent conditioning that only prepares them for subordinate roles in society is a classic example of the self-fulfilling prophecy at work. Although 40 percent of all American women work, and they hold nearly 40 percent of all the jobs, they earn less than 60 percent as much as men do. The average women with a bachelor's degree who works full time earns about the same median income as a man who is a high school dropout. A recent educational testing service study of 21,000 college students throughout the country confirms the fact that women are underachievers. The survey disclosed that 44.6 percent of the men but only 29.4 percent of the women planned to go to graduate and professional schools even though the women generally had better grades. Because the women had a lower level of self-confidence than the men and received less encouragement from their friends and relatives to pursue advanced work, differences in aspirations were pronounced. Almost as many men with C-plus or lower grade averages planned to pursue doctorates as women with B-plus or A averages. For too many women, education has produced a sense of inferiority and a deep-seated fear of success. Because few people have high expectations for feminine achievement, many women settle for far less than their abilities warrant.

I feel strongly that the underachievement of American women can be considered in some respects a national scandal. No nation can afford to waste more than half its human resources. The Women's Equal Educational Opportunity Act is an attempt, like the Women's Educational Equity Act introduced by Representative PATSY MINK and Senator WALTER MONDALE, to call a halt to the processes that have robbed women of their full potential and wasted the minds and spirits of more than half the population of this country.

In recent years the movement of women's rights has achieved an impressive array of legal tools to fight discriminatory programs and policies. Landmark measures such as the Equal Pay Act of 1963, title IX of the Education Amendments of 1972 and the Executive orders which require affirmative action programs by Government contractors have opened new avenues for action to remove sex discrimination from nearly every aspect and every level of the educational system. However, bills such as the Women's Equal Educational Opportunity Act and Women's Educational Equity Act are still needed, for laws prohibiting discrimination are never enough. While the Women's Educational Equity Act would create a new program to support a wide range of projects and activities designed to eliminate sex discrimination in education, the Women's Equal Educational Opportunity Act would amend existing law including provisions under the Elementary and Secondary Education Act, the Higher Education Act, and the Vocational Education Act, to insure that Federal support for education is used to remedy the effects of past discrimination, maximize the commitment from existing programs and resources to insure equal opportunities for women, and develop new strategies and mechanisms to help women gain their place as equal participants and beneficiaries of our society.

Sex discrimination has no place in education; it is an affront to the fundamental traditions and beliefs of this country. The issue of equal educational opportunity for women is beyond debate, and men have at least an equal obligation to work for the achievement of such a basic right. I have no doubt but that America will rise to the challenge just as other countries have. Take the Soviet Union for example. By the begining of 1970, the number of employed Soviet women professionals and paraprofessionals with higher and secondary specialized education was 62 times as high as in 1928. Moreover, Soviet women make up 39 percent of their country's scientific personnel; 72 percent of the physicians; 31 percent of the deputies to the U.S.S.R. Supreme Soviet; and 45 percent of the members of local Soviets. The status of American women, like that of Soviet women, will undoubtedly improve. The most fundamental way to bring about such improvements is through education and public understanding. This is the purpose of the bill I am introducing today. I ask that the bill and its section-by-section analysis be printed in the RECORD at this point.

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

Be it enacted by the Senate and House of America in Congress assembled, That this Act may be cited as the "Women's Equal Educational Opportunity Act".

SEC. 2. The Congress finds that sex discrimination in education is detrimental to the welfare of the Nation since it limits the potential of all citizens and that women in particular are prevented by the existence of such practice from realizing their full potential. The Congress therefore finds that the welfare of the United States would be promoted by the elimination of sex discrimination from public education and by the use of Federally supported education programs to assist in the development of improved educational opportunities for women ensuring women equal educational opportunity.

SEC. 3. (a) Section 203(a)(4) of the Elementary and Secondary Education Act of 1965 is amended by inserting after the word "used" a comma and the following: "including criteria designed to preclude sex bias,".

(b) Section 203(a) of such Act is amended—

(1) by striking out the word "and" at the end of clause (6);

(2) by redesignating clause (7), and all references thereto, as clause (8); and

(3) by inserting immediately after clause (6) the following new clause:

"(7) provides assurances that Federal funds made available under this title for any fiscal year shall be used, on a priority basis and where possible, in the acquisition of non-sex-biased library resources, textbooks, and other instructional materials; and".

(c) Section 303(b)(3) of such Act is amended—

(1) by striking out in subclause (J) the word "and";

(2) by redesignating subclause "(K)", and all references thereto, as subclause "(L)"; and

(3) by inserting after subclause (J) the following new subclause:

"(K) demonstration projects designed to promote new approaches to expand educational opportunities for women, including the provision of comprehensive physical education programs and sports activities for women; and".

(d) Section 306 of such Act is amended by inserting "(1)" immediately after the subsection designation "(b)" and by inserting after subsection (b) of such section the following new paragraph:

"(2) Not less than 15 per centum of the funds granted pursuant to this section in any fiscal year shall be used for programs or projects designed to meet the special educational needs of women.".

(e) Section 503 of such Act is amended—

(1) by striking out the word "and" at the end of clause (11);

(2) by striking out the period at the end of clause (12) and inserting in lieu thereof a semicolon and the word "and"; and

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

"(13) programs and other activities to promote equal educational opportunities for women, including personnel and the public information activities to increase the awareness of educational personnel and the public concerning problems incident to sex discrimination and the elimination, reduction, or prevention of sex discrimination in education.".

(f) Section 505 of such Act is amended by adding at the end thereof the following new sentence: "In using the 5 per centum of the funds appropriated pursuant to section 501 for any fiscal year, for grants to State educational agencies to pay part of the cost of experimental projects for developing State leadership, the Commissioner shall give priority consideration to projects designed to increase the proportion of women serving in leadership positions and to promote equal educational opportunities for women."

(g) Section 521(a) of such Act is amended by inserting after the word "districts" the following: "(giving priority consideration to such agencies interested in increasing the proportion of women serving in leadership positions and in promoting equal educational opportunities for women)".

SEC. 4. (a) Section 404(a)(1) of the General Education Provisions Act is amended by inserting before the semicolon a comma and the following: "including activities designed to improve the status of women in postsecondary education";

(b) Section 404(a) of such Act is amended—

(1) by striking out the semicolon at the end of clause (6); and

(2) by adding at the end thereof the following: "including the creation of innovative administrative and educational practices that respond to the special needs of persons who have or have had responsibilities of caring for dependents;"

(c) Section 405(b)(2) of such Act is amended by inserting after the phrase "including career education" a comma and the following: "and programs designed to meet the needs of women,"

SEC. 5. (a) Section 105(a)(3)(A) of the Higher Education Act of 1965 is amended by inserting after the word "programs" a comma and the following "including programs designed to improve the status of women".

(b) Section 531(b) of such Act is amended—

(1) by inserting in clause (9) immediately before the semicolon a comma and the following: "including programs or projects designed to increase the proportion of women serving as school administrators".

(2) by redesignating clauses (10), (11), and (12), and all references thereto, as clauses (11), (12), and (13), respectively; and

(3) by inserting after clause (9) the following new clause:

"(10) programs or projects to train teachers and other personnel to avoid sex biases;".

(c) Section 541(c) of such Act is amended by inserting after the word "Nation" a comma and the following: "including equal educational opportunities for women,".

(d) Section 552(c) of such Act is amended—

(1) by striking out the word "and" at the end of clause (3);

(2) by striking out the period at the end of clause (4) and inserting in lieu thereof a semicolon and the word "and"; and

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

"(5) such program is designed to encourage the participation of women in vocational education leadership.".

(e) Section 553(b) of such Act is amended—

(1) by striking out the word "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof a semicolon and the word "and"; and

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

"(4) programs and projects which emphasize the preparation and participation of men and women in areas of vocational education teaching and administration traditionally dominated by the other sex.".

SEC. 6. (a) Section 121 of the Vocational Education Act of 1963 is amended—

(1) by striking out the period at the end of the clause and inserting in lieu thereof a comma; and

(2) by adding: "and which are designed to encourage the training of students of both sexes for occupations dominated by the other sex." (b) Section 123(a)(16) of such act is amended—

(1) by inserting immediately after subclause (D) the following new subclause:

"(E) due consideration will be given to the need to ensure the training of students of both sexes for occupations traditionally dominated by the other sex,";

(2) by redesignating subclauses (E), (F), and (G), as subclauses (F), (G), and (H), respectively; and

(3) by striking out "and (D)" in subclause (F) (as redesignated by paragraph (2)) and inserting in lieu thereof "(D), and (E)".

(c) Section 132 of such Act is amended—

(1) by striking out the word "and" at the end of clause (5);

(2) by redesignating clause (6) as clause (7); and

(3) by inserting after clause (5) the following new clause:

"(6) experimental, developmental, and pilot programs designed to encourage the participation of students of both sexes in fields traditionally dominated by the other sex and to ensure the elimination of sex bias in vocational education; and".

(d) Section 143(a)(2) of such Act is amended by inserting after the word "broaden" a comma and the following: "including the elimination of barriers based on sex,".

(e) Section 161(b)(1) is amended—

(1) by striking out subclause (E); and

(2) by inserting in lieu thereof a new subclause:

"(E) are designed for all persons, male and female who may have use for skills relating to the establishment and the maintenance of the home, and".

(f)(1) Section 191(c)(1)(A) of such Act is amended by inserting after the word "fields" the following: "and for increasing awareness of the changing role of women in the world of work".

(2) Section 191(c)(2) of such Act is amended by inserting immediately before the word "designed" the following: "free of sex biases and".

WOMEN'S EQUAL EDUCATIONAL OPPORTUNITY ACT SECTION BY SECTION ANALYSIS

Section 2. Declares that sex discrimination is detrimental to the Nation's welfare because it limits the potential of all citizens, and women in particular; that the elimination of sex discrimination from public education is in the National interest; and that Federally-supported education programs should be used to ensure women equal educational opportunity.

Section 3. Amends Sec. 203 of the Elementary and Secondary Education Act (ESEA) requiring that State plans for Title II school library and textbook grants setting forth criteria to be used in the selection of library resources, textbooks and other instructional materials provided under Title II include those designed to preclude sex bias. Redesignates existing subsections under Sec. 203(a) and adds a new subsection (7) requiring assurances that Title II funds be used on a priority basis and where possible in the acquisition of non-sexbiased library resources, textbooks and other instructional materials.

Amends Sec. 303 of ESEA to allow funds under Title III—Supplementary Educational Centers and Service, to be used for demonstration projects promoting new approaches to expand educational opportunities for women, including comprehensive physical education programs and sports activities for women. Amends Sec. 306 by adding a new subsection requiring that at least 15% of funds granted in any fiscal year under Sec. 306 for special programs and projects be used to meet the special educational needs of women.

Amends Sec. 503 of ESEA (grants to State Departments of Education under Title V—Strengthening State and Local Educational Agencies) by adding a new Sec. 13 allowing funds apportioned to the States to be used for programs promoting equal educational opportunities for women, the elimination, reduction or prevention of sex discrimination in education and public information activities to increase the awareness of educational personnel and the public concerning problems relating to sex discrimination. Amends Sec. 505 of ESEA (Special Project Grants to States under Title V) requiring that in using funds reserved for special projects to develop State leadership in education priority consideration be given to projects designed to increase the proportion of women in leadership positions and to promote equal educational opportunities for women. Amends Sec. 521 (Grants to Local Educational Agencies) to give priority in the awarding of grants to local education agencies interested in increasing the proportion of women serving in leadership positions, and promoting equal educational opportunities for women.

Section 4. Amends Sec. 404 of the General Education Provisions Act to include in the use of funds for the improvement of post-

secondary education, activities designed to improve the status of women in post-secondary education. Amends Sec. 404(a)(6) to allow funds for the introduction of institutional reforms to be used for the creation of innovative administrative and educational practices which respond to the special needs of persons who have or have had responsibilities of caring for dependents. Amends Sec. 405(b)(2) to specify programs to meet the needs of women as one of the methods by which the National Institute of Education shall seek to improve education.

Section 5. Amends Sec. 105 of the Higher Education Act relating to State plans for community service and continuing education programs by requiring that consideration be given to the capability and willingness of institutions of higher education to provide effective community service programs designed to improve the status of women. Amends Sec. 531 (Education Professions Development) to expand the uses of Part D funds to include programs designed to increase the proportion of women serving as school administrators, and programs to train teachers and other personnel to avoid sex biases. Amends Sec. 541 by expanding criteria for grants for Training Programs for Higher Education Personnel to include those improving equal educational opportunities for women.

Amends Sec. 552 expanding the criteria for making leadership development awards to include encouraging the participation of women in vocational education leadership. Amends Sec. 553 to expand the uses of exchange programs grants, institutes an inservice education for vocational education personnel to include programs emphasizing the preparation and participation of men and women in areas of vocational education teaching and administration traditionally dominated by the other sex.

Section 6. Amends Sec. 121 of the Vocational Education Act of 1963 by expanding the eligible purposes of grants for State vocational education programs to include the training of students of both sexes for occupations dominated by the other sex. Redesignates existing subsections under Sec. 123 and adds a new subsection (E) requiring that State plans consider the need to ensure the training of students for occupations traditionally dominated by one sex. Amends Sec. 121 by expanding the uses of Part C—Research and Training in Vocational Education funds to include programs to encourage students of both sexes to participate in fields traditionally dominated by the other sex and to ensure the elimination of sex bias in vocational education.

Amends Sec. 143 to expand the uses of Part D—Exemplary Programs and Projects funds to include programs to broaden occupational aspirations and opportunities by eliminating barriers based on sex. Amends Sec. 161, relating to Consumer and Homemaking Education, by requiring that State plans include provisions for all persons who have use for skills relating to the establishment and maintenance of the home, rather than just those who are entering the work of the home. Amends Sec. 191 by expanding the uses of Part I—Curriculum Development in Vocational and Technical Education funds to include the development and dissemination of vocational education materials which increase awareness of the changing role of women in the world of work and also requires that curriculum materials developed or disseminated under Part I be free of sex biases.

By Mr. HANSEN (for himself and Mr. HARTKE) (by request):

S. 2960. A bill to amend title 38, United States Code, to increase the rates of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and persons. Referred to the Committee on Labor and Public Welfare.

Mr. HANSEN. Mr. President, at the request of the administration, I introduce for myself and the Senator from Indiana (Mr. HARTKE) a bill to amend title 38, United States Code to increase the rates of vocational rehabilitation, educational assistance and special training allowances paid to eligible veterans and their dependents.

This bill outlines in detail the provisions of the administration given in the President's state of the Union message.

The bill will provide an increase in the rates of subsistance, educational assistance and allowances by approximately 8.2 percent.

By Mr. JOHNSTON:

S. 2961. A bill to amend the Economic Stabilization Act of 1970 in order to encourage prompt decontrol of wages and prices, to provide standards governing the imposition of controls after September 1, 1974, to provide for systematic gathering of relevant data and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. JOHNSTON. Mr. President, tomorrow the Subcommittee on Production and Stabilization of the Committee on Banking, Housing and Urban Affairs concludes 4 days of exploratory hearings on the future of wage and price controls.

The Secretary of the Treasury, Dr. Shultz, and the Director of the Cost of Living Council, Dr. Dunlop, will appear before the subcommittee at 10 o'clock to offer their view of the economic stabilization program and their prescription for our future course of action before the Economic Stabilization Act expires on April 30, 1974.

In the afternoon, we will hear from Dr. Arthur Burns, Chairman of the Federal Reserve Board.

Mr. President, as chairman of the subcommittee, I am very eager to hear what the administration will propose to us. Unquestionably, we in the Senate have much to learn from the experience of Dr. Dunlop and his staff over the past year.

I am convinced, however, that it is time for the Congress to reassert its responsibility in economic affairs—and to reassert that responsibility in deed as well as in word.

And so today I am introducing a bill to define more clearly the President's responsibilities in the area of wage and price controls.

I am seeking to provide a middle ground where those who fear the consequences of runaway inflation can meet with those who see in price and wage controls a nightmare of economic distortions and inequities.

I will comment further on my bill at the opening of my subcommittee's hearings tomorrow, but for now, Mr. President, I ask unanimous consent that the bill be printed in the RECORD as introduced.

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

S. 2961

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 "Economic Stabilization Amendments of 1974".

FINDINGS

SEC. 2. Section 202 of the Economic Stabilization Act of 1970 is amended by deleting the existing language and substituting the following language:

Whereas in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends and interest,

But whereas government programs to stabilize prices, wages, rents, salaries, dividends and interest have detrimental economic effects, including inequities, market disruptions and dislocations.

It is the sense of Congress that decontrol of wages and prices throughout the economy should be achieved as promptly as possible consistent with the need to avert serious hardship or deprivation.

STANDARDS GOVERNING IMPOSITION OF CONTROLS AFTER SEPTEMBER 1, 1974

SEC. 3. Section 203 of the Economic Stabilization Act of 1970 is amended by inserting after subsection (a) the following new subsection:

"(b)(1). After September 1, 1974, no sector of the economy may be controlled unless the President has made and published in the Federal Register the following findings:

(A) That the absence of wage or price controls would lead to serious inflation resulting in serious hardship or deprivation; and

(B) That the severity of the hardship or deprivation resulting from such inflation exceeds the need to stimulate additional supply through the wage or price mechanism.

(2) In making the determinations required under this subsection, the President shall consider, *inter alia,* the following:

(A) The extent to which such inflation in such sector can be moderated successfully in the absence of extensive controls over related sectors;

(B) The degree to which such control will inhibit the growth of supply in such sector—

(i) by causing curtailment of production or productivity or

(ii) by causing impairment of capital formation, of expansion of productive capacity, or of resource availability or

(iii) by so stimulating foreign demand as to create or exacerbate any domestic supply shortage; and

(C) The anticipated period of time that would be required for market correction of the inflation or shortage, measured in light of the seriousness of such hardship or deprivation

(3) For purposes of this Act, the term "sector" means any firm or industry or class of firms or industries that possess distinct economic characteristics.

DATA GATHERING AND MONITORING

SEC. 4. Section 216 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(c) Not later than August 1, 1974, the President shall submit to Congress a comprehensive proposal providing for the systematic gathering of all data necessary for detailed monitoring of price and wage inflation in specific sectors of the American economy. Such proposal shall take account of such relevant considerations as the need to minimize both public and private expense associated with data gathering and reporting; the relative abilities of firms of differing sizes to sustain such expense; any need to preserve the confidentiality of certain disclosures; and

the need for consultation and coordination with other federal agencies so as to eliminate waste and duplication. Such proposal shall become effective upon the expiration of thirty days after its submission to Congress".

By Mr. GURNEY:

S. 2962. A bill to authorize the Administrator of the Federal Energy Office to take certain action so as to assure the maintenance of operations involving the transporting, by truck or trucks, of perishable produce. Referred to the Committee on Commerce.

Mr. GURNEY. Mr. President, today I am introducing a bill which will solve the present difficulties faced by the trucking industry in finding the fuel needed to continue hauling perishable produce.

Within the last few days the Nation has been thrown into yet another crisis as reports of trucking shutdowns spread across the country. This truckers strike appears to be the direct result of rising fuel prices and insufficient supplies of diesel and motor gasoline.

As these shutdowns continue, we are faced with the prospect of shipments sitting on the loading docks, perishables rotting in warehouses, and prices soaring in the supermarket.

In 1972, the United States produced some 21 million tons of vegetables and 753 million boxes of citrus fruits. These vegetable and citrus products were shipped to eight major markets in the United States and in each one of these markets, truck deliveries accounted for 85 to 95 percent of the movement. But, in Florida, the situation is even more acute. Not only is the State one of the higgest producers of vegetables and citrus. But these products plus other perishables account for 75 percent of the State's agricultural industry. For that industry to survive, fruits and vegetables must get to market and statistics indicate that 94.3 of them go to market by truck.

Going one step further, it has been brought to my attention that 60 percent of the fuel these trucks use has been coming from the truck stops we have heard so much about lately. Typical of the problem is a truck terminal in Hanes City, Fla., which has been serving truckers continuously since 1951. Now, instead of being able to get the fuel they need, truckers found this stop shut down completely over the Christmas holidays and closed sporadically ever since. A trucker, depending on that stop, may find himself either out of luck or with just enough gas to get to the next stop. That and the prices are what's bothering the truckers. And it should concern us, because unless the trucks are rolling, sales will be off and jobs will be on the line.

As a matter of fact, people are already being laid off as a result of the truck tieup. For instance, Sealsweet, one of the largest packing houses in Florida, has already shut down 40 packinghouses, 4,000 to 5,000 people have already been put out of work.

The egg industry, which falls into the perishable products category, is also hurting. In one instance, 70 to 75 loads of eggs—8,760 eggs per load—are simply sitting awaiting fuel and the truckers to get them to market. They will not be marketable by this weekend unless something is done.

Mr. President, the Congress must take immediate action to get the trucks back on the road. Under the present allocation program for diesel fuel and motor gasoline, "agricultural production is to receive 100 percent of their current requirements. But they will be the first to tell you that such a system, necessary as it is, will do little good unless enough fuel is available to get the fruits and vegetables of their labor to market.

If further proof of action is necessary, it can be found in reports to the effect that deliveries of fresh fruits and vegetables to the major supermarkets are off 10 to 20 percent already. By this time next week supermarket managers expect their produce racks to be practically empty and what is left to be very expensive. Already the food chains are paying $3 a crate more for tomatoes than they did a week ago.

Mr. President, on January 29, I wrote to Administrator Simon, advising him of the growing anger among both the truckers and producers of perishable products. I advised him of the need to find a solution to this problem under the present mandatory allocation program.

The following day I discussed this matter in greater detail with Deputy Administrator John Sawhill, at which time I was assured that all truckers would receive 110 percent of what they used in 1972. This action, I felt, was too little, too late, a reaction apparently more than shared by our Nation's truckers, who went on strike over the weekend.

What is needed now is for Congress to assure the truckers that haul perishable products they will receive 100 percent of their current fuel requirements. The legislation I introduce today will accomplish this by doing two things. First, it will entitle trucks transporting perishable produce to receive 100 percent of their current fuel requirements. And second, it will direct the Federal Energy Administrator to develop and implement an allocation program which will assure that these needed quantities of fuel will be on hand.

Mr. President, I hope my colleagues realize the urgency of this particular situation, and the need for immediate implementation of some type of allocation program that will assure the truckers of an adequate quantity of fuel. The Nation is in the grip of an energy crisis which has already demonstrated its impact upon our economy. I feel to overlook the trucking situation by Congress at this point will add to the devastation.

Mr. President, I ask that the bill be printed in the RECORD at the end of my remarks.

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

S. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of assuring maintenance, under the Emergency Petroleum Allocation Act of 1973, of operations involving the transporting, by truck or trucks, of perishable produce by alleviating supply shortages of fuel necessary thereto, such operations, to the extent that they involve the transporting of perishable produce, shall be entitled to receive one hundred per centum of their current fuel requirements.

SEC. 2. The Administrator of the Federal Energy Office shall, immediately following the date of the enactment of this Act, take such action or actions as may be necessary to carry out the purposes of the first section of this Act.

ADDITIONAL COSPONSORS OF BILLS

S. 618

At the request of Mr. CURTIS, the Senator from Nebraska (Mr. HRUSKA) was added as a cosponsor of S. 618, to designate November 11 of each year as Veterans' Day and to make such day a legal holiday.

S. 660

At the request of Mr. GURNEY, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 660, designating February as "American History Month."

S. 2583

At the request of Mr. ABOUREZK, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor to S. 2583, the Emergency Rural Housing Act.

S. 2782

At the request of Mr. NELSON, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2782, to establish a National Energy Information System, to authorize the Department of the Interior to undertake an inventory of United States energy resources on public lands and elsewhere, and for other purposes.

S. 2786

At the request of Mr. PERCY, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2786, to amend chapter 34 of title 38, United States Code, to increase from 36 to 48 months the maximum period of educational assistance to which an eligible veteran may become entitled under such chapter, and to extend from 8 to 15 years the period within which an eligible veteran must complete his program of education under such chapter after his discharge from military service.

S. 2854

At the request of Mr. CRANSTON, the Senator from Minnesota (Mr. MONDALE), the Senator from Massachusetts (Mr. BROOKE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Utah (Mr. MOSS) were added as cosponsors of S. 2854, to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2863

At the request of Mr. BUCKLEY, the Senator from Utah (Mr. BENNETT), the Senator from Idaho (Mr. CHURCH), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Alaska (Mr. GRAVEL), and the Senator from North Carolina (Mr. HELMS) have been added as cosponsors of S. 2863, to amend the National Traffic and Motor Vehicle Safety Act of 1966 in order to provide that certain

seatbelt standards shall not be required under such act.

S. 2867

At the request of Mr. CHURCH, the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 2867, to amend the Rail Passenger Service Act of 1970 in order to expand the basic rail passenger transportation system to provide service to certain States.

S. 2887

At the request of Mr. BARTLETT, the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Texas (Mr. BENTSEN), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 2887, the experiment in year-round daylight saving time to 1 year.

S. 2896

At the request of Mr. CLARK, the Senator from West Virginia (Mr. ROBERT C. BYRD) and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of S. 2896, to repeal the Emergency Daylight Saving Time Act.

SENATE RESOLUTION 273—SUBMISSION OF A RESOLUTION RELATING TO THE DISAPPROVAL OF CERTAIN PAY RECOMMENDATIONS OF THE PRESIDENT

(Referred to the Committee on Post Office and Civil Service.)

Mr. TALMADGE. Mr. President, the President of the United States recently recommended substantial pay increases for Members of Congress and high-level administration officials. Under existing law, these pay raises will become effective automatically unless either the U.S. Senate or the House of Representatives passes legislation disapproving the President's recommendations within 30 days of their submission.

In my view, the President's pay raise recommendations should be disapproved. Salary increases for congressional and administration officials must be stopped dead in their tracks. That, Mr. President, is the purpose of the resolution I introduce today.

Giving serious consideration to pay raises for elected and appointed Federal officials at this time is, in my judgment, preposterous. Wages are frozen and prices are regulated according to the whims of Government clerks. Still, however, inflation runs rampant and our economy is in pandemonium. American taxpayers fork over a third of their income to the Government and live in constant fear of even more taxes. Still, however, our Federal budget has not been balanced in 40 of the last 46 years, our national debt is approaching $500 billion, and the President of the United States is urging that we go another $18 billion into the hole in the coming fiscal year.

Through legislative legerdemain which defies rational explanation, the Congress on the one hand gave the President the authority to freeze the pay of American workers and, on the other hand, gave the President the authority to raise the pay of high-ranking Federal officeholders. Since the President has chosen to exercise both options, this legislative sleight of hand has only succeeded in putting the Congress head on the chopping block.

Surely, no Member of Congress actually believes that he can pass the buck to the President and thereby escape the wrath of an indignant, taxpaying electorate. Surely, no Member of Congress actually believes that this subterfuge will disguise the pay raise effort and deceive the American people. Such treachery would not go unnoticed, and I for one want no part of any of this reception. The issue of congressional and executive pay raises is one on which every Member should stand up and be counted.

In my 25 years of public service I have never supported efforts to increase my compensation. In fact, the Treasury of the State of Georgia still holds thousands of dollars which I refused to take after the Georgia General Assembly raised my salary as Governor.

Our Government was intended to be one of checks and balances. We must not permit our Government to be perverted into one of big paychecks and unbalanced budgets.

With the economy in shambles, the taxpayers in rebellion, and the Government on the verge of bankruptcy, Members of Congress should be seeking ways to reduce Federal spending rather than seeking ways to increase our salaries. There is no better time and no better place to begin than right here and right now by aborting the pay raise proposed by the President.

For this purpose, Mr. President, I offer this resolution and urge prompt and favorable action on it by the Senate.

The resolution reads as follows:

S. RES. 273

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay, for the offices and positions referred to in section 225 (f) (A), (B), and (D) of the Federal Salary Act of 1967 (relating to Members of Congress, certain offices and positions in the legislative branch, and the Executive Schedule), transmitted to the Congress on February 4, 1974, pursuant to section 225 (h) of that Act.

SENATE RESOLUTION 274—SUBMISSION OF A RESOLUTION RELATING TO THE DISAPPROVAL OF THE PROPOSED PAY RAISE FOR MEMBERS OF CONGRESS AND OTHER HIGH LEVEL GOVERNMENT EMPLOYEES

(Referred to the Committee on Post Office and Civil Service.)

Mr. MCCLURE submitted the following resolution:

S. RES. 274

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during fiscal years 1975 through 1977, pursuant to section 225(h) of the Federal Salary Act of 1967.

SENATE RESOLUTION 275—SUBMISSION OF A RESOLUTION PROVIDING FOR THE ACCELERATION OF THE REPORTING OF AUTHORIZATION BILLS AND OTHER MATTERS

(Referred to the Committee on Rules and Administration.)

Mr. TOWER. Mr. President, the Republican Policy Committee met in executive session on Monday, February 4, 1974, and agreed upon the following statement:

We wholeheartedly endorse the concept embodied in Senate bill S. 1541, and its counterpart of the House of Representatives, H.R. 7130, the two together being generally referred to as the "Budget Reform and Control Act." It has long been evident that Congress must develop a system for examining and establishing a national budget, and at the same time reform congressional procedures with respect to the manner of its enactment.

Therefore, in behalf of myself and the Senator from Pennsylvania (Mr. SCOTT), we propose a sense of the Senate resolution to initiate immediately, for the legislative year now just begun, an improvement in our procedures pending enactment of the budget reform bill so sorely needed.

The resolution is as follows:

S. RES. 275

Be it resolved,

It is the sense of the Senate that—

1. Any committee that periodically reports to the Senate any measure authorizing the appropriation of funds shall report such measure to the Senate not later than the last lay of the next to last month of the fiscal year (1) preceding the fiscal year for which such measure authorizes the appropriation of funds, in the case of a measure authorizing appropriations for one year, or (2) preceding the first fiscal year for which such measure authorizes the appropriation of funds in the case of a measure authorizing appropriations for more than one year.

2. In the event that any such committee finds itself unable to report an authorization measure by the day prescribed in paragraph 1, it may request an extension to a date certain from the Senate, which shall be granted if a maority of the Senators present and voting concur by rollcall vote. No request for an extension of time may be considered after the day prescribed in the foregoing paragraph.

3. After the day prescribed in paragraph 1, or after the expiration of an extension of time granted by the Senate as provided in paragraph 2, as the case may be, for a measure making appropriations for a fiscal year, it shall be in order for the Senate to act upon any general appropriation measure making appropriations for that fiscal year. The provisions of this paragraph do not preclude action by the Senate upon any measure making appropriations for a fiscal year if the authorization for such fiscal year is agreed to by the Senate.

4. The provisions of this rule shall not apply to a measure making continuing appropriations.

Mr. TOWER. Mr. President, we trust and expect the Budget Reform and Control Act, in its final form will reestablish a combination of fiscal responsibilities attuned both to our modern economy and to the deeply held principles which drove us, in the beginning, to create our form of government.

There are many troubles with our present system, as it has evolved, for making spending decisions. One of them is that some 75 percent of our annual expenditures are no longer under effective control. Another, partly for this very reason, is the chronic inability of Congress to complete appropriations actions until the fiscal year to which they apply is half over. Last December we completed an appropriation cycle which began 12

months before. Defense and HEW, together comprising more than half of our total Government costs, did not have their budgets enacted into law until the halfway point of the fiscal year to which they apply. For the first half of the fiscal year, from June until the next January—the month just past—those important departments of our government were forced to operate under two stopgap measures, continuing resolutions devised because of the need for salaries and maintaining programs until support became available in the regular way, according to law.

They were not the only appropriations long delayed. The Foreign Assistance Act also did not become law until January 2 of this year, just beyond the halfway mark of the period to which it applied.

No business, no institution, no ordinary family, could continue to operate for long in this backward, increasingly haphazard and irresponsible manner. Neither can the U.S. Government. Our disorder is great. It may soon be that such vitally important legislation will not be enacted until weeks and even months after the calendar year is over, perhaps even not until after the termination of the fiscal year to which it applies. Unthinkable though this suggestion may be, one has only to review the history of the past decade to envision the possibility, if action is not taken to arrest the onrushing trend.

With these considerations, and believing nearly all of our colleagues in the Senate to be of like mind, the Senate Republican policy committee has proposed a sense of the Senate resolution in order to initiate improvement immediately for the legislative year now just begun.

SENATE RESOLUTION 276—SUBMISSION OF A RESOLUTION TO DISAPPROVE PAY RECOMMENDATIONS OF THE PRESIDENT

(Ordered to lie over, under the rule.)

Mr. DOMINICK (for himself, Mr. McCLURE, Mr. HANSEN, Mr. GURNEY, Mr. BARTLETT, Mr. THURMOND, Mr. CURTIS, Mr. ROTH, Mr. TAFT, Mr. TOWER, Mr. HELMS, Mr. ERVIN, and Mr. ALLEN) submitted a resolution (S. Res. 276) to disapprove pay recommendations of the President.

(The remarks by Senator DOMINICK when he submitted the resolution and the ensuing debate are printed later in the RECORD under the appropriate heading.)

SENATE RESOLUTION 277—SUBMISSION OF A RESOLUTION AUTHORIZING THE PRINTING OF ADDITIONAL COPIES OF A COMMITTEE PRINT ENTITLED "PROTECTING OLDER AMERICANS AGAINST OVERPAYMENT OF INCOME TAXES"

(Referred to the Committee on Rules and Administration.)

Mr. CHURCH. Mr. President, I submit a resolution which would authorize the printing of additional copies of "Protecting Older Americans Against Overpayment of Income Taxes," prepared by the staff of the Special Committee on Aging.

The resolution reads as follows:

S. RES. 277

Resolved, That there be printed for the use of the Special Committee on Aging fourteen thousand additional copies of its committee print entitled "Protecting Older Americans Against Overpayment of Income Taxes".

ADDITIONAL COSPONSOR OF A RESOLUTION

SENATE RESOLUTION 272

At the request of Mr. HRUSKA, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of Senate Resolution 272, relating to the disapproval of congressional salary increases recommended by the President.

SENATE RESOLUTION 272

Mr. PACKWOOD. Mr. President, I am proud today to be able to cosponsor Senate Resolution 272, which would disapprove the congressional pay increase recommended by the President.

The President's proposed budget for fiscal year 1975 includes a three-step pay increase for Members of Congress. It would increase our salaries from the current level of $42,500 to $45,000 this year, $49,100 in 1975, and $52,800 in 1976.

Mr. President, that represents roughly a 22-percent pay increase for Members of Congress. It represents a substantial outlay of Federal dollars which this country can ill afford to spend.

During the past several years, many of us in this body have been forced to vote against worthwhile programs for the sake of fiscal responsibility. In light of that fact, I cannot in good conscience allow a pay increase to go into effect while others are forced to bear the burden of inflation.

I consider a congressional salary increase of—of any size—to be unconscionable.

To devote ourselves to a 22 percent pay increase at this time would represent a masterpiece of bad timing and the height of fiscal irresponsibility. It is sheer folly for us to ask our constituents to tighten their belts unless we are willing to take our own fair share of fiscal discipline. A pay increase now would only serve to fuel the fires of inflation and place the Nation's economy in an even more perilous position.

Fortunately, Congress has the power to overrule the President's recommendation. If either House of Congress can pass a resolution of disapproval, we can demonstrate to the American people that what we ask of them we can demand of ourselves.

Mr. President, I ask my colleagues to join me in supporting this resolution.

HEARINGS ANNOUNCED ON CRIMINAL JUSTICE DATA BANKS

Mr. ERVIN. Mr. President, I announce today that the Senate Judiciary Subcommittee on Constitutional Rights will hold hearings on bills to regulate criminal justice data banks. The hearings will be held on March 5, 6, and 7 in room 2228 of the Dirksen Senate Office Building, and on March 12, 13, and 14. All sessions will begin at 10 a.m.

Anyone wishing to testify or wishing to submit statements for the hearing record should contact the staff of the subcommittee immediately at (202) 225–8191.

ADDITIONAL STATEMENTS

"GIANT PATRIOT"—MINUTEMAN II OPERATIONAL BASE LAUNCH

Mr. MANSFIELD. Mr. President, I ask unanimous consent to have printed in the RECORD a letter to Secretary of Defense James R. Schlesinger and signed by Senators METCALF, CHURCH, HATFIELD, and MANSFIELD.

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

JANUARY 31, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary,
Department of Defense,
Washington, D.C.

DEAR MR. SECRETARY: As United States Senators representing the Pacific Northwest, we share a great concern about the Department of the Air Force's plan to proceed with the testing of Minuteman II intercontinental ballistic missiles from operational silos in the Malmstrom Air Force Base complex and several other sites. We believe benefits from such a test will not be commensurate with potential dangers to lives, properties, and international implications.

The Minuteman II reportedly has performed very well during a series of tests at the Vandenberg Air Force Base in California. What more can be learned from the proposed launches in Montana? Publicity associated with these tests and the extensive safety precautions would not contribute to a realistic combat situation. We doubt that data provided by such tests would contribute anything that has not already been determined from the heavily instrumented test range in California. Based on information available, we find it difficult to justify an expenditure of $26.9 million for this purpose.

In addition, our constituents have expressed grave concern with regard to lives and property. We recognize that, as envisioned, the danger would be relatively small and it would be limited to sparsely populated and National Forest areas. Should something go wrong, however, the risk would be far more serious in one or more of our states. A disaster of this nature would have severe repercussions for domestic attitudes toward the military. Also, there is no guarantee that the chartered course of the missiles is firm. Newspaper accounts indicate that in several tests our U.S. missiles have gone off course and crashed in Mexico and as far away as Brazil.

Presentations made in behalf of these tests have indicated that they may be an important part in our international negotiations. The need for a show of strength is questionable and, should the inland test fail, it would erode United States confidence in, and reduce Soviet respect for, the United States nuclear deterrent. At the present time, the Minuteman Missile System is considered to be very reliable and we question the need for additional test sites.

The budget for Fiscal Year 1975 containing funds for the Minuteman II testing proposal will be scrutinized in great detail and we ask that your office review this matter in light of the concerns expressed above and

withdraw your budget request for the Minuteman II Operational Base Launch.

Sincerely,

MIKE MANSFIELD,
LEE METCALF,
FRANK CHURCH,
MARK HATFIELD,
U.S. Senators.

THE FRANKLIN INSTITUTE

Mr. HUGH SCOTT. Mr. President, I invite my colleagues to join me and Senator SCHWEIKER in paying tribute today to one of the Nation's most honored institutions on its 150th birthday. Named in honor of Philadelphia's favorite adopted son and patron saint, Benjamin Franklin, the Franklin Institute exactly a century and a half ago launched an enterprise which would have gladdened the heart of Poor Richard.

During 1974 the U.S. Government will join the institute in dedicating the central rotunda of the building at 20th Street and Benjamin Franklin Parkway, Philadelphia, as the national memorial to Benjamin Franklin. This dedication is the result of a resolution you and I approved in these halls some months ago. The ceremonies are one part of the yearlong celebration with which the Franklin Institute will observe its sesquicentennial.

The institution we are honoring today came into being on February 5, 1824, in Congress Hall. The still-young Nation was during those days alive with the excitement of the new inventions and discoveries which were being made almost daily on both sides of the Atlantic. The men of Philadelphia felt a need to somehow organize the new information and, pragmatists that they were, turn it into useful channels for themselves and their fellow citizens.

The result was a "mechanic's institute" where leading figures in industry and ordinary workingmen could meet and catch up with the new technologies affecting their daily lives. Samuel Vaughan Merrick, a manufacturer, and Dr. William H. Keating, a chemistry professor at the University of Pennsylvania, shared the honor of being the founding fathers. Over the next century and a half, the Franklin Institute became as complex and as diverse as the technological age itself. Today the Franklin Institute harbors a number of differing components, all stemming from the same roots in the way that different colleges make up a single university.

Best known to the general public is the Science Museum and Fels Planetarium, located appropriately on the Benjamin Franklin Parkway. Philadelphia's third most popular tourist attraction. The museum welcomes nearly three quarters of a million visitors to its exhibits each year. Around 300,000 of these are schoolchildren, many of whom arrive as part of special tours sponsored by their school systems and chaperoned by their teachers.

During the past decade the museum has brought itself up to date by espousing the much-admired educational concept of the open classroom, student-participation idea. The result is something close to John Dewey's learning by doing process. The Fels Planetarium, housed in the same building, finds itself challenged to stay abreast of the new information we are getting from outer space, and at the same time alternating its straight teaching sessions with the newest in multimedia shows. One recent popular show combined the two in a special dramatization of an Issac Asimov science-fiction story.

Research and development began early at the Franklin Institute: In 1832 the very first Government funds ever allocated to a private organization for research were given to the institute for a study into the origins of steam boiler explosions, at that time plaguing the transportation industry. Today, in a modern building at 20th and Race Streets, the successors to these early investigators pursue both basic and applied research for Government and private contractors. The Franklin Institute Research Laboratories were established as a special research unit of the institute during World War II, and flourished to the point of needing new quarters, which they moved into in 1966. FIRL's research skills are utilized in behalf of the energy crisis, failure analysis development of apparatus to aid the handicapped, population control, environment priorities, urban mass transit, pollution problems, and the psychological needs of deprived preschool children—to list a few of many topics on which FIRL has worked.

In 1924 Henry W. Bartol, an industrialist and former member of the board of managers of the institute, left a sizable endowment for the purpose of studying fundamental problems in physical science and specific problems of a scientific nature which arise in industry. The Bartol Research Foundation moved from Philadelphia to a building on the campus of Swarthmore College and there pursues inquiry into cosmic ray physics, astrophysics, nuclear energy, and particle physics. In collaboration with the Thomas Jefferson University, Barton offers a Ph. D degree in physics.

The Franklin Institute Library is housed in the museum building on five floors of shelves which contain one of the Nation's outstanding specialized collections. More than 300,000 volumes on science and technology, along with 4,000 periodicals and 6 million patents, may be found in these stacks, and the library offers a special subscription service to businessmen and industries in the area.

The Journal of the Franklin Institute was founded in 1826, and is today one of the oldest scientific and technical journals in the United States. Long the journal of choice of this country's ablest scientists and engineers, it remains one of the most respected periodicals dealing with science and technology on the international scene.

Annual Medal Awards ceremonies bring to the Franklin Institute each year the world's outstanding scientists and engineers, many of them of Nobel laureate stature. Of the large variety of medals presented, perhaps the prestigious Franklin Medal is the most coveted. This was presented first to Thomas Alva Edison almost six decades ago.

The institute continues its 150-year-old practice of presenting lectures by well-known authorities on such current problems as food shortages, the energy crisis, the outlook for the private inventor, and other current subjects. These follow in the tradition of the lectures sponsored in the earliest days of the institute to which were attracted, according to a local historian, "the cream of Philadelphia's life," as well as the artisans and mechanics, budding students, and those curious to learn about the new inventions and manufactures appearing on their horizons.

All of these components are housed under the "umbrella" of the Franklin Institute. Since life itself is steadily growing more complex it seems unlikely that the institute we honor today will become less complex as the century moves along. To meet the challenge of this new age, Dr. Bowen C. Dees, president, says:

> We will respond . . . as we have responded in the past. This can only result in growth, in change, in renewed flexibility, in openness to all that is worthwhile in the innovations around us.
>
> About two years ago we adopted a new Statement of Purpose in which we resolved that The Franklin Institute be dedicated: to searching for full or partial solutions to facing us; to improving public understanding of science and technology, their limitations, their fundamentals, their vast capabilities; and to furthering man's understanding of nature's laws.
>
> That makes a full plate—and we move forward into tomorrow with every expectation that the days ahead will be as exciting, as challenging and as susceptible to solutions as they were in the old days when the Institute was founded.

I am sure you all join me as I wish this very distinguished organization a very happy birthday and the most productive and creative kind of growth over its next 150 years of service.

STATUS OF THE VOLUNTEER ARMY

Mr. MCCLELLAN. Mr. President, in recent months there has been considerable discussion both in the Congress and in the media of the difficulties that the Army has experienced in recruiting manpower since the institution of the all-volunteer force a year ago.

On January 31, 1974, I received a report from Howard H. Callaway, Secretary of the Army, on the status of the volunteer Army, which I believe will be of interest to all Members of the Senate.

Mr. Callaway has reported:

> During the period January to December 1973, the Army recruited 163,800 men and women. Reenlistments for the year totalled 46,300. In addition, 2,530 men and women extended their enlistments for two years or more during the period from January to October. The Army has achieved 88 percent of its recruiting objectives since we abandoned the use of the draft on 29 December 1972, and recent recruiting trends are up. . . .
>
> Although there were some shortfalls in meeting recruiting goals in the early months of this fiscal year, recently the monthly goals have been met and our enlisted strength permits us to maintain an effective and quality force.

While the Secretary did not disclose cost figures for recruiting the all-volunteer Army, information available to the

Subcommittee on Defense Appropriations of the Senate Committee on Appropriations, of which I am chairman, estimates the cost of advertising, recruiting and examination operations in support of the all-volunteer Army at $105 million for fiscal 1974.

Although this is a considerable sum of money, it must be remembered that Congress mandated the all-volunteer force and the funds we have appropriated are designed to give this concept a fair trial at the lowest possible cost. Secretary Callaway, as indicated by his preliminary report, is convinced that the current status of this program is good.

Mr. President, I ask unanimous consent that the full text of Secretary Callaway's report be printed in the RECORD.

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

SECRETARY OF THE ARMY,
Washington, D.C., January 31, 1974.

Hon. JOHN L. MCCLELLAN,
U.S. Senate, Washington, D.C.

DEAR SENATOR MCCLELLAN: As I am sure you are aware, there has been a considerable amount of interest regarding the status of the volunteer Army. I am now completing a full report on the first year of the volunteer Army and will be forwarding a copy of it to you in the near future. In the meantime, I thought you and your constituents would appreciate a brief status report. In summary, the news is good.

First, I would like to mention a recruiting technique heretofore unknown in the modern American Army. Last year the Army reactivated the 9th Infantry Division at Fort Lewis, Washington, but the manpower was not at hand. The Army directed the Commander, General Fulton, to take his cadre, the Division colors, and recruit a division. General Fulton and his recruiters did just that. They began a vigorous recruiting campaign and today that division stands at 102 percent strength, essentially filled with volunteer soldiers. Now this is a real success story, a living example illustrating that the volunteer Army program is not an impossible dream, but a workable idea which can be accomplished.

During the period January to December 1973, the Army recruited 163,800 men and women. Reenlistments for the year totaled 46,300. In addition, 2,530 men and women extended their enlistments for two years or more during the period from January to October. The Army has achieved 88 percent of its recruiting objectives since we abandoned the use of the draft on 29 December 1972, and recent recruiting trends are up. The high school graduate content of our non prior service enlisted accessions since the draft ended (calendar year 1972) has been about 60 percent. If we include prior service accessions, the high school figure rises to 63 percent; and if we take a snap shot of the whole Army, we find 71 percent enlisted men and women have at least a high school education. Although there were some shortfalls in meeting recruiting goals in the early months of this fiscal year, recently the monthly goals have been met and our enlisted strength permits us to maintain an effective and quality force.

Many new approaches to recruiting are being tried which stress quality together with quantity, such as bringing the recruiter force up to authorized strength on a priority basis, expanding the unit of choice and station of choice options (as in the example of the 9th Division), focusing on the junior college market, screening out poor soldiers in reenlistments, administering new entrance tests, and even screening out early in training the individuals who cannot become successful soldiers. These efforts will continue.

With respect to discipline in the volunteer Army, in comparing trends for Fiscal Years 1972 and 1973, a period which includes both draft and volunteer Army experience, we find that rates for AWOL, desertion, crimes of violence, crimes against property, and courts-martial, are down. Virtually every major indicator of discipline in the Army has, in fact, remained at the same level or improved. Whatever factors contribute to this picture, it is clear that today's volunteer soldier is not causing an increase in disciplinary problems.

As you know, there has been some interest in the racial composition of our enlistees. I want to stress that the Army has no quotas based on race. Our main concern is that the applicant is qualified to enlist and serve in the Army and that he is motivated to serve to the best of his ability. Operating under that policy, the percentage of black males enlisting in the Army increased from 18.7 percent in Calendar Year 1972 to 28.2 percent in Calendar Year 1973 and as a result, the black enlisted men increased from 17.5 percent of our enlisted strength in Calendar Year 1972 to about 20 percent in Calendar Year 1973. Black soldiers, like all other soldiers, are assigned throughout the Army in accordance with their enlistment commitments and their individual capabilities.

Finally, combat readiness, which is the heart of the Army's business, has shown significant improvement. Judged by the stringent standards reported to the Joint Chiefs of Staff, the divisions today much more nearly meet their goals than they did at the end of the draft—all 13 divisions are fully operational and nearly all are ready for combat.

These simple facts and figures point to one conclusion: The Army is better today than it was at the end of the draft. All of the important trends are in the right direction. I am proud to emphasize that your Army is good, combat-ready, and improving with the passage of time.

Sincerely,

HOWARD H. CALLAWAY.

WAGE AND PRICE CONTROLS

Mr. HUGH SCOTT. Mr. President, Mr. Donald C. Burnham, chairman of Westinghouse Electric Corp., has made a strong argument for the discontinuance of price and wage controls when present statutory authority expires this April 30. In testimony before the Senate Subcommittee on Production and Stabilization, Mr. Burnham cited specific examples to illustrate how current controls have created shortages, dislocations, and unproductive resource uses which penalize the consumers. He said:

History shows that competition and not price controls is what has given the American consumer and the American producer the most for his dollar in the past.

The price per cubic foot for refrigeration has gone down 65 percent since 1952, he said. The price per pound of wash in washing machines has gone down 56 percent since 1952. And so it has been with fluorescent lamps, room air-conditioners, and other products.

These developments were the result of the operation of a free market. Mr. Burnham points out that:

In a controlled economy, managers tend to pay more attention to the price they can justify by pointing to high costs than they do the job of reducing costs . . . that kills the incentive for any productivity improvement.

I commend Mr. Burnham's testimony to Members of the Senate as we approach decisions on the future of controls and ask unanimous consent to have his testimony printed in the RECORD.

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

TESTIMONY OF DONALD C. BURNHAM

Mr. Chairman, my name is Donald C. Burnham. I am Chairman and chief executive officer of Westinghouse Electric Corporation and my office is in Pittsburgh, Pennsylvania.

Although I am testifying at these hearings as a corporate executive, I want to speak not only for the stockholders and management of my company, but also in the interest of some 200,000 employees of Westinghouse and for literally millions of housewives, small businessmen, purchasing agents and municipal officials who are Westinghouse customers. If I do not keep all of these people in mind when I talk about prices, my time spent here today will have been wasted.

My father ran a filling station in West Lafayette, Indiana, when I was a boy and I first learned about prices and the law of supply and demand from him. At Purdue University, they taught me a little more about the subject, and I have been adding to that knowledge during my years of experience first with General Motors and for the past 20 years with Westinghouse. I hope what I say here will reflect my appreciation for the value of a dollar and my lifelong efforts to get the most for the dollar by improving productivity on whatever job is at hand.

My last official visit here to the Capitol was to testify at the Joint Economic Committee Hearings on productivity in 1972, and the only book I have ever authored was published last year on the subject of Productivity Improvement. In it I declared my conviction that the most effective way—and perhaps the best way—to control inflation is by improving our productivity . . . that is to say by producing more goods or providing more services per unit of work. Obviously government fiscal policy is inflationary whenever it creates money faster than goods and services can be made available But inflation cannot be controlled in the long run through price regulation without creating even more serious problems and dislocations than existed to begin with. I would like to discuss the current situation in my company and industry to illustrate the point.

Like most business executives I know, I was in sympathy with the administration when it took steps to head off a runaway inflation back in 1971 by utilizing the authority Congress had provided, and I have supported the President's program. I am now convinced, however, that the time has come to remove price controls. My reasons are these:

Controls are not a long-range answer to inflation, only a short-range expedient. We can no longer rely on temporary expedients.

They have created conditions of serious shortage in critical materials and commodities in the electrical manufacturing industry.

They are discouraging needed investment and plant expansion which could eliminate the shortages, and are discouraging the investment needed to provide long-range answers to the energy crisis.

They tend to discourage productivity improvement rather than stimulating it, and they are diverting resources uneconomically.

Let me give you some examples of the shortages, dislocations and unproductive resource uses which the Phase IV controls have helped create.

No material is more important to the electrical industry than copper. Copper bar and wire of various sizes and shapes is vital to all kinds of electrical equipment from power generators and transformers to the motors that run our factories and our washing machines. Copper is in short supply throughout the world and the United States needs all it can get. Yet in recent months, the United States has become a net copper *exporter* for the first time since World War II. Why? Because the artifically low price here is 68 cents a pound compared with a world price of nearly $1. Our copper wire division at Abingdon, Virginia, which supplies copper wire to many other Westinghouse plants, reports that its copper situation is critical because copper is leaving the country to seek the higher price level abroad. This is happening with a lot of other materials. The gap between world prices and controlled U.S. prices is causing severe dislocations.

At Muncie, Indiana, we build large power transformers that are an essential link in the electrical chain that brings electricity from the power generating plants to the point of use. Each of these large units, which often weigh over 300 tons, is unique, designed for a specific installation and built in job shop style—no assembly line is possible. Thus a delay in one unit cannot be countered by supplying another unit from the plant floor or from inventory. And a delay in delivering a transformer may cause an entire electric generating plant to remain idle or deprive a city of electricity.

The most critical point in meeting our transformer production schedule is availability of materials. Because of shortages artificially created by price control our Muncie plant is having a difficult time. For example, cotton tape is used to wrap around electrical connections inside transformers for insulating purposes. Our Muncie plant manager tells me that when the price of raw cotton went from 27 cents to 99 cents a pound and controls prevented the manufacturers of cotton tape from passing along this added cost, those cotton tape suppliers simply advised us they could no longer fill our orders. So we were forced into the expensive alternative of having a firm that makes surgical tape provide our tape requirements at a very high price. I'm sure we are paying more now to get the tape we need than we would be paying if there were no price controls on cotton tape. And our source of supply is much more tenuous.

Any supplier tends to discontinue or reduce manufacture of his unprofitable items. This is being felt in other parts of our transformer business. Our plant at Jefferson City, Missouri, makes small transformers of the type that are now used to distribute electric power underground to over 60 percent of all new residential and commercial buildings. They are having great trouble getting commercial grade bar steel and aluminum redraw rod because the suppliers are producing more of the higher priced specialty steel and aluminum items. If the demand for commercial grade types we use were permitted to be reflected in the market price, such artificial shortages as this would not occur.

Prices are the traffic lights of our economic system. They automatically signal when one line of production should go and another product line should stop. They flash a yellow "caution" signal when the supply and demand traffic is changing. Only by allowing prices to move freely, in accordance with these changes, can they perform the necessary function of keeping supply and demand in reasonable balance.

Our power circuit breaker division near Pittsburgh needs a special type of 84-inch-wide sheet steel. It normally uses nearly a million pounds a year of this item. On January 1, the only known source of this product in the United States discontinued production of it to concentrate on more profitable items. As a result, we have had to go into a massive redesign program to substitute for that particular item in our power circuit breakers. We can do it, but it is expensive and unproductive. What's worse, it should not be necesary.

The availability of transport refrigeration equipment has an effect on the price of perishable food products because spoilage due to lack of refrigeration inevitably results in higher prices to the consumer. Our subsidiary in Minneapolis, Minnesota, which makes transport refrigeration tells me that they are having severe procurement problems trying to get the aluminum fins that are needed to make refrigeration coils. This is because two major suppliers have eliminated aluminum fin stock from their production because price control has made it unprofitable.

Because of materials shortages aggravated by price controls, our industrial plastics division at Hampton, South Carolina, had had difficulty obtaining polyethylene needed to make nuclear shielding for atomic submarines. And they have been unable to quote a firm price to the U.S. Government on military plastic helmet liners for the same reason.

The Westinghouse lamp divisions headquartered in Bloomfield, New Jersey, are in short supply on a number of materials necessary to produce light bulbs because price controls have caused the suppliers either to cut back production or sell the material abroad. These materials include aluminum sheet for lamp bases and ammonium paratungstate which we need to make tungsten filaments.

I could cite other examples showing what happens to the supply of essential materials when the market price "traffic light" has been turned off or has been artificially set in a pattern not responsive to the changes in supply and demand "traffic flow." Mr. Chairman, the American industrial economy is so complex that no small group of administrators—no matter how well-educated and well-intentioned—can effectively substitute their judgments for competitive pricing in the market place. It is an impossible task.

Now let me turn briefly to another serious effect of price controls. This is their effect on investment and plant expansion. With our nation and many other nations of the world short of materials, the obvious need is increased production of these materials. This will require great amounts of energy and vastly increased electrical capacity. It is now obvious that world supplies of oil and gas will run out in the decades ahead and we will have to convert to an electric economy. Therefore, we must expand our capacity to produce electricity generated by the clean application of coal and by nuclear fuel. All of this will require tremendous investment of capital in new plant and equipment and in research and development. Price controls discourage such investment.

In many industries other than electric utilities, it is obvious that today's controlled prices would not provide a high enough return on investment to justify essential capital expenditures. It has been calculated that in the steel industry, as just one example, the building of a fully integrated mill would require total capital outlays of some $550 for every ton of annual capacity. But under the prices allowed, the yearly profit would be around $15 a ton—equal to a return of only 3 percent on the capital invested. That is not enough to attract capital that can earn a much higher return elsewhere.

Much of the plant expansion going on today in such industries as steel, aluminum, rubber, paper and cement is of the "incremental" type—installing a new machine here, upgrading an old process there. Not enough major new plants are being started. I hope this will change. It must change. But it will take the removal of price controls to change it.

Gentlemen, we are all after the same thing here. We are trying to arrange our economy so everybody can get the most for his dollar; so that we can be most productive in producing goods and services; so that the consumer and the people living on pensions and fixed incomes don't suffer from the ravages of inflation. I am certainly for all of that.

But we should learn from history. And history shows that competition and not price controls is what has given the American consumer and the American producer the most for his dollar in the past. And this has brought supply and demand together to provide the highest standard of living in the world.

Without price controls, here is how the consumer has benefitted from the operations of my industry:

Refrigerators—The price per cubic foot has gone down 65 percent since 1952.

Washing machines—The price per pound of wash has gone down 56 percent since 1952.

Fluorescent lamps—The price per lumen of light has gone down 14 percent since 1947.

Room air conditioners—The price per BTU has gone down 25 percent since 1958.

Without price controls, here is how businessmen and also the ultimate consumer has benefitted from operations of this industry:

Medium-sized AC Motors—The price per horsepower has gone down 40 percent since 1963.

Steel Mill Drives and Controls—The price per ton of annual capacity has gone down 60 percent since 1958.

Of course, not every product we make has gone down in price.

Watthour meters, like the one on your house—The price there has increased but only 2 and one-half percent and for a better product that has a life of 30 years. This has been possible because of competition and productivity improvement, not because of regulated pricing.

I've found that during price control, managers tend to pay more attention to the price they can justify by pointing to high costs than they do to the job of reducing costs . . . that kills the incentive for any productivity improvement. Just administering this cost justification process adds greatly to our costs. We estimate that it has cost Westinghouse more than a million dollars to carry out this process thus far. And the cost of "opportunities lost" by the managerial talent tied up in this burdensome process is probably much more.

I am not urging the end of price controls because Westinghouse needs special relief to increase its prices—although if controls are continued we will have some serious problems in this regard. I am urging the end of price controls to free the market to move naturally in response to demand and supply pressures—a mechanism that not only assures production of things needed by the consumer, but also helps fight inflation over the long pull.

Gentlemen, I appreciate this opportunity to give you my views.

FUTURE OF CATV

Mr. WILLIAMS. Mr. President, for many years, I have been interested in the potential of cable television.

Dr. Jessie Hartline, director, open university program of Rutgers University recently analyzed the educational potential of cable television. His remarks offer a significant expression of the issues which national policy must face if this potential is to be realized. The Rutgers University program which draws its impetus from the British open university

experiment provides a glimpse into the future of educational television.

Therefore, Mr. President, I ask unanimous consent that Dr. Hartline's statement before the Federal Communications Commission be printed in the RECORD.

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

STATEMENT OF DR. JESSIE HARTLINE

Mr. Chairman, members of the Commission, my name is Jessie Hartline. I am an economist and the director of the open university program at Rutgers University. Our program is one of four in the United States which is experimenting with the use of television course material developed and used by the British open university. Now in its second year, our program offers creative courseware to adult students in strategically placed study centers. The courses encompass three areas—the humanities, the physical sciences, and mathematics—and are fully accredited by Rutgers.

The success of our program is based on the premise that to be used effectively as an educational tool, television must provide a creative visual supplement to the conventional educational process. Implementation of this type of programing is dependent upon the free access of its producers to all potential sources of programing—music, films, art, plays, and so on. Moreover, it is dependent upon a strong financial base and the ability to reach an identifiable audience. This brings me to why I requested time to testify in these proceedings.

CATV is potentially a valuable educational tool. I say potentially because an understanding of its uses for educating the public has barely scratched the surface. Telecommunications, we know, offers the educator the freedom to serve any number of people, the ability to bring more of the public into the educational process, and the ability to utilize expertise not normally available to a student. My practical experience with the Rutgers Project illustrates the multi-advantages inherent in cable television. Television of abundance, which in essence is what cable television is all about, allows flexible scheduling of programming, and hence permits greater individualization of materials. An interesting aside: The British Open University, as a result of its success, is expanding its courseware. However, since channel space is limited, BBC is being forced to schedule courses in Sunrise Semester hours. This kind of scheduling hardly helps the educational process.

The accountability system intrinsic to cable TV is a bonus to the educator. An illustration will perhaps serve as the best explanation. Continuing education in this country has traditionally operated on a pay-its-own-way charge per course basis. Such a financial system is as advantageous for educational telecommunications as it is for in-classroom programs. The most viable medium for a direct tuition system is, of course, pay cable. It makes possible, in addition to the financial advantages, two other determinations essential to an adult educational television program. It permits a teacher to specifically identify course participants and thereby to make possible two-way communications, be it by postcard or by technology, between the teacher and the student. It also provides the teacher with immediate feedback on the popularity of a particular course.

Through cable television, the educator is also capable of targeting his audience. Particularly for financial reasons, this has been important to the Rutgers Program, when WNET of New York offered us prime time for our programs, we didn't have the resources to risk the exposure to 7½ million people. The same holds true for commercial television. One other significant financial advantage of CATV is the cost of television time, which, in most cases, is considerably lower than that for broadcast television. Since programming for CATV may vary in sophistication, production costs are also frequently lower. Finding funding for educational telecommunications programs is a fundamental problem, as education has a rather frozen system of allocations. Frankly, cable TV makes it possible to get the most for the least.

Recognition of how well cable television could both implement and augment our open university program prompted me early this year to investigate the feasibility of putting our program on Morris Cablevision in Morristown, New Jersey, a system in a top-100 television market. Morris Cablevision at that time had 1600 subscribers. We chose that particular system because its demographic composition corresponded well with the objectives of our program. We surveyed the subscribers to discover (1) who was interested in the courses we had to offer and (2) who was interested enough to pay for them. The percentage of positive responses we received is consistent with the few other studies on the topic—between 2 percent and 5 percent, too few to warrant my expense for utilization of that system. However, should Morris Cablevision realize its full potential of 60,000 subscribers, a possible 1200 to 3000 subscribers who do not now have access to such courses would be likely to matriculate with the Rutgers Program. Or, based on the current number of CATV subscribers of 7.8 million, cable, through interconnection via satellite or whatever other means, could make such a program available to between 156,000 and 390,000 likely participants.

What I am saying is that simple economics dictate that before cable television can be fully developed as an educational medium, it must increase its subscriber penetration. It makes sense that the lure of attractive programming via pay cable will significantly increase its marketability—particularly in urban areas where educational TV is likely to have its most profound effect. If it takes feature films and sports to get pay cable moving then so be it. For if overly restrictive requirements on pay cable preclude the full development of that service, education will ultimately suffer.

I am not only speaking here about the future of educational pay cable. It goes without saying that a fundamental benefit of greater subscriber penetration will be greater community use of educational, public and political access channels. At this point in cable's development, nearly 300 cable television systems are producing educational programming. Not until substantially more homes have hooked up to cable will full advantage be taken of that programming.

I might add that once cable television can be fully exploited as an educational medium, its viability should not be restricted by limited access to quality programming.

Thank you.

J. MARK TRICE

Mr. HELMS. Mr. President, when J. Mark Trice retired at the end of the year, his departure seemed unreal. One could just as easily have imagined the cessation of the flow of Tennyson's Brook. Senators felt—certainly this Senator felt—that Mark's genial personality and his willing helpfulness possessed a permanence that would continue on and on.

But he has indeed retired, Mr. President, and I find myself wondering if he misses us as much as we miss him. His able successor shares that view, which speaks well of both of them.

I wonder also, Mr. President, if there will be another associate in the Senate who will match Mark Trice's record. At the age of 14, his service to the Senate began—and, save for 3 years, that service continued for a total of 53 years and 4 months. During that time he served as secretary to the Sergeant at Arms, briefly as secretary to the majority and for the remainder of the time secretary to the minority.

He was a part of the Senate, and the Senate was part of him. He was the constant source of reliable information and wise counsel. And because he has always been a gentleman, he enjoys the affectionate friendship of Senators on both sides of the aisle.

I join other Senators, Mr. President, in wishing Mark Trice every happiness in his years of retirement. May he always enjoy good health and happiness, and may he always remember his friends in the Senate, past and present, to whom his friendship and helping hand have meant so much.

CLOSER COOPERATION WITH EUROPEAN ALLIES IN MILITARY RESEARCH AND DEVELOPMENT

Mr. McINTYRE. Mr. President, a member of the staff of the Armed Services Committee, who specializes in research and development, recently returned from a trip to Europe which was made primarily for the purpose of exploring the possibility of increased cooperation between the United States and our NATO allies in military research and development.

The report goes beyond cooperative research and development. It sheds light on a broad range of subjects and raises questions and issues which I considered to be of such significance that I have formally transmitted it to the Secretary of Defense for information and comment. I request unanimous consent to have printed a copy of the report and the letter to the Secretary of Defense at this point in the RECORD.

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

JANUARY 21, 1974.

Hon. JAMES R. SCHLESINGER,
Secretary of Defense, Department of Defense, The Pentagon, Washington, D.C

DEAR MR. SECRETARY: Mr. Hyman Fine, Professional Staff Member, has submitted a report on his recent trip to Europe relating primarily to cooperative research and development between the U.S. and NATO countries.

The report, a copy of which is attached, is very comprehensive and includes numerous items which should be of direct interest to the Department of Defense. Certain items require action to be taken by your office.

Request that the report be reviewed and cleared for security so that it may be released by the Armed Services Committee. I would also appreciate your early comments on the following specific paragraphs, including statements of actions planned to be taken:

Paragraphs 3c, d, e, f, i, k, m, n, o, p, q, r, s, t, u, v, w, x.

Paragraphs 4a, b, c, e, g.

Since the preparation of comments on the individual items listed may take various periods of time, request that those which are ready by February 15, 1974, be furnished first and the remaining information by March 15, 1974. This will enable members of the committee to consider these matters and ask appropriate questions during the forthcoming hearings on the fiscal year 1975 budget. The report was discussed formally with cognizant personnel in DDR&E on January 8, 1974 to permit initiation of action on the paragraphs noted above.

Sincerely,

THOMAS J. MCINTYRE,
Chairman, Subcommittee on Research and Development.

MEMORANDUM

JANUARY 2, 1974.

To: The Chairman.
From: Hyman Fine.
Subject: Visit to Selected European Countries and Contractors Involved In Research and Development, November 30–December 17, 1973.

1. PURPOSE

To obtain first-hand knowledge of foreign military research and development activities, including cooperative programs with NATO allies, and the interrelationship of research and development organizations, programs, and future plans.

2. ORGANIZATIONS VISITED

(a) Governments:
(1) British Ministry of Defense.
(2) French Ministry of Defense.
(3) Netherlands Defense Research Organization.
(4) NATO.
(5) Italian Technical and Scientific Council of Defense.
(6) German Ministry of Defense.
(b) Companies:
(1) Rolls Royce, England.
(2) British Aircraft Corporation, England.
(3) Hawker-Siddeley, England.
(4) Westland, England.
(5) British Hovercraft, England.
(6) Thomson-CSF, France.
(7) Aerospatiale, France.
(8) Marcel Dassault, France.
(9) MATRA, France.
(10) Messerschmidt-Boelkow-Blohm, Germany.
(11) Krauss-Maffei, Germany.
(12) Otomelara, Italy.
(c) Foreign Government Facilities:
(1) Royal Aircraft Establishment, England.
(2) Physics Laboratory, Netherlands.
(3) National Aerospace Laboratory, Netherlands.
(4) NATO ASW Research Center, Italy.

3. SUMMARY OF FINDINGS

(a) In general, the European governmental representatives, industry representatives, and NATO officials strongly support increased cooperation between the United States and our European allies in military research and development.

(b) The French Ministry of Defense as well as the French industry spokesmen, while strongly supporting such cooperation, emphasized that it must be on a *bilateral* basis between the U.S. and France. All other countries support the *multi-lateral* approach and thereby take a broader and more liberal view for the European community as a whole.

(c) The European countries having a direct interest, including Ministry of Defense and Industry spokesmen, and NATO officials, consider the Low Altitude Forward Area Air Defense System (LOFAADS) to be the major test of U.S. intentions to acquire a weapon system developed by European companies. This demonstration of U.S. intention by a decision to select one of the three candidate systems, Crotale, Rapier, or Roland, is in their minds more important than which of the three ultimately wins the competition. If we do not go through with this approach, we could lose a substantial measure of credibility in our future relationships with our European allies. ($2.5 million was authorized and appropriated in fiscal year 1974 to support Army in-house efforts and permit preparation of requests for proposal to be issued to industry this year.)

(d) The entire European community, including NATO representatives, stresses the importance of standardization of munitions and of equipment to minimize the complexity and high cost of logistics. The ability of NATO forces to fight as an integrated and coordinated team is difficult enough without the complications of a proliferation of different weapon systems and different sizes of ammunition which also require unique handling, maintenance and repair equipment. Cooperative research and development is a major step towards improving this situation.

(e) Licensing of U.S. companies to manufacture European developed equipment, as for LOFAADS, is viewed as an effective method for fostering greater cooperation while accommodating considerations of balance of payments and national industry-labor interests. Another approach to striking such a balance between the U.S. and a foreign country is for the U.S. to buy equipment developed and produced in that country, while at the same time other equipment of equal value which is developed and produced in the U.S. is purchased by that country. Such arrangements must comply with Section 813 Jackson-Nunn amendment), P.L. 93–155, as well as other "Buy America" provisions of law.

(f) The various European countries and companies were advised that in the case of LOFAADS, the Congress denied some $4 to $5 million which was requested for payment to the winning U.S. contractor to cover his cost of obtaining a data package (set of specifications and drawings) from the European company involved. This denial was based on the determination that such costs should be recovered from the U.S. government as part of the unit production cost, and, that represented a risk which the U.S. company should be willing to take or share with his European counterpart. Such costs also may be substantially recovered by a contractor as bid and proposal expense allowed by the U.S. Government under the IR&D (B&P) procedure.

The response to this explanation was one of general understanding and willingness to cooperate. This matter should be considered by the Department of Defense as a candidate for a policy statement to the services and to industry including incorporation into the Armed Services Procurement Regulations (ASPRs).

(g) I emphasized in meetings with European government officials and contractors that the Congress (as represented by the Senate Armed Services Committee) is in favor of increased cooperation with our European allies in the development of weapon systems, and that the "Not-invented-here" (NIH) attitude which has been attributed to the Congress is unwarranted. As a matter of information, the Congress (as represented by the Senate Armed Services Committee) and the Department of Defense are concerned about the statement of Dr. John Foster that there is about $1 billion wasted because of duplication in the research and development programs of the U.S. and our allies. The use of licensing agreements for Low Altitude Forward Area Air Defense Systems (LOFAADS), or cooperative programs (NATO Patrol Hydrofoil-Missile (PHM)) are recent examples of how cooperation can work. The reaction of the Europeans was one of pleasant surprise since some had the impression that the Congress was opposed to cooperative research and development. They also expressed a renewed interest in exploring possibilities for further cooperation.

(h) In England, France, and Germany there has been a marked evolution towards consolidation of major defense contractors. This was brought about largely by necessity. The declining market for European weapons and the increased cost have necessitated the elimination of marginal companies as separate independent corporations and has resulted in greater participation by governments in these industries both by direct financial subsidy and by indirect influence. This has also been reflected in cooperative ventures between companies located in different countries. While this has permitted greater effectiveness in the use of declining or limited financial resources, it has substantially eliminated competition with all of its technical and cost advantages within certain countries. Individual European spokesmen agree to these advantages of competition, as is still practiced in the U.S., but also described this practice as a luxury which they cannot afford.

(i) The high degree of consolidation and concentration of industry in Europe, both within and among the various countries, and with both direct and indirect government participation has been beneficial to those involved in several ways. They have been forced to a high level of prudence and conservation in establishing performance requirements for new weapons development. This is simply because they are unable to afford the high degree of technical risk to which the U.S. is led by the military services and defense contractors. The unchecked zeal of our government and industry engineers, and their attitude that the opportunity to pursue the most advanced technology arises only once in a period of years, when a new major weapon system development is initiated, has accounted largely for the major technical problems, schedule slippages, and cost overruns which continue to plague us. The B–1 is a case in point.

The U.S. would do well to study the European system for weapon system development (e.g., evolutionary rather than revolutionary approach) and consider applying this philosophy in the future. Otherwise, we could wind up doing this ultimately but with loss of time and waste of critical resources.

(j) The U.S. European Offices of Aerospace Research, colocated in London under the organizational (but not command) responsibility of the Defense Attache, are functioning satisfactorily in coordinating the efforts of the U.S. and our allies in cooperative research.

(k) In general, there is adequate coordination between the U.S. and our allies in the use of wind tunnels, test facilities, and ranges. There was agreement that where the declining number of major weapon system developments renders certain facilities marginal to operate, there should be a sensitivity to consolidation or closing in the interest of economy. However, the extent to which this can be done, consistent with protecting individual national interests, is difficult to determine. This problem should continue to be examined.

(l) Data Exchange Agreements (DEA's) provide exchanges between the U.S. and participating countries of technical and scientific information of mutual interest. These are useful in avoiding unnecessary duplication and in promoting closer cooperation at the working level for all countries. The consensus was that this practice is very constructive and should be continued.

(m) The availability of German offset payments to support research and development programs and projects in the U.S. was discussed with Brigadier General Wagstaff, MAAG, Bonn, FRG, and with the German Ministry of Defense (Mr. Eberhardt). Gen-

eral Wagstaff stated that he had discussed this with U.S. State Department officials. Mr. Eberhardt stated that Germany would be interested in this approach. OSD should be requested to look into this since it would be a constructive method of augmenting U.S. research and development without using U.S. dollars. One possibility would be to finance basic research of mutual interest with Germany, to be conducted by prominent U.S. scientists in our universities and colleges. This could even be expanded to support exploratory, advanced, engineering and operational developments. Informal discussions with OSD General Counsel established that there is no legal obstacle to this approach.

(n) There are established procedures for the periodic examination (next meeting is scheduled for January 15, 1974) by the four powers group (U.S., FRG, England, and France) of research and development projects and programs which are candidates for mutual support. However, the extent to which this is being done and the effectiveness of this procedure could not be determined. The NATO Conference of National Armaments Directors (CNAD) also contributes to this objective. If measured in terms of the number of cooperative developments which are being pursued, it appears that there is substantial room for additional programs. This should also be emphasized to OSD.

(o) SAM-D was a subject of specific discussion with Mr. Eberhardt (German Ministry of Defense). His opinion, in brief, was that SAM-D is the best suited system for Europe in the 1980's and beyond; and that German interest in this program is very high. He was impressed by my statement that German interest in buying this system, if successfully developed and tested and if procurement costs do not rise above present estimates, could have a significant effect upon the attitude of the Congress in continuing to support this program. It was recognized by both of us, however, that there is otherwise no compelling reason for the Germans to commit themselves to SAM-D in any formal way until development is satisfactorily completed and the system tested.

(p) The Italian Ministry of Defense representatives strongly and repeatedly emphasized the need for NATO to examine NATO operational requirements periodically and on a timely basis which would permit participating countries to program and budget in an orderly manner for new cooperative research and development projects and programs. He stressed that this must be done despite the obstacles of individual national interests, proprietary interests, and secrecy. Despite the difficulty resulting from different fiscal year periods, his views have merit and should be made known specifically to OSD.

(q) The Special Foreign Currency program administered by the Department of Defense provides for the use of foreign currencies in those countries where we have accumulated amounts excess to normal requirements of the U.S. to finance services or procure equipment for U.S. defense needs. At present, this authority which amounts to some $2.5 to $3.0 million annually, but which can be substantially greater, can be used only in so-called backward countries. For fiscal year 1974, $2.6 million was appropriated to support research in India, Pakistan, Egypt, and Tunisia. It is not clear as to whether there is any legal restriction on the use of this authority to finance research and development work of interest to the U.S. in modern European countries such as our NATO allies; or if there is a legal restriction, that the restriction can be modified by legislative action. This should be addressed as a specific question to OSD.

(r) The Royal Aircraft Establishment (RAE) has the responsibility for development and procurement of all air launched missiles for the British Army, Navy, and Air Force. They state that it has worked to everyone's satisfaction. Recommend the Department of Defense examine this approach closely as a possible first step towards consolidating and integrating DOD missile programs. The proliferation of air-to-air missiles, for example, in the U.S. could not have occurred, if the U.S. DOD had been organized in this manner. If this has worked for the British, it could for the U.S. and then could be expanded to other categories of weapons.

(s) In discussions with the British Ministry of Defense, there appeared to be an area of cooperative opportunity in advanced technology. DOD's Advanced Research Projects Agency (ARPA) would be involve for the U.S. The use of lasers in nuclear weapon simulation was mentioned as one possibility. This should be considered by OSD.

(t) The Director of the Netherlands Defense Research Organization (TNO) expressed satisfaction with the Data Exchange Agreements (DEA's) in effect with the United States. He stated that while there had been individual project officer exchange visits and direct contacts, there had not been a comprehensive review and updating of existing and possible new agreements for about 5 years. He said that his organization was willing to send a team to the U.S. for this purpose, and at their own expense. Recommend OSD follow up on this offer. All other countries visited were satisfied with the manner in which their DEA's were being kept current.

(u) Marcel Dassault, France, expressed disappointment with earlier efforts to interest the U.S. in the Mystere fighter. He agreed that cooperative programs are desirable but was skeptical of our intentions. At my suggestion, he agreed to ask the U.S. Navy about the possibility of a VTOL application of the Dassault Mach 2 airframe with a U.S. engine. (This could be a competitor or a follow-on to Harrier.) He also agreed to pursue the possibility of cooperative technology developments. This is one of the leading European companies in advanced aircraft, and, if feasible, DOD should follow up on this conversation and restore an atmosphere of greater future cooperation with Dassault.

(v) Mr. Gardiner Tucker, Assistant Secretary General of Defense Support, NATO International Staff, was highly constructive in his views concerning the importance of the need and urgency for industrial planning to reduce the impact on industry of declining defense business. Since it is uneconomical and impractical to keep all major defense contractors perpetually in operation, an orderly and comprehensive plan is needed now to insure that critical industrial plants and equipment are closed down but maintained in readiness if required for mobilization needs. This requires DOD as well as Congressional attention.

(w) Brigadier General Miller, Deputy to General Goodpastor, SACEUR, described the system used to cover research and development needs of NATO. There are 29 R&D objectives which were established and distributed to member nations in 1971, indicating the 10 having highest priority. These are considered at the Ministry of Defense level of each country and were the basis for discussion for the first time in 1973.

The 29 objectives, which are being updated now, identify deficiencies in equipment. This will be reviewed by the Armament directors of the NATO countries during the spring of 1974 and should be the basis for cooperative efforts. Recommend that DOD follow this very closely and support the principle of cooperative research and development.

(x) OSD is proceeding with the formulation of a directive which will establish policy and promulgate procedures to encourage cooperation with our allies in research and development. A proposed new Army regulation AR 70-41, covering this policy, is being circulated within DOD. Recommend that this be expedited.

4. COMMENTS ON SPECIFIC WEAPON SYSTEMS AND PROGRAMS

(a) The following list of specific weapon systems and programs was identified by the various contractors involved, some of which are potential candidates for U.S. interest. Some of these have been discussed with U.S. representatives in the past. However, it is recommended that OSD be asked to comment on each and explain why there is or is not an interest in pursuing a cooperative program.

(1) Rolls Royce:

(a) ESM—500 lb. turbo-fan engine being developed jointly with MTU (Germany) and Alpha Romeo (Italy).

(b) RB-199—14,000 lb. engine for the MRCA aircraft. Being developed jointly by Turbo-Union, comprised of Rolls Royce, MTU, and Fiat (Italy). Pratt and Whitney competed for this and lost, and General Electric withdrew from the competition.

(c) Pegasus 15—Under development for the Advanced Harrier.

(2) British Aircraft Corporation:

(a) Rapier—Low altitude air defense system.

(b) Seawolf—Quick reaction, fully automatic, short range, ship-based anti-aircraft and anti-missile system suitable for small escort vessels down to 2,000 tons. Being developed for Royal Navy use in the mid-1970's.

(c) Skua—Lightweight, helicopter borne anti-ship missile, planned to be installed on the Lynx helicopter.

(d) Remotely Piloted Vehicles (RPV's).

(3) Hawker-Siddeley:

(a) Advanced Harrier with Pegasus 15 engine.

(4) Westland:

(a) Lynx—Candidate for the U.S. Navy LAMPS ASW helicopter requirement.

(5) Thompson-CSF:

(a) Crotale—Low altitude air defense system.

(b) Javelot—Close-in air defense gun system which is being jointly funded by France and the U.S. through phase one, feasibility test.

(6) Aerospatiale:

(a) Exocet—Surface-to-surface anti-ship missile. An improved version is under development.

(b) Roland—Low altitude air defense system developed jointly with MBB (Germany) under a new corporate entity, Euromissile.

(c) Milan—Lightweight infantry anti-tank weapon.

(d) Hot—Heavy anti-tank weapon.

(7) Matra:

(a) Otomat—Anti-ship missile being jointly developed with Oto Melara (Italy) and will be operational in 1974.

(b) Super 530—All weather, air-to-air missile. Growth version of 530 missile for very high altitude and high Mach number targets.

(c) 550 "MAGIC"—Close combat air-to-air missile.

(d) Supersonic rocket launcher Type 155.

(e) Drag-chute retarded bombs, such as for use by U.S. Navy on Snakeye.

(8) Messerschmidt - Boelkow - Blohm (MBB):

(a) Armbrust—Lightweight, anti-tank weapon.

(b) Kormoran—Long range air-to-ship weapon system.

(c) MAR/RS 80.

(d) Strebo—Airborne rocket dispenser.

(e) VTOL technology.

(9) Krauss-Maffei:

(a) Leopard II tank.

(b) 105 MM smooth bore gun (Rheinmetal).

(c) 120 MM smooth bore gun (Rheinmetal).

(10) Oto-Melara:

(a) FH–70 155 MM field howitzer.
(b) SP–70 self propelled FH–70 howitzer.
(c) RS–80 rocket separation system.
(d) 5 inch 127 MM gun.
(e) 35 MM Oerlikon gun in Oto twin mount.

(f) Vanessa—A new project, not yet discussed with U.S. Department of Defense, to provide small ship based anti-missile system as improvement over Ajax-Phalanx. Would employ an existing missile, such as Milan. Specific performance details are considered to be sensitive. Has been discussed with Italian and German Navies. Estimate $12 million to develop and test over a 30-month period. Opportunity at this early stage for a joint cooperative research and development program.

(b) Rolls Royce representatives, in discussing Advanced Harrier, with Pegasus 15 engine, stated that U.S. should provide increased funding because Rolls Royce financing is inadequate if program is to be pursued in a timely manner.

(c) Aircraft Research Association, which represents the British aircraft industry, has been operating a 9 foot by 8 foot, Mach 1.2 transonic research tunnel which they consider to be unique. Determine if DOD is aware and makes use of this facility, if the U.S. has a need.

(d) Royal Aircraft Establishment (RAE) of England has built and is operating a unique facility for fatigue testing of the Concorde supersonic transport. It accommodates the complete airplane, less engines and other non-airframe components. This facility, which can test under extreme temperatures both inside and outside the airplane, cost about $25 million and will be used exclusively for Concorde during the next seven years. Some U.S. companies have shown an interest in it.

(e) Hawker-Siddeley management, commenting on the U.S. Advanced Medium STOL Transport prototype (which the Congress cut from $67.2 million to $25 million), stated that they see a need for such a system by 1985–1990; and that the airframe study effort could be supported at a low dollar level for 3 to 5 years before start of full scale development. They also stated that the advanced turbofan engine (ATE) deveopment should be continued as a low level effort. These are interesting observations from an experienced European airplane (Harrier) manufacturer.

On the general subject of developing new military aircraft, Hawker-Siddeley stated that European countries cannot afford to develop and build aircraft solely for military use except when they are exotic, unique types such as Harrier and multi-purpose aircraft such as the new multi-role combat aircraft (MRCA).

Javelot (Close-in 40 MM air defense gun system)—Thompson—CSF stated that the Phase I feasibility test of this U.S./France jointly funded development has been completed. Each country provided $1.5 million. The next phase, following a firing demonstration in January 1974, will take 2 to 2½ years for development and demonstration of the gun (can use an existing radar and tracking system). Estimate $6 million for this phase. Phase II will provide one complete set of equipment and one spare weapon. This weapon is competitive with the Army Vulcan and an advanced anti-aircraft gun. Thompson says, if necessary, they probably would finance the next three months pending initiation of Phase II, if the U.S. and French did not move earlier.

5. CONCLUSION

In summary, the major conclusion reached as a result of this trip is that it is in the interest of the United States, as well as our allies, to recognize the urgency and necessity for closer cooperation in research and development and to infuse the existing organizations responsible for this task with a greater awareness of this situation at all levels of organization up to the national leadership. In a world of growing technical competition where our very national survival could be involved, and with the growing pressures of non-defense programs in all countries for increased support, expanded cooperative research and development represents a positive method for retaining our lead in technology where it already exists, and for recovering the lead in those critical technologies where we may be losing ground. This message must be emphasized to a larger segment of the Congress. The basic findings contained in this report should be examined closely by the Members of Congress and the Administration and translated into appropriate positive actions. To ignore this matter is to risk erosion of the U.S. and NATO lead in future weapons and possibly jeopardize the future security of all the countries involved.

In the Department of Defense, the office under the organization of the Director of Defense Research and Engineering responsible for international cooperative research and development, consists of only two people not counting secretarial support. In 1963 there were seven. This simple comparison points up an anomaly which is not understood. On the one hand, the Department of Defense has been arguing greater emphasis in cooperative research and development while at the same time reducing the staff available to support an expanded effort. The Department of Defense should examine manpower requirements for this function and, if warranted, augment their present staff so that the Department may be more effective in fostering expanded cooperation with our European allies.

Mr. McINTYRE. Mr. President, the possibility of closer cooperation with our allies in the development of military equipment promises substantial economies to all the countries involved. The potential for such savings may be measured against the $1 billion which the former Director of Defense Research and Engineering, Dr. John Foster, has stated before the Armed Services Committee represents the estimated amount of overlap between the programs of ourselves and our allies.

There are other significant comments in the report which I will not dwell upon now, but which are self-explanatory. Some of them may have application to industry, to other agencies of the Government, and to other committees of the Congress.

I intend to follow up on the findings and recommendations contained in the report during the forthcoming review of the fiscal year 1975 Department of Defense military procurement authorization request. I will keep the Senate advised of any significant developments on this matter.

RESOLUTION BY AMERICAN FARM BUREAU

Mr. HUGH SCOTT. Mr. President, I am pleased to call to the attention of the Senate events which took place on January 17, 1974, at the annual meeting of the American Farm Bureau Federation.

Farm Bureau is an organization of farmers—from all over the Nation. They met in Atlantic City to set forth the policy positions which will guide that organization's work in the year ahead.

Their deliberations reflected the grassroots nature of Farm Bureau, an organization with 2,293,630 member families.

The goals Farm Bureau has sought over the years, and the policies Farm Bureau has supported, have undergirded a sound America—regardless of political party viewpoint. They stand for a sense of fair play and support firmly the orderly processes of constitutional government.

With this background, I think it most appropriate to call to the attention of my colleagues in the Senate—the following resolution brought forth on the floor of the Farm Bureau Convention, and enacted into official Farm Bureau policy:

RESOLUTION BY AMERICAN FARM BUREAU, JANUARY 17, 1974

The Office of the President of the United States is under attack by groups and individuals whose philosophy and objectives are contrary to those of the Farm Bureau members. Continued use of the "Watergate" issue by this group as a delaying tactic ultimately could destroy the effectiveness of the Presidency.

In the interest of individual freedom, we believe that our present representative form of Government, as provided in our Constitution, must be preserved by the proper division of authority among the Legislative, Executive and Judicial branches of Government.

We urge Congress through its properly constituted committees to make a decision on whether or not there is basis for continuing the impeachment process. Such a decision is long overdue. Any further delay creates a cloud as to the integrity of Congress itself. This is no time for "politics as usual." The citizens of this country expect their Government to act promptly and responsibly on major issues confronting the Nation."

COLLEGE BY NEWSPAPER

Mr. PELL. Mr. President, I am pleased to call to the attention of my colleagues two excellent articles which appeared recently in Time and the Saturday Review and described a unique educational program sponsored by the National Endowment for the Humanities.

This program involves college-level education by newspaper article. Approximately 20 million Americans are participating in this program presented in newspapers across the country. Each week a special article, representing a college lecture by an eminent scholar, is published as part of a series of 20. The reader may enroll for college credit under the program in one of 182 cooperating colleges and universities. Or the reader may simply choose to enrich his or her own knowledge through study of the course, entitled "America and the Future of Man."

The program is supported by a $96,000 grant from the Humanities Endowment, representing a per-capita investment of less than one-half of 1 cent per person. This would seem a remarkably small Federal investment in terms of the enthusiastic reception of the program and of the knowledge to be gained by those participating.

As chairman of the Senate Special Subcommittee on Arts and Humanities

since its inception 9 years ago, I would like to commend Dr. Ronald S. Berman, Chairman of the Humanities Endowment and the National Council on the Humanities for originating this most interesting educational program.

I believe it serves to exemplify the most constructive endowment approach to the humanities in general. We applaud the endowment's goals of bringing the humanities and the essential areas of knowledge they contain into the mainstream of our national life.

Mr. President, in order to give my colleagues added information on the program I have outlined, I ask unanimous consent that the texts of both articles to which I have referred be printed in full in the RECORD at the conclusion of these remarks.

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

[From Time magazine, Jan. 21, 1974]

COLLEGE BY NEWSPAPER

Settling into a soft chair in her San Diego apartment after dinner last Thursday, Susan Owara, 25, began leafing through the San Diego *Evening Tribune*. In the second section she found what she was looking for: a long article on "America and the Future of Man." She read it carefully, then clipped it out and stuck it in a manila folder. Across town, Schoolteacher Jim Fallon, 34, ripped out the piece and added it to a growing stack on a table in his bedroom. And across the U.S., from Decatur, Ala., to Saint Cloud, Minn., others read and saved the same article, which is part of a novel college course on the American experience offered to millions of readers through the columns of their local newspaper.

The course consists of 20 "lectures," which are printed every Thursday in 258 newspapers, having a combined circulation of 19.5 million. They are written by such prominent "faculty" members as Harvard Historian Oscar Handlin, Yale Economist Henry C. Wallich and M.I.T. Physicist Philip Morrison. The articles are all entitled "America and the Future of Man" (the formal name of the course) and cover history, psychology, sociology, social ethics and political science. In last week's installment, for example, Garrett J. Hardin, professor of human ecology at the University of California at Santa Barbara, reviewed the ethical and social problems of over-population and firmly advanced population control.

COLLEGE CREDIT

While any reader can simply monitor the newspaper course, some 4,000 persons have elected to receive college credit of it. They have registered with one of the 182 colleges and universities affiliated with the program and paid fees ranging from $35 to $45. That entitles them to participate in two discussion classes supervised by a college instructor and to take two tests, one at mid-term and the other at the conclusion of the 20-week course. For an additional $10, credit students receive a kit that includes a record, 50 additional lectures and articles, a study guide and self-tests.

They also get a Monopoly-like board game called Future, in which players advance toward the World of Tomorrow by wisely investing in arts and letters, ecology, social problems and other worthy endeavors. So far, most of the students seem to like the idea that they can take a course at home and at their own speed. Says Susan Owara: "I clip it out and talk it over with my husband. Then later on, I'll go back to the clipping and read it along with the study guide. The articles make me think. They make me ask why things are the way they are."

The influence of the newspaper course has begun to spread beyond the living room. In New Canaan, Conn.—where the course runs in the *Advertiser* and 29 reader-students are enrolled for credit at the University of Connecticut—a community group has sponsored lectures based on the series, drawing as many as 75 listeners. A book club in San Diego uses the articles for regularly scheduled group discussions. Even prisoners—at least 46 from four states—have signed up.

College by newspaper, which began on Oct. 4 is the concept of Caleb A. Lewis, project director at the University of California Extension at San Diego. It is financed by a $96,000 grant from the National Endowment for the Humanities and $42,500 from the Exxon Foundation. NEH is considering underwriting additional courses on aspects of American life after the current one ends next month. Lewis would welcome the opportunity to continue and expand the program. "The person I want to reach most," he says, "is the guy who was turned off by school. I'll be happy if he reads one lecture and enjoys it. Then, if some months or years down the road he decides that learning is not so bad after all and wants to go back to school, we've done our job."

[From the Saturday Review, Dec. 18, 1973]

BLACK AND WHITE SCHOOLHOUSE

Some 40 million readers of 220 newspapers in North America and Western Europe are classmates this fall in a novel educational experiment. Along with the comics, horoscopes, advice columns, and assorted news, their newspapers will be running a weekly series of twenty introductory "lectures" in a college-level humanities course entitled America and the Future of Man.

The eminent faculty of journalist-professors includes such stellar academics as sociologist Daniel Bell and historian Oscar Handlin of Harvard, economists E. J. Mishan of the London School of Economics and Henry Wallich of Yale, and ecologist Garrett Hardin of the University of California, Santa Barbara. Each is writing one installment of the newspaper series, which is intended to tempt students to undertake additional study and research on their own.

In addition, 155 colleges and universities have agreed to backstop the course with two classroom sessions and final exams for those who want to earn undergraduate credit for the work. The students use a kit of prescribed materials, including fifty additional lectures and articles, study guides, and self-administered quizzes. Also in the package, for those who like to play around in class, is a board game called Future, in which students can test the implications of social and scientific change. The study kit costs $10, while the colleges add an extension-course fee of $35 or $45.

The project is designed and directed by the University of California, San Diego, under a $96,000 grant from the National Endowment for the Humanities, which is funded in turn by Congress. If this first experiment in creating a classroom in newsprint succeeds, the National Endowment plans to follow up with at least two more courses in the field of American studies.

ROLLBACK FOR PROPANE

Mr. CURTIS. Mr. President, like many of my colleagues, I have received countless communications from constituents who are extremely distressed about the increase in propane prices in recent months.

Also, like my colleagues, I realize that this is due primarily to the tremendous increases in the price of crude oil. What I did not know is that phase IV price control regulations called for special treatment of gasoline, fuel oil, and diesel, limiting the proportion of costs that can be applied to these products.

On the other hand, these regulations did not impose limitations on the proportion of passthrough costs that may be applied to other products—including propane—and as a result, many companies have had to recover a large share of their overhead costs through the sale of these products on which there has been no limitation on passthrough costs.

I do not want to leave the impression, however, that the price of propane has been entirely uncontrolled by the Government. Passthrough costs have increased tremendously since early 1973 and in the opinion of many, propane prices historically, have been "subnormal" or "depressed" when related to the cost of fuel oil and diesel, which are interchangeable substitutes for propane.

In 1973, domestic sales of propane exceeded domestic production by 4 billion gallons. With demand, therefore, obviously exceeding supply, and with Federal regulations permitting the passthrough of costs, this tremendous price increase has resulted.

Mr. President, this price increase has hit hardest at the pocketbooks of thousands of rural Americans who rely upon propane as a home heating fuel and farmers who rely upon it to fuel irrigation pumps. In his remarks upon introduction of S. 2895, the Senator from Kansas (Mr. DOLE) has set forth in great detail the effects of these increased propane prices. I would refer all interested parties to Senator DOLE's remarks in the RECORD of January 28.

I am of the opinion that in general, any rollback of prices is usually unworkable but because of a freak situation which has developed with reference to propane, I believe that all parties concerned will be best served by a readjustment of propane prices. For this reason I have asked Senator DOLE to add my name as a cosponsor of S. 2895. This legislation provides that effective on the date of enactment no refiner could charge more for propane than his January 1, 1973, price, plus a percentage of the increased costs of refining which have occurred since that time. These additional costs which could be passed through would only be those which are directly related to the production of propane.

Also, Mr. President, I am happy to join with our colleague from Texas (Mr. BENTSEN) in a letter to the Honorable William Simon, Director of the Federal Energy Office, on this subject.

In this letter we propose that January 1, 1973, be established as the readjusted base price period, allowing each oil company to select its most favorable price charged during the period beginning 30 days before and ending 30 days after January 1, 1973. We ask that increases from that point forward be based on a dollar for dollar passthrough of increased costs of crude petroleum, raw natural gas, and processing costs as they proportionately relate to propane at the

wholesale level. Careful research has revealed that this formula will accurately reflect the product's fair share of a barrel of crude and include a fair margin of profit for the refiner.

As I stated earlier, Mr. President, thousands of rural residents depend upon propane as their source of fuel for home heating. Many of these rural residents live on a fixed income and, therefore, any increase of the magnitude that has been experienced in propane necessarily cuts deeply into their budget for food, clothing, and shelter. Therefore, I hope that this solution which we have suggested, or some other action, can be taken which will give refiners a fair return on their investment, while at the same time bringing relief to the people I have just mentioned.

ENERGY IN THE OCEANS

Mr. HOLLINGS. Mr. President, there recently appeared in the magazine, Sea Technology, an outstanding editorial by Larry L. Booda, editor, with an extremely perceptive account of the importance of the oceans to our Nation's present and future energy needs. As Mr. Booda so accurately points out, "there is a finite limit to the earth's hydrocarbon supplies," and man eventually must turn to new sources of energy. The oceans can serve this important need, but only if our Nation has the foresight to commit the leadership and funds to such an undertaking.

I ask unanimous consent that Mr. Booda's editorial be printed in its entirety in the RECORD, and I commend it to the attention of my colleagues.

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

[From Sea Technology, December 1973]

ENERGY IN THE OCEANS

(By Larry L. Booda)

In making its recommendations early this month with the objective to free the United States from dependence on foreign energy sources, the Atomic Energy Commission (AEC) notably neglected the enormous potentials of the seas. AEC, as lead agency for the program of research and development in energy, called Project Independence, asked for spending of $11 billion over a five year period. Its chairman, Dr. Dixie Lee Ray—herself a marine biologist—dwelled on substitution of coal for oil and gas; development of a nuclear powered fleet of tankers and icebreakers; stepped up research in nuclear fusion; research in storing and using solar heat and the earth's geothermal heat.

It pains us that some close-at-hand, inexistence technologies and power generation possibilities that would take less than an all-out R&D effort apparently are being ignored. What the new Federal Energy Administration and AEC need on their staffs are some experts on marine science and technology matters.

Some 40 years ago during the great economic depression President Franklin D. Roosevelt initiated the Passamaquoddy Bay tide harnessing project at the mouth of the St. Croix River, allied with Canada. It was a technically feasible project that would have made use of existing dam and hydroelectric technologies. Trouble was that it was not then economically feasible. It would have placed too great a strain on the capital resources of the nation, so it fell by the wayside. But in terms of present day capabilities of the United States it is a relatively modest project. Other areas with high tides are also candidates for similar efforts.

The AEC, rightfully so, proposes advanced research in nuclear fusion that is the fallout of the nation's biggest project ever—the Manhattan Project that harnessed the atom's energy. But there is fallout from the country's second biggest project—the man-on-the-moon massive effort. Strange as it seems, that fallout is the cryogenic technology that was developed to produce liquid hydrogen in great quantities. That technology has already had an impact on sea transportation. Abuilding in the next three years will be 13 Liquid Natural Gas (LNG) tankers which will carry LNG at −256°F.

Another proposal using cryogenics involves offshore installations that will gain their power from harnessing the winds. Sophisticated wind-mills would generate direct current to separate sea water into hydrogen and oxygen by electrolysis. The hydrogen would be reduced to liquid for transmission and storage ashore. It would then be burned in gas turbines with air to generate conventional alternating current, and the resultant gas would be condensed to form fresh water. Although the proposal sounds complex, it really isn't because the technology exists and the power source is free and limitless. Another power source could be waves.

Admittedly, there is a finite limit to the earth's hydrocarbon supplies—100 years being a good round figure at our present accelerating uses. Eventually man will be faced with using the waves and tides, nuclear power, winds, solar energy and geothermal heat. Meanwhile, the continental shelves and even the deeper continental margins and deep sea domes have hardly been explored. They can help in the 100 year grace period.

William E. Simon, deputy secretary of the Treasury, will be head of the new Federal Energy Administration (FEA). His deputy will be John Sawhill of the Office of Management and Budget. This FEA will have a heavy economic flavor. How fast it will take over its responsibilities rests to a certain extent on Congress, for some 72 agencies in the federal government deal with energy. One major takeover will be the Interior's Office of Oil and Gas.

A major concern *Sea Technology* feels about FEA is that it will be overwhelmed with problems of the moment and will concentrate most of its energies on the short term solutions. Secretary of the Treasury George P. Shultz has shown little interest in the oceans (see Capital Report), and FEA is his creation. It will take over the powers of former White House energy chief John A. Love, who has returned to civilian life.

With longer term energy sources available in the oceans, it behooves the friends of marine science and technology in and out of Congress, and especially the National Advisory Committee on Oceans and Atmosphere (NACOA), to call attention to these ocean energy possibilities in sufficient chorus that FEA will sit up and take note.

VIETNAM VETERANS' NEEDS

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD a statement submitted by me at public hearings in New York, N.Y., by the Mayor's Office for Veterans' Affairs.

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

VIETNAM VETERANS' NEEDS

It is apparent today nearly a year after the end of our involvement in the Vietnam conflict that many of our close to 7 million veterans from that war are beset with problems that demand our urgent attention.

I am concerned about the fact that the educational benefits given to the Vietnam veteran under the GI bill are not only low, but that under the present system of distribution many veterans are precluded from going to college.

A World War II veteran received tuition plus a stipend of $75 a month, whereas a Vietnam veteran only receives a flat sum of $220 a month from which he must pay tuition. Thus, while every veteran of World War II could command a four year public education, today's veteran can only do so and still have enough money to live on if he attends a college with a tuition charge of $419 or less. Approximately 50% of the veterans using today's GI bill thus have less than World War II veterans.

I am, therefore, acutely aware of the underutilization of their educational opportunities by our nation's Vietnam veterans, particularly as it concerns New York State. I have recently cosponsored a bill, the Comprehensive Vietnam Veterans Education Benefits Act of 1973 (S. 2789) which I feel will, if enacted, go a long way towards aiding the veteran in his pursuit of higher education.

Of particular importance is the fact that this bill would enable veterans in states with high cost public education, such as New York, to use effectively the GI benefits. At the present time, the GI bill participation rate in New York is about 36%, whereas the national use rate is 46%.

The inability of the veteran to make the initial tuition payment of $600 to $800 is the most formidable obstacle preventing participation in an education or training program. Under the bill that I am cosponsoring, the Veterans Administration would reimburse the veteran for tuition costs over $400 up to a total of $1,000. With such a provision, more New York veterans will be able to take advantage of the GI bill and thus New York will increase the competitive ability of its work force.

The bill further provides for a 13.6% increase in the subsistence allowance paid to veterans in vocational rehabilitation and education programs. There is a provision for an increase from 8 to 10 years in the eligibility period for educational benefits, along with another section of the bill which would allow a veteran to draw his full 36 month entitlement in larger amounts over a shorter period of time.

I have further been active in the effort to secure the release of veterans cost of instruction funds by HEW and cosponsored an amendment to the Education of the Handicapped Act, S. 896, which would permit colleges with a 10% veteran enrollment to participate in the veterans' cost of instruction allowance program. This amendment passed the Senate and is pending in the House.

In the employment field we still have a lot to do to aid the Vietnam veteran in obtaining jobs. Overall figures for Vietnam era veterans 20 to 34 years of age show an unemployment rate of 3.6% in November, a marked improvement over the 5.6% figure posted a year ago. Vietnam era veterans with disabilities of 10% or more have a somewhat easier time of finding future employment as the result of a recently-instituted program by the National Alliance of Businessmen, the Veterans Administration, and the U.S. Department of Labor. However, the totality of these efforts still fall considerably short of the mark, particularly among younger veterans aged 20–24.

The plight of the unemployed Vietnam veteran requires special attention in view of economic dislocations resulting from the energy crisis. Under the Comprehensive Employment and Training Act of 1973, which the President signed into law on December 28, 1973 and which I co-authored, there is a provision in the bill which assures that special consideration in filling transitional public service jobs will be given to unem-

ployed persons who served in the Armed Forces in Indochina on or after August 5, 1964. Special efforts will be made to acquaint the Vietnam era veteran with the program and the public service jobs available to him under this act.

The Senate recently passed The Veterans Drug and Alcohol Treatment and Rehabilitation Act of 1973, S. 284, with my full support which is a fully funded program designed to combat the drug related problems of veterans. The program applies to all Vietnam veterans regardless of their discharge status. It offers a community treatment program, along with vocational rehabilitation, job placement, and educational counseling. It is a much needed program which I hope will be enacted into law very soon.

The President recently signed into law Public Law 93–177, which I supported in the Senate, which provides a 10% increase to nearly 2.7 million disabled veterans and survivors of deceased veterans. The new legislation adds $239.6 million to the present pension budget of approximately $2.6 billion. I strongly favor adding to the veterans pension programs an automatic cost of living increase provision as was recently accomplished in social security.

Last March the President said that "Words of thanks" are not enough for the men who have returned home from the Vietnam conflict. Indeed, those "words of thanks" need to be continually supplemented by Congressional action, for I feel that although we have made progress in alleviating the plight of the Vietnam veteran, there is much that yet remains to be done.

In New York City alone there are 350,000 Vietnam veterans who, like other veterans, need the benefits of housing, job placement, increased education benefits, medical services and drug rehabilitation. In addition to needed tangible benefits, these same veterans face the lonely and difficult task of readjusting to civilian life after having participated in a tragic war. When the country called upon these men, they answered the call and performed admirably. We must not let them down when they need our aid.

PROJECT FUEL IN MAINE

Mr. HATHAWAY. Mr. President, I would like to call the attention of my colleagues to a remarkable project currently being undertaken in Maine under the auspices of the Office of Economic Opportunity. Called Project Fuel, the program is an attempt to assist low-income people in meeting emergency heating needs during this energy-short winter. I would like to commend OEO Director Alvin Arnett and his staff as well as the project staff in Maine for responding quickly and with imagination to a real need.

It is projects like this, where the efforts and resources of individuals at all levels of government are coordinated and brought to bear on the problems of the poor, that convince me that there is a place in the Federal structure for the Office of Economic Opportunity. By simply providing a focus and forum for the interests of the poor, the OEO renders a valuable service to those who are least able to fend for themselves in times of crisis. I hope that when this matter is before us for review, some type of extension of the agency will be enacted; this is an ill time for the poor to lose their advocate.

Mr. President, I request unanimous consent that several articles on this subject from the OEO Communicator of December 1973 be printed in the RECORD.

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

PROJECT FUEL IN MAINE

Maine, the coldest state in the union (on the average), is also the first state to launch a program to help the poor survive the winter with funding from the Office of Economic Opportunity.

OEO Director Alvin Arnett announced a grant of $478,715 to the Maine State Office of Economic Opportunity on December 7. The grant was based on a comprehensive and detailed plan of action called Project Fuel.

Herb Sperry, the Maine SEOO director and his staff, were as prompt in activating the proposal as they were in planning it.

In the two days following approval, the SEOO entered into contracts with 13 Community Action Agencies around the state to implement the plan, and ordered materials to begin winterizing homes.

Project Fuel has three major parts:

Winterizing of 3,000 substandard homes of the poor at a cost of $300,000.

Stockpiling of emergency fuel depots with fuel oil, kerosene, and firewood.

Operation of Crisis Centers in each of the 13 CAA headquarters. These will be linked by telephone with civil defense and other major emergency agencies of the state. They will receive emergency calls for help and activate responses to them.

Funds will be dispensed according to the number of poor and their needs, by the SEOO to the CAAs under the individual contracts, with the state office maintaining oversight.

Volunteer labor will be recruited by the CAAs from Operation Mainstream, neighborhood youth programs and from college students who will have a six-week winter vacation from school.

The fuel depots will each have 250 cords of wood and 1,000 gallons of fuel oil or kerosene—if possible.

However, prices of both the fuels and firewood are soaring already, promoting the CAAs to set up plans to gather fallen wood in national forests and to seek permission for such wood-gathering in national parks and other public lands.

Also, since more than half Maine's rural poor depend on firewood as their sole fuel, some wood stoves will be purchased by each of the CAAs with part of the funds.

Revolving credit funds to help low-income people buy fuel beyond what they might get from the CAA fuel depots are also being organized.

All house winterizing supplies are being mass purchased through the South Kennebec Valley Cooperative.

Besides buying winterizing supplies and helping CAAs recruit volunteer labor, the SEOO has already organized an Advisory Council.

Council members include representatives from key state agencies, including civil defense, as well as the CAAs, volunteer, labor and consumer organizations.

Already, the State Civil Defense director has appointed a member of his staff to act as the state contact with all the CAA crisis coordinators. In turn, the CAA crisis coordinators are alerting key county officials in their area on the CAA's capability to assist.

They are also seeking representation on allocation panels and local energy task forces to make certain that the problems of the poor in Maine are taken into account and dealt with.

OEO MOBILIZES FOR ENERGY CRISIS

At the direction of the President, the Office of Economic Opportunity has mobilized to assist the poor during the present energy crisis.

OEO will act as an advocate of the poor with key federal and state agencies and also mount programs of its own to provide fuel, food, transportation and other necessities to the poor during the winter.

Director Alvin Arnett has named a nine-man national Headquarters Agency Task Force and similar task forces have been activated in the ten regional offices around the country.

In turn, these task forces have directed State Economic Opportunity Offices and local Community Action Agencies to assess promptly the critical needs of their poor populations and to forward such findings and suggested solutions.

Arnett has also authorized a $478,000 Project Fuel to be operated by the State Economic Opportunity Office in Maine.

That pilot project is already being expedited, and is expected to be able to begin winterizing homes of the poor, dispensing fuel and handling other emergencies shortly.

So far, programs in New England seem to be moving fastest toward activation. This may be due in part to the fact that this area is among the coldest in the nation and has had fuel oil shortages in previous years even before the present crisis.

Based on reports from the regions and CAAs, the basic outline of the "antifreeze" program in the coldest sections falls into the following categories:

Outreach: Many CAAs, including those in Maine and Vermont, have surveyed needs and are moving to meet them.

Hot lines and Crisis Centers are being established at Community Action Agencies.

Emergency Fuel Depots stocked with oil, kerosene and firewood are being organized. Negotiations to obtain oil allocations for the poor and related institutions are going on.

Winterizing homes of the poor is underway in Maine and is being surveyed elsewhere. This will include insulation, caulking, weatherstripping and installing plastic storm windows. Purchase of wood stoves to use firewood as an alternative to oil or kerosene is part of the Maine project and could be used in some other states.

Emergency shelter and transportation plans, tied in with other key agencies such as fire and police and civil defense, are being activated.

Consumer Boards to assure representation of the poor in the allocation of fuel and other major necessities by public boards and agencies are being formed.

In a statement sent to the CAAs and other OEO agencies around the country, Arnett emphasized that they should take two basic actions promptly.

These were, first, to set up coalitions with other key local groups to assure broad community participation, including the poor, in all basic emergency decisions; and second, to make certain that crisis centers were established to receive emergency requests from the low-income and disadvantaged and to route assistance to them.

The Director also reminded all CAA directors that they can shift up to ten per cent of community action funds to different uses without headquarters approval.

He also said they could request approval from the regional offices for even larger fund shifts should that appear necessary.

Meanwhile, at this writing, the Headquaters Task Force and the Director were seeking to determine how much of overall OEO funds can be applied to regional and local efforts in the present crisis.

The Task Force is also forming an agency position on such proposals as adding to the gas tax or otherwise allowing the price of such fuel to rise much higher to discourage consumption.

TOWARD QUALITY EDUCATION FOR MEXICAN-AMERICANS

Mr. CRANSTON. Mr. President, a significant event took place yesterday in Los Angeles when the U.S. Commission on Civil Rights issued its final report at the conclusion of a 5-year study of Mexican-American education.

In this report the Commission finds that the public schools of the Southwestern States are not providing equal educational opportunity for Chicano children, and makes 51 specific recommendations to remedy the situation.

As the sponsor of major legislation designed to provide increased Federal support for bilingual and bicultural education, I am pleased that the Commission on Civil Rights has conducted this important study.

The conclusions released by the Commission today are unmistakably clear. Action must be taken now to end the discrimination that pervades the system of education for Mexican-American children. I invite my colleagues to take note of the study released today, titled "Toward Quality Education for Mexican Americans." It will prove valuable and instructive as we move toward consideration of the pending legislation.

In that connection, Mr. President, I ask unanimous consent to print in the RECORD as part of my remarks the press statement issued by the Commission on release of the report, and the text of an address by Dr. Stephen Horn, Vice Chairman of the Commission on Civil Rights and president of California State University at Long Beach, on this subject.

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

STATEMENT OF DR. STEPHEN HORN

Schools of the Southwest are systematically denying equal educational opportunity to Mexican American students. The educational needs of these students are not being met, their culture is being suppressed, and their hopes and ambitions are being stifled.

These are some of the findings of the United States Commission on Civil Rights in our sixth and final report on Mexican American education, which is being released today.

The report, entitled "Toward Quality Education for Mexican Americans," also contains the Commission's recommendations for remedying the shortcomings discussed in this and the five previous reports. In all, we make 51 specific recommendations based on information collected in five Southwestern states.

But before I get to the recommendations, let me give you some of the background of our five-year study of Mexican American education.

The study's prelude was a Commission hearing regarding the conditions of Mexican Americans. That hearing was held in December 1968 in San Antonio, Texas.

Our formal study of Mexican American education began the following year. The amount of data collected is among the largest assembled regarding a minority group in the United States.

In this final report being released today, we discuss four aspects of education—curriculum, student assignment, teacher education, and counseling—as they affect Mexican American students. We also examine the application of Title VI of the Civil Rights Act of 1964 in school districts with significant numbers of Mexican American pupils.

Three basic principles underlie our recommendations for improving educational opportunities for Mexican American students:

First, the language, history, and culture of Mexican Americans should be integral parts of the educational process.

Second, Mexican Americans should be fully represented in decisionmaking positions that influence educational policies.

Third, all levels of government—local, State and Federal—should provide the funds needed to implement these recommendations.

Ideally, curriculum uses and builds on the language and culture a child brings with him to school. Many Mexican American children find that the knowledge and skills they have gained in their early years are regarded as valueless by their schools. Their language—Spanish—is not the language of the schools and is either actively suppressed or ignored.

Courses and textbooks seldom include items relevant to Chicano children. The result is damage to the children's perception of their culture and heritage. The curriculum is developed by agencies and institutions from which the Mexican Americans are, for the most part, excluded.

Assignment practices too often do little more than provide official notice that Chicano children are failing. Chicano children are retained in grade at more than twice the rate for Anglos. They are overrepresented in low ability classes and underrepresented in classes for children of high ability. They are two-and-one-half times as likely as Anglos to be assigned to a class for the educable mentally retarded.

Chicano children are taught primarily by teachers who are Anglo and who are uninformed regarding the culture of Chicano pupils and unfamiliar with their language. Only rarely are Chicano students able to find a Mexican-American counselor or one with some understanding of their background. In recent years, the Federal Government has taken steps to assure equal education opportunities for Chicanos. These efforts remain, however, far from adequate. Among the more important recommendations are these:

First, Departments of Education in each of the five States should require that all instructional materials incorporate the language, history, and culture of Mexican-Americans.

Second, formal and informal rules prohibiting the speaking of Spanish in the classroom or on school grounds must be eliminated.

Third, State legislatures should require school districts to establish bilingual education or other similar programs in order to impart English language skills to Chicanos.

Fourth, State Departments of Education should prohibit grade retention, unless specific requirements relating to academic failure and emotional immaturity are met; prohibit long-term ability grouping; and restrict placement in EMR classes to children who are deficient in both intellectual and adaptive behavior.

Fifth, school districts should select more Mexican-Americans as teachers and counselors, and institutions training teachers and counselors should increase the number of Chicanos among both faculty and student body.

Sixth, teacher education institutions should incorporate information about Chicanos in their basic courses and assure that trainees do part of their teaching in schools with Chicano students.

Seventh, State Departments of Education should require school districts to provide counselors who speak the students' language and understand their culture.

Eighth, HEW should take the steps necessary to increase substantially the number of districts reviewed annually regarding the denial of equal educational services and cut off Federal funds to districts which fail to negotiate within specified time limits.

Action on these recommendations must begin now. In many instances documented by the Commission, individual school officials have exhibited an attitude which blames educational failure on Chicano students rather than on the inadequacies of the schools. Southwestern schools must face up to their failure to Chicano children. They must institute corrective actions immediately if equal educational opportunity is to become a reality for Mexican-American children.

ADDRESS BY DR. STEPHEN HORN

The U.S. Commission on Civil Rights charged today that Mexican American students are victimized by widespread discriminatory practices in the public schools of the Southwest, and urged prompt adoption of 51 recommendations to ensure equal education for Chicanos.

Calling for a sharp increase in Mexican American staffing of schools and bilingual education or similar approaches, the Commission climaxed a five-year study by issuing a final report, "Toward Quality Education for Mexican Americans."

The Spanish language and Chicano culture are often excluded from the curricula of schools in the Southwest, the 269-page report said.

The Commission also found that Chicano students far too often find themselves retained in grade, placed in low-ability groupings, or designated for Educable Mentally Retarded (EMR) classes, as a result of language and cultural bias in the schools.

The report placed part of the blame for school discrimination against Mexican Americans on a severe scarcity of Chicanos as school board members, superintendents, teachers, and other professional staff.

The Commission report was released today at simultaneous news conferences, conducted in Los Angeles by Acting Chairman Stephen Horn and in San Antonio by Commissioners Manuel Ruiz and Frankie Freeman.

The report is the sixth and final in the Commission's Mexican American Education Study, which was launched in 1969. Most of the recommendations are aimed at State governments, particularly departments of education, of the five states studied in the report: Arizona, California, Colorado, New Mexico, and Texas.

The findings and recommendations will be discussed in detail March 7–9 in San Antonio at a national conference sponsored by the Commission. Educators, legislators, and school board members are among those invited.

The report's recommendations are based on three principles:

The language and culture of Mexican Americans should be an integral part of the education process.

Mexican Americans should be fully represented in educational decision-making.

Federal, State, and local governments should provide sufficient funds to implement these recommendations.

"The . . . recommendations supply specific suggestions for implementing these principles. Educators, political leaders, and community members will have to provide the leadership necessary to make the actual changes," the report said.

Among the more important recommendations are:

1. State departments of education should ensure that the interests, language, and culture of Mexican Americans are represented in school curricula.

2. In schools where non-English speaking students are 5 percent of the enrollment or number more than 20, state legislatures should require districts to establish bilingual-bicultural education or other approaches that teach English skills, while utilizing the students' culture.

3. More Chicanos should be recruited as

teachers, teacher trainees, counselors, and as faculty at teacher training institutions.

4. More Chicanos should be appointed to State textbook committees and to curriculum planning units.

5. State legislatures should prohibit at-large elections of school board members. Instead, board members should be elected to represent specific areas within the school district.

6. State legislatures should prohibit grade retention unless certain specifications are met; should prohibit long-term ability grouping; and should restrict placement in EMR classes to those who are deficient in both intellect and ability to adapt to school and home environment.

7. Teacher education institutions should incorporate information about Chicanos in their basic courses and require that trainees do part of their practice teaching in schools with Mexican American students.

8. State departments of education should require districts to provide counselors who speak the students' language and understand their culture.

9. In schools serving Chicano students the Department of Health, Education, and Welfare should step up enforcement of Title VI of the 1964 Civil Rights Act, which prohibits discrimination in Federal programs.

The Commission noted today that strong impetus for its recommendations was provided by a unanimous Supreme Court decision on January 21 which held that a school system receiving Federal aid violates Title VI when it fails to meet the needs of non-English speaking children.

The Supreme Court ruling came in a case involving Chinese American students, but will have its greatest impact in terms of the 2.5 million Spanish-speaking children who are largely concentrated in the five Southwest states.

The U.S. Commission on Civil Rights is an independent, bipartisan, fact-finding agency established in 1957 and concerned with the rights of minorities and women.

Acting Chairman Horn is president of California State University, Long Beach; Mrs. Freeman is an attorney specializing in estate and corporation law in St. Louis; and Mr. Ruiz is an attorney specializing in international law with offices in Los Angeles. Other Commission members are Maurice B. Mitchell, chancellor of the University of Denver, and Robert S. Rankin, Professor Emeritus of Political Science at Duke University, Durham, North Carolina.

John A. Buggs is staff director.

REPORT ON ACTIVITIES OF THE MINORITY IN THE COMMITTEE ON LABOR AND PUBLIC WELFARE IN 1973

Mr. JAVITS. Mr. President, during the 1st session of the 93d Congress, 1973, the Republican minority of the Committee on Labor and Public Welfare, of which I am the ranking minority member, made again a distinctive record of constructive contributions and effective legislative achievement. It is gratifying to note that in a number of instances, the central concepts around which major legislation was built originated on the minority side. These contributions cover all areas of activity of the committee.

I ask unanimous consent that a report I have prepared on these contributions be printed in the RECORD.

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

COMMITTEE ON LABOR AND PUBLIC WELFARE—MINORITY REPORT

HEALTH

Health Maintenance Organization Act of 1973 (Public Law 93-222):

A bill (S. 837) introduced by Senator Javits in the 92nd Congress, the Administration bill (S. 972) introduced by Senator Javits and cosponsored by Senator Schweiker, the Subcommittee Chairman's bill (S. 14) cosponsored by Senators Javits and Brooke, Amendment Number 123 by Senator Javits to S. 915, and Amendment Number 122 by Senator Javits and Senator Schweiker to S. 14, provided the basis for this Act.

Minority amendments written into law include:

First. Preemption of State laws and practices which restrict the development of Health Maintenance Organizations—Senator Javits.

Second. Provide eligibility for Health Maintenance Organization assistance to medical care foundations—Senator Dominick.

Third. The inclusion of mental health care benefits as Health Maintenance Organization health service—Senator Javits.

Fourth. Health Maintenance Organization policy-making bodies composed of one-third of its members—Senator Javits.

Lead Based Paint Poisoning Prevention Act (Public Law 93-151):

Minority amendments written into law include:

The prohibition of the use of lead based paint in the manufacture of toys and other utensils—Senator Schweiker.

Emergency Medical Service Systems Act of 1973 (Public Law 93-154):

A bill introduced by Senator Beall (S. 654) and bills (S. 504 and S. 2410) introduced by Senator Cranston and cosponsored by Senators Javits, Schweiker, Dominick, Beall, Taft, Stafford and Dole to assist and encourage the development of comprehensive area emergency medical service systems provided the basis for this Act.

Minority amendments written into law include:

First. Assurance that EMS communication systems will utilize emergency medical telephonic screening—Senator Javits.

Second. Provide continuing evaluation and review by Secretary of EMS systems—Senator Javits.

Third. Earmark 20% of appropriation for EMS funding to rural areas—Senator Dole.

Fourth. Provide special consideration to grant applications for EMS initial operation assistance to rural areas—Senator Dole.

Fifth. Provide special consideration to EMS research grant applications in rural areas—Senator Dole.

Health Programs Extension Act of 1973 (Public Law 93-45):

Minority amendments written into law include:

Prohibition against reverse discrimination for religious beliefs or moral convictions in regard to abortions—Senator Javits.

EMPLOYMENT, POVERTY, AND MIGRATORY LABOR

The Comprehensive Employment and Training Act of 1973 (Public Law 93-203):

S. 1559, the basis for this measure, was developed jointly by the Chairman of the Subcommittee and Senator Javits, who introduced the bill on April 12, 1973.

The Act includes also a number of special provisions included by minority members:

First, provisions to ensure that Opportunities Industrialization Centers and other community-based organizations are involved in activities under the Act—Senator Schweiker.

Second, provisions for the involvement of vocational education activities—Senator Taft.

Third, special programs for offenders and for youth jobs—Senator Javits.

HUMAN RESOURCES

The Domestic Volunteer Services Act of 1973 (Public Law 93-113):

This measure resulted from S. 1148 developed jointly by Senator Beall and the Chairman of the Subcommittee on Human Resources.

CHILDREN AND YOUTH

A bill to postpone the implementation of the Headstart fee schedule (Public Law 93-202):

This measure resulted from Senate adoption of a House-passed bill, identical to S. 2700, developed jointly by Senator Javits and the Chairman of the Subcommittee and co-sponsored by Senator Stafford and Senator Schweiker.

VOCATIONAL REHABILITATION

Rehabilitation Act of 1973 (Public Law 93-112):

First, requirement for an individualized written rehabilitation program to serve as blueprint for rehabilitation of handicapped client and as a means of assessing progress and allowing client participation—Senator Stafford.

Second, provision for nondiscrimination in hiring of handicapped under Federal grants—Senator Javits.

Third, in order to encourage hiring of handicapped, provision that unpaid work experience of an individual within a Federal agency shall not be considered Federal employment for purposes of Federal personnel laws and regulations—Senator Taft.

Fourth, requirement that in filling positions of the newly-created Office for the Handicapped, special emphasis is to be given to handicapped individuals—Senator Stafford.

Fifth, inclusion of the homebound in research and training—Senator Javits.

Sixth, requirement that the Secretary of Health, Education, and Welfare shall include in his annual report a report on research and training activities under the Act—Senator Stafford.

Seventh, requirement of a study by the HEW Secretary of the allotment of funds among the States for basic vocational rehabilitation services—Senator Javits.

Eighth, require the Secretary to conduct a study of the role of sheltered workshops in rehabilitation and employment of handicapped individuals. Senator Stafford.

Ninth, provision defining eligibility for participation in services of rehabilitation center for deaf individuals—Senator Javits.

Tenth, provide a statutory basis for the Rehabilitation Services Administration to administer Act—Senator Stafford.

Eleventh, provision for consultation with State rehabilitation agencies in establishment and support of Rehabilitation Engineering Research Centers, in evaluation of programs and projects, and in study on sheltered workshops—Senator Javits.

Twelfth, provision for special consideration to qualified handicapped individuals in filling positions on the President's Committee on Employment of the Handicapped—Senator Stafford.

Thirteenth, inclusion of "acquisition" in the definition of "construction"—Senator Javits.

Extension of Javits-Wagner-O'Day Act (Public Law 93-76):

This measure was introduced as S-1413 by Senator Javits and subsequently enacted into law.

OLDER AMERICANS COMPREHENSIVE SERVICES AMENDMENTS OF 1973—PUBLIC LAW 93-29

S. 50, a bill to strengthen and improve the Older Americans Act of 1965, introduced by

the Chairman of the Aging Subcommittee and co-sponsored by Senators Javits, Schweiker and Taft, provided the basis for this Act. S. 50 was in turn derived from S. 3391, the Administration's proposed revisions to the Older Americans Act which was introduced by Senator Beall on behalf of the Administration.

Minority amendments written into the law include:

First, requiring employment of senior citizens in development and administration of older Americans programs—Senator Beall.

Second, requiring comprehensive study with respect to formula for allocating federal funds to States—Senator Javits.

Third, authorize federal funding of model projects for delivering more effective transportation services to the elderly—Senator Stafford (together with Senator Williams).

In addition, many technical amendments and recommendations made by the minority were incorporated into the final Act. These included recommendations concerning the moving of the Administration on Aging to the office of the Secretary of HEW, the establishment of a National Information & Resource Clearinghouse for the Aging, the encouragement of tuition waiver programs for senior citizens, the coordination of senior citizen centers and day care centers for children and provision for adequate technical assistance to state and local officials involved in the aging programs.

ARTS AND HUMANITIES

National Foundation on the Arts and the Humanities Amendments of 1973 (Public Law 93-133):

The Administration bill, S-916, introduced by Senator Javits and cosponsored by Senator Taft, the Chairman of the Subcommittee and others, together with the bill sponsored by the chairman of the subcommittee and cosponsored by Senators Javits and Taft, formed the basis for this Act.

SCIENCE

National Science Foundation Authorization Act, 1974 (Public Law 93-96):

The Administration bill, S-1078, introduced by Senator Dominick, together with the bill introduced by the Chairman of the Subcommittee, formed the basis for this Act.

A SOLILOQUY

Mr. GOLDWATER. Mr. President, on Friday, January 11, the New York Times ran an exceedingly well-written and brilliant piece by the Honorable Clare Booth Luce entitled "A Soliloquy."

Since that time my mail has been heavy with comments on it and it has been reproduced across the country. In order that my colleagues who have not seen it may have an opportunity to read it, I ask unanimous consent that it be printed at this point in my remarks.

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

A SOLILOQUY

(By Clare Boothe Luce)

To impeach, or not to impeach: that is the question.
Whether 'tis better for the Party to suffer
The slings and arrows of outrageous Nixon,
Or now to drown him in his sea of troubles,
And by voting, end him. Impeach; convict;
No more; and by convicting say we ended
Watergate, restored the public trust,
Upheld the Constitution, purified
Our politics, and got Sam Ervin off
Of Television. 'Tis a consummation
Devoutly to be wished. Impeach. Convict.
Convict: perchance acquit! Ay, there's the rub:
For in that long and bitter process
Of impeachment, what evils may befall us
While we are suffling off his White House coil
Must give us pause: To deepen those divisions
Now dividing us the more, to down
Dow Jones to Davy's locker deeper, drive
Bankrupted brokers to despairful leaps
From Wall Street's darkened windows, stoke the fires
Of wild inflation, court depression,
And be left ourselves to ration gasoline!
Impeach: Whilst wav'ring allies, heeding not
Th' unmastered Henry, yield to Cairo's will
And Moscow slyly strokes the Arab hand
That holds the bung of Sheikdom's oily drums,
And whispers in the vengeful Moslem ear,
The plotted Diaspora of the Jews.
Impeach: To strike the sword from his command—
That U.S. sword he only holds to guard
Our skies and shores from Russian infestation—
And in this hour of the sheathed sword
And unhailed Chief, to court atomic doom!
For who would bear the whips and scorns of Nixon's
Insolence in office, his oppressive vetoes,
His scrambled tapes, his plumbers, his Bebe,
His vaunted innocence, the law's delay,
The exile of the Court of Camelot
And noble Galbraith, Reston, Schlesinger,
The pangs of unrequitted Liberalism,
The long-drawn martyrdom of Alger Hiss,
When we ourselves might Dick's quietus make
With bold impeachment? Ay, what Party
With e'en a tarnished Kennedy in hand
Would grunt and sweat out three more years of Dick
But that the dread of pitfalls on the road
To his conviction puzzles still the will,
And makes us rather bear the ills we have
Than fly to others that we know not of?
Thus conscience doth make cowards of us all,
And thus our native hue of partisanship,
Is sicklied o'er by the pale cast of patriotism.
And politics of great pitch and moment,
With these regards their currents turn awry,
And lose the name of action. Soft you now!
The fair Kay Graham! Nymph, in thy columns, please
Be all our fears remembered.

THE DOLLAR CHECKOFF IS BEGINNING TO WORK

Mr. KENNEDY. Mr. President, on the basis of preliminary IRS results published so far this year, it appears that the dollar checkoff is beginning to work and will be a success as an effective method for the public financing of Federal election campaigns.

In a joint statement today, Senator HUGH SCOTT and I see the increased use of the checkoff on the early returns as a dramatic demonstration that the checkoff is working, and we commend the Internal Revenue Service for its success so far in encouraging the increased use of the checkoff by taxpayers on the 1973 tax returns now being filed.

Under the dollar checkoff, first proposed by Senator RUSSELL LONG in 1966 and finally passed by Congress in 1971, each taxpayer is entitled to designate that $1 of his Federal tax—or $2 on a joint return—shall be used for financing Presidential elections. As the tax forms make clear, the use of the checkoff involves no additional taxes for individuals who use it.

Recent IRS data show that, for the week ended January 25, 14 percent of the taxpayers are now using the checkoff, with an average designation of about $1.50 on each return, compared to only 3 percent who used the checkoff last year.

If the current rate of utilization of the checkoff continues, a total of $50 million will be available for public financing by the time of the 1976 Presidential election. This means that the fund will be enough to finance the full cost of the 1976 election through public dollars, thereby relieving the candidates of both political parties from the need to resort to large private contributions to finance their campaigns.

I hope that the use of the checkoff will continue to accelerate between now and April 15, so that all future election campaigns for Federal office—Senate and House as well as President—can be fully financed from public funds.

Mr. President, I ask unanimous consent that the text of the joint statement by Senator HUGH SCOTT and myself may be printed in the RECORD.

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

JOINT STATEMENT OF SENATOR EDWARD M. KENNEDY AND SENATOR HUGH SCOTT ON THE INCREASING USE OF THE DOLLAR CHECKOFF

We are pleased to learn of the increased use of the dollar checkoff on the Federal income tax returns now being filed for the 1973 tax year. We see the results as a dramatic demonstration that the checkoff is working, and we are optimistic that it will be a success as an effective method for the public financing of Federal election campaigns.

According to the weekly tabulations being released by the Internal Revenue Service on returns currently filed, the increased use of the checkoff is accelerating, with 11% of the returns using the checkoff in the first report period, and 14% using it in the second period. And the results are even more impressive when compared to the dismal record of the previous year, when the checkoff was used on only 3.1% of the returns and brought in only $3.9 million to the public campaign financing fund in the Treasury.

For the two periods on which data are available so far, the figures on use of the checkoff for the 1973 tax year are as follows:

1973 returns filed in 1974	Returns using checkoff for 1973		
	Number	Percent	Amount
Through Jan. 18	43,198	10.7	$60,066
Jan. 19-Jan. 25	120,202	14.0	171,984
Cumulative total	163,400	13.0	232,050

Thus, on the average, each return using the checkoff designates about $1.50 for the public financing fund.

In addition, the 1973 tax form also contains a space for taxpayers who failed to use the checkoff on their 1972 returns to do so retroactively on their 1973 returns. Many taxpayers failed to use the checkoff last year because it was contained on a separate form buried in the package of tax materials they received. The data now available indicate that a substantial number of taxpayers are taking advantage of the opportunity on the current form to make a designation for 1972:

1973 returns filed in 1974	Returns using checkoff for 1972		
	Number	Percent	Amount
Through Jan 18	21,580	5.3	$30,461
Jan 19-Jan. 25	59,360	6.9	85,998
Cumulative total	80,940	6.4	116,459

We believe that the Internal Revenue Service deserves great credit for the action it has taken in encouraging the use of the dollar checkoff this year, principally the conspicuous placing of the checkoff on page one of the tax form and the extensive IRS efforts to publicize it, thereby making it readily accessible to anyone filling out his tax return.

If the present rate of use continues for the rest of the current filings and for future tax years, the Treasury fund will contain about $50 million by April 15, 1976—enough to make the 1976 Presidential election a historic first—paid for entirely out of public dollars, thereby relieving the candidates of both political parties from the need to resort to large private contributions to finance their campaigns.

But we cannot rest on our laurels. Congress is now considering legislation to extend public financing beyond Presidential general elections, to include Presidential primaries and all Senate and House elections as well.

Public financing for these elections ought to be paid for out of the dollar checkoff too, because the checkoff is by far the most suitable method for public financing of election campaigns—it uses tax dollars only with the consent of each individual taxpayer, thereby avoiding the need for Congressional appropriations from the general funds in the Treasury.

In the weeks between now and April 15, when the vast majority of persons will be filing their returns, our hope is that more and more taxpayers will take the chance to "vote" on their tax forms for clean and honest elections. It's the wisest investment the hard-pressed American taxpayer can make in the future of his country.

IN SUPPORT OF S. 1017, TO ACHIEVE INDIAN SELF-DETERMINATION AND EDUCATIONAL REFORM

Mr. DOMENICI. Mr. President, I wish to express today my wholehearted support of S. 1017, a bill designed to achieve a greater measure of Indian self-determination and to accomplish Indian education reform. I am a cosponsor of this legislation.

The language of S. 1017 notes Congress has found that prolonged domination of Indian service programs by the Federal Government has tended to retard rather than enhance the progress of the Indian people by depriving them of the full opportunity to develop effective participation in programs responsive to their true needs. I know the Indian people are desirous of acquiring for themselves the means of implementing Federal programs designed for their benefit.

It is the purpose of S. 1017 to enable Indians to do just that—to control and to manage for themselves those Federal programs initiated to assist them. To this end, S. 1017 would authorize the Secretary of the Interior and the Secretary of Health, Education, and Welfare to contract with Indian tribes for the planning and administration of programs provided for by various Federal statutes and administered through various Federal agencies. This measure expresses the commitment of Congress to a unique and continuing relationship with the Indian people through the establishment of a policy which would permit their effective and meaningful participation in their own programs.

Additionally, title II of S. 1017 is of equal importance, for as expressed in the language of the bill:

Congress . . . finds that . . . true self-determination in any society of people is dependent upon an educational process which will insure the development of qualified people to fulfill meaningful leadership roles.

Further:

The Federal responsibility for and assistance to education of Indian children, Indian adult education, and Indian skills training has not affected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide.

To improve the quality of Indian education, title II addresses itself to the education of Indians in public school, allowing for the contracting by the Secretary of the Interior with individual Indian tribes or tribal organizations under provisions of the Johnson-O'Malley Act—as well as with States or political subdivisions of States. Furthermore, the terms of the bill would involve the Indian people in school construction needs, to a youth intern program, to meaningful and career-related work opportunities for Indian youth who are not enrolled in educational programs during the summer months, and finally, to education research and development by authorizing the Secretary to make grants to universities and colleges in the field of Indian education.

S. 1017 is of vital importance to the Indian self-determination goal. As the President stated in 1970:

The steadfast policy of this administration is to advance the opportunities of American Indians for self-determination without bringing an end to the special Federal relationship with recognized Indian tribes.

By providing for the promotion of maximum Indian participation in the education of Indian people, by providing for the full participation of Indian tribes in programs conducted by the government for Indians, and by establishing a national Indian education program, I believe S. 1017 goes a long way toward achieving the goal of Indian self-determination within the framework of Federal recognition.

AMERICAN POLICY TOWARD CHILE

Mr. KENNEDY. Mr. President, last October 18 I wrote to Secretary of State Henry A. Kissinger to inquire as to our Government's policy toward Chile, and our view of the continuing problems of political refugees and human rights violations. Last week I received a reply, which I would like to share with my Senate colleagues, because I believe it raises troubling questions about American policy toward Chile.

More than 4 months after the violent overthrow of the Allende government, the military junta in Chile apparently continues its gross violations of human rights. Reports in many quarters, including our Government as well as the most respected international humanitarian organizations, suggest continued repression, the denial of safe conduct passes for many political refugees, new waves of arrests, the torture of prisoners, and executions at an alarming rate.

Just a few weeks ago, Mr. President, the Congress expressed the view of most Americans when it resolved, in the foreign assistance authorization bill, that the President should make every effort to encourage the junta to respect human rights. The President signed this bill into law. But there is precious little evidence on the record to indicate that much has really been done.

In fact, the administration, in its growing support of the junta, has conveniently dismissed the continuing violations of human rights by labeling them as an "internal matter" of Chile. This despite the international presence of the United Nations High Commissioner for Refugees and the International Red Cross, and the appeals of many humanitarian organizations for American support in securing the junta's full cooperation in the humane treatment and relief of political prisoners, in the stay of executions among those convicted, in the granting of safe conduct to all refugees, and in the general lifting of repression and press censorship throughout the country.

Given Chile's long history of freedom and constitutional government—and our own claim to world leadership in this cause—the least our country should do is to support the appeals of these international organizations and expeditiously grant asylum to bonafide refugees. To do otherwise, will be a serious default of international responsibility.

Mr. President, in line with the language of the foreign assistance authorization, I would hope we would see a sharp reversal in American policy toward the Chilean junta. The President should condition any U.S. military or general economic assistance on the junta's respect for human rights and progress in the resortation of constitutional government. We should respond to legitimate appeals for humanitarian aid, including a pending request from the Red Cross for emergency relief and medical supplies, but all general aid should be made conditional to the junta's response to the appeals of the Red Cross and the U.N. High Commissioner for Refugees.

Mr. President, I ask unanimous consent that the full text of my questions and the Department of State's reply be printed in the RECORD.

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

STATE DEPARTMENT'S RESPONSE OF JANUARY 28, 1974, TO QUESTIONS ON CHILE SUBMITTED BY SENATOR KENNEDY ON OCTOBER 18, 1973

1. Q. What is the Department's current assessment of allegations regarding: Widespread killing, executions, torture, etc.? What is the Department's current understanding of the cumulative total of persons killed, executed, arrested, detained, etc.? What is the

Department's overall assessment of the impact of the overthrow of the Allende Government on political activities, civil liberties, and human rights in Chile?

1. *A.* "Some of the facts at issue in this question are as difficult to provide today as they were several months ago. Very few hard facts are available and unofficial estimates vary widely in range. [deletion] [1] A substantial percentage of these persons undoubtedly died during the skirmishing that took place the first day or two of the change of government. Approximately one hundred executions, usually of persons charged with engaging in armed resistance, have been acknowledged by Chilean authorities, almost all of them taking place in the month or so following the events of September 11. Some forty persons reportedly were killed attempting to escape military custody; again, most of these took place in the September-October period. Although various interpretations could be given to the term "wide-spread killing," aside from the initial day or two of combat, some instances of curfew violations, the acknowledged executions mentioned above, a few skirmishes involving armed resistors and those announced as killed while attempting to escape, there are confirmed reports of only a few additional deaths. I would add, by way of illustration of the complexities, that the widely reported destruction of the Sumar textile mill by tank fire never took place.

We are unable to judge the validity of the charges of torture. We do note, however, that the Chilean Government has repeatedly denied that it is engaging in inhumane practices.

On the number of arrests, estimates are that some 7–8,000 persons were arrested and originally held in Santiago's National Stadium, the principal detention center following September 11. Of these, some 6,500 persons were released unconditionally, about 555 at last reports were being held in various jails and the rest are in some pending status or other. Figures for current detentions in Santiago and elsewhere are virtually impossible to verify but our impression is that the majority of those originally detained have since been released. The fact that some new detentions occur as others are released complicates any compilation.

In terms of the impact of the change of government on Chilean institutions, the new government has declared the legislature dissolved and, as provided in existing state of siege legislation, has suspended constitutional guarantees; Marxist political parties have been banned and the activities of other parties suspended; those newspapers allowed to publish are censored; and trade union activity has been circumscribed. While military courts have jurisdiction over all internal security cases, the civil court system continues to function. The authorities have promised eventual normalization, but have anticipated in public announcements that the extraordinary measures will persist at least until mid-1974."

2. *Q.* Generally describe the mandates, activities and objectives in Chile of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC).

2. *A.* "The Office of the United Nations High Commissioner for Refugees (UNHCR) seeks to provide international protection to refugees within its mandate, and to seek permanent solutions to the problems of refugees by facilitating their voluntary repatriation and assimilation in new communities either through local integration or resettlement in another country. The UNHCR mandate does not cover persons displaced within their own countries nor refugees who are treated as nationals in their country of residence. Therefore, that organization has been unable to formally assist Chilean nationals. The UNHCR has been arranging resettlement opportunities for refugees it considers within its mandate. A number of countries have agreed to assist in the resettlement. The International Committee of the Red Cross (ICRC) has primarily concerned itself with the problems faced by Chilean citizens. Its activities have included visits to political detainees, distribution of relief supplies, issuance of travel documents and tracing services. Both the ICRC and the UNHCR have been assisted by voluntary agencies, the Intergovernmental Committee for European Migration (ICEM), and church groups as well as private citizens."

3. *Q.* Describe the number, location, administration, and conditions of the "safe havens," which are operated under the auspices of the UNHCR for political refugees. Are the centers open to both foreign residents and civilian nationals? How many persons are in these centers? What are their nationalities? Are the locations of these centers publicly known and easily accessible? Are Chilean military or police personnel in the centers or around them, and has there been any evidence of interference by the military government in the effective operation of these centers or in the movement of persons into the centers? Have any persons been removed from the centers by Chilean authorities, and, if so, for what reasons? An October 17 UNHCR press statement declares: "Chilean authorities have said that refugees who have committed offences would be prosecuted, but the high commissioner said it was not as yet clear what was meant by the term 'offences'. He was trying to obtain clarification on this point." Comment on this statement, and what is the department's understanding in this area of concern?

3. *A.* "The National Committee for Aid to Refugees, in conjunction with the UNHCR, has established six safe havens for foreign refugees in Chile. These are not open to nationals of Chile. The existence and location of the safe havens are publicly known, since the National Committee has publicized its operations in the Chilean press. According to the UNHCR, there are no Chilean military police personnel in the safe havens, nor has there been any removal of refugees from the centers by Chilean authorities.

As of December 12, counting the 605 refugees already granted safe conducts, the total number cared for in the safe havens had reached 995. We do not yet have a detailed breakdown of nationalities from the UNHCR.

The Chilean Government announced in September that refugees who had committed offenses under existing Chilean law would be prosecuted. [deletion] In this regard it may be relevant to note that the Chilean Government has implied that it will eventually grant safe conducts to all asylees in foreign embassies. In any event, we are not aware of any refugees having been removed from safe havens for prosecution."

4. *Q.* What is the status of the UNHCR's efforts to provide safe conduct out of the country for persons able to reach a refugee center? Have any persons in the refugee centers been given safe conduct out of the country? Why has there been so little progress on the conclusion of safe conduct agreements, and what is the United States doing about it?

4. *A.* "According to statistics released by the Chilean Ministry of Foreign Relations a total of 6,776 safe conducts had been granted as of January 11, 1974, to persons leaving Chile. This included 3,602 persons who had sought 'guest' status or asylum in foreign embassies. Approximately another 3,000 safe conducts had been issued to others (including refugees), 47 safe conducts were being processed and action on 239 safe conducts had been deferred.

The UNHCR and ICRC have urged the Chilean Government to continue granting safe conducts to refugees and others seeking to leave the country. The U.S. has supported these representations."

5. *Q.* What is the number of persons who sought asylum in foreign embassies? What are the nationalities of these refugees, and in which embassies did they find asylum? How many refugees in these embassies have been given safe conduct out of Chile? What are their nationalities, from which embassies did they leave, and where did they go? How many refugees remain in embassies? What are the nationalities of these refugees, and in which embassies are they still found? Why haven't they been given safe conduct out of Chile, and what is the United States doing to help resolve this problem?

5. *A.* "We do not yet have precise information or the breakdown by nationality of those who sought asylum in foreign embassies. However, of the 2,263 persons given transportation assistance by ICEM during the period October 6 to December 31, 1973, the major nationalities were: Chilean, 1,230; Bolivian, 412; Uruguayan, 226; Brazilian, 163; Argentine, 41; Ecuadorian, 34; Venezuelan, 14; Dominican, 13 (these figures do not differentiate between asylees and persons residing in refugee safe havens). Information released by the Chilean Government shows that a total of 3,881 persons had been granted asylum as of January 11 by foreign embassies, mostly Latin American, and some Western European including Sweden, Finland, France and Switzerland. As previously indicated, most have been granted safe conducts and the Chilean Government has indicated that the rest will also receive safe conducts."

6. *Q.* Were any persons given asylum in the American Embassy? Were any persons refused asylum in the American Embassy, and, if so, on what grounds? Generally elaborate on United States policy towards granting asylum in an American Embassy or United States government office overseas.

6. *A.* "There have been no requests nor grants of asylum by the American Embassy in Santiago. In contrast to the Latin American Governments which practice diplomatic asylum, the U.S. does not recognize that such a right is sanctioned by general international law or by a regional rule of law. As a result, we are not a party to the following: Convention on Asylum signed at Havana, Feb. 20, 1928; Convention on Political Asylum signed at Montevideo, Dec. 26, 1973; Convention on Diplomatic Asylum signed at Caracas, March 28, 1954. Until 1972, U.S. policy on asylum—including diplomatic asylum—was carried out on the basis of long accepted general understandings and traditional U.S. conceptions and was not spelled out in any single place. The Kudirka Incident in 1970 resulted in a full, interagency review of asylum policy. This policy closely follows that which has been historically followed by the U.S., though with some exceptions in execution.

The principal change in the 1972 policy was to provide granting of temporary refuge for humanitarian reasons wherein the life or safety of a person is put in danger, such as pursuit by a mob. The previous policy covered only imminent danger to the life of the individual. Both past and current U.S. policy on asylum strongly emphasize the temporary nature of the refuge provided. Enclosed is a copy of the U.S. General Policy for Asylum Requests. Part Three contains instructions for our overseas posts."

7. *Q.* Generally describe our Embassy's activities in behalf of the Americans present in Chile during and following the military coup? What specific activities were carried out in behalf of Americans detained, missing, etc.? Has the Department been satisfied by the response of Chilean authorities to official Amer-

[1] Portions of the Department of State's reply were classified "confidential" and have been deleted at the Department's request.

ican inquiries and activities in this area of concern?

7. *A.* "The Embassy was involved in working to protect some 2,800 American citizens in Chile. As of mid-October, our Embassy had investigated the status of or directly assisted over 600 American citizens, ascertaining their whereabouts, informing relatives or friends in the U.S. about their welfare, obtaining the release of 17 American citizens under detention and obtaining safe conduct passes and arranging international transportation for more than 40 individuals. This was done in the midst of street violence, administrative disorganization in the Chilean Government, the absence of diplomatic relations with the new government until September 24 which occasioned difficulties in communicating, a rigid all-night curfew and severe restrictions on movement and activity of all civilians.

"Unfortunately, two American citizens died during this period. An initial report has been received from the Chilean authorities related to the circumstances of these two deaths; we are pressing for more information."

8. *Q.* Describe any supportive role the United States Embassy has played vis a vis UNHCR, ICRC, and similar international activities or presence in Chile?

8. *A.* "We have from the beginning strongly backed the activities and presence of the UNHCR and the ICRC in Chile. As noted in our letter of November 14, we have also encouraged the Inter-American Commission on Human Rights. This backing has taken several forms, e.g., communications support, strong public identification with goals of these organizations in Chile, direct bilateral support vis-a-vis the Chilean authorities, and material support. In the last category, at the request of the ICRC, we donated through the American Red Cross several thousand blankets for use by detainees." (Deleted.)

9. *Q.* Why hasn't the United States responded positively to the UNHCR appeal for resettlement opportunities for refugees from Chile?

9. *A.* "As already noted in our letter of November 14, we have in fact responded positively to the UNHCR appeal for resettlement opportunities for refugees from Chile. We are considering on a case-by-case basis requests for resettlement in the U.S. that are referred to us by the UNHCR. We have agreed to waive documentation requirements and parole individuals into the U.S. if they are refugees and if they are otherwise eligible for admission under the Immigration and Nationality Act. We have made arrangements with the Church World Service and other voluntary agencies to provide the necessary documents to enable the refugees to meet the public charge provisions of the Act.

We are considering a number of cases referred to us by the UNHCR through our Embassy in Santiago. The Embassy establishes a case file on each applicant which includes in addition to usual biographic data, information provided by the UNHCR and our Embassy in the alien's country of nationality, and the results of an interview with the applicant. Bona fide cases are referred to the Immigration Service with a recommendation for parole. Additional cases are being processed by our Embassy in Santiago and will be referred to us soon. The Immigration Subcommittee of the House has been very interested in the parole program and has asked to be informed of the details of approved cases.

10. *Q.* What is the department's understanding as to the number and nationalities of political prisoners in Chile, the number and location and condition of detention facilities, the treatment of detainees, the allegations of torture and summary executions, and the prosecution and sentencing of of those charged with "offences"?

10. *A.* "We do not have precise information on the number of persons under detention. However, a general magnitude estimate may be gleaned from ICRC activities. Up until November 30, 1973 the ICRC had visited 7,500 detainees in 46 separate places of detention. The vast majority of these detainees have been nationals of Chile. A very large percentage of those once detained have been released. [Deletion] As indicated above, trials are proceeding in military and civil courts but we have no estimate of the numbers involved."

11. *Q.* Has our Embassy in Chile and the Department of State been satisfied with the Chilean military government's response to UNHCR, ICRC, and other international activities in behalf of refugees and human rights in Chile? Is it the Department's judgment that the military government is living up to its publicly stated commitments to the UNHCR and the ICRC, and that the military government is fulfilling Chile's humanitarian obligations under international conventions and law? If not, what can, or should, the United States do?

11. *A.* "[Deletion] neither the ICRC nor the UNHCR has been restricted in its activities, and the safe haven and safe-conduct agreements have been honored. Our Embassy has on several occasions conveyed to the Chilean authorities our long-standing views on human rights."

12. *Q.* Define the considerations which led to United States recognition of the Chilean military government on September 24. Did any bi-lateral understandings, commitments, etc. accompany American recognition of the junta?

12. *A.* "Our Embassy received a circular note from the Chilean authorities on Septemper 12, 1973, announcing the formation of a new government and requesting continuance of diplomatic relations. On September 24, after more than twenty countries, including Great Britain and West Germany, had resumed relations with the new government, our Embassy responded to the circular note indicating our desire to maintain relations between the two countries. By that time the new government was in clear control of Chilean territory and had pledged to respect international undertakings of previous Chilean administrations. As of this date, more than sixty countries including the People's Republic of China) have either resumed or renewed diplomatic relations with the new Government of Chile, the main exceptions being some of the nations of Eastern Europe.

The continuation of relations *per se* implies neither our approval nor disapproval of a government's genesis or policies. This is in accordance not only with State Department practices in recent years but also with Senate Resolution 205 of 1969 which states:

"That it is the sense of the Senate that when the United States recognizes a foreign government and exchanges diplomatic representatives with it, this does not imply that the United States approves of the form, ideology or policy of that foreign government."

No new bilateral understandings or commitments accompanied the normalization of relations with the new government."

13. *Q.* Describe any new United States aid or other commitments to Chile since the Allende government's overthrow by the junta. Describe any pending Chilean requests to and/or negotiations with the U.S. Describe any United States aid or other commitments to Chile as of early September 1973. Describe any pending Chilean requests to and/or negotiations with the United States, again, as of early September 1973. What effect did the Allende government's over throw have on these commitments, requests and/or negotiations?

13. *A.* "As of early September 1973 the United States Government was conducting assistance and cooperative efforts with the Government of Chile. These included such activities as the Food for Peace and Peace Corps programs, technical training, community development, narcotics control and various forms of scientific research and collaboration. In addition, Foreign Military Sales (FMS) credits were provided to Chile in response to requests by the Allende Government. These credits, which are at near commercial rates, were within the range of similar credits provided to other Latin American countries and to Chile in previous years.

On several occasions in 1972 and early 1973, U.S. and Chilean representatives met to consider ways of achieving a mutually satisfactory resolution of the major issues between us, particularly the problem of compensating U.S. investors for expropriated properties and the Chilean Government's default of its foreign debts. The last such meeting was held August 16–17 in Washington. These continuing conversations were overtaken by the events of September 11.

In response to an urgent request from the new Chilean authorities following the skirmishing which accompanied the Allende Government's ouster, we provided emergency medical supplies to Chile under the disaster relief program of the Agency for International Development. To meet emergency food requirements in Chile, partially caused by the diversion away from Chile of grain shipments then en route from Eastern Europe, we provided commercial financing from the Commodity Credit Corporation (CCC) of the Department of Agriculture for export shipments of U.S. wheat and feed grains to Chile. Immediately after the change in government wheat and flour stocks in Chile were down to a few weeks supply and the shipment financed by the CCC credit—equivalent to about one month's consumption—helped avert a serious bread shortage for the Chilean people.

The Chilean Government also has requested long-term financing for the purchase of U.S. foodstuffs under Title I of P.L. 480. This request is still pending.

Military assistance commitments made to the Allende Government continue to be met. New requests will considered on their merits.

In recent weeks negotiations have taken place for the rescheduling of unpaid Chilean debts to agencies of the United States Government which fell due in late 1971 and 1972. Agreement was reached between the two governments and an initial repayment installment of $16 million has been made by the Chileans. The Paris Club of creditors is to meet with Chilean representatives this February to consider the rescheduling of 1973 and 1974 debt repayments. The new government has also entered into direct talks with certain U.S. investors concerning expropriated properties.

14. *Q.* Was the overthrow of the Allende government in Chile in the best interests of the United States? Elaborate.

14. *A.* "In his testimony on September 20 before the House Subcommittee on Inter-American Affairs, Assistant Secretary Jack B. Kubisch stated:

"We were not responsible for the difficulties in which Chile found itself, and it is not for us to judge what would have been best or will be best for the Chilean people."

I would add that observations made by President Nixon in his 1972 Foreign Policy Report to the Congress have continuing relevance:

"In our view the hemisphere community is big enough, mature enough and tolerant enough to accept a diversity of national approaches to human goals. We therefore deal realistically with governments as they are—right and left. We have strong preferences and hope to see democratic processes prevail, but we cannot impose our political

structure on other nations. We respect the hemispheric principle of non-intervention. We shape our relations with governments according to their policies and actions as they affect our interests and the interests of the Inter-American system, not according to their domestic structures."

15. *Q.* Regarding contacts between United States personnel attached to the Embassy and Chilean military personnel, list the names of the personnel involved, the dates of contact, and the subjects of conversation during the 10 days immediately preceding the coup.

15. *A.* "There has not been any reason to keep comprehensive records of U.S. Embassy contacts with Chilean military personnel, and none were maintained during the period in question. Normal social and professional contacts prevailed in the ten days preceding the coup, as they had at other times. These contacts took place in the normal course of the routine duties of our defense attaché office, our military advisory group, and other Embassy personnel."

15. *Q.* The Senate Foreign Relations Subcommittee on Multinational Corporations concluded in its report: "ITT sought to engage the CIA in a plan covertly to manipulate the outcome of the Chilean presidential election," and that "the pressures which the company sought to bring to bear on the U.S. for CIA intervention . . . are also incompatible with the formulation of U.S. foreign policy in accordance with the U.S. national, rather than private interests." On the issue of whether American foreign policy should be highly influenced by the interests of private U.S. firms, have U.S. officials or Department of State personnel met with officials of U.S. firms which had been nationalized by the former Chilean Government since the coup? If so, when and who and which companies were represented? Elaborate on the purposes of the meetings and at who's initiative they were called.

16. *A.* "State Department officials have continued to meet periodically, including in recent months, with officials of the expropriated copper companies. Such meetings, as those with representatives of other U.S. private interests in Chile, are usually held at the request of the firms in question and are considered to be useful in keeping the U.S. Government abreast of private sector views and attitudes toward developments in Chile as they affect the individual company's interests. The U.S. Government has a particular interest in the treatment accorded to American investors as well as in specific cases where financial assistance has been extended by the U.S. Government."

17. *Q.* From the ITT hearings of the Foreign Relations Committee, the Senate is familiar with a series of Forty Committee meetings in 1970 which dealt with Chile. The first meeting of which there is public knowledge took place in June 1970. At that meeting, the CIA was authorized to carry out a covert propaganda campaign against Allende. $400,000, was, in fact, spent for this purpose. Additionally, the testimony states that there was a further meeting of the Forty Committee which dealt with Chile soon after Allende was elected on September 4, 1970. The subcommittee was unable to get a clear answer as to precisely what transpired at this meeting. But it was subsequent to this meeting that Mr. Broe of the CIA made his proposal of September 29, 1970, to Mr. Gerrity of the ITT Corporation to create economic chaos in Chile. The testimony showed that this proposal was made with Mr. Helms' knowledge and approval.

How many times since has the Forty Committee considered the Chilean political situation and U.S. policy with respect to the Allende regime? When was the last Forty Committee meeting prior to the coup in which the subject of Chile was discussed? What were the conclusions regarding Chile?

Did the Forty Committee at any of these meetings authorize CIA assistance, directly or indirectly, in any form whatever, to any of the groups or individuals opposed to Allende?

From Mr. Hennessey's testimony before the Multilateral Corporations Subcommittee it is clear that the U.S. Government used its influence in the multilateral lending institutions to prevail upon these institutions to cut off economic development credits to Chile, even before there was any expropriation of any properties by the Chilean government. Yet Mr. Hennessey also testified that the United States Government made available millions of dollars of credits for military purchases. Why were new military credits offered and new economic loans denied?

17. *A.* (a) These proceedings are classified and there has been no authorized disclosure of any of them by the U.S. Government. You will recall that Assistant Secretary Kubisch responded to your questions along these lines in executive session insofar as he was authorized to do so. I would not like our response to pass, however, without reiterating once again that the U.S. Government did not participate in any way in the overthrow of Allende.

(b) Regarding the implication that the U.S. Government pressured multilateral lending institutions to cut off credits to Chile, we would point out that these institutions are independent bodies with their own lending criteria and sufficient experience to formulate their own judgments about a country's creditworthiness. It may be recalled that no Chilean loan applications came before the IBRD Board during the Allende period, and that the only two loans which were voted on in the IDB were supported by the United States. The IDB loans came up early in the Allende period when economic conditions in Chile were much better. It should likewise be recalled that the IMF lent Chile over $80 million in 1971 and 1972 to offset declining copper prices, and that disbursements by the multilateral institutions on existing loans continued throughout the Allende period.

The decision of the Allende Government to request the extension of U.S. credits under the FMS program was one which only it could make. Our decision was whether or not to continue extending credits under the FMS program to military institutions which had, over the years, developed and maintained an inventory of items produced in the U.S. The fact is that the Allende Government undertook to meet its FMS repayment obligations due to other U.S. Government creditor agencies."

18. *Q.* In an article in the *New York Times* of September 27, 1973, a *Times* correspondent reports that the plotting of the coup which toppled Allende began as early as November 1972. In October 1972 there were a series of demonstrations by Chileans, primarily from the middle class who were opposed to Mr. Allende, the so-called "pots and pans" demonstration. This demonstration bore a striking resemblance to similar demonstrations which took place in Brazil in 1963 and early 1964 against the Goulart regime. Did the CIA play any role whatsoever, directly or indirectly, in the demonstrations which took place in Chile in October of 1972?

18. *A.* "The CIA played no role in the October 1972 demonstrations.

HENRY KISSINGER: SEEKER OF PEACE

Mr. PERCY. Mr. President, for many years it was said that the United States had no foreign policy, that the United States reacted to crises abroad without an overall policy framework.

That is no longer said, largely due to the efforts of Dr. Henry Kissinger who has worked diligently to seek peace by removing the causes of war and by opening and broadening communications with other nations. The United States now has a foreign policy clearly geared to reducing international tensions, to stimulating negotiation among adversaries, and to resolving problems previously considered chronic.

Dr. Kissinger, enjoying the confidence of the President, has been both the architect and spokesman of American foreign policy. In order to promote peace and to spread an understanding for U.S. objectives, he has traveled widely across the world, working to create new trust among nations.

His role as a peacemaker was recognized by the awarding of the Nobel Peace Prize to him. Some dispute the award, pointing out that the Indochina peace was too long in the making and that it is incomplete. The objections are not without merit, but the fact remains that Dr. Kissinger negotiated the withdrawal of American forces from Indochina without the collapse of the incumbent governments, a feat not earlier believed possible by either his friends or critics.

Through his persistent efforts, a start has been made toward normalization of relations with mainland China, in order to diminish the chances of miscalculation or war in the Far East.

Through his persistent efforts, a continuing dialog with the leaders and diplomats of the Soviet Union now makes it possible to "talk out" differences of policy which can threaten world peace.

Through his persistent efforts, negotiations now seek to limit further the dangers of nuclear arms deployment, to achieve mutual and balanced force reductions in central Europe, and to enhance European security.

Through his persistent efforts, steps are now being taken to infuse new understanding in the Atlantic Alliance and to restore the mutual confidence of the United States and the nations of Western Europe.

Through his persistent efforts, Arabs and Israelis now meet across a conference table at Geneva, the first face-to-face negotiations ever between the parties to the Mideast conflict.

These important moves in international relations are the products of the prodigious intellectual capabilities of our Secretary of State, the first doctor of philosophy to hold that position. His academic achievements, his professorial background, and the nature of the weighty problems with which he deals every day would suggest that he might be a rather stuffy fellow speaking always in the formal language of official pronouncements. Of course, he is anything but stuffy, and his sense of humor is well known.

I recall his appearance at a dinner in January 1972 when the Cooper-Church end-the-war amendment was being debated in Congress. Sharing the speaking chores with Senator CHURCH, he remarked of CHURCH:

> We have long been on a first-name basis. He calls me Henry and I call him Cooper.

In Amman, when King Hussein invited Dr. Kissinger to fly him from the royal

palace grounds to the airport in a helicopter piloted by the King himself, Kissinger reportedly replied:

If it were not for the honor, I'd just as soon walk.

While posing for photographers in front of the Sphinx, he remarked:

I hope you'll say which one is the Sphinx.

Another time, in response to a question about an impending world problem, he said:

There cannot be a crisis next week. My schedule is already full.

This is not far from the truth, for Secretary Kissinger is a leading player on the world stage. I, for one, greatly appreciate the dedication, the reasonableness, and the leavening wit which he brings to this role. I share this feeling with millions of my fellow Americans and my colleagues in the Congress.

RULES OF THE COMMITTEE ON PUBLIC WORKS

Mr. RANDOLPH. Mr. President, pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, I submit the Rules of the Committee on Public Works, and ask unanimous consent that these rules be printed in the RECORD.

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

U.S. SENATE COMMITTEE ON PUBLIC WORKS
RULES OF PROCEDURE

RULE 1.—REGULAR MEETING DAYS

The regular meeting day of the Committee shall be the first and third Thursday of each month at 10:00 a.m., except that if there be no business before the Committee, the regular meeting shall be omitted.

RULE 2.—COMMITTEE MEETINGS

Subject to section 133(a) of the Legislative Reorganization Act of 1946, as amended, Committee meetings for the conduct of business, for the purpose of holding hearings, or for any other purpose, shall be called by the Chairman. Subcommittee meetings shall be called by the chairman of the respective subcommittee. Notice of a meeting and the agenda of business to be discussed by the Committee will be provided to all Members not less than twenty-four hours in advance of such meeting. Additions to the agenda after that time may be made with the concurrence of the ranking Minority Member. Such 24-hour notice may be waived in an emergency by the Chairman, with the concurrence of the ranking Minority Member.

RULE 3.—OPEN COMMITTEE MEETINGS AND EXECUTIVE SESSIONS

Meetings of the Committee, including hearings shall be open to the public except during Executive Sessions for marking up bills or for voting, or when the Committee, by majority vote, orders an Executive Session, or as required by section 133A(b) of the Legislative Reorganization Act of 1946, as amended.

RULE 4.—PRESIDING OFFICER

(a) The Chairman shall preside at all meetings and hearings of the Committee except that in his absence the ranking Majority Member who is present at the meeting shall preside;

(b) Subcommittee Chairmen shall preside at all meetings and hearings of their respective Subcommittees, except that in the absence of the Subcommittee Chairman, the ranking Majority Member of the Subcommittee who is present at the meeting shall preside;

(c) Notwithstanding the rule prescribed by subsections (a) and (b), any Member of the Committee may preside over the conduct of a hearing.

RULE 5.—QUORUMS

(a) Except as provided in subsections (b) and (d), five Members, two of whom shall be Members of the Minority party, shall constitute a quorum for the conduct of business, except for the purpose of reporting any measure or matter.

(b) Quorums for the conduct of business by the Subcommittees shall be a simple majority of the Membership of the Subcommittees with at least one Minority Member present.

(c) Once a quorum as prescribed in subsection (a) and (b) has been established for the conduct of business in Executive Session, the Committee may continue to conduct business.

(d) Notwithstanding the rule prescribed in (a), one Member shall constitute a quorum for the purpose of conducting a hearing.

RULE 6.—PROXY VOTING; POLLING

(a) Proxy voting shall be allowed on all measures, amendments, resolutions, or any other issue before the Committee or any Subcommittees. Any Member who is unable to attend the meeting may submit his vote on any such issue, in writing or through personal instructions; however, proxies shall not be voted for the purpose of reporting any measure or matter except when the absent Committee Member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. A proxy given in writing shall be valid until revoked, while a proxy given orally or by personal instructions is valid only on the day given.

(b) At the discretion of the Chairman, after consultation with the ranking Minority Member, Members who are unable to be present and whose vote has not been cast by proxy, may later have their position recorded on any vote.

RULE 7.—PUBLIC ANNOUNCEMENT OF VOTE

Whenever the Committee by rollcall vote reports any measure or matter, or acts upon any measure or amendments thereto, the report of the Committee on such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each Member of the Committee.

RULE 8.—ANNOUNCEMENT OF HEARING

The Committee, or any Subcommittee thereof, shall make public announcement and provide notice to Members of the date, place, time and subject matter of any hearing to be conducted on any measure or matter, at least one week in advance of such hearing, unless the Committee Chairman, or Subcommittee Chairman, with the concurrence of the ranking Minority Member, determines that there is good cause to begin such hearing at an earlier date, in which event not less than twenty-four hours notice shall be given.

RULE 9.—STATEMENTS OF WITNESSES AT HEARINGS

(a) Each witness who is scheduled to testify at any hearing of the Committee, or any Subcommittee thereof, shall file a written statement of his proposed testimony not later than noon of the last business day preceding the day on which he is scheduled to appear. At the time of his appearance, he shall supply for the use of the Committee or Subcommittee, 25 copies of his prepared testimony or such greater number as may be requested in the letter of invitation. Except for witnesses from the Federal government, this rule may be waived with regard to field hearings.

(b) The presiding officer at a hearing may have a witness not read his written testimony and to confine his oral presentation to a summary of his statement.

RULE 10.—REGULARLY ESTABLISHED SUBCOMMITTEES

The Committee shall have six regularly established Subcommittees as follows:
Subcommittee on Water Resources.
Subcommittee on Environmental Pollution.
Subcommittee on Economic Development.
Subcommittee on Transportation.
Subcommittee on Buildings and Grounds.
Subcommittee on Disaster Relief.

RULE 11.—SPECIAL SUBCOMMITTEES

With the concurrence of the ranking Minority Member, the Chairman shall, from time to time, establish such special Subcommittees as he deems necessary to expedite Committee business.

RULE 12.—SUBCOMMITTEE MEMBERSHIP

Following consultation with the Majority Members and the ranking Minority Member of the Committee, the Chairman shall announce selections for membership of the Subcommittees referred to in Rules 10 and 11.

RULE 13.—ENVIRONMENTAL IMPACT STATEMENTS

No project or legislation proposed by the Administration shall be approved or other action taken unless the Committee has received an environmental impact statement relative to it, in accordance with Section 102(2)(C) of the National Environmental Policy Act of 1970, and the written comments of the Administrator of the Environmental Protection Agency, in accordance with Sec. 309 of the Clean Air Act.

RULE 14.—NAMING OF PUBLIC FACILITIES

No building, structure or facility authorized by the Committee, shall be named for any living person, except former Presidents of the United States, or former Members of Congress over 70 years of age.

RULE 15.—COMMITTEE RESOLUTIONS

(a) The Chairman is authorized to certify and pass on Committee resolutions for review of flood control and river and harbor reports and resolutions for studies of public building projects, and forward the resolutions to the appropriate Federal agency.

(b) Proponents of Committee resolutions shall submit appropriate evidence showing need for review or reports on river and harbor and flood control projects.

RULE 16.—BROADCASTING OF HEARINGS

Public hearings of the Committee, or any Subcommittee thereof, shall be televised or broadcast, or recorded for television or broadcast, only when authorized by the Chairman, acting through the Chief Clerk. During public hearings, photographers and other reporters using mechanical recording or filming devices shall position and use their equipment in such fashion as will not interfere with the seating, vision, or hearing of Committee Members or Staff on the dais, nor with the orderly process of the hearing.

RULE 17.—AMENDMENT OF RULES

The rules may be added to, modified, amended or suspended by a majority of the Committee Membership.

NATURAL GAS RATES

Mr. TOWER. Mr. President, I would like to take a brief moment to comment on a decision issued by the Federal Power Commission on January 1, 1974. This is Opinion No. 686, Southern Natural Gas Co., et al., docket No. CP73-154, et al. The case involved an application by seven producers for certificates to sell gas in interstate commerce, and the certificates were issued permitting the sale

at 55 cents per MCF. The case was the subject of vitriolic criticism in the Washington Post and has, I understand, brought a hail of disapprobation to the most recently appointed Commissioner, Mr. Don Smith.

My comments are these: Commissioners Moody, Smith, and Brooke are to be commended for a carefully reasoned decision. The applicants sought a rate of 55 cents per MCF, and the opinion indicates that rate is clearly justified. Furthermore, an even higher rate than 55 cents would have been justified, if sought, as the record does not take account of the capital nature of investments in dry holes or the recovery of Federal income taxes due on this production.

As to the criticism, it has been charged that increasing price trends encourage producers to suppress production in anticipation of higher prices. Well, that is sheer buffoonery. Has anyone here ever heard of a New England shoe manufacturer holding back production because of an increasing trend of prices.

To the contrary, production is increased to increase revenues. The oil and gas industry is no different, and in fact is a better example, because producers depend on their cash flow to stay alive. They simply cannot pay shut-in royalties, interest charges, and the like and stay in business without commensurate revenues.

Now, finally, I would like to say a brief word about the "monopolists" involved in these sales. The first one is Exxon, the largest oil and gas operator in the world. Exxon owns 37 percent of the production from the big Escambia Field, in Alabama, which is the subject of the applications. The second "monopolist" is Mallard Exploration, Inc., which owns 50 percent of the production. Mallard owns such an enormous share of the market that it is not even listed among the 301 largest gas producers in the most recent FPC statistics. The remaining "monopolist producers" in Big Escambia are almost that large.

The short of this statement is that I express my gratitude to Mr. Smith, in particular. He merits his nomination to the Commission because he, as well as the other four Commissioners, recognize that producers will continue to explore for and produce gas only if permitted a reasonable price for their efforts. In my opinion, at this time of super hostility to oil and gas producers, his courage in following his convictions is most praiseworthy.

Mr. President, at this point I ask unanimous consent to have printed in the RECORD an article by Mr. Morton Mintz from the Washington Post of Sunday, February 3, 1974.

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

[From the Washington Post, Feb. 3, 1974]

RECORD GAS RATE APPROVED

(By Morton Mintz)

A bitterly divided Federal Power Commission has approved the highest price in its history for natural gas destined to be sold in interstate commerce—a decision likely to bring multibillion-dollar increases in consumer fuel bills.

The price is 55 cents per 1,000 cubic feet, 22 per cent more than the previous record price of 45 cents set last May, and more than double the rate previously approved for the region affected.

The 55-cent price has been sought by a joint venture of seven producers—mainly the independent Mallard Exploration Co. and giant Exxon Corp.—that developed gas in the new Big Escambia Creek field in Alabama. Their customer, under a 20-year contract, will be Southern Natural Gas, a pipeline serving Southern states.

Other contracts will not be affected immediately. But, an FPC aide told a reporter, the commission has signaled the industry that 55 cents is not the top—that the commission may approve still higher rates.

Consequently, said the aide, who asked not to be identified, producers have been given an incentive—an expectation of higher prices, to hold back commitments of new supplies to interstate commerce.

Nationally, the annual consumption of natural gas is about 23 trillion cubic feet. If the price were to increase one penny, the cost to pipelines would be $230 million per year.

The industry and the Nixon administration, along with the FPC, urge legislation be enacted to lift FPC price controls at the wellhead. The industry says prices of around 75 cents per 1,000 cubic feet of gas might result and are necessary to stimulate exploration and development.

Critics reject the contention, saying that even with price increases of 200 per cent from 1954 to 1972, the problem wasn't solved because talk of de-regulation led producers to hold back in expectation of still-higher prices.

The 55-cent decision by the FPC was made Friday on a 3-to-2 vote. The FPC's newest member. Don Smith, who had been looked to as an ally by consumer forces on Capitol Hill, provided the swing vote.

In his first major test, Smith, a former utility regulator from Arkansas whose chief sponsor for his present post was the state's senior senator, Democrat John L. McClellan, sided with the oil and gas industry's most steadfast supporters on the FPC, Commissioners Rush Moody Jr. and Albert B. Brooke Jr.

The dissenters, Chairman John N. Nassikas and Commissioner William L. Springer, a former Senior Republican congressman from Illinois, denounced the decision as a "travesty of regulatory justice."

In a rare joint statement, the two said the courts would reverse the decision if given a chance to do so. But, they lamented, there can be no appeal, because no outsiders had intervened while the case was before the FPC.

The majority "capitulated to the prescription of an industry-established price of 55 cents . . . rather than prescribing a just and reasonable rate by regulatory review," the minority charged.

"To support the industry's demand for the 55-cent price, the majority uses so-called cost evidence to justify the pre-ordained price set by the applicant and not by the evidentiary record," the dissenters said.

They had recommended 41 cents, although the commission staff had recommended the area "ceiling" price of 35. Administrative Law Judge Michael Levant, who presided in the case, recommended 50 cents, which Springer and Nassikas termed "too high."

Moreover, they complained, the majority acted hurriedly—a few hours after getting a telegram from the producers requesting action.

The FPC staff aide said, "The consumers have been sold down the river."

Area ceiling prices were all but nullified in 1972, when a unanimous commission—led by Nassikas—approved "optional pricing." This procedure lets producers and pipelines negotiate any price they care to, subject to commission approval.

The first case under optional pricing, which is under challenge in the U.S. Court of Appeals, led to approval of a 45-cent price for three producers in offshore Louisiana last May 30.

That was a 73 per cent increase over the 26 cents approved in 1971—a price that, the producers had assured the FPC, would be adequate to stimulate exploration and development.

In the Washington-Baltimore area, the 73 per cent increase translates into an increase of about 15 per cent, or $35 a year, in the price of heating a typical single-family home.

Moody and Brooke voted for the 45-cent price, which the FPC staff estimated would yield one of the three producers involved a 48 per cent annual return on its share of total invested capital.

Nassikas dissented. Later, after Springer's appointment, the pair were able to fight off further increases. Now, with the appointment of Smith, there is a new majority.

No matter how rates are computed, the theoretical maximum "just and reasonable return," after taxes, is 15 per cent. In the Big Escambia case, the staff figured that rate would be earned at the 35-cent price it recommended on the basis of estimated productivity average over several years.

In order to assume that a 55-cent price also would yield 15 per cent, hearing examiner Levant and commissioners Moody and Brooke necessarily assumed a lower productivity. They did so by using a one-year rather than a multi-year test period.

This approach was "faulty and not truly representative of industry costs," dissenters Nassikas and Springer charged.

If the extra 20 cents per 1,000 cubic feet of gas proves to be all profit, the producers' rate of return will be about 42 per cent.

Commissioner Smith had won a reputation in Arkansas for being pro-consumers despite a reported close relationship with W. R. Stephens, chairman and president of Arkansas Louisiana Gas Co., a pipeline and gas producer.

President Nixon nominated Smith after his first choice for a vacant seat was rejected by the Senate. Leaders of the fight, pro-consumer members of the Senate Commerce Committee and Senate Antitrust and Monopoly Subcommittee, supported the Smith nomination.

The amount of gas involved in the case is a relatively modest 9.2 million cubic feet a year. The annual cost differential between the 35 cents recommended by the staff and the 55 cents approved by the commission majority is $1.8 million a year to the pipeline, which will pass it on through local distributors to consumers.

Gas was discovered in the Big Escambia field in January, 1972. Its potential reserves are believed to be 255 billion cubic feet—the largest ever found in Alabama.

CLEARCUTTING

Mr. MOSS. Mr. President, on January 25, the Color Country Chapter of the Society of American Foresters adopted a resolutiton expressing its view on the issue of clearcutting in the Nation's forests.

It is vitally important that the Senate have the benefit of the views of America's professional foresters before acting on clearcutting legislation. I commend the Color Country Chapter for making its voice heard.

Mr. President, I ask unanimous consent that the text of the Color Country Chapter's resolution be printed in the RECORD.

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

SOCIETY OF AMERICAN FORESTERS COLOR COUNTRY CHAPTER RESOLUTION

Be it hereby resolved by the Color Country Chapter, Intermountain Section, Society of American Foresters that we are unalterably opposed to any Congressional action (specifically Senate Bill 2620 McGee) that would ban clearcutting in the Nation's forests as a management practice. Clearcutting is needed and often necessary as a management prescription for specific tree species and conditions.

Be it further resolved that we strongly recommend that any future Congressional action which may affect the management of the Nation's forest resources first secure the prior involvement and advice of America's professional foresters—the Society of American Foresters.

Adopted this twenty-fifth day of January 1974 at Richfield, Utah.

THE PRESIDENT'S FISCAL YEAR 1975 BUDGET REQUEST FOR THE VETERANS' ADMINISTRATION: A MIXED BAG

Mr. CRANSTON. Mr. President, I have now had a brief opportunity to study the President's fiscal year 1975 budget request for the Veterans' Administration transmitted to the Congress yesterday. I can make some preliminary observations although I must study the budget justification material, which I have just received today, and get answers to some questions from the VA before reaching any final conclusions.

The President's apparent desire to give recognition to the special needs of veterans, as manifested by the rhetoric of his message to the Congress of January 28, is welcomed by those of us who have been laboring in this field for the past 5 years. The test is whether the President's verbalized concerns are translated into meaningful benefit and services improvements for eligible veterans and their dependents. In the main, I believe they are not. In the area of medical care, I believe they are.

Mr. President, as chairman of the Health and Hospitals Subcommittee of the Committee on Veterans' Affairs, I will focus mainly on the VA medical program. But I must express grave disappointment that the President's actual proposals or lack thereof show he is not aware of the harsh realities of life in today's overheated economy for returning veterans seeking education or training under the GI bill and for disabled veterans suffering from service-connected disabilities. He has failed to comprehend what every congressional observer, veterans group, and editorial writer I have read, seems to understand fully, and that is that today's GI bill payment rate and structure are just not equitable given today's accelerating cost of education and living.

The President's 8-percent so-called cost-of-living proposal makes no sense on top of a rate structure which in 1972—when we last amended it, over staunch administration opposition to increase rates by 2 percent—was fully 12 percent—$30 per month for the full-time veteran-student without dependents—lower than the Senate had found necessary to restore comparability to Korean conflict GI bill rates.

It is an insult to those veterans—many with heavy dependency obligations, struggling to stretch GI bill checks, when they finally get them—in schools throughout the Nation—and an insult to the intelligence of the Congress to try to palm off so meager a proposal—a proposal which already is out of date since it does not take into account the enormous CPI increase over the last 3 months.

That is why, Mr. President, we have GI bill rates—to try to upgrade the program as well as allow for education and proposed a 23-percent rate increase for living cost inflation. I predict Congress will this year categorically reject the President's totally inadequate proposal and enact a rate increase in order of the 23-percent proposal we have made, or a combination of a lesser allowance increase coupled with a modest tuition support subsidy to help equalize the education cost differential from State to State, and provide comparability with the World War II GI bill benefit structure.

Service-connected disabled veterans have fared even worse. Their needs—now over 19 months old—for a cost-of-living increase, though enormous, were totally ignored in last week's Presidental message and budget request. Congress will quickly rectify this by enacting a generous disability compensation and DIC increase—of from 10 to 15 percent, I would estimate.

This bleak picture, however, is not my reaction to the budget request insofar as the VA medical program is concerned. Insuring high quality VA health care for disabled veterans has been a No. 1 priority throughout my service in the Senate. It now seems that the administration has at long last gotten the message that caring for the war casualty must be counted as a fundamental part of the cost of war. Although I have one rather serious reservation, and, as I noted, have only just today received the detailed budget justifications, the VA medical budget looks very encouraging. It is clearly the best budget proposal I have seen for VA health care since I came to the Senate, and I heartily congratulate for it the President, his advisers, OMB, and, most particularly, Dr. Marc J. Musser, dedicated and able VA Chief Medical Director.

Mr. President, the magnitude and quality of the VA medical budget request is a tribute to and clear vote of confidence in Dr. Musser's quiet, yet effective leadership over the last 4 years. We in Congress have added over a half billion dollars for the VA medical program over budget requests since 1970. Unlike others who were so busy proclaiming that the VA could not usefully spend the sums we appropriated, he has fought the necessary internal battles, and been able to spend these "unneeded" moneys in a way which added 26,140 new medical workers and brought about an unparalleled upgrading in the whole VA medical program during his first 4-year term.

After extensive dialog which I and leaders on the House side had with the administration at the highest levels, it was decided that Dr. Musser would be rewarded, not ousted, for his faithful, selfless, effective service, and not left to twist "slowly, slowly in the wind" as had first been the scheme at the VA.

So I heartily welcome this budget proposal, Mr. President. It shows one area where the administration has gotten the message—sent by 4 years of congressional insistence on adequate medical budget and employment levels—and where prior consultation with Congress has borne fruit. In most respects, this VA medical budget parallels my detailed total recommendations for last year's budget, with some improvements.

Mr. President, I welcome the additional 8,745 positions in medical employment and the $232 million increase in medical care outlays. I am also delighted that Sacramento has been chosen for a new Veterans' Administration outpatient clinic—the first VA medical facility north of the San Francisco Bay Area—to open July 1, 1974. Approximately $900,000 will be allocated to provide outpatient care for veterans, many now newly eligible under the Veterans Health Care Expansion Act of 1973—Public Law 93–82—which I authored in the Senate last year.

The new outpatient facility will make VA medical care accessible to more than 200,000 eligible veterans and their families in northern California. The new clinic will be affiliated with the University of California Medical School at Davis, and located in the Sacramento Medical Center.

Last January 18, I brought the Health and Hospitals Subcommittee to Sacramento for hearings into the quality and accessibility of health care available to northern California veterans and specifically the need for a new VA outpatient clinic there. At that hearing, I heard much specific testimony from all veterans organizations and from local officials pointing to the great need for a new Sacramento VA outpatient clinic. This hearing and the establishment of the clinic is a culmination of more than 2 years of negotiations I have had with the VA, supported by county supervisors, officials at UC/Davis, and California veterans organizations.

Mr. President, I believe Public Law 93–82 probably provided the last push necessary to get the VA to recognize the need for a facility in the Sacramento area. This new law directs the VA to provide outpatient care to eligible veterans for any disabilities—whether service-connected or not—where such care would prevent hospitalization.

Presently, the northern most VA hospital is in Martinez, 70 miles south of Sacramento and accessible only by private auto. The outpatient clinic in Sacramento will allow many veterans to remain at home while receiving health care. The clinic staff will also provide counseling and supportive services to the veteran's family to speed treatment and rehabilitation of the veteran.

Mr. President, I am also heartened by the plans to activate four new regional

medical education centers to provide refresher and continuing education for VA and community health care personnel, pursuant to Public Law 92–541, which I authored in the Senate.

Mr. President, I welcome the plan to obligate $284.7 million for construction of medical facilities—up $170.2 million from this fiscal year—and especially the allocation of $46.5 million to complete the much delayed Los Angeles Wadsworth replacement hospital; $39.4 million to complete the new VA hospital at Loma Linda; $72.6 million for the much needed Bronx, New York, replacement hospital; and $9 million to plan or carry out air conditioning at at least 11 hospitals in some of the most sweltering regions of the Nation.

Mr. President, I welcome the $89 million to be expended for medical and prosthetic research in fiscal year 1975—up $7.3 million from the record high amount to be expended this fiscal year—especially the emphasis on research on aging, sickle cell disease, hypertension, and alcohol dependence.

Mr. President, I welcome the request for a supplemental appropriation of $29 million for this fiscal year to carry out new authorities in the Veterans Health Care Expansion Act of 1973, Public Law 93–82, which I authored in the Senate, and inclusion of $41.4 million in fiscal year 1975 under the new CHAMPVA program to pay for care in community facilities for the dependents of 100 percent service-connected disabled veterans and the survivors of veterans who died from service-connected disabilities, pursuant to Public Law 93–82.

So, Mr. President, this is a very positive, reassuring picture for the disabled and ill veterans of California and the Nation and their dependents. I am very disappointed, however, that no new funds were requested to implement the basic provisions of the VA Medical School Assistance and Health Manpower Training Act of 1972, Public Law 92–541, which I authored in the Senate, and that the $45 million total we appropriated for that purpose last and this fiscal year is being held back to be spread over 3 fiscal years—$10 million in fiscal year 1974, $20 million in fiscal year 1975, and presumably, $15 million in fiscal year 1976. I strongly believe that the full $45 million available for expenditure now under this new law should be obligated now to meet the $150 million worth of applications from medical schools and other health care manpower training institutions to utilize VA facilities to start new medical schools or to expand the training capacities of existing schools and other institutions operating in affiliation with VA facilities.

Mr. President, I will be scrutinizing this matter very closely in the months ahead to insure that moneys are not being arbitrarily withheld, and to find out the demand for additional funds for appropriations during fiscal year 1975 for Public Law 92–541.

THE MODERN CONGRESS ACT OF 1974

Mr. HUMPHREY. Mr. President, in the near future I am going to introduce the Modern Congress Act of 1974, legislation that will help to transform Congress into an effective, up-to-date institution.

A 20th century Congress cannot be content with employing 18th and 19th century techniques. Yet in many areas of substance and procedure the Congress of the United States has done just that. This is unfortunate even when we are able to work cooperatively with an administration which respects the rights and responsibilities of the legislative branch, but it can lead to a critical situation when an administration ignores or contravenes congressional mandates under statutory laws.

Part of the solution to this dilemma involves getting our own house in order. There are many internal problems which we must overcome to strengthen ourselves.

Some problems to which this legislation is addressed include our failure to examine the national budget in a comprehensive, logical manner, our refusal to eliminate overlapping committee jurisdictions, and our reluctance to employ modern technology to assist us in our deliberations.

Mr. President, one failure which I consider to be of overriding significance, and which is also dealt with in this legislation, is the feeble lipservice we pay to the congressional function commonly known as oversight. While there have been occasional exceptions, in general the most we have done about oversight has been to overlook it as a major duty.

We devote endless hours to the tasks of considering and debating and passing new laws and programs. But the amount of time we spend seeing that those laws and programs are carried out in a way that meets the intention of the Congress is pathetically little. The Congress must keep fully informed of the administration's handling of the laws and programs passed by Congress. We must know whether those laws and programs are performing as we intended.

Our duty has not ended when we have passed a law or launched a new program. Our duty is to evaluate, recommend and terminate: To evaluate the laws and programs we pass to make sure they are performing as we intended; to recommend means of filling deficiencies in their administration and of correcting shortcomings in their operation, and to terminate those which we find have outlived their usefulness.

The only way we can fulfill this duty and obligation is to establish a systematic means of overseeing the administration of laws and the operation of programs. For this purpose, Mr. President, the legislation I introduce today proposes the establishment of legislative review subcommittees within each of the standing committees of the Senate, to conduct oversight functions on a continuing, daily basis.

The Modern Congress Act establishes other tools and mechanisms needed to meet the challenges that face the Congress in carrying out its constitutionally delegated responsibilities.

To assist the Congress in an analysis of itself as an institution, this legislation creates a Citizens' Committee to Study Congress. I believe that the Congress will have serious difficulty reforming itself without outside impetus. The Citizens' Committee will make an immediate and comprehensive assessment of the steps necessary to make Congress more open, responsive, and assertive. Composed of individuals removed from the internal pressures of Congress, this body will provide the perspective necessary to pursue the reforms which those of us within this body sometimes overlook or neglect.

The frequent incidence of overlap among committee jurisdictions creates problems for the smooth operation of Congress. My bill contains a proposal to reorganize the current distribution of jurisdictions.

One area in which Congress has drawn particular criticism concerns the degree of candor with which it conducts itself. With the lessons of excessive secrecy all too clear, it is necessary that Congress open its processes to the public eye; and the need for this is nowhere more obvious than in the area of committee hearings and sessions. The Congress is an arm of the people, and the public has every right to be completely informed of the deeds of its representatives. Accountability is something which the public demands and which the Congress must preserve if it is to retain the trust of the people. My legislation provides for open sessions which will prevent the secrecy that has been so alarming.

The importance of having quick and precise information on the wide range of topics that come before Congress in this complex, technological, high speed age must not be underestimated. The quality of the congressional information and communications system has major and direct bearing on the decisions that we make in this chamber. The Congress must have these modern systems and devices if it is to gain the benefits that can be derived from the new information and communications sciences.

I propose the establishment of the Office of Congressional Communications to maintain a video-tape library of important public interest broadcasts, provide closed circuit telecasts of committee proceedings, arrange for each Member of Congress to be able to view such documents in his own office, and other measures to modernize the communications-information services available to the Congress. Not only would this Office supervise existing activities, but it would monitor the latest innovations in the field of communications to enable Congress to adopt a more modern approach in the coming years.

Congress has continually suffered from the absence of legal counsel to represent it in court proceedings involving other agents of government. This situation would be rectified through the Office of Congressional Counsel which I have included in my bill.

The Congress has received unfavorable comment for its failure to assert its equality with the executive branch of Government, and one major area in which this inadequacy is pronounced is in the respective uses of the television media. My bill would partially address this problem with the institution of a

congressional annual report, or a "state of the Congress" message presented by the congressional leadership. By establishing a tradition of significance through this event, the Congress would have a valuable opportunity to increase its prestige in the eye of the public. And it would take this legislative body a large step in the direction of earning renewed public attention and respect.

The "power of the purse," the appropriations authority, was specifically provided to Congress in the Constitution. Yet, in recent years, as spending by the Federal Government has grown and its programs have become more complex, and as the Executive has exerted increased control over the budget, Congress has seen its "power over the purse" seriously weakened. The "policy impoundments" of the present administration are only the most blatant example of Executive disregard for the Constitutional power of Congress over national spending priorities.

Title VI of this legislation is intended to reform our budget process and restore the appropriations power in Congress, where it belongs. It creates an Office of Budget Analysis and Program Evaluation subject to the supervision and control of the Joint Economic Committee. This Office would provide Congress with a much needed expansion of skilled staff to concentrate on budget analysis and the evaluation of Federal agency programs.

This section would also provide a congressionally established budget ceiling each year and a process to provide Congress with the accurate information needed to make its budget and tax decisions wisely. Title VI would also greatly expand official State and local government involvement, and that of the general public, in the budget formulation process of Federal agencies.

Other provisions in my bill would serve such diverse purposes as to grant additional powers to the General Accounting Office, create a joint committee to integrate and oversee the entire national security policy area, and initiate a study of the use of computer programs to improve scheduling of the work of the Senate.

Mr. President, we all recognize that Congress demands change within itself. There are many reasons. Primarily, it is imperative that the Congress regain much of the influence which it seemingly has abdicated to the executive branch. This can be accomplished in many ways, not the least of which is by streamlining its own processes to gain greater efficiency. If the Congress can free some of its existing resources for more substantive efforts, or if the Congress can increase the resources at its disposal, we will be better prepared to discharge our constitutional responsibilities.

This bill will not be a panacea for all the ills of Congress, but it represents a concerted effort to attack some of the problems at the most basic level of operation which influences the entire organization and output of Congress. If we can do this, we will have more ability to hurdle the obstacles that the 21st century will surely bring.

SECTION-BY-SECTION COMMENT

Title I of the bill would establish a Citizens' Committee to Study Congress. This committee would be composed of the leading experts on congressional reform in the country, and it would also be broadly representative of all walks of American life. It would make an immediate and comprehensive evaluation of the changes needed to make the Congress a viable, responsive, open, effective, and coequal branch of the Government. The basic point behind the proposal is that the Congress will have difficulty if it depends solely on its own Members to suggest reforms. We need to have this detailed study and a program for action come from outside of Congress to obtain the fresh and independent perspective that is required.

The members of the committee shall be chosen by a selection committee composed of three members, one of whom shall be appointed by the President pro tempore of the Senate, one of whom shall be appointed by the Speaker of the House, and one of whom shall be appointed by the President. This committee will then choose 15 members to serve on the committee, not more than two of whom shall be Members of the Senate, the House of Representatives, and the executive branch, respectively. In the course of their study, they will perform the following functions: Consider the policymaking role of the Congress, determine the best method of congressional review and evaluation, examine the operation of the Congress itself and the factors that affect it, and other matters that the committee deems appropriate.

But their impact will not stem from a simple listing of recommendations but rather from a detached and hopefully objective examination of Congress. And through the committee's widespread hearings, a beginning can be made toward restoring public confidence in the Congress.

Title II calls for a realinement of the various jurisdictions of congressional committees. The confused structure of the committee system has long been a major obstacle in the road to constructive reform. What we need, and what this bill calls for, is a genuine overhaul and evaluation of the numerous jurisdictions of issues within congressional committees. Currently, the incidence of overlap that occurs in the assignment of a particular issue area to a committee creates a great deal of confusion and effectively stalls the legislative process.

There has been no substantial change in the jurisdictions of Senate committees since 1946. But when one stops to realize the extent of change and new programs that have taken place since then, it is alarming to consider the stagnation within the committee structure. The result is that jurisdictions over important policy areas are now split among a host of congressional committees.

The budget, for example, is currently examined by over 31 committees and subcommittees. Public Welfare assistance programs are now scrutinized by three full committees and five subcommittees within the two Houses. The examples of similarly fragmented jurisdictions elsewhere in the committee structure are too numerous to recount, but it is clear that any clarity of purpose amidst this lack of coherence is at best difficult to achieve, and frequently impossible. Congressional activities on trade reform and the energy crisis are the best current examples of simultaneous consideration of a national issue by a number of committees.

I, therefore, propose that the Joint Committee on Congressional Operations immediately begin an examination of the fragmentation and overlap which hampers congressional action, and that proposals to overcome this shortcoming be given careful consideration.

Title III would create an office of congressional counsel. As we all know, the Congress has frequently suffered in its attempts to contest other agents of the Government who fail to comply with the laws of Congress. Without counsel to represent Congress in court appearances, it has been difficult to assert those laws which the Congress has passed. Recent disputes over administrative actions of the executive branch, such as the dismantlement of the Office of Economic Opportunity and the unconstitutional impoundment of funds, have resulted in a situation where Members of both bodies of Congress have found it necessary to pursue court fights themselves, without the aid of a congressional counsel. The Office of Congressional Counsel, however, would provide both bodies with legal counsel in efforts to bring suit against other agents of Government.

This counsel would be an independent legal adviser and advocate, and both the Senate and House would be able to employ his services in circumstances in which it is necessary to do so in order to assert the intent of Congress. Especially when an administration obstructs or intentionally ignores the legislation of Congress, the Congress must have access to counsel who can defend and prosecute when necessary.

Title IV would grant new powers to the General Accounting Office. One of the main factfinding arms of the legislative branch is, of course, the GAO. But the limitations that now constrain the GAO make it difficult to obtain information which is vital to the operation of Congress.

My bill provides new powers to the GAO, such as the ability to subpena information and the power to bring individuals to court. We must beef up the auditing arm of the Congress in order to acquire the information which the Congress demands to conduct its business.

Title V institutes a formalized "state of the Congress" report consisting of messages on the activities of the Congress just adjourned, currently done on an informal basis by the congressional leadership. I propose that the leadership be responsible to address the Nation concerning the initiatives, priorities, and shortcomings of the session just concluded. This address would take the form of speeches by both the majority and minority parties, which would designate speakers from each House. And they would be responsible for preparing

these messages following the end of each session.

The message by the congressional leadership would make the public more aware of the operation of Congress, and it might have the desirable side-effect of generating more interest in the legislative process. Hopefully, this address will be accorded the network television time that is currently granted to the President for his state of the Union message. This feature would produce a status for the congressional annual report which it is now denied. Moreover, the aspect of tradition which will eventually surround this address represents another important feature, because Congress might then receive more of the recognition it deserves for its various accomplishments.

The numerous provisions of title VI establish fiscal and budgetary reforms long needed by the Senate. It calls for an Office of Budget Analysis and Program Evaluation, subject to supervision and control by the Joint Economic Committee, which will clarify the many problems now posed by the ever-growing budget.

One of the primary functions of the Congress involves the budgetary process and oversight of the myriad agencies. We must be better prepared to handle the complex chores of organizing a sensible budget. This budget must be in accord with the clear needs of the great majority of Americans. And Federal programs funded in accordance with this budget mandate must not become the victims of bureaucratic neglect or mismanagement.

The Congress sorely needs the appropriate staff facilities to handle the enormous task of evaluating ongoing and newly proposed programs. We must have the capacity to examine the budget as a whole, and this requires a special office to perform such a task. My bill contains the measures necessary to accomplish this goal, and we will be far more able to make a reasonable evaluation of the budget if they are implemented.

Title VII amends the Standing Rules of the Senate for the purpose of instituting Senate Legislative Review Subcommittees for each standing committee of the Senate.

This provision is intended to substantially improve the ability of Congress to monitor the implementation and the actual effects of legislation that has been enacted.

With the pressure on Congress to cope with new problems by enacting new legislation, the time devoted by Congress to analyzing the effects of legislation already on the statute books and the way it is being carried out by the Federal agencies involved, has been inadequate.

With the creation and staffing of the proposed subcommittees, responsible solely for follow-up on existing legislation, this critical legislative oversight will receive more of the attention that it desperately needs.

Perhaps the most glaring deficiency of congressional operation has been in its failure to keep abreast of the innovations in the field of communications, a field which is so basic to the duties of Congressmen. Large organizations in other fields have benefited from modernized technical facilities for years, and such changes in the Congress are long overdue. It is with this in mind that title VIII creates the Office of Congressional Communications (OCC) which will provide Congressmen with access to those important facilities by introducing various communication innovations into congressional operations.

For instance, the advances that have been made in the field of video recording have been generally overlooked by Congress, although they offer a potentially great source of assistance to congressional offices. The OCC would include a video library which would be a storehouse for various tapes and recordings which a Congressman wishes to view. News programs, documentaries, and similarly informative broadcasts would be at the disposal of those for whom it is important to know what the public is seeing and thinking. Such knowledge would undoubtedly assist the Congress in the performance of its duties.

The OCC would also establish a network of television facilities within the confines of the Capitol itself. This would include television terminals within the office of each Member who, through a computerized method, would request a viewing of any material within the video library. Moreover, this network would include facilities to monitor congressional hearings, floor proceedings, and other congressional business which a Congressman may wish to observe. These, too, would be available through the terminals within each office. Each Member would also have access to news wire service facilities, either with such wires spaced around the various office buildings or else with each Member having a terminal in his own office. This information would also be available on the Member's television terminal. Such innovative measures would hopefully make the Congress a better-informed body, better able to make the important decisions which we must continually make.

The Office itself would fall under the jurisdiction of the Architect of the Capitol, who would coordinate all of the above facilities. Not only would the Office oversee the various functions outlined above, but it would also supervise the communications activities in which we engage, such as radio and television presentations and recordings. By adopting the latest innovations in the communication field, the Congress will be better prepared to keep abreast of the ever-widening range of issues which concern a modern Congress.

Title IX addresses itself to the need for an increased visibility of the committee hearing process. The trauma which has affected the Government in these past few months makes one thing painfully evident—that the public will not stand for behind-closed-door decisions that influence the entire country. Secrecy, in cases where it is unwarranted, has never been condoned by the public. But now more than ever the public demands to know, and has every right to know about the deliberations that establish the legislation that affects their lives.

In response to this need, my bill calls for open committee sessions in all but the most unusual circumstances. It shall be the rule that all meetings of all standing, joint, special, and select committees and their subcommittees shall be open to the public, except in such cases where the subject matter involves national security or when testimony may tend to defame or incriminate any person, and then only when the committee decides by a majority of those present to meet in executive session.

The benefits flowing from this policy are readily apparent. First, legislators will be more accountable to their constituents at the crucial stage of the legislative process. Second, an open-sessions procedure will increase public respect and support for Congress as a whole. Third, open sessions will provide insurance against legislation of questionable quality or merit hastily approved during a closed session. And finally, the news media will have greater access to legislation at crucial stages, bringing to the attention of the public the key items under consideration.

Title X authorizes the Citizens' Committee to commission a study of the possible benefits and costs of applying computer programs to the scheduling problems of the Senate. This study would focus, among other things, on the use of computers to schedule committee and subcommittee meetings with minimum conflict.

Title XI creates a Joint Committee on National Security. It is intended to improve the effective participation by Congress in the formulation of foreign, domestic, and military policies related to our Nation's security. Such a committee would provide a focus for the integration of policies developed within the several committees of Congress that deal with aspects of the security of the United States.

Among its responsibilities, the joint committee would continually study the degree of integration of the many policy pieces that we call "national security" and act as a focal point for congressional review of the National Security Council and the goals, strategies, and plans it espouses.

Mr. President, I feel that the provisions of my bill will greatly increase the ability of Congress to function effectively in an ever more complex world. The innovations contained in the bill are simply designed to bring the Congress up to the level of modernization which large organizations in other fields have enjoyed for years. And the internal changes are no more than an effort to maximize the resources which the Congress already controls.

It is time that the Congress take a long, hard look at its own operation in order to prepare itself to deal effectively with the increasingly critical, complex, and urgent problems which it surely must face. Through effective legislation and constant concern about the efficiency with which it conducts its business, the Congress can succeed in establishing itself at the forefront of American society's institutions.

I ask unanimous consent that the text of the proposed bill be printed in the RECORD.

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

S. —

A bill to provide for Congressional reforms and to strengthen the role of Congress as a co-equal branch of Government, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Modern Congress Act of 1974".

TITLE I—CITIZENS' COMMITTEE TO STUDY CONGRESS

SEC. 101. (a) There is established a committee to be known as the Citizens' Committee To Study Congress (hereafter referred to in this title as the "Committee") to make a complete study relating to the functions, powers, duties, and operation of the Congress.

(b) The members of the Committee shall be chosen by a selection committee composed of three members, one of whom shall be appointed by the President, one of whom shall be appointed by the President pro tempore of the Senate, and one of whom shall be appointed by the Speaker of the House of Representatives. Any member of the selection committee not otherwise employed by the United States Government shall receive $100 for each day (including traveltime) that he is performing duties as a member of the selection committee. Each member of the selection committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the selection committee.

(c) The selection committee shall choose, not later than thirty days after the last member of the selection committee has been appointed, fifteen members to serve on the Committee. Not more than two of the members shall be Members of the House of Representatives; not more than two of the members shall be Members of the Senate; and not more than one of the members shall be an officer or employee of the executive branch of the United States Government. The selection committee shall designate one of the members as Chairman of the Committee.

(d) Eight members of the Committee shall constitute a quorum. Any vacancy shall be filled by the selection committee within thirty days after the vacancy occurs.

(e) Any member of the Committee not otherwise employed by the United States Government shall receive $100 for each day (including traveltime) that he is performing duties as a member of the Committee. Each member of the Committee shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Committee.

SEC. 102. (a) In conducting its study, the Committee shall—

(1) consider the role of the Congress in establishing policy for the operation of the United States Government;

(2) determine how the Congress may best exercise its function of reviewing and evaluating programs and activities of the United States Government;

(3) examine the operation of the Congress itself (including but not limited to its powers, priorities, privileges, traditions, the means by which the Congress makes decisions, its committee system, and its staffs);

(4) examine the social, economic, and political factors which affect the operation of the Congress and which may hereafter affect such operation; and

(5) examine and consider such other matters as the Committee may deem appropriate to provide an understanding of how the Congress has operated and how the Congress should operate in the future.

(b)(1) Not later than two years after the date of enactment of this Act, the Committee shall submit a final, comprehensive report to the Senate and the House of Representatives with respect to its study. The Committee shall also make such reports, from time to time, to the Senate and House of Representatives as the Committee deems necessary. Any report of the Committee shall contain such findings, statements, and recommendations as the Committee considers appropriate.

(2) Any report of the Committee shall be printed as a public document and made available for sale to the public.

(c) Thirty days after the Committee submits its final, comprehensive report, the Committee shall cease to exist.

SEC. 103. (a) The Committee or, on the authorization of the Committee, any subcommittee thereof, may, for the purpose of carrying out the provisions of this title, hold hearings, administer oaths for the purpose of taking evidence in any such hearings, take testimony, and receive documents and other writings. Any member authorized by the Committee may administer oaths or affirmations to witnesses appearing before the Committee, or any subcommittee thereof.

(b) In order to carry out the provisions of this title, the Committee is authorized—

(1) to appoint and fix the compensation of an Executive Director and such additional personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code;

(3) to appoint such advisory committees as it deems necessary;

(4) to promulgate rules and regulations governing the operation of the Committee and its organization and personnel;

(5) to procure supplies and services;

(6) to enter into contracts; and

(7) to take such other action as may be necessary to carry out this title.

(c) Each department, agency, and independent agency of the executive branch of the United States Government is authorized and requested to furnish to the Committee, upon request made by the Chairman, such data, reports, and other information as the Committee deems necessary to carry out its functions under this title.

SEC. 104. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

TITLE II—SENATE COMMITTEE JURISDICTION

SEC. 201. (a) It is the sense of the Congress that—

(1) there is a demonstrated need for the United States Senate, as one House of the United States Congress, to assert its policy-making and oversight functions;

(2) the committee structure of the United States Senate is so organized as to frustrate the examination, the analysis, and the oversight of governmental policy; and

(3) because of the fragmentation of committee jurisdiction and responsibility in the United States Senate, there has been a decrease in clarity of policy purpose and of congressional control over governmental program operations and expenditures.

(b) It is further the sense of Congress that the Joint Commitee on Congressional Operations immediately begin or commission an in-depth analysis of the committee jurisdictions of the United States Senate, taking into account the need to reduce fragmentation of policy and program oversight, the necessity for alining committee jurisdiction on the functional purposes of governmental programs, the potential application of new technologies for committees of the United States Senate, and the requirement that staff personnel and resources be effectively and efficiently allocated among committees of Congress of the United States. The Joint Committee on Congressional Operations shall make periodic reports to the United States Senate and present final recommendations to the Senate by September 1, 1974.

SEC. 202. The expenses of the Joint Committee on Congressional Operations under this title shall be paid from the contingency fund of the Senate upon vouchers approved by the chairman of the Joint Committee on Congressional Operations.

TITLE III—OFFICE OF CONGRESSIONAL COUNSEL GENERAL

SEC. 301. (a) There is established in the legislative branch of the Government the Office of Congressional Counsel General, which shall be under the direction and control of the Congressional Counsel General. The Congressional Counsel General shall be appointed by the Speaker of the House of Representatives and the President pro tempore of the Senate, with the approval of the House of Representatives and the Senate, without reference to political affiliations and solely on the basis of his fitness to perform the duties of his office, and shall be subject to removal by those officers for inefficiency, misconduct, or physical or mental incapacity. The Congressional Counsel General shall be appointed for a term which shall expire at the end of the Congress during which he is appointed. The Congressional Counsel General shall receive the same salary as Members of Congress.

(b) Subject to the availability of appropriations, the Congressional Counsel General may appoint and fix the compensation of such Assistant Counsels General and other personnel as may be necessary to carry on the work of his office. All personnel of the office shall be appointed without reference to political affiliations and solely on the basis of fitness to perform the duties of their offices.

(c) The Congresional Counsel General shall promulgate for his office such rules and regulations as may be necessary to carry out the duties imposed upon him by this title. He may delegate authority for the performance of any such duty to any officer or employee of the Office of the Congressional Counsel General. No person serving as an officer or employee of such office may engage in any other business, vocation, or employment while so serving.

(d) The Congressional Counsel General shall cause a seal of office to be made for his office, of such design as the Speaker of the House of Representatives and the President pro tempore of the Senate shall approve, and judicial notice shall be taken thereof.

SEC. 302. (a) It shall be the duty of the Congressional Counsel General, under such rules as the Committees on the Judiciary of the Senate and the House of Representatives may prescribe jointly from time to time, to—

(1) render to committees, Members, and disbursing officers of the Congress, and to the Comptroller General, legal opinions upon questions arising under the Constitution and laws of the United States;

(2) render to committees and Members of the Congress advice with respect to the purpose and effect of provisions contained in laws, or to be inserted in proposed legislative measures;

"(3) perform such duties with respect to legislative review of executive actions as shall be prescribed by such rules;

"(4) intervene or appear as amicus curiae, upon the request, or with the approval, of the Committee on the Judiciary of the Senate or House of Representatives, in any action pending in any court of the United

States in which there is placed in issue the constitutional validity or interpretation of any law, or the validity of any official proceeding of or action taken by either House of Congress or by any committee, Member, officer, office, or agency of the Congress; and

(5) represent, upon the request, or with the approval of the Committee on the Judiciary of the Senate or House of Representatives, either House of Congress or any committee, Member, officer, office, or agency of the Congress in any legal action pending in any court of the United States to which such House committee, Member, officer, office, or agency is a party and in which there is placed in issue the validity of any official proceeding of or action taken by such House, committee, Member, officer, office, or agency.

(b) Upon receipt of written notice from the Congressional Counsel General to the effect that he has undertaken pursuant to subsection (a)(5) of this section to perform any such specified representational service with respect to any designated action or proceeding pending or to be instituted in a court of the United States, the Attorney General shall be relieved of responsibility and shall have no authority to perform such service in such action or proceeding except at the request or with the approval of the Congressional Counsel General.

SEC. 303. (a) Subject to applicable rules of practice and procedure, the Congressional Counsel General shall be entitled as of right to intervene as a party or appear as amicus curiae in any action described in subsection (a)(4) of section 302.

(b) For the purposes of all proceedings incident to the trial and review of any action described by subsection (a)(5) of section 302 with respect to which the Congressional Counsel General has undertaken to provide representational service, and has so notified the Attorney General, the Congressional Counsel General shall have all powers conferred by law upon the Attorney General, any subordinate of the Attorney General, or any United States attorney.

(c) The Congressional Counsel General, or any attorney of his office designated by him for that purpose, shall be entitled for the purpose of performing duties imposed upon him pursuant to this title to enter an appearance in any such proceeding before any court of the United States without compliance with any requirement for admission to practice before such court, except that the authorization conferred by this subsection shall not apply with respect to the admission of any person to practice before the United States Supreme Court.

SEC. 304. The Office of the Congressional Counsel General shall have the same privilege of free transmission of official mail matter as other officers of the Congress.

SEC. 305. There are hereby authorized to be appropriated to the Office of the Congressional Counsel General such sums as may be required for the performance of the duties of the Congressional Counsel General under this title. Amounts so appropriated shall be disbursed by the Secretary of the Senate on vouchers approved by the Congressional Counsel General.

TITLE IV—GENERAL ACCOUNTING OFFICE

SEC. 401. The Budget and Accounting Act, 1921, as amended (31 U.S.C. 42), is further amended by adding at the end thereof the following new sections:

"SEC. 320. (a) Whenever the Comptroller General, in the performance of any of his functions authorized by law, has reasonable cause to believe that any officer or employee of the executive branch is about to expend, obligate, or authorize the expenditure or obligation of public funds in an illegal or erroneous manner or amount, he may institute a civil action in the United States District Court for the District of Columbia for declaratory and injunctive relief. If the Attorney General is in disagreement with the Comptroller General he is authorized to represent the defendant official in such action. Other parties, including the prospective payee or obligee who shall be served with notice or process, may intervene or be impleaded as otherwise provided by law, and process in such an action may be served by certified mail beyond the territorial limits of the District of Columbia.

"(b) Upon application of the Comptroller General or the Attorney General an action brought pursuant to this section shall be heard and determined by a district court of three judges under section 2284 of title 28, United States Code. An action brought under this section shall be expedited in every way.

"(c) In actions brought under this section, the Comptroller General shall be represented by attorneys employed in the General Accounting Office and by counsel whom he may employ without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapters III and VI of chapter 53 of such title relating to classification and General Schedule pay rates.

"(d) In the event the institution of suit under this section serves to delay a payment beyond the date it was due and owing in payment for goods or services actually delivered to and accepted by the United States, then such payment when made by the agency involved shall include interest thereon at the rate of 6 per centum per annum for the time it has been withheld. Otherwise, no court shall have jurisdiction to award damages against the United States, its officers, or agents as a result of any delay occasioned by reason of the institution of suit under this section.

"(e) This section shall be construed as creating a procedural remedy in aid of the statutory authority of the Comptroller General and not as otherwise affecting such authority.

"SEC. 321. No action may be instituted by the Comptroller General under section 320 until the expiration of a period of thirty calendar days (excluding the days on which either House is not in session because of adjournment of more than three days to a day certain or an adjournment of the Congress sine die) following the date on which an explanatory statement by the Comptroller General of the circumstances giving rise to the action contemplated has been filed with the Committees on Government Operations of the Senate and the House of Representatives and during such thirty-day period the Congress has not enacted a concurrent resolution stating in substance that it does not favor the institution of the civil action proposed by the Comptroller General."

SEC. 402. To assist in carrying out his functions, the Comptroller General may sign and issue subpenas requiring the production of negotiated contract and subcontract records and records of other non-Federal persons or organizations to which he has a right of access by law or agreement.

SEC. 403. In case of disobedience to a subpena issued under section 402 the Comptroller General may invoke the aid of any district court of the United States in requiring the production of the records involved. Any district court of the United States within the jurisdiction in which the contractor, subcontractor, or other non-Federal person or organization is found or resides or in which the contractor, subcontractor, or other non-Federal person or organization transacts business may, in case of contumacy or refusal to obey a subpena issued by the Comptroller General, issue an order requiring the contractor, subcontractor, or other non-Federal person or organization to produce the records; and any failure to obey such order of the court shall be punished by the court as a contempt thereof.

TITLE V—CONGRESSIONAL ANNUAL REPORTS

SEC. 501. Not later than 60 days after the end of each regular session of Congress, the Majority Leaders and Minority Leaders of the Senate and the House of Representatives shall, either jointly or individually, submit to Congress and the President a "State of the Congress" message with respect to such session. Each such message shall include statements, with respect to such session, concerning (1) those matters about which the Congress has taken the initiative, (2) priorities established by the Congress, and (3) matters not acted upon by Congress but upon which Congress should act or have acted.

TITLE VI— FISCAL AND BUDGETARY REFORM

PART A—CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

CHAPTER 1—ESTABLISHMENT OF OFFICE AND ESTABLISHMENT OF BUDGET CEILING

SEC. 601. (a) There is hereby established for the Congress an Office of Budget Analysis and Program Evaluation (hereafter referred to in this title as the "Office") which shall be subject to supervision and control by the Joint Economic Committee (hereafter in this title referred to as the "Joint Committee"). The Office shall have four sections as follows: (1) Informational Section, (2) Analytic Section, (3) Program Evaluation Section, and (4) Special Studies Section.

(b) The Joint Committee is authorized to appoint a Technical Director of the Office who shall serve as the head of the staff of the Office, subject to the general supervision of the Executive Director, in accordance with the purposes of the Employment Act of 1946. The Technical Director shall supervise the staff of the Office and shall perform such duties as the Joint Committee or the Executive Director may prescribe. The Technical Director shall be appointed without regard to political affiliation and solely on the basis of his fitness to perform his duties. He shall receive compensation as may be prescribed from time to time by the Joint Committee, but not in excess of the highest rate of basic pay, as in effect from time to time, of grade 18 of the General Schedule of section 5332(a) of title 5, United States Code.

(c) The Technical Director is authorized, with the approval of the Joint Committee and the Executive Director, to appoint such other personnel as may be necessary to carry out the duties and functions of the Office and to fix their compensation at rates not in excess of the highest rate of basic pay, as in effect from time to time, of grade 16 of the General Schedule of section 5332(a) of title 5, United States Code. All such personnel shall be appointed without regard to political affiliation and solely on the basis of their fitness to perform their duties.

SEC. 602. (a) Prior to the submission of the Budget of the United States Government for each fiscal year, the Joint Committee staff, including the Office, shall make a thorough study of the Nation's economic conditions, and the factors having a bearing thereon, including business investment, consumer spending, international trade, the availability of credit, and the state of Federal expenditures and revenues. Based upon such study, and developing conclusions about the prudent growth of Federal budget outlays, obligations and revenues, taking into consideration the objectives of the Employment Act of 1946, the Executive Director of the Joint Committee shall, two days prior to receipt of the United States budget and the President's Economic Report, make a report to the Joint Committee with—

(1) an estimate of the revenues that will be received by the Federal Government during the forthcoming fiscal year;

(2) a recommendation of the amount, if any, by which Federal outlays should exceed revenues, or revenues should exceed outlays, in order to promote the general welfare and to provide maximum employment, production, and purchasing power.

(b) Upon receipt of the report submitted under subsection (a), and receipt of the Budget of the United States Government, the Joint Committee will within ten days hold hearings to determine the appropriate Federal fiscal policy as expressed in section (a) (2), and then shall make a committee report of this determination to all committees of the Senate and House of Representatives and all joint committees of the Congress. Such report shall include, but not be limited to—

(1) a proposed limit on the total amount of new obligational authority, and a proposed limit on the amount of new obligational authority (for each functional category), which should be enacted for the fiscal year; and

(2) a proposed limit on the total amount of outlays, and a proposed limit on the amount of outlays for each functional category, which should be made during the fiscal year.

(c) Upon request of any committee of the Senate or House of Representatives, or any joint committee of the Congress, the Office shall furnish additional information with respect to the report transmitted pursuant to subsection (b) relating to matters within the jurisdiction of that committee or joint committee.

(d) After receiving and giving consideration to the report of the Joint Economic Committee, the Committees on Appropriations of each House of Congress shall, not later than fifteen days after receiving such recommendations, report to its House a bill establishing the total amount of outlays to be made during the fiscal year by the United States Government.

(e) (1) A bill reported under subsection (d) of this section shall be highly privileged in each House. It shall be in order at any time after the third day following the day on which such a bill is reported to move to proceed to its consideration (even though a previous motion to the same effect has been disagreed to). Such a motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on such bill, and all amendments thereto, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the bill. A motion to recommit the bill shall not be in order, and it shall not be in order to move to reconsider the vote by which the bill is agreed to or disagreed to.

(3) Motions to postpone, made with respect to the consideration of such a bill and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to such a bill or joint resolution shall be decided without debate.

(f) If, prior to the passage by a first House of Congress of any such bill of that House, such House receives from the second House such a bill, then the following procedure applies:

(1) Such bill received from the second House shall be reported to the first House not later than three days after being received.

(2) On any vote on final passage of such a bill of the first House, such a bill of the second House shall be automatically substituted for the bill of the first House.

(g) If the amount specified in such a bill with respect to a fiscal year agreed to by the Senate and House of Representatives is not the same, conferees on the part of the Senate and the House of Representatives shall be appointed not later than two days after the House of Congress passing the bill last passes such bill unless within those two days both Houses of Congress agree upon the same total amount of outlays of the United States Government with respect to such fiscal year without the convening of a committee of conference. Upon appointment of conferees, the committee of conference shall meet immediately to resolve their differences. The provisions of subsection (b) shall be applicable with respect to the consideration of any report of a committee of conference on any such bill.

SEC. 603. It shall be the duty and function of the Informational Section of the Office, under supervision of the Executive Director, to provide information to committees and Members of the Senate and House of Representatives and joint committees of the Congress, on request, with respect to the budget, appropriation bills, revenue receipts and estimates, and changing revenue conditions. The information to be provided shall include, but not be limited to—

(1) budget requested by Federal departments and agencies;

(2) budget requests as set forth in the budget submitted by the President;

(3) amounts authorized to be appropriated for programs and activities, together with the legislative history of the laws authorizing such appropriations;

(4) estimates of projected costs of programs and activities, not extending beyond a five-year period;

(5) amounts appropriated for programs and activities, amounts of other types of budget authority, including contract authority, authority to spend debt receipts, loan authority, and supplemental budget authority;

(6) amounts apportioned by the Office of Management and Budget;

(7) amounts appropriated which have been obligated by Federal departments and agencies and balances of unobligated appropriations;

(8) summaries of all past evaluation or other program studies, including relevant reports of the Comptroller General, the Office of Management and Budget, and the several agencies; and

(9) reports on impoundments of funds as submitted by the Office of Management and Budget.

SEC. 604. It shall be the duty and function of the Analytic Section of the Office of undertake—

(1) an analysis of current and projected economic conditions and estimates of the effect of such on Government revenues and expenditures;

(2) an analysis of the fiscal policy embodied in the United States budget proposed for the forthcoming fiscal year and estimates of the probable effect on general economic conditions;

(3) an analysis of major reductions, terminations, or increases in Federal programs or taxes as outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects;

(4) an analysis of alternative reductions, terminations, or increases in Federal programs or taxes than those outlined in the proposed United States budget, and the desirability of such changes in view of their likely economic and social effects;

(5) an analysis of the effect of budget changes as outlined in paragraph (3) or (4) upon outlays, obligational authority, and revenues, not only in the current year, but also projected for three to five years ahead; and

(6) to issue reports, from time to time, on the matters set forth in the preceding paragraphs.

SEC. 605. It shall be the duty and function of the Program Evaluation Section of the Office—

(1) upon request of any committee of the Senate or House of Representatives or any joint committee of the Congress, to evaluate programs and activities of the Government and to analyze regulations and proposed regulations of departments and agencies with respect to their impact on outlays;

(2) upon request of the Committee on Appropriations of the Senate or House of Representatives, to provide information on, and analyses of, limits on new obligational authority and outlays recommended under section 602, and to provide liaison between such committees and committees of the Senate and House of Representatives and joint committees of the Congress having legislative jurisdiction; and

(3) in the performance of this duty, the Office shall be empowered to coordinate and utilize both the General Accounting Office and the Library of Congress resources as provided under the Legislative Reorganization Act of 1970.

SEC. 606. It shall be the duty and function of the Special Studies Section of the Office to provide special analyses of specific matters included within the functions and duties set forth in sections 604 and 605. Any such special study shall be made only upon the request of a committee or Member of the Senate or House of Representatives or a joint committee of the Congress, and only with the approval of the Director of the Office.

SEC. 607. (a) In the performance of its functions under this part, the office is authorized—

(1) to make, promulgate, issue, rescind, and amend rules and regulations of the Office;

(2) to employ and fix the compensation of such employees, and purchase or otherwise acquire such furniture, office equipment, books, stationery, and other supplies, as may be necessary for the proper performance of the duties of the Office and as may be appropriated for by the Congress;

(3) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code;

(4) to equip itself with up-to-date computer capability, and to obtain the services of experts and consultants of computer technology; and

(5) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(b) (1) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed, to the extent permitted by law, to furnish to the Office, upon request made by the Director, such information as the Director considers necessary to carry out the functions of the Office.

(2) The Comptroller General of the United States shall furnish to the Technical Director copies of analyses of expenditures prepared by the General Accounting Office with respect to any department or agency in the executive branch.

(3) The Office of Management and Budget shall furnish to the Technical Director copies of special analytic studies, program and financial plans, and other information, data, and reports that may be required to fully analyze the United States budget.

SEC. 608. There are authorized to be appropriated such sums as may be necessary to enable this Office to carry out its duties and functions. Expenses of the Office shall be paid on vouchers approved by the Chairman of the Joint Committee.

CHAPTER 2—SUPPLEMENTAL PROVISIONS

SEC. 611. Section 201(a) of the Budget and Accounting Act, 1921 (31 U.S.C. 11) is amended by striking out the semicolon at the end of paragraph (11), by striking out the period at the end of paragraph (12) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraphs:

"(13) a detailed evaluation of functions, activities, and authorities for which appropriations are proposed in the budget (other than new functions, activities, and authorities proposed in the budget);

"(14) a detailed explanation of increases or decreases in amounts proposed for appropriation or expenditure for functions, activities, or authorities in comparison with amounts appropriated for or expended during the last completed fiscal year and amounts appropriated for and expected to be expended during the fiscal year in progress; and

"(15) with respect to each function, activity, or authority, a detailed explanation of the reasons for proposing appropriations in amounts less than the amounts authorized to be appropriated."

SEC. 612. Whenever any executive agency undertakes an evaluation of any program or activity administered or carried on by it, the head of such agency, shall, upon conclusion of such evaluation, transmit a copy thereof to the Office of Budget Analysis and Program Evaluation established by section 601 of this Act.

PART B—DEPARTMENTAL BUDGET PROCESS

SEC. 621. Title II of the Budget and Accounting Procedures Act of 1950 is amended by adding at the end thereof the following new sections:

"PARTICIPATION BY STATE AND LOCAL OFFICIALS

"SEC. 204. (a) The head of each executive agency shall at least six months prior to submission of the budget requests for such agency to the Office of Management and Budget for a fiscal year, give notice to the Governors of the various States and to the chief executive officers of their political subdivisions that such agency is formulating its budget requests for such fiscal year. Such notice may be given by publication or by such other means as the head of the agency considers appropriate.

"(b) After notice has been given under subsection (a) and upon request of the Governor of a State or the chief executive officer of a political subdivision, the head of an executive agency shall—

"(1) inform the Governor or chief executive of the proposed budget requests (as then formulated and they may be revised from time to time) which would affect such State or such political subdivision, as the case may be; and

"(2) provide an opportunity for such Governor or chief executive officer to submit comments and suggestions, written or oral, or both, with respect to such budget requests (as then formulated or as they may be revised from time to time).

Insofar as possible, meetings held between Governors or chief executive officers and budget officers of an executive agency shall be held at locations convenient to the Governors and chief executive officers.

"PUBLIC HEARINGS ON BUDGET REQUESTS

"SEC. 205. The head of each executive agency shall, at least two months prior to the submission of the budget requests of such agency to the Office of Management and Budget for a fiscal year, give public notice of the budget requests which such agency intends to submit and conduct hearings thereon. At such hearings, all interested parties, including representatives of the general public, shall be given an opportunity to submit comments and suggestions, either written or oral, or both. Insofar as possible such hearings shall be held at locations throughout the United States so as to provide an opportunity for the citizens of the United States to participate therein.

"TRANSCRIPTS OF BUDGET MEETINGS

"SEC. 206. After an executive agency has submitted its budget requests to the Office of Management and Budget for a fiscal year, a transcript shall be kept of all meeting between officers or employees of such agency and officers or employees of the Office of Management and Budget at which matters relating to such budget requests are discussed. Copies of such transcripts shall be made available for public inspection, during normal office hours, at the office of such agency and at the Office of the Office of Management and Budget.

"SUBMISSION OF COPIES TO CONGRESSIONAL OFFICE OF BUDGET ANALYSIS AND PROGRAM EVALUATION

"SEC. 207. The head of each executive agency shall promptly submit to the Office of Budget Analysis and Program Evaluation, established by section 601 of the Congressional Reform Act, a copy of—

"(1) each request for legislation which, if enacted, would authorize subsequent appropriations transmitted by his agency to the Office of Management and Budget;

"(2) each budget request submitted by his agency to the Office of Management and Budget; and

"(3) each transcript made under section 206 involving any officer or employee of his agency.

"MATTERS RELATING TO NATIONAL SECURITY

"SEC. 208. Pursuant to regulations approved by the President, the provisions of sections 204, 205, 206, and 207 shall not apply with respect to budget requests or requests for legislation which the national security requires to be kept confidential.

"DEFINITIONS

"SEC. 209. For purposes of sections 204 through 208—

"(1) the term 'executive agency' means any department, agency, or establishment (including an independent establishment) in the executive branch of the Government; and

"(2) the term 'budget request' includes both requests for new obligational authority (including loan authority) and for authority to make outlays."

PART C—INFORMATION TO TAXPAYERS ON SPENDING OF INCOME TAXES PAID BY THEM

SEC. 631. (a) Chapter 77 of the Internal Revenue Code of 1954 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7517. TAX EXPENDITURE ACCOUNTING.

"(a) STATEMENTS BY SECRETARY.—Upon the receipt of each individual's income tax return, the Secretary or his delegate shall furnish to that individual a statement setting forth in dollar amounts the proportionate amounts of that individual's income taxes which were spent by the Federal Government, based upon the most recent information furnished by the Director of the Office of Management and Budget, for each of the following:

"(1) national defense;
"(2) space research and technology;
"(3) agriculture and rural development;
"(4) natural resources;
"(5) transportation;
"(6) community development;
"(7) housing;
"(8) education;
"(9) manpower;
"(10) health;
"(11) social services;
"(12) welfare payments;
"(13) veterans' pensions;
"(14) veterans' benefits and services;
"(15) law enforcement;
"(16) general administrative expenses of government;
"(17) interest payments;
"(18) foreign aid consisting of military assistance; and
"(19) foreign aid consisting of economic and technical assistance.

"(b) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

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

"SEC. 7517. Tax expenditure accounting."

(c) The amendments made by this section shall apply with respect to income tax returns filed for taxable years ending after the date of enactment of this Act.

SEC. 632. The Director of the Office of Management and Budget shall furnish to the Secretary of the Treasury in December of each year a report, based upon data from the most recent fiscal year for which such data is available, setting forth that part of the total Federal outlays for such fiscal year which was expended for each of the items listed in section 7517(a) of the Internal Revenue Code of 1954.

TITLE VII—SENATE LEGISLATIVE REVIEW SUBCOMMITTEES

SEC. 701. The Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE XLV

"LEGISLATIVE REVIEW SUBCOMMITTEES

"1. Each standing committee shall establish a subcommittee on legislative review. Each such subcommittee shall review and study, on a continuing basis, the application, administration, and execution of those laws, or parts of laws, the subject matter of which is within the jurisdiction of the committee of the subcommittee. In particular, each such subcommittee shall review and study, on a continuing basis, any order, regulation, rule, certificate, code of fair competition, license, notice, or similar instrument, issued, prescribed, or promulgated in the administration and execution of such laws or parts of laws.

"2. Each subcommittee shall make reports, not less than once each year, on its studies and reviews, including such comments and recommendations as it considers appropriate. Copies of each such reports shall be transmitted to the committee of the subcommittee and to the head of each department, agency, or independent establishment concerned, and to the Library of Congress. Copies of each report shall be available for public inspection at the offices of the committee of the subcommittee."

SEC. 702. This title is enacted as an exercise of the rulemaking power of the Senate, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE VIII—OFFICE OF CONGRESSIONAL COMMUNICATIONS

SEC. 801. (a) There is established for the Congress, under the Architect of the Capitol, an Office of Congressional Communications, which shall be subject to the supervision and control of the Architect.

(b) The Office shall—

(1) maintain a library of video tapes of all television network news programs and television programs of significant public interest;

(2) provide for closed circuit telecasts of,

and tape, committee proceedings and proceedings of the Senate and House of Representatives;

(3) provide equipment in the office of each Member of Congress to receive telecasts of any such proceedings and for the viewing of any tapes referred to in clauses (1) and (2) of this subsection;

(4) have installed, at appropriate places throughout the Capitol Building and the office buildings of the two Houses of Congress (including, if appropriate, in the office of each Member), equipment to receive information transmitted by any of the major news wire services; and

(5) upon request, assist Members with respect to press, photographic, recording, taping, radio, and television matters.

(c) The House Recording Studio and the Senate Recording Studio, and all their records, property, assets, and personnel are transferred to the Office and are made a part thereof.

SEC. 802. The Architect is authorized—

(1) to appoint, on a permanent basis, without regard to political affiliation, and solely on the basis of fit-news to perform his duties, a Director of the Office to serve as the head of the staff of the Office and such personnel as he deems necessary;

(2) to prescribe the duties and responsibilities of such personnel;

(3) to fix the pay of such personnel in accordance with the schedule of rates of pay for other personnel in the Office of the Architect, except that any person transferred from the House or Senate Recording Studio to the Office of Congressional Communications shall not be paid at a rate less than the rate he was last paid while employed by such studio; and

(4) to terminate the employment of such personnel.

SEC. 803. Nothing in this title shall be held or considered to require the use of the facilities of the Office by any Member, committee, or officer of the Senate or House of Representatives, if, in the opinion of such Member, committee, or officer, the use of such facilities is inappropriate.

SEC. 804. For purposes of this title, "Member of Congress" means a Senator, Representative, Delegate, or Resident Commissioner.

TITLE IX—OPEN COMMITTEE MEETINGS

SEC. 901. Subsection (b) of paragraph 7 of Rule XXV of the Standing Rules of the Senate is amended to read as follows:

"(b) Meetings for the transaction of business of each standing committee shall be open to the public except when the committee, by rule or by majority vote, determines otherwise.".

SEC. 902. This title is enacted as an exercise of the rulemaking power of the Senate, subject to and with full recognition of the power of the Senate to enact or change any rule of the Senate at any time in its exercise of its constitutional right to determine the rules of its proceedings.

TITLE X—STUDY OF COMPUTER SCHEDULING OF SENATE WORK

SEC. 1001. (a) The Citizen's Committee established in section 101(a) of this Act shall arrange for a detailed study, including specific recommendations, of the applicability of computer programs to the scheduling problems of the Senate. This study would focus, among other things on the possible use of computers to improve scheduling of committee and subcommittee meetings and the cost of such a system to minimize committee meeting conflicts.

(b) These are authorized to be appropriated such sums as are necessary to carry out the provisions of this title, but, in no case shall this sum exceed $100,000.

TITLE XI—JOINT COMMITTEE ON NATIONAL SECURITY

SEC. 1101. The Congress declares that—

(1) it has been vested with responsibility under the Constitution to assist in the formulation of the foreign, domestic, and military policies of the United States;

(2) such policies are directly related to the security of the United States;

(3) the integration of such policies promotes our national security; and

(4) the National Security Council was established by the National Security Act of 1947 as a means of integrating such policies and furthering the national security.

SEC. 1102. (a) In order to enable the Congress to more effectively carry out its constitutional responsibility in the formulation of foreign, domestic, and military policies of the United Staates and in order to provide the Congress with an improved means for formulating legislation and providing for the integration of such policies which will further promote the security of the United States, there is established a joint committee of the Congress which shall be known as the Joint Committee on National Security, hereafter referred to as the "joint committee". The joint committee shall be composed of twenty-five Members of Congress as follows:

(1) the Speaker of the House of Representatives;

(2) the majority and minority leaders of the Senate and the House of Representatives;

(3) the chairmen and ranking minority members of the Senate Committee on Appropriations, the Senate Committee on Armed Services, the Senate Committee on Foreign Relations, and the Joint Committee on Atomic Energy;

(4) the chairmen and ranking minority members of the House Appropriations Committee, the House Armed Services Committee, and the House Foreign Affairs Committee;

(5) three Members of the Senate appointed by the President of the Senate, two of whom shall be members of the majority party and one of whom shall be a member of the minority party;

(6) three Members of the House of Representatives appointed by the Speaker, two of whom shall be members of the majority party and one of whom shall be a member of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members.

(c) Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.

SEC. 103. (a) The joint committee shall have the following functions:

(1) to make a continuing study of the foreign, domestic, and military policies of the United States with a view to determining whether and the extent to which such policies are being appropriately integrated in furtherance of the national security;

(2) to make a continuing study of the recommendations and activities of the National Security Council relating to such policies, with particular emphasis upon reviewing the goals, strategies, and alternatives of such foreign policy considered by the Council; and

(3) to make a continuing study of Government practices and recommendations with respect to the classification and declassification of documents, and to recommend certain procedures to be implemented for the classification and declassification of such material.

(b) The joint committee shall make reports from time to time (but not less than once each year) to the Senate and House of Representatives with respect to its studies. The reports shall contain such findings, statements, and recommendations as the joint committee considers appropriate.

SEC. 1104. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee then holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102–104 of the Revised Statutes (2 U.S.C. 192–194) shall apply in the case of any failure of any witness to comply with a subpena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.

(d) The expenses of the joint committee shall be paid from the contingent fund of the Senate from funds appropriated for the joint committee, upon voucher's signed by the chairman of the joint committee or by any member of the joint committee authorized by the chairman.

(e) Members of the joint committee, and its personnel, experts, and consultants, while traveling on official business for the joint committee within or outside the United States, may receive either the per diem allowance authorized to be paid to Members of the Congress or its employees, or their actual and necessary expenses if an itemized statement of such expenses is attached to the voucher.

POLICE CADET CORPS

Mr. HOLLINGS. Mr. President, one of the greatest challenges facing any police department is the recruitment of personnel. Often in the past, this problem has been complicated by unrealistic age requirements and lack of innovative training techniques.

The Columbia, S.C., Police Department, under the dynamic leadership of Chief William R. Cauthen, decided to tackle this problem head on a few years ago, and the results to date are highly impressive.

In 1971, Columbia instituted a Police Cadet Corps for young men between the ages of 18 and 21. This cadet program opened up a new and vibrant source of manpower. Heretofore, the age requirement had been 21, with the result that many aspiring police officers never got to

achieve their ambition, simply because they could not afford to wait. Now all that has changed. Young people are joining the program, undergoing the most modern kind of training, and in the process are providing an invaluable help to the Columbia Police Department. The program is good for the young people in that it gets the cream of the crop into the service. It is good for the regular officers, because as cadets the young people help to lighten the load, and as regular officers they provide Columbia with the finest kind of officer. And it is good for the city in that all the statistics point to increased police efficiency ever since this program was inaugurated.

Mr. President, in the February 1974 issue of the "FBI Law Enforcement Bulletin," Chief Cauthen has an article detailing the origins, development, and effectiveness of the cadet program. It is interesting reading, and I believe police departments in other cities will have a tremendous interest in what Columbia, S.C., has done. For that reason, I ask unanimous consent that this article be printed in the RECORD.

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

POLICE CADET CORPS

(By William R. Cauthen)

In the late summer of 1971, the Columbia, S.C., Police Department began a new program which met with almost instant success, and became one of the most workable in the history of the department.

It was at that time that the Columbia Police Cadet Corps was initiated. Prior to that time, young men and women between the ages of 18 and 21 interested in a career in law enforcement had to wait until their 21st birthday before applying to the department. Because of this age barrier, the city of Columbia Police Department was losing a number of promising young applicants either to other law enforcement agencies or to other occupations. So many times, high school graduates would come to the department, only to be told they would have to come back in 2 or 3 years. Few ever returned.

As a result, the average age of officers in the department in 1971 was quite high, since one of the prime sources of manpower was the Armed Forces. Many of these men were retired noncomissioned officers, and the department continued to take applicants up to the age of 44.

MANPOWER SOURCE

The cadet program instantly opened up a new source of manpower for the department, as well as freeing regular officers from duties which had previously kept them out of direct law enforcement activities. There certainly is little need for experienced personnel being tied down at police headquarters. The cadets have allowed regular officers to get out of headquarters and out on the street where the crime is.

The cadet applicants are given an examination by the city's civil service board as well as a personality test which gives the department a look at the psychological makeup of each applicant. While negative results of the personality examination are never used solely to disqualify a candidate, the results often strengthen other information gained through a thorough background investigation of each prospective cadet.

The cadets dress in light blue uniforms and with white caps to distinguish them from members of the regular force who wear dark blue uniforms. The cadets do not carry firearms or night sticks, but do carry walkie-talkies outside headquarters to call for assistance from a regular officer when the occasion presents itself.

When the Cadet Corps was first established, some of the young men tried to take on the responsibilities of regular officers. There were one or two instances when cadets attempted to make arrests of suspected shoplifters. They had to be reminded that they did not have the authority to make arrests as police officers. Through the better communications established between the cadets and headquarters in the use of walkie-talkies, the problems associated with arrest situations have been solved. When cadets encounter circumstances requiring a regular officer, they can call for one conveniently and quickly.

TRAINING

During their tenure as cadets, these young men and women—the first female was hired July 10, 1973—are given experience in each of the seven divisions which make up the Columbia Police Department: traffic, patrol security (jail); juvenile, vice and narcotics; detective; records and identification; and the training and community relations division.

Originally, the cadets were placed under the supervision of the traffic division, since at that time their main duty was to enforce parking regulations. As the number of cadets increased, the duties to which they were assigned also increased in number. There still remained a problem, however, in that most of their time was spent in the traffic division.

As a result, a new division, training and community relations, was established. The division consists of one lieutenant, one sergeant, and the cadets. A rotating shift has been established, taking into account the age of the cadets, which will allow each new cadet to spend as much time in each division as possible.

In addition, the cadets take part in the regular in-house training at the department. They are also eligible for Law Enforcement Assistance Program (LEAP) funds for training at local colleges where curricula in various aspects of criminal justice are available.

Shortly before they reach 21, the cadets are sent to the J. P. Storm Criminal Justice Academy, where they undergo 6 weeks of intensive police training.

Seven cadets have completed training at the academy and joined the regular force since the program began. That number should continue to increase on an annual basis. As a group, the cadets have done much better at the academy than others who had no experience and even better than some officers who had been with the force some time.

The average grade for the seven cadets who completed the training at the academy was 714.5, compared to average grade of all their classes of 681.1, or 33.4 points higher than the class average.

Only one cadet fell below the average of his class, and he was in the program only a short time before entering the academy.

ACHIEVEMENT

Not only are the cadets scoring higher academically, but they are also proving themselves on the force.

For example, one cadet was placed in the patrol division, walking a beat. Later his superiors found he had a good background in riding motorcycles and scooters. So he was placed on one of the city's new motor scooters.

In early June of this year, a vice detective was beaten by a suspected shoplifter in an alleyway. The suspect ran into a parking lot several blocks away where he hid in a truck which had just been unloaded.

A police cadet had seen the man running down the street and called the headquarters' radio dispatcher on his walkie-talkie. The call went out and was received by the cadet on the scooter who was patrolling an area about 10 blocks away. Patrolmen on scooters have permission to leave their assigned beats in such instances, and he reached the parking lot shortly after the suspect boarded the truck.

"I noticed a puzzled look on the face of the truck driver and rode over to investigate," the cadet said. "When the man saw me coming, he jumped out of the truck and started to run. I kept up with him easily on the scooter, and he ran into two other officers who came as backups."

This cadet has also been used as an undercover man primarily on vice cases. He now teams with another cadet in some cases. Other cadets also have been used in this capacity, usually on a two-man team with regular officers.

I believe retention of cadets in the department will be higher than the average of all recruits for the department. When these young men and women are ready for transfer to duties of a sworn officer, they know whether or not they want to become police officers. In addition to that, after watching them perform as cadets over an extended period of time, we know whether or not we want them as regular members of the department.

FUNDING AND RECRUITMENT

The cadet program was originally funded through use of Emergency Employment Act (EEA) moneys, which though still in effect, are temporary funds. Now, however, a number of permanent positions are funded by the city.

In the early spring, there was a problem in recruiting cadets, but the training and community relations division, together with the Public Information Office at city hall, put together a multimedia public service campaign, which had the effect of quadrupling the number of applicants in only 5 weeks.

The television, newspaper, and radio campaign centered on the theme of service to the community. Salary and fringe benefits were also highlighted as was post-high school education available through LEAP.

The majority of the cadets are enrolled in 2-year university career programs, either in criminology or police administration. A 4-year program recently opened at the University of South Carolina, and I am certain that many cadets, as well as regular officers, will take advantage of that program.

Another advantage of the Cadet Corps has been the enormous dollar savings afforded the department. When we train a regular officer, the cost is, by comparison with the cadet, phenomenal. If we lose a regular recruit after 6 or 8 months because he realizes he doesn't want to be a police officer, the cost is a nearly total loss since the officer had insufficient time to become productive in his work.

But with the cadets it's a different story. Their salaries are lower. They perform their duties well. We get a day's work for a day's pay. From their grades at the academy and their performance after that as regular officers, I'd have to say the cadet program is one of the best and most inexpensive training methods we have.

If we didn't have a cadet serving as a clerk in the detective division, for example, we'd have to have a civilian clerk or a detective taking care of the work. So whether or not the cadet becomes a regular officer, and it is our intention that he should, he has nonetheless been serving in a needed capacity while a cadet.

That's a lot cheaper than hiring a man, sending him to the academy, and having him leave after 4 or 5 months on the force.

We're using cadets now in all our divisions. Some cadets are serving as bailiffs in the court, as clerks in other divisions, enforcing parking regulations, and at times serving as radio operators and directing traffic at peak volume hours. One handles photographing and fingerprinting.

While enforcing parking regulations, the cadets have their best opportunity to meet members of the general public. The experience itself is invaluable, and it also gives merchants and shoppers in the downtown area a chance to meet young men and women working toward a career in law enforcement. This image is good for the cadets and the department.

The good community relations gained here is an added plus for the department. A fine example was the cadet who changed a tire for an elderly lady in a driving rain storm. A regular officer would probably have called a service station of the lady's choice, but the cadet did something which had a great deal more impact . . . not only to the lady but to passersby as well.

Cadets also give tours through the department and for other public relations and educational programs.

We've been well satisfied with our cadets. In fact, the program is outliving our expectations by far. It has turned into one of the best programs we've ever had in the department.

THE PROBLEM OF THE WEEKEND WARRIOR

Mr. GOLDWATER. Mr. President, recently the Brookings Institution presented a paper entitled "The U.S. Reserve Forces: The Problem of the Week-End Warrior." In this the author, a former Air Force colonel, Martin Binkin, states among other things that the manpower savings under the plan would be 60,000 active military and 310,000 Reserve and guardsmen.

Having spent 37 years of my life in the Army Reserve, Air Force Reserve, and Air National Guard and the Regular force, I am inclined to agree that the colonel's thesis is a valid one, but I must find fault with some of the bases on which he constructs his argument.

The Association of the U.S. Army has prepared a response to the Brookings study and it brings out the weaknesses of the Brookings paper and makes some well-established points in doing so.

Because this matter will unquestionably become of great concern to Members of the Congress, not only because of the Brookings report, but also because of recent decisions to actually cut Guard and Reserve units, I ask unanimous consent that the AUSA position paper be printed in the RECORD at this point in my remarks.

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

A RESPONSE TO THE BROOKINGS INSTITUTION STUDY ON U.S. RESERVE FORCES

FEBRUARY 1, 1974.

The Brookings Institution has recently issued the fifth in a group of studies on defense policy. This one is entitled "The U.S. Reserve Forces: The Problem of the Week-End Warrior." The study has been prepared by Martin Binkin, a retired Air Force colonel and a senior fellow in the Brookings Foreign Policy Studies Group. He also served formerly in the office of the Assistant Secretary of Defense for Systems Analysis. The study was funded by money made available by the Ford Foundation.

Basically the study calls for a re-examination and restudy of our whole Reserve forces program. Binkin maintains that, if this were done, at least some of the following of his recommendations could be adopted:

I. Reduce size of Reserve Components:

A. Eliminate non-essential and marginally effective Army units;

B. Merge the headquarters, training and recruiting facilities of the Army's Guard and Reserve;

C. Reduce to cadre status the equivalent of four Army National Guard divisions (including associated support elements) and augment then with Reservists from IRR or standby Reserves on mobilization;

D. Integrate selective elements of Army Reserve Components into five active Army divisions, thus reducing requirement for active manpower;

E. Reduce number of individual Reservists in Naval Reserve and use some on assignment to Naval vessels undergoing overhaul to reduce active forces;

F. Merge Air National Guard and Reserve headquarters, training and recruiting facilities. Limited integration of Reserve crews into strategic bomber and tanker forces.

II. Eliminate the need for Reserve forces recruiting bonuses by reducing Reserve manpower requirements.

III. Revise Reserve retirement compensation to eliminate the "recomp" feature which bases amount of pay on pay scales in effect at retirees age 60 rather than the date he retires.

Binkin estimates these steps would reduce active military manpower by 60,000, Reserve manpower by 310,000 and, when fully effective, would yield average annual savings of about $1.4 billion in constant FY74 prices.

The study contains sufficient errors in fact, and an apparent lack of knowledge of some of the key features of our Reserve Component program, as well as on-going actions in the study area, to warrant a reply at least in sufficient depth to clarify the record. Additionally, a great many serious students of national defense would disagree with some of the basic philosophy on which Binkin bases his views and recommendations.

While the study purportedly covers all the services, by far the greatest weight of his comments and suggestions are directed solely at the Army. It is these to which we will respond.

Binkin does not appear to be aware of the great amount of time, energy and manpower that has been consistently devoted for the past twenty-five years to the examination, re-examination and restructuring of the Reserve forces, as well as their role in our total force structure. It is quite possible that these components have been more studied, reorganized, realigned and otherwise harassed than any segment or system that has been part of our defense structure. He obviously either was not aware of or chose to overlook the current arbitrary 48,000 man cut in the Army's Reserve Components force structure which DOD directed earlier this year.

He also failed to mention the latest of many major studies of the Guard and Reserve which was directed by the Secretary of Defense on 23 August 1973. Included in this study's objectives are considerations of the availability, force mix, limitations and potential of these components in a national emergency. This study is underway now, to be completed by fall of 1974.

Early in his paper, he states that "a detailed rationale for Reserve forces has remained outside the range of debate." An examination of the Congressional Record or a casual inquiry to the service force planners, the Section 5 Committee, any Army Readiness Region Commander or, for that matter, senior Reserve Component commander would have clarified that error of assumption.

At the outset, he makes a sweeping premise that starts the whole study on the wrong path when he says that the "precise role of the Reserve Components in current national security planning remains unclear." It is now and always has been. This is what the Total Force Concept is all about. It has been clearly stated on numerous occasions that our national defense posture is based on a one and one-half war strategy in which "NATO First" is a key element. The Army's contribution to this strategy is the 21 division force structure with the supporting elements.

In the Army, the Reserve Component portion is usually referred to as the 711,000 TO&E structure and includes all those elements which are considered essential to make the 21 division force viable and supportable. So there is a very clear cut rationale and understanding, not only of what units are needed, but why they are. As with any worthwhile plan, changes are required from time to time, but the basic plan remains intact. This fluctuation, particularly among smaller units, takes place with frequency.

Several times in this study, Binkin refers in a derogatory manner to the fact that the Reserve Components played no major role in Vietnam. On page 1, for example, he says, ". . . their failure to be used in Vietnam—the longest and most difficult war in U.S. history—cast strong doubts *on their value* and raises serious questions about their future role in national security." Again on page 40, "Vietnam experience cast a stigma on Reserve forces that will be difficult to erase." Nowhere in this study does he indicate that the decision not to mobilize more Reserve forces for Vietnam was a purely political decision made by President Johnson over the strongest objections of the Joint Chiefs of Staff and the Service Secretaries. History has shown it to be a bad decision and one that had a devastating effect on the active establishment. It was not a decision made by the Reserve Components and there is no evidence of any reluctance on their part to serve playing any part in the decision.

Later in the paper, the author cites a GAO report to point up that those Army units which were called up were disappointing. All three of the points he cites have to do with individual training and equipment and personnel shortages. He does admit these units were undergoing reorganization at the time they were called up. He fails to point out that during the six months or so before callup, they were flooded with untrained people that even a trained cadre couldn't digest. Surely he would not hold these units responsible for equipment shortages over which they had no control. These allegations make an invalid basis for judging "value" or "future role in national security."

One other basic point that obviously colors Binkin's thinking needs to be clarified before going on to address some of his specifics. On page 19, he states the view that "The basic rationale for maintaining Reserve forces rests on economic grounds." This reflects a fundamental misunderstanding of our historic aversion to overly large standing forces and our traditional reliance on the citizen-soldier concept that is part of our constitutional heritage.

One would gather from the tenor of this study that Binkin sides with the adherents of the short war policy who believe, a) that Europe is probably the only place we would fight again, and b) that it would be all over so swiftly that the Reserve Components would not get involved in time to make a significant contribution.

The record of the past twenty-five years would seem to refute adequately the idea that the United States would not respond anywhere in the world where our basic interests were seriously challenged.

The concept of short wars has long been the Lorelei of military philosophers and, more significantly, political leaders. Geoffrey Blainey, in his excellent new book, *The Causes of War*, points out that one of the most recurrent clues illuminating the causes of war and so of peace is the optimism with which most wars were commenced. He goes on to document the point in great detail, using, among others as prime examples,

World Wars I & II, the Soviets in Finland, North Korea's attack on the South, Anglo-French Campaign in the Suez and the fantastic case of India and China in 1962.

Moving on now to an examination of specific points in the Binkin study, let us examine these in more or less chronological order for ease of checking.

On the credit side, the author is quick to acknowledge that in the absence of the draft, "the Reserves have become the primary option available to the President for quickly expanding military forces in a national emergency." He could have been more precise by saying the *only* option available.

He suggests that hard choices await national security planners, who are faced with fitting maximum defense capabilities "within more limited defense resources." Successive Secretaries of Defense, as well as the President of the United States, have been at considerable pains to point out that our national priorities *have already been reordered* through the massive cuts which have already been made in our defense establishment and that what we are working at now is increased efficiency and effectiveness on what may be a *modestly rising* scale of defense expenditures. We have had occasion in the past to quote from the President's Foreign Policy Report to Congress three years ago. Perhaps it is pertinent to repeat: "It needs to be understood with total clarity . . . that defense programs are not indefinitely adjustable . . . there is an absolute point below which our security forces must not be allowed to go. That is the level of sufficiency. Above or at that level, our defense forces protect national security adequately. Below that level is one vast undifferentiated area of no security at all. For it serves no useful purpose in conflicts between nations to have been almost strong enough."

Binkin goes on to discuss some of the problems incident to mobilization. He rightly points out that it does take a longer time to deploy Reserve Component units than those in the active establishment. He doesn't acknowledge the very active efforts to reduce the administrative work loads involved in mobilization and to get the maximum amount done prior to call-up. Nor is it clear, as it should be, in his remarks that deployment schedules take into account that our equipment pipeline and transportation system limitations make it evident that all units cannot be digested at once. In the order of priority, Reserve Component units are worked into the schedule at realistic intervals which take into account these problems. The fact remains, however, that readiness and deployment goals are being shortened as rapidly as conditions permit and should soon be substantially better than his estimate indicates. Certainly the active Army views this is a manageable problem.

This would have been the appropriate place for Binkin to describe and assess the really massive effort which the Army has put in motion to assist with these very problems. In a major reorganization effected by the Army early last year, training and readiness support of the Reserve Components was made the sole responsibility of the commanders of each of the three CONUS Armies which operate directly under the Army's new Forces Command. Under the CONUS Armies are nine Readiness Regions, each organized into subordinate groups and teams of experts who work shoulder to shoulder with Reservists to improve their readiness. These active Army people are doers and specialists in hands-on training, not staff supervisors. Since their mission is aimed exclusively at improving Reserve Component training and readiness, it is unfortunate that Binkin chose to ignore this effort. It should do much to change his views on this basic problem.

Binkin states that at the beginning of FY 73, about 60% of the Reserve maneuver units were without weekend training areas. This is incorrect. Only 18% are without necessary areas today. There is an on-going program to which he refers for armories and training areas that will improve this even more.

Again discussing readiness, he says that "Army National Guard units are designed to attain readiness at the company level" and "the post-mobilization training would delay division-sized deployments for perhaps four months." The company level training is a *minimum*. There is considerable training above that level that has been going on for some time. In the January 1974 issue of *Soldiers* magazine, there is a good description of the seven maneuver training commands which have been established from Army Reserve Training Division Brigades to write and organize field exercises for the active Army as well as the Reserve Components and to conduct tests from battalion to corps level.

But it would be wrong to infer that large units will ever get to the point where post-mobilization training is not required. The goal is to reduce the time. If the Reserve could be left alone for a while and the active Army's current support effort be given a chance to work, these goals can be met.

His chapter four suggests that sinister political forces are constantly plotting to maintain over-large Reserve forces to the detriment of our country's welfare.

There are political forces exercised in all segments of our society and many far more effectively than those on behalf of the Reserve Components. This will be borne out, if proof is needed, by data which those two "prosperous, united, articulate and highly active" Reserve Component lobby organizations would be willing to supply.

In the latter half of his paper, Binkin gives us his rationale which he believes could result in substantial cuts in the size and costs of our Reserve forces. He first addresses what he describes as "relatively small, obscure support units and activities." His first target is the 53 civil affairs units which he says have about 7,000 plus men. There may very well be too many of these units. But for an Army that has spent 25 years helping govern one of the world's major cities in Berlin and governed our second largest trading partner for a number of years before drafting her constitution, the civil affairs function needs a nucleus of units which are able to perform their specialty when we need them. So, while there may be more units than we need, it would be foolhardy to wipe them out as Binkin suggests.

Binkin is also of the opinion that medics, lawyers, construction workers and administrative people whose civilian skills are required need not be in units. One could apply the same logic to licensed pilots. In the first place, the President has no authority to call individuals to duty without Congressional action, so we would have to have complete mobilization before these people could be called up as individuals. But, even beyond this, to suggest that an amalgam of civilians, however talented, could be welded quickly into a functioning military unit flies in the face of all our past experience.

A minor point, Binkin raises the question as to why we still need 4,500 Army Guardsmen in Nike/Hercules units. The answer is we don't, and the slots assigned to these organizations have already been eliminated—another example of the continual up-dating of our Reserve organization.

Binkin also questions the need for the 21 separate brigades, including the special mission brigades. The answer is that all of these are specifically targeted for early deployment in our total force mobilization plan.

He assumes that of the roughly 300,000 people in the non-divisional units he's been discussing, 200,000 are of marginal use and could be eliminated. This suggestion reveals a lack of knowledge of the functioning of land forces and the diverse elements whose teamwork is required for success in combat.

Binkin next makes a pitch for another try at some sort of merger of the Guard and Reserve. He takes cognizance of past attempts in this direction and is fairly pragmatic in his assessments of the meager chances for a success of another effort. He offers a variation with his suggestion that the Army Guard and Reserve be combined into the Guard while the air components of each be combined under the Reserve. Although he rightly says that the elimination of headquarters saves very little, he nevertheless arbitrarily assigns annual savings of $30–$50 million to his merger plan on the assumption that combined base operations, training and recruiting would provide such savings. This is pure crystal ball.

As a further means of saving money, Binkin next suggests that four Reserve Component divisions and their supporting elements could be reduced to cadre status, since there would be time after mobilization to assign the additional personnel required, issue equipment, etc. As we have pointed out, there is a place in our Total Force Plan for these divisions, and it calls for them to be ready far sooner than they could be under any cadre system. In-being units can obviously be whipped into top shape far faster than those requiring so much filling and training after mobilization. Units that can be deployed in the first 60 days after mobilization are more valuable than those that come along later. Finally, anyone who has ever had any exposure to a cadre operation is aware of its severe limitations. Cadre units cannot adequately maintain the unit's equipment. They are not susceptible to effective training over any extended period of time. They do not provide the basis for either leadership or team training, both of which are essential, particularly for units of the combat arms. There is no teamwork, esprit or the other essentials to a successful military unit. In short, it's a bad idea.

He goes on to make a gratuitous comment that deserves refutation. He says: "Motivated in part by the past performance of Reserve units, and possibly by the conviction that current active forces will need but limited assistance to meet the range of likely contingencies, many defense planners appear to be counting on no more than four—and perhaps as few as two—National Guard divisions in the first six months following mobilization." He doesn't identify the planners, but that statement contradicts the testimony of the Secretary of Defense, the Secretary of the Army and the Army's Chief of Staff. On the record, this statement is completely opposite from the DOD positions.

He moves on next to suggest the possible replacement of some active Army units with Reserve Component units in what he terms "hybrid" divisions. Basically, what he is suggesting is that possibly a battalion of each brigade, and a battery of each of the artillery support units could be a Reserve Component unit. The same would apply to the division base units. He would only do this in CONUS land divisions "*not likely*" to be needed immediately in an emergency.

There may be occasions when our active divisions will be employed *without* mobilization. Obviously the "hybrid" divisions would be at only ⅔ of their strength if this took place.

There would always be a disparity in readiness between active and Reserve units which, in a "hybrid" situation, would slow the combat development of the total unit.

In all of his suggestions, the basic thought keeps coming through that we will face only one contingency at a time (if, in fact, we face

any at all) or, if we do get committed, it will be all over in less than 90 days. Fortunately, our defense planners have a more prudent view.

The concept of leaving Reserve Component units satellited on active units for training does have merit. The Army has been experimenting with that idea for the last two years at Fort Hood in its so-called "Round Out" concept. Emerging from this experience is an "affiliation" program now being worked up which would provide for separate battalions and brigades to be attached to active Army units for training, supervision, et al. It is even contemplated that they woud fight with these units as an *augmentation*.

His final suggestion for cutting costs is in chapter seven, dealing with what he calls "Compensation Efficiencies."

First, he makes a pitch for not making available recruiting bonuses for the Reserve Components. As is the case elsewhere, not all his facts are straight.

He takes the Reserve Components to task when he says, "If greater reliance were placed on attracting people with previous service, possible shortages could be alleviated." The problem is *exactly* the opposite. The Reserve Components have not been meeting their quotas of *non-prior service personnel*. They have already been relying too heavily on prior-service people and with that source drying up when the remaining draftees leave the Army this fall, they will have to rely on getting non-prior service people. This was pointed up again in an article in the January 1974 *Soldiers* magazine: "Latest figures reveal the Guard is at 95% strength, the Reserves at 90% strength. But the figures are deceiving. Both the Guard and the Reserve are hitting lows when it comes to getting non-prior service people. The Guard, for example, is getting 1,700 monthly against a 4,000 requirement. The Reserve is not faring much better."

Actually, as the foregoing quote also points up, recruiting for the Reserve Components has improved considerably, and, were the recruiting aids requested made available by the Congress, many working on the problem believe the Reserve Components could maintain their strength goals.

Binkin would reduce the recruiting problem further by the massive cuts in authorized strength he has suggested.

The author's final point is his concern that the Reserve Component retirees may be overcompensated. He advocates that Reserve retirees be paid their retirement based on the pay scales in force on the date of their retirement rather than those prevailing at their age 60, when they actually begin to draw the pay. This suggestion will undoubtedly be considered with other facets of the retirement program now being examined.

In any consideration of retirement, it is useful to have a feel for the numbers under discussion. He did not include them. In response to query, we were advised by the Department of the Army that, as of 3 November 1973, the following were considered careerists and apt to go on to retirement:

Army National Guard

	Percent
Officer	69.8
Enlisted	21.7

Army Reserve

	Percent
Officer	64.8
Enlisted	16.5

In one of his last chapter, Binkin presents the case for the short war which would, of course, make all mobilization plans obsolete. In his scenario, he gives no weight at all to what an adequate in-being total force defense establishment can do to prevent even a short war from starting.

Frankly, this study is a disappointment. It is shallow, negative and counter-productive. Criticism is undoubtedly warranted in many areas of our Reserve program. Hopefully, the on-going DOD study will identify those areas, so that our full effort can turn again to improving the strength, readiness and training of our Reserve Components.

TIME TO NORMALIZE RELATIONS WITH CUBA

Mr. KENNEDY. Mr. President, Soviet Foreign Minister Andrei Gromyko's arrival from Havana, Cuba, 2 days ago is the latest signal that an opportunity is at hand to normalize our relations with Cuba.

For 13 years, United States-Cuban relations have been based on hostility, antagonism, the sterile rhetoric of the cold war. The policy implementing this attitude called for political and economic isolation. It began with a partial embargo on exports to Cuba in October 1960. It continued with the breaking of diplomatic relations on January 3, 1961, and the total embargo on exports on February 3, 1962. And it was spread through the hemisphere on a 15 to 4 vote of the OAS in 1964.

While we have reexamined virtually every other policy with origins in a past era, the quarantine policy toward Cuba has lingered despite increasing evidence that it is no longer appropriate either to U.S. interests or to the future of the hemisphere.

We have closed our eyes to the growing trade between Cuba and our Western European allies. We have closed our eyes to the growing trade and contacts between Cuba and other nations of the Western Hemisphere. We have closed our eyes to the growing indication that only our opposition has prevented the OAS from vacating the economic boycott adopted in 1964.

Now nine Latin American countries have reinstated economic relations with Cuba. Six Latin America countries have formal diplomatic relations with the government of Castro.

At the same time, the major effect of the policy, while not closing off relations between Cuba and non-Communist nations, has been to press the Cuban nation further into reliance and dependence upon the Soviet Union and the nations of Eastern Europe. Some may argue that we benefit when the Soviet Union is forced to subsidize the Cuban regime at a costly rate of $1.5 million per day; but the consequences of that dependence clearly have been to entwine Cuba even more closely into the Communist bloc, to encourage the Soviet Union's hemispheric involvement, and to discourage a more natural development of relations between Cuba and other nations in the Caribbean.

I would contend today, as I have for the past 4 years, that however valid the reasons for establishing the policy of isolation, those reasons no longer exist.

First, the Soviet threat to the United States and the hemisphere—threat in the form of intermediate range ballistic missiles implanted on the island—was blocked at its inception by the strong actions of President Kennedy. The accord with the Soviet Union which concluded the Cuban missile crisis was reaffirmed in 1970 when some observers feared that the port of Cienfuegos would become a permanent Soviet nuclear submarine base.

The latest testimony from defense witnesses still reflects the view of the Defense Intelligence Agency Deputy Director for Intelligence in September 1972, the view that—

> The Cuban threat to the United States, which was not very great several years ago, has not increased. So, there is not a serious Cuban military threat to the United States.

It seems more than obvious that any Soviet military threat to the United States rests on its strategic nuclear capabilities rather than its presence in Cuba.

Second, the rationale that Cuba is engaged in the export of revolution died in the mountains of Bolivia with Che Guevara. If ever an adequate justification for the policy of isolation, the testimony to its virtual nonexistence today seems difficult to contradict. A Defense Intelligence Agency consultant testified in 1972 that Castro support to "subversive groups" was "at a low level." In a more vehement tone, guerrilla leaders themselves have charged Castro with abandoning the Latin America revolutionary groups. And Soviet leader Leonid Brezhnev made what a few years ago would have been an extraordinary statement when he said on Saturday:

> The Soviet Union has always considered to be criminal any attempt to export counter-revolution. But neither are Communists supporters of the export of revolution.

The final prop to the isolation rationale was the use presence in Cuba of an avowedly Communist regime and the desire to discourage the Cuban model for other nations in the hemisphere. Yet, those nations see the warts on the Cuban model for development not because of our isolation policy, but because of widespread economic difficulties, heavy reliance on the Soviet Union and the maintenance of a closed political system.

The underpinning to our policy of isolation toward Cuba has been eaten away by the passage of time and it stands perilously close to toppling under its own weight.

The policy which began as an attempt to isolate Cuba may well conclude as a policy in which we are ourselves isolated. For the trend is clear. A majority is building within OAS to jettison the policy of isolation. Our support for it has been the glue that has perpetuated that policy.

Rather than appearing to resist the trend toward improvement of hemispheric relations with Cuba, we should play a leadership role by using the current opportunity to reorder and normalize our relations with Cuba.

The visit of the Soviet Foreign Minister to Washington follows by only a few days the statement of Cuban Premier Castro expressing approval of improved relations between East and West. That statement follows by 3 weeks the positive comments of Fernando Lopez Muino, Cuba's Ambassador to Mexico on the possibility on ending the estrangement between our two nations. Less than a year ago, our two nations reached a

final agreement on hijacking, indicating our common concern to end air piracy.

All of these events indicate that now is the time for the United States to begin the process of normalizing relations with Cuba.

First, at the foreign ministers meeting in Mexico City, the Secretary of State should endorse a resolution giving all OAS members freedom to make their own decisions about their relations with Cuba. In effect, such a statement would lift the formal hemispheric economic boycott which already has been shattered by 10 nations.

Second, we should restore commercial air service between our two countries, ending the barrier that has been a major obstacle to the speedy reunification of refugee families. In that process, we should call upon the Cuban Government to issue conduct exit visas to its political prisoners.

Third, we should encourage the free exchange of people and ideas between Cuba and the United States, a policy that we have preached to the Soviet Union and to others at the European Security Conference and which we should champion in our own hemisphere. This would include the exchange of scientific and cultural programs and the exchange of leaders in such fields as health, education, and the arts. The recent denial of a visa to the award-winning Cuban filmmaker Tomas Gutierraz Aled tarnishes our name and our political traditions.

Finally, we should build on the reduced antagonism that would follow the success of the previous steps by beginning the process of formal diplomatic normalization, including the opening of consular offices.

These suggestions are not the only path to rapprochement and their accomplishment will require patient negotiations and efforts on the part of both countries. Nor is there any assurance that the Cuban response to our initiatives would be immediate and positive. But to take place at all, a beginning must be made, a beginning that requires diplomatic leadership on our part. Hopefully, the Secretary of State and the White House will seize the opportunity now at hand. Working toward normal relations with Cuba would be in our own interests; and it would be in the interests of peace and stability within the hemisphere as well.

No policy decision by the administration would reflect a greater commitment to ending its neglect of our Latin American relations over the past 5 years than a decision to end the outdated policy of isolating Cuba. Surely an administration that is willing to travel 9,000 miles to improve relations with the People's Republic of China should be willing to span the 90 miles to the Republic of Cuba for the same purpose.

Mr. President, I ask unanimous consent to print in the RECORD recent editorials and articles on this subject.

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

[From the Christian Science Monitor, Jan. 29, 1974]

HAVANA: NEW RELATIONSHIPS?

The Brezhnev-Castro talks in Havana this week are unlikely to signal any major change in the Soviet-Cuban relationship. But they emphasize the continuing Cuban dependence upon the Soviet Union.

Moreover, the talks are expected to show new evidence of Havana's staunch support of Moscow's line in the Sino-Soviet dispute. Such support from so small an island as Cuba may seem of little value to Moscow, but the Soviet hierarchy appears happy for any assist against Peking.

From Fidel Castro's point of view, the Brezhnev visit can yield high dividends. It may be galling to the Cuban leader to have to accept a million or a million and a half dollars a day in Soviet aid when 15 years ago he was talking of making Cuba "wholly independent," but Dr. Castro is a realist. He knows Cuba cannot stay afloat without the vast quantities of Soviet aid and credit that regularly pour into the island. The Brezhnev visit will likely firm up the Soviet assistance, especially since Dr. Castro has adopted Soviet-style economic planning measures for his flagging farms and industry.

That is only part of the Soviet price, however. Dr. Castro also knows that detente with the United States is now a key element in Soviet strategy. Cuba is being encouraged to go the same route rather than follow its former policy of promoting revolution.

The conciliatory statements by the Cuban Ambassador to Mexico earlier this month, indicating that there were few obstacles to a renewal of U.S.-Cuban ties, are seen as part of this new pattern. Havana has done nothing to deny or scuttle the Ambassador's overture. Indeed, the time seems imminent when Havana and Washington will again talk face to-face. This represents an important change from Cuba's onetime intransigent attitude toward Washington—and appears to be the direct result of Soviet prodding.

Thus, the Brezhnev-Castro talks are expected to further cement Soviet-Cuban ties, and they could also propel Cuba in the direction of some sort of new relationship with the United States.

All this suggests that Washington would be well advised to watch developments in Havana carefully. At a time when detente is in the air, continuance by Washington of its policy of isolating Cuba is an anachronism. The talks this week in Havana may provide a key to ending the anachronism.

[From the New York Times, Jan. 30, 1974]

BREZHNEV IN HAVANA

The cordial greeting cabled to President Nixon by Leonid Brezhnev, "flying close to the shores of the United States" on his way to Cuba, symbolizes—if taken at face value—the improvement in Soviet-American relations of recent years.

What the world will be watching for from Mr. Brezhnev's visit is an indication that he is urging Premier Castro to seek better relations with the United States. A more normal Washington-Havana relationship could not fail to advance the Soviet-American détente. If it brought an end to the economic embargo against Cuba by the Organization of American States, it might also enable Moscow to cut back its subsidy of Cuba's economy, currently estimated at $1.5 million a day.

However florid the oratory during the visit, Mr. Brezhnev is likely in private at least to counsel Mr. Castro against actions in the Americas that could jeopardize détente and Moscow's prospects for large credits from the United States. He is believed to have delayed the visit, originally scheduled to begin in late December, so as to miss the fifteenth anniversary of the Castro revolution, with its attendant risk of offending Washington.

After positive remarks earlier this month by Cuba's Ambassador to Mexico about increasing contacts with the United States, the State Departrment promised to "weigh everything" on that subject emanating from Havana. That attitude certainly should apply to Mr. Brezhnev's visit—a venture that could conceivably have constructive significance for the hemisphere.

[From the Baltimore Sun, Jan. 30, 1974]

THEIR MAN IN HAVANA

As Leonid Brezhnev's IL-62 jet flew from Newfoundland to Cuba on a course roughly parallel to the United States East Coast this week, the Soviet leader meticulously sent greetings to his old summit partner, Richard Nixon. "Best wishes to you, Mr. President, to the government and to the people of the United States." Then he went on to Havana to extol the "heroic Cuban people" and expose himself to the overwhelming hospitality of Fidel Castro in "the island of freedom." It is a measure of new currents in diplomacy that Brezhnev's visit is not being viewed as a provocation to Washington but as a mission that may even provide a nudge for better U.S.-Cuban relations. Nikita Khrushchev's reckless effort to sneak offensive missiles into Cuba a dozen years ago seems like something out of pre-history.

Brezhnev's benign intentions, if benign they are, come from no excess of altruism. That is not one of his characteristics. Rather they seem to reflect a desire to reduce friction between Havana and Washington so the Soviet Union can be in a better position to improve its relations with the nations of Latin America. Moscow has long been hampered in Latin America by its close association with Castroism and the subversive activities that Cuba promoted during the Che Guevara era. Although some of Fidel's boys may have felt that the toppling of Chile's President Allende, an elected Marxist, supported the wisdom of a more rambunctious approach to revolution, Castro abstained from pushing such logic. Instead, at a conference of non-aligned nations in Algiers last month he lavished praise on Brezhnev's Russia as a defender of small nations (of all things).

Castro's prudence can hardly be faulted. The Soviet Union is subsidizing his country to the tune of about $1.5 million a day. It is supplying Cuba with grain, crude oil, pig iron, timber and free military hardware. It buys 80 per cent of the Cuban sugar crop. It has financed the construction of a fishing port to service the Soviet fleet and has drawn Cuba into the Council for Mutual Economic Assistance, otherwise known as Comecon, an organization disciplining the Cuban economy along the norms of a five-year plan.

While it is conventional wisdom to suggest that a U.S.-Cuban rapprochement would end the anti-Castro trade embargo and thus ease the financial burden on Moscow, one should not give too much weight to that factor. After all, the cost of Cuba is small in the overall context of the Soviet economy. It makes more sense to regard the Brezhnev visit as political. And it would make even more sense if the Nixon administration would respond favorably to any overtures from the Castro government that Mr. Brezhnev might encourage. If the United States is big enough to improve its relations with the big Communist powers, surely it should stop being small enough to persist in hostility toward a small Communist power.

[From the Washington Post, Feb. 5, 1974]

KISSINGER'S LATIN VISTA

Secretary of State Kissinger heads for Panama shortly to sign the recently negotiated statement of principles for a new canal treaty. In a few weeks he is due to confer with the foreign minister of Latin America, in Mexico City. This evidence of his specific concern for a long-festering Latin issue, the canal and of his general concern for inter-American relations, has elicited a certain amount of expectation that the "mature partnership" envisioned by President Nixon in 1969 (in his first and last major statement on Latin America) may be starting to take on real life. Latins have properly become wary over the years of periodic American affirmations of devotion to the hemispheric welfare. But certainly the need for such a thrust is undiminished.

The economic ties between the United States and Latin America continually grow thicker and more diverse. To cite one "new" example, Venezuela and Ecuador are full-fledged members of the oil cartel which has quadrupled energy costs around the world. The politics of the hemisphere increasingly center on easing the strains created by these economic ties. For just this reason, Latin America requires from Washington not occasional spurts of headline diplomacy, however symbolically satisfying these may be, but steadfast application to day-to-day affairs. Latins deserve to be assured that their voices are regularly heard. Sen. Robert Byrd (D-W. Va.) noted candidly the other day that many congressmen have stinted Latin America "because Latin fields are not regarded as politically fertile." But the Executive Branch has no similar excuse for such a casual approach.

Responding to an earlier Kissinger suggestion for a "new style of dialogue," Latin foreign ministers met at Bogota last November to draw up "Bases for a New Dialogue" with the United States. This offers encouraging evidence that Latin Americans have used the recent years of Washington's relative inattentiveness profitably—not to draw away from the United States but to prepare for more fruitful and mature relations. In particular, the Latins have moved toward a position where they are less disabled by lack of confidence than they previously were in dealing with the non-Latin world. For instance, the Inter-American Development Bank is right now at the make-or-break stage of drawing into its membership and its work some 18 countries from outside the region; on the outcome largely hinges the question of whether the Latin economy grows in a regional or world context. The United States remains, and will remain, the dominant power of the hemisphere, but perhaps we are learning some of the advantages of self-effacement too. Dr. Kissinger's upcoming Latin visits should be especially instructive in this regard.

If economic relations are central in the hemisphere, however, at least one major political issue remains. Though Havana itself stays in a negative stance, it becomes progressively more anomalous that the United States should exert its influence to keep Cuba formally outside the inter-American system. Why should we treat Havana any less pragmatically than we treat Moscow or Peking? Latin governments with problems on their own left remain cool to lifting the sanctions which the Organization of American States voted against Cuba 13 years ago. But many other Latin governments are more than ready to move on. Now that the Latin subsidiaries of some American corporations see a chance to sell their products in the Cuban market, the United States is likely to come under heightened pressure from that quarter too. Mexico City would be an appropriate place for Dr. Kissinger to start bringing our Cuban policy into step with the times.

[From the Washington Star-News, Feb. 3, 1974]

INTENSE U.S.-MEXICO TALKS LINKED TO CUBA RECOGNITION

(By Jeremiah O'Leary)

Mexican Foreign Minister Emilio Rabasa met yesterday for the third time in three days with Secretary of State Henry A. Kissinger amid growing speculation that the United States and Cuba are responding to heavy pressures that could lead to resumption of relations soon.

This speculation was given added impetus by a White House announcement that Soviet Foreign Minister Andrei Gromyko, fresh from talks with Cuban Prime Minister Fidel Castro, will visit President Nixon tomorrow.

Although there are a number of other important issues for Gromyko to discuss with the President and Secretary of State Henry A. Kissinger, it appears certain that the Cuban situation will not be ignored.

Rabasa's main business in Washington last week has been to prepare for an important meeting of Organization of American States foreign ministers in Mexico City later this month and to discuss problems between the United States and Mexico. But Rabasa is an articulate proponent of ending the long OAS isolation of Cuba, and has a good relationship with both the Cubans and the Americans.

He pointedly told reporters yesterday there were two subjects of conversation between himself and Kissinger that he would not discuss. Rabasa would neither confirm nor deny that those subjects included Cuba, but observers got the distinct impression he was referring to Cuba and was pleased with the prospects.

In addition to the Kissinger-Rabasa meetings there were these other developments:

Soviet leader Leonid I. Brezhnev, in Havana, delivered a long speech in which he said Communists do not believe in exporting revolution.

Castro, in one of his rare speeches from a written text, indicated the way to confront capitalism is through the framework of that system.

Kissinger appeared in a closed session before the Senate Foreign Relations Committee and reportedly was urged by members to take another look at the U.S. policy of continuing to isolate Cuba while seeking better relations with the Marxist giants, Russia and China.

Rabasa said he came to Washington at Kissinger's request to explain the mechanics of the foreign ministers' meeting which Kissinger will attend Feb. 21, 22, and 23. He said he explained that the Latin Americans intend to speak with him and not against him.

"We will have frank discussions," Rabasa said he told Kissinger "but there will be no criticism of the United States. We will forget past history and try to construct a new framework for relations in the hemisphere."

There will be eight subjects on the agenda at the conference: Cooperation for development, coercive economic measures, restructuring of the inter-American system, solution of the Panama Canal question, the international trade and monetary system, transnational enterprises, exchanges of technology and general relations.

Kissinger will address the conference on developments in international relations and the energy crisis. He also will have an opportunity to give the U.S. position on the eight agenda items, including the Panama question. Kissinger will make a quick trip to Panama on Thursday to sign a declaration of principles with that country as a basis for negotiations on a new treaty.

Uppermost of the questions between the United States and Mexico is Mexico's anxiety to reach an accord with the United States on the problem of migratory workers. Mexico wants a quota of migratory workers for farm labor in the U.S. according to the supply and demand, more humane treatment of the workers, wages comparable to U.S. scales and improved consular representation.

BREZHNEV SAYS CUBA IS NOT A VITAL BASE FOR SOVIET

MIAMI, January 30.—Leonid I. Brezhnev declared last night in Havana that the Soviet Union did not consider Cuba "a strategic base" for influence.

The leader of the Soviet Communist party, who spoke at a rally at the start of his first visit to Cuba, said that Soviet military aid to Havana was aimed at "peace and tranquility," not toward any aggressive end.

Excerpts from his speech and from that of Premier Fidel Castro were rebroadcast through the day today by the Havana radio, which reiterated that Mr. Brezhnev's visit was a sign of "unbreakable ties" between the two nations.

"To the Soviet Union," Mr. Brezhnev declared, "Cuba is not an object of exploitation or of capitalist investments. It is not a strategic base out of which influence is expected."

Mentioning Soviet aid to Cuba, he said: "We well know, as others probably also know, that Soviet arms in Cuban hands are not weapons to attack anyone nor a means of straining the international situation. They serve the just cause of the defense of revolutionary conquests of the country, the cause of peace and tranquility."

Havana broadcasts suggested that Mr. Brezhnev spent the day making courtesy calls and in discussions with ambassadors from some Soviet-bloc nations.

U.S. NOTES STATEMENTS

(By David Binder)

WASHINGTON, January 30.—Washington officials concerned with Cuban affairs focused attention today primarily on two statements made in Havana last night.

One was by Premier Castro expressing approval of improved relations between East and West. The other was a condemnation by Mr. Brezhnev of a past Communist policy of trying to export revolution.

In his welcoming speech, Mr. Castro said the "idea of peaceful coexistence between states with different social systems is gradually making headway in international relations." Later he told Mr. Brezhnev that Cuba "resolutely supports you" in "your efforts to overcome world tension and to achieve an end to the arms race."

A United States official commented, "This is the first time Castro has expressed any degree of warmth favorable to détente."

The official added that the Cuban leadership and his press has long been skeptical of efforts at easing East-West tension, "I suppose with 1962" in mind, alluding to the crisis in which the Soviet Union pulled back missiles it had set up in Cuba.

Mr. Brezhnev, in his response, said to Mr. Castro's welcoming speech "Soviet weapons in the hands of Cubans are not weapons for attacking anybody" and then added: "Revolution feeds not on somebody's propaganda or subversion. Nor are the Communists supporters of the export of revolution. A revolution matures on the domestic soil of this or that country."

Mr. Brezhnev, it was noted here with interest, also declared: "In your Cuba today an excavator or a combine harvester is as good a weapon in the struggle for revolution as a rifle or a machine gun was yesterday."

A United States official termed Premier Castro's criticism of the Chinese his "strongest ever." Without mentioning China, Mr. Castro spoke of "pseudo-left wingers and renegades of the revolutionary movement who, from allegedly Marxist stances, revile the Soviet Union, wretchedly betraying proletarian internationalism and serving the interests of imperial."

Administration officials say that the Castro Government has been de-emphasizing subversive activities in other Latin American countries since the death of Ernesto Che Guevara in Bolivia in 1967. But the United States officials believe Cuba is still training foreign guerrillas and still maintains underground networks in Chile, Bolivia and Uruguay.

A high Administration official said today that United States policy toward Cuba had not changed. But he acknowledged that the State Department was considering applications by three United States-owned concerns in Argentina to sell vehicles to Cuba.

[From the Chicago Tribune, Jan. 9, 1974]

CUBA HINTS READINESS FOR U.S. TALKS

MEXICO CITY, January 8.—A Cuban diplomat says "Guantanamo isn't important to us now," and Fidel Castro's government will be ready to talk about resuming diplomatic relations with the United States as soon as Washington, lifts its 12-year-old economic blockade of Cuba.

Fernando Lopez Muino, Cuba's ambassador to Mexico, said Monday night the Castro regime has shelved its long-time demand for the U.S. to give up its naval base at Guantanamo Bay, on the south coast of Cuba.

The United States controls the base under a 1903 treaty which carries no expiration date. A community of more than 9,000 persons, both military and civilian, resides at the 45-square mile base.

Lopez met with a small group of newsmen here one month before Secretary of State Henry Kissinger is scheduled to visit the Mexican capital. A Cuban source said: "I guess you could speculate that the ambassador's meeting has something to do with the Kissinger visit."

Lopez said the U.S. blockade has been made "ridiculous" by Cuba's trade with Japan, Western Europe, and other parts of the world.

"We are not in a holy war with the United States, but we will never undertake negotiations while the blockade is in effect," he said.

In Washington, the State Department expressed cautious interest over the reports that Cuba is interested in ending diplomatic estrangement between the two countries.

"We are not dismissing them. We will weigh everything," department spokesman George Vest said following Lopez statements. Vest said, however, that he would not want to "jump to the conclusion" that Lopez' statements constituted a significant change in Cuban policy.

Cuba today observed its 15th year under Fidel Castro and Lopez Muino said that after 15 years of "just surviving" Cuba now feels ready to "institutionalize the revolution."

"Cuba is ready to discuss, not establish, relations, Lopez said, but as long as the blockade is in effect, you won't see us at a round table or a square table."

[From the New York Times, Jan. 9, 1974]
Jan. 9, 1974]

CUBA INDICATES INTEREST IN TALKS IF U.S. ENDS ECONOMIC BLOCKADE

MEXICO CITY, January 8.—A Cuban diplomat says that Havana would be willing to hold political talks with Washington if the United States lifted her economic blockade of the island.

In a news conference called to discuss the 15th anniversary of the Cuban revolution, Fernando L. Lopez Muino, Cuba's Ambassador to Mexico, said that Havana's "single and irrevocable" condition for resuming contacts with the United States Government was the "unconditional and unilateral" ending of the 12-year-old economic blockade.

He also said the United State's continued use of its naval base on the Cuban mainland at Guantanamo "is not important to us" and would not be an obstacle to talks between Washington and Havana.

SPECULATION IS PUT DOWN

Cuban Embassy sources in Mexico City stressed that, despite press speculation that Havana was putting out feelers to Washington, the Ambassador merely reiterated Cuba's oft-stated policy toward the United States.

Two weeks ago Secretary of State Kissinger told reporters that "the major obstacle to a rapprochement has been the hostility of the Government of Cuba and its commitment to a revolutionary policy throughout the Western Hemisphere."

Most of last night's news conference was devoted to discussing Cuban progress over the last 15 years. Only Mexican journalists were formally invited, although a small number of foreign correspondents heard of the meeting and also attended.

"We are not in holy war with the United States," Mr. Lopez Muino said, "We would be willing to talk to the United States with the single and irrevocable condition that is the end of the economic blockade."

BLOCKADE CALLED "FARCE"

He said that the economic blockade was not "a farce" because many countries outside the Communist bloc, including Japan and much of Western Europe, were trading with Cuba.

The Ambassador pointed out that several Latin-American countries now maintained diplomatic relations with Cuba. "In some cases, the political blockade has been an honor," he went on. "For us, it is an honor that Brazil, Paraguay, Bolivia and now Uruguay do not want to have relations with us."

Mr. Lopez Muino, holding his first news conference since becoming Ambassador to Mexico six months ago, also depreciated next month's scheduled meeting here between Mr. Kissinger and the foreign ministers of all Latin-American countries except Cuba.

"Nothing will come of it for lack of political will," he said. "The United States has a new magic Secretary of State, so everyone is optimistic, but he does not know Latin-America and the problems to be discussed are all the old ones."

UNITED STATES CONSIDERS TALKS ON RENEWING TIES AFTER CONCILIATORY STATEMENT BY CUBA

WASHINGTON.—The State Department was studying yesterday the possibility of United States-Cuba talks on renewing diplomatic relations following reports of Cuba's willingness to consider the subject under certain circumstances.

Cuba's ambassador to Mexico, Fernando Lopez Muino, said his government is "ready to discuss, not establish" relations with the U.S. if Washington is prepared to end its support of the nine-year-old hemispheric embargo of Cuba.

The conciliatory statement appeared to at least partially satisfy one of the two conditions for improving relations with Cuba, outlined by Henry A. Kissinger, the Secretary of State, 12 days ago. Dr. Kissinger said then that "the hostility of the government of Cuba" has been one of two major obstacles to rapprochement.

The second barrier, Dr. Kissinger said, is Cuba's "commitment to revolutionary policy throughout the Western Hemisphere."

State Department officials noted that Cuban Premier Fidel Castro reaffirmed his support for this policy just 10 days ago when he declared that Cuba is willing to dispatch troops to any Latin American country which, "in the face of imperialist aggression needs Cubans to fight alongside them."

The first public State Department response to Mr. Lopez's remarks was one of cautious interest.

A department spokesman, George Vest, said, "We are not dismissing them. We will weigh everything."

He said, however, that he would not want to jump to the conclusion that Mr. Lopez's statements constituted a major departure in Cuban policy toward the U.S. Mr. Vest indicated that further evidence would be needed of Cuba's interest in improving relations.

At his news conference in Mexico City Monday night, Mr. Lopez said that the U.S.-controlled naval base at Guantanamo Bay, Cuba, was not an obstacle to negotiations, but State Department officials pointed out that this policy had been expressed earlier on two occasions by Premier Castro himself.

Some diplomats said they believe Mr. Lopez may be attempting to pave the way for a face-to-face meeting with Dr. Kissinger when the secretary goes to Mexico for a meeting of hemispheric foreign ministers next month.

[From the (Colo.) Rocky Mountain News, Jan. 2, 1974]

CASTRO PROMOTES NEW CUBAN IMAGE
(By James Foster)

WASHINGTON.—Premier Fidel Castro is promoting a new foreign relations program designed to rebuild Cuba's image abroad and enhance his own image at home.

Observers see three possible motives:

Castro wants to undercut Cuba's diplomatic and economic isolation by widening its circle of friends and trading partners.

He wants to ease dependence on the Soviet Union, to which Cuba owes nearly $5 billion with the debt growing by more than $2 million daily.

With right-wing militarists firmly in command in Chile, Brazil, Bolivia and Uruguay, Castro needs to refurbish his tarnished reputation as a feared leftist revolutionary leader in Latin America. He's not the center of attention any more, and he misses it.

A sampling of his activities over the past year indicates the scope and direction of Castro's efforts.

One of the more interesting moves being watched here is Havana radio's recent announcement that Cuba will send workers to help with reconstruction in North Vietnam. The report said 50,000 workers had "volunteered." Twenty-four are to leave for North Vietnam within the next few weeks with 500 to follow later this spring.

This past summer, Cuba signed a cattle and agricultural products agreement with France. And Cuba's Carlos Rafael Rodriguez, vice premier and a highly regarded economist, visited Hungary to inspect industrial and agricultural projects and to confer with Hungarian leader Janos Kadar.

In response to the September military takeover in Chile, Castro formed the "Chilean Committee of Solidarity with the Anti-Fascist Resistance." Many observers expect this group to act as the conduit for clandestine Cuban assistance to the outlawed Communist underground in Chile. Presiding at the organizational meeting was Maj. Manuel Pineiro, chief of Cuba's international spy network.

And to promote Cuba's pro-Arab, anti-Yankee stance, the official newspaper, Granma, attacked Israel's Defense Minister Moshe Dayan as "the new messiah of the Pentagon in the Middle East," "an executioner," and "a blossoming Fascist."

Castro continues to promote friendly ties with leftist-minded military leaders in Peru and with the government of Mexico, which never did sever relations with Cuba in spite of strong pressure within the Organization of American States.

WANT EMBARGO TO CUBA EASED: U.S. BOYCOTT OF CUBA TESTED

(By Lewis H. Diuguid)

The 12-year-old U.S. effort to isolate Cuba has come into conflict with the interests of American auto companies, which seek to export vehicles to the island from subsidiaries in Argentina.

Secretary of State Henry Kissinger faces an imminent decision on whether to modify the trade embargo against the Communist country. Failure to do so would strain relations with Argentina and lend credence to the contention—widely held in Latin America—that multinational corporations put the interests of their country of origin ahead of those where a branch plant is operating.

Kissinger is to meet next month with foreign ministers of Latin America to hear their complaints about U.S. policy. Multinational firms and the Cuban embargo are expected to be major topics.

Ford, General Motors and Chrysler have come into conflict with the trade embargo as a result of Argentina's signing of a trade pact with Cuba last August.

The government now headed by President Juan Peron defied U.S.-inspired policy by resuming diplomatic relations with Cuba. It then extended a credit of $200 million for purchase of Argentine products, including vehicles from the highly developed auto industry. Another $1 billion in credits can be extended over the next five years. The big three of Detroit all manufacture cars in Argentina, and the Peronist government ordered them to offer sales to the Cubans.

But under U.S. regulations that authorize the embargo, American citizens must obtain a license from the Treasury Department to engage in trade with Cuba. The State Department must recommend any exceptions, which until now have been few and limited to compassionate cases.

Now, State Department officials acknowledge, the embargo faces a major test. "The multinationals are caught between trying to comply with the policy of their host government as well as that of the United States," one specialist said yesterday.

Fred Thompson, Ford Motor Co. director of corporate relations, said in Detroit that the decision to seek the sales was made by Ford of Argentina, which is a wholly-owned subsidiary. He said the Argentine firm received a Cuban delegation and quoted prices. The parent company has sought guidance from the State Department on the question of licensing, he said.

A report from Buenos Aires indicated Ford expects to sell Cuba 1,500 cars and 1,000 heavy trucks, a deal that could run well over $10 million, if it gets U.S. government approval.

Fiat of Italy has signed a contract for $120 million in exports to Cuba from its Argentine subsidiary. Chrysler and General Motors are also seeking licenses here for their Argentine plants.

Cuba is new to the auto import business. With the exception of a few Alfa-Romeos brought in several years ago, virtually the entire car fleet is American-made—and dating from before Prime Minister Fidel Castro came to power in 1959.

The Cubans are also understood to seek a wide range of other industrial goods, many of which are produced by American-owned plants in Argentina.

Just how Cuba intends to repay the credits is not clear, though the few non-Communist countries that have traded extensively with it report that bills are paid on time, in hard currency. The island is still largely dependent on sugar exports. Prices for the commodity have improved in recent years.

Ironically, Ford is seeking to deal with Cuba just as the firm's operations in Argentina have been threatened by the People's Revolutionary Army, a Marxist guerrilla group that has often proclaimed the goal of an Argentine society akin to that in Cuba.

The guerrillas extorted $1 million in goods from Ford for disbursement to Argentina's poor. Then they killed one Ford executive and threatened others, causing the company to pull out its two dozen Americans based in Buenos Aires and Cordoba.

Peron has placed military guards around the plants and offered bodyguards for Ford executives. The latest victim of the anti-American guerrilla activities is the manager of a refinery owned by Exxon, who reportedly is being held for a $10 million ransom.

While Peron has tried to crack down on the terrorists, and has sought generally to downplay his own frequently strident anti-Americanism, he has stressed that his government will control industries operating in Argentina.

Legislation recently approved calls for nationalization of the auto industry, which now includes seven manufacturers. Those failing to meet export quotas can be restricted in their assigned share of the internal market as well.

The ultimate objective is an industry with fewer, but larger companies, more competitive internationally. The U.S. firms, if restricted from the Cuban market, are thus especially vulnerable.

Washington's Cuban embargo was established after the 1962 missile crisis. U.S. administrations since then, working through the Organization of American States, have said that normalization of ties could only come after the Cubans cut their military dependency on the Soviet Union and stop interventions in other Western Hemisphere countries.

Castro has declared no interest in rejoining the OAS and has said that resumption of diplomatic relations with the United States could come only after the end of what he calls "the blockade" and the return of the U.S. base at Guantanamo to Cuba.

WENDELL PHILLIPS DODGE—90 YEARS YOUNG AND STILL GOING STRONG

Mr. McINTYRE. Mr. President, the year 1883 in Manchester, N.H., was a long time ago—90 years plus—and a much different Nation and a much different way of life. But in Manchester on August 12, 1883, Wendell Phillips Dodge was born.

He has spanned all the years since as a world traveller, explorer, ethnologist, journalist, newspaper editor, press agent for Broadway's David Belasco, impresario on Broadway and in Paris, and today working on his second book.

Wendell Phillips, the world renowned "silver tongued" orator from Boston was visiting the still-unnamed baby son of his friends Arthur Pillsbury Dodge when he heard the crying baby and said in effect, "Why don't you name him after me"? Wendell Phillips Dodge has carried the name honorably for nine decades.

Jessie S. Cole has written a charming article about the amazing life of this unusual man for the winter 1974, issue of the New England Galaxy. I ask unanimous consent that this article may be printed in the RECORD.

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

NAMED FOR AND BY WENDELL PHILLIPS

(By Jessie S. Cole)

Among the New Hampshire characters who have carved for themselves a special niche out of time and circumstance, must be counted the extraordinary, unconventional person named for and by the great "silver-tongued" orator from Boston, Wendell Phillips, whose statue stands at the entrance to the Boston Public Gardens off Boylston Street—notably, his namesake, Commander Wendell Phillips Dodge.

Being a friend of the Dodge family and knowing the background of the squawling, red-faced infant to whom he graciously gave his famous name, Phillips no doubt expected great things of young Dodge. Had he lived to see the child mature, he would not have been disappointed, for three amazing lives have been robustly and productively lived by the still-young-at-ninety Commander Wendell Phillips Dodge—explorer, ethnologist, journalist, former press agent for the great David Belasco, and later impresario and "man of parts" in the Broadway and Paris Theatres.

Born in Manchester, New Hampshire, on August 12, 1883, high on Merrimac Hill, he was taken by his parents to live on Beacon Hill in Boston—still unnamed at the age of five weeks. His father wanted an ancient biblical name for him, but his mother had other ideas.

While having Sunday dinner with Arthur Pillsbury Dodge and his wife, Elizabeth Ann, Wendell Phillips out of courtesy asked to see the baby, and chucking the infant under the chin inquired as to his name. They had to confess that they had been unable to agree on one. Patting the infant's cheek, the great one took his leave. Two days later, a letter arrived in Wendell Phillips' handwriting addressed "Master Wendell Phillips Dodge"—and so the baby was named.

The child's father was a lawyer and publisher of *The Bay State Monthly, The New England Magazine* and the *Granite State Monthly*. The celebrated author of "The Man Without a Country," Dr. Edward Everett Hale, was editor-in-chief of the three periodicals and Dr. Hamilton Wright Mabie was associate editor.

Elizabeth Ann Day Dodge, the child's mother, was a descendant of Robert Day, born in England in 1634, who settled in Newtown, now Cambridge, Massachusetts, in 1640. Her father was Nehemiah Day and her mother, Julia Pope, and descended from Thomas Pope of Oxford, England, who was knighted and received a grant of arms and was "keeper" of Princess Elizabeth I and resided with her at Hatfield House before Mary's death.

Wendell Phillips Dodge, of the ninth generation of the Dodge family of Essex County, Massachusetts, is a direct lineal descendent of the first Richard Dodge in America from whom he no doubt inherited a feel for the sea. Richard Dodge was navigator of the ship *Lyon's Whelp*, called sometimes the *George Bonaventure*, under command of Captain Thomas Cox, that sailed from Gravesend, England, April 25, 1629 and arrived at the place which they joyfully named Salem on June 27, 1629.

Events of Dodge's early life seemed to set a pattern for his bizarre, fantastic future. One of his early memories was of the great P. T. Barnum, a frequent visitor at the Dodge home. Barnum presented the seven-year-old Wendell with a superb Circassian goat, grandly harnessed with solid silver bit and buckles and attached to a miniature buckboard.

The high-spirited goat managed to pull the reins from his young driver's hands and dashed madly off down Beacon Hill, past the old Parker House and Boston's City Hall, around the corner of Washington Street, through Scollay Square, across the Mystic River Bridge into Chelsea and around a corner, heading straight for Emery's Wharf. Workmen on the pier coundn't stop the frightened animal and over he dashed, buckboard, Wendell, and all into the river. Some longshoremen rescued the boy, the goat, and

the buckboard. This may be said to have been young Wendell's baptism in the sea, and a forerunner to his later circumnavigation of the earth aboard the "square-rigger," *Alexander Gibson*.

The family decided that the goat and buckboard had better be returned to Mr. Barnum, who understood and presented young Dodge with another, less dangerous gift. He also told Wendell that any time he wanted to join the circus, to let him know!

The thought of this opportunity led young Wendell to become proficient on the flying trapeze, the horizontal bars, and in doing hand and air springs and other circus tricks—just in case.

His chance to study with the great artist clown of the Ringling Brothers-Barnum Bailey "Greatest Show on Earth" came years later, when he undertook to write an article on "How it Feels to Understudy a Clown."

After a week's practice, Dodge, now drama critic of the *New York Press*, was made up by Harry LaPearl himself, the great clown of that day. Dressed in a clown suit and given a whopping slap, Wendell went sprawling on to the great semicircular stage of the Hippodrome. This sensational entrance brought loud applause and laughter, and Harry LaPearl kept it in his act.

At the conclusion of the act, LaPearl again gave Dodge another slap on the back as he rode off stage on a greased pig which he had managed to mount, and, what's more, stay on. Away went the pig swirling down the winding ramp to the animal quarters beneath the vast auditorium, throwing himself and Wendell against the rough brick wall all the way down. The "new" clown's skin on his entire right side was literally peeled off! A painful but triumphant ending to his circus career.

The precocious Wendell Phillips Dodge was studying art at the Art Institute of Chicago and music in the Chicago Musical College at the ripe age of 10. He continued his studies in Chicago until 1898 when he moved to New York to complete his art studies in the National Academy of Design and the William M. Chase School of Art, and later at the Art Students' League of New York. During this time, he was an inveterate theater-goer and saw all the world's greatest actors and actresses in Shakespearean and other dramas.

When thirteen years old and a graduate of the Brown School in Chicago's West Side, the Spanish-American War broke out. Fired by the exploits of the U.S. Navy, Wendell decided he wanted to go into the Naval Academy at Annapolis. This he did in the autumn of 1899 at the age of fourteen. The age limits for entrance were fifteen to nineteen years. Wendell's father was assured by his attorney, the great agnostic Robert Ingersoll of the necessary Congressional appointment, so Wendell prepared for the entrance exams to take place in 1900. Just prior to that date, the Congressman died and the Governor named a temporary successor who appointed another boy. So Wendell did not get into the Naval Academy, but he later joined the U.S. Naval Reserve, attained the rank of Lieutenant Commander, and retired as Commander.

His disappointment at not getting into the Naval Academy was greatly lessened by the wonderful opportunity to sail around the world in the "Down-Maine" built ship, *Alexander Gibson*. His memorable voyage lasted two years, an experience that intensified his desire to make a lifetime study of the natural sciences.

Upon reaching the age of eighteen, his father considered him man enough to go on a serious mission to study the religions of the world at their fountainheads. His active explorations began in the Holy Land in 1901. Here he had the great good fortune to become the honored guest of the noted Persian religious leader and scholar, Abdul Baha Abbas, the leader of the Baha'i faith. Abdul Baha was still technically a political prisoner of the Turkish government and confined within the ancient walled city of Acre, Syria.

The soul of this impressionable young man was fired by the "table talks" with Abdul Baha in these ancient walls of thirty-six feet of brick and masonry that no cannon ball ever had been able to pierce. The windows of Wendell's room originally had cannon holes in the fortress extending the full thirty-six feet, with the Mediterranean dashing endlessly below.

From this place, young Dodge started his exploration and studies of religions, ethnology, sexology, geology—the whole gamut of scientific and naturalistic research. During his travels in the Near East, he was appalled by the lack of sanitation and drainage systems and decided to try to do something about it by studying civil engineering when he returned home. While a student at New York University's Civil Engineering School, he had the rare opportunity of preceding a goldmining company's group to Nome, Alaska, as civil engineer and geologist, making surveys. He became stranded in winter while awaiting the arrival of two steam shovels, so he made the most of his stay by undertaking an intimate study of the Eskimos.

Returning from Alaska too late to begin his senior year at New York University, he accepted an engineering job with Pennsylvania Railroad, then just starting to build the Pennsylvania Station in New York City. He worked subsequently with the civil engineering corps of the Rapid Transit Subway Company on the first subway tunnels under the East River. There he was assistant to the engineer in charge of reconstructing the tunnel tube which had been built so out of alignment that the two ends did not meet in midstream as planned. On one occasion he barely escaped death in a "blow-out" in the tunnel, being next to the last to leave before the water rushed in.

Following his engineering experience, he became an editorial writer for the New York *Engineering News*. From this he gradually "oozed" into the general newspaper field, working for the New York City News Association, local bureau of the Associated Press, the *Evening World*, and *New York Press*.

One of the most famous newspaper feats was solving the case of the disappearance of the famous belly dancer, "Little Egypt," which brought him considerable fame. He covered many famous murder trials, including that of Harry K. Thaw, indicted for killing the noted architect, Stanford White.

Dodge's marriage in New York City, June 23, 1908 to Clothilde Beatrice Masson, an art student, was followed by magazine writing and eventually to becoming contributing editor to the *Strand Magazine* of London, editor of the American *Strand Magazine* and the *Wide World Magazine*, and sole American representative of George Newnes, Ltd., of London, the second largest publishing house in the world.

All these occupations failed to give Dodge the kind of money he needed to live in the manner to which he wanted to become accustomed, so he accepted the position of general press representative for the great David Belasco. For several fabulous years he kept Belasco and his productions right out in front.

His next step was to become a Broadway theatrical producer and an impresario himself, and what an impresario! Besides producing and directing many fine, successful plays on Broadway, he brought to America, for the first time, the famed Comédie Française headed by the then greatest actor in France, Maurice de Feraudy; also, for the first time, Yushny's Russian "Blue Bird" Theatre of Moscow; and he became general manager of the only tour in this country of players from the famous Grand Guignol Theatre of Paris. He directed the phenomenal publicity of the Max Reinhardt-Morris Gest super spectacle, "The Miracle," as well as first American appearances and coast-to-coast tour of the noted Spanish Duse of song, Senorita Raquel Mellor. Dodge was founder-director of the First American Theatre in Paris and elsewhere on the European continent.

After a long and successful career in the theatre, Wendell Phillips Dodge turned to writing again, becoming editor of the *Marine News* and writing articles on his many-faceted career. He also wrote a book, *A Short History of the Arctic*, and presently is compiling another book on Arctic explorations from the beginning of time down to this day.

At the age of ninety, he puts in more hours a day, with his writing and correspondence, than most young people.

Retired? He doesn't even acknowledge the word.

That red-faced infant from New Hampshire had everything going for him, an excellent ancestry and the name of a man noted for his individuality and strength of purpose. Commander Wendell Phillips Dodge has made the most of these things and added new qualities of his own.

Daniel Webster once replied to the question of the senior Senator from Illinois, who kept stubbing his toe on rocks while visiting Webster on his New Hampshire farm and finally sarcastically asked, "What can you possibly grow in these rocks?"

To which Webster replied, "Men."

Says Commander Dodge, "Every time I am in Boston, I pass by the noble bronze statue of the great Wendell Phillips and wonder if he is turning over in his grave, regretting his rash act."

"Yet," says Phillips' namesake, "as I look up at the handsome, strong face, I seem to see a wink in his left eye—and I am cheered by it. The next time I am in Boston I must not forget to have a photograph taken of me standing before this statue—in contemplation!"

A REALISTIC, NEAR-TERM ENERGY ALTERNATIVE

Mr. MOSS. Mr. President, as we increasingly turn to science and technology to help overcome our energy problems, we are beginning to discover the possibility of utilizing many unique energy sources. One of these is solar energy. The most promising near-term use of this resource, according to an article by Mr. W. A. Shumann in Aviation Week and Space Technology, January 14, lies in the heating and cooling of buildings. I have introduced legislation, which was cosponsored by Senator WEICKER, to accelerate this application of solar energy.

As Mr. Shumann notes, heating, and cooling of buildings account for approximately 25 percent of the energy consumed in the United States. Thus, the utilization of solar energy in this area offers an excellent opportunity to make an early and major impact on energy requirements.

I ask unanimous consent that Mr. Shumann's article be printed in the RECORD for the benefit of my colleagues.

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

MAN TURNS TO SUN AS ENERGY ALTERNATIVE

(By William A. Shuman)

WASHINGTON.—Present demands for electricity and petroleum have generated renewed interest in using the suns energy as a partial alternative. Companies with aerospace systems experience, rather than electric

utilities and oil producers and refiners, are now virtually alone in solar energy research.

Widespread use of the sun's light for heating and cooling and for generating electricity, however, is at least a decade away and may not occur before the end of the century. Still needed is development of systems that are competitive in and acceptable to the marketplace.

Rep. Olin E. Teague (D.-Tex.), chairman of the House Committee on Science and Astronautics, put the benefits of solar energy succinctly:

"It's free, clean, and no one can tax it. No one can cut off our imports of sunshine."

The other side came from Roger N. Schmidt of Honeywell, Inc., at a recent National Science Foundation symposium. "Solar power is not free," he said.

"One can take a bucket and catch free photons. But it is the cost of the bucket that is the cost of solar energy. Today that bucket is expensive."

Schmidt said that a plant to use solar energy for the generation of electricity on a large scale would cost anywhere from $500-$1,500/kw. or more, while nuclear and fossil-fuel plants now being designed for the late 1970s are expected to cost about $500/kw. and $400/kw., respectively.

The most promising near-term application of solar energy, proponents agree, lies in the heating and cooling of buildings. This is so, Dr. Lloyd O. Herwig, director of advanced solar energy research and technology for the National Science Foundation, said, "not only because it is the solar energy area in the most advanced state of research and development leading to economically viable applications, but because it also offers an excellent opportunity to make an early and major impact on national energy requirements."

These uses account for approximately 25% of the energy consumed in the U.S., at an annual cost of $18 billion. These factors have led the science agency to allocate more than 40% of the estimated Fiscal 1974 solar energy research budget to this area.

About $13.2 million is being spent by NSF on solar energy research in the current fiscal year. This total is up from $3.96 million in Fiscal 1973, $1.66 million in Fiscal 1972 and $1.20 million in Fiscal 1971. In the 20 years before that, Herwig estimates that the federal government spent an average of $100,000 annually on solar energy research.

Last fall, the agency awarded eight-month contracts totaling $1.54 million to three teams of aerospace companies and universities for the initial phase of proof-of-concept experiments in the heating and cooling of buildings (AW&ST Oct. 15, 1973, p. 24). In Phase O, the three teams—headed by General Electric, TRW Systems and Westinghouse Electric—will study the heating, cooling and hot water requirements of different types of buildings in various regions of the U.S. in an effort to determine which solar energy systems could meet more than half of these needs. The teams will examine the economic feasibility of different applications and recommend which should be carried ever into Phase 1.

In most instances, a system using a conventional fuel will be needed to supplement the solar energy one, the science agency recognizes. It then will select any or all of the teams to do Phase I studies—preliminary system and critical subsystem design—and Phase 2—detailed system design, construction, test and evaluation.

The science foundation then expects to turn management of the last two phases—design, construction and operation of a demonstration system and then a commercial one—over to a more mission-oriented agency such as the Dept. of Housing and Urban Development.

While these studies are under way, the National Aeronautics and Space Administration is examining different types of solar collectors that might be used. Most of this work is being carried out at the Lewis and Langley research centers. The space agency will spend about $1 million in its funds on solar energy research this fiscal year.

The collectors are the key components in solar heating and cooling systems and also are the pacing item in development, according to William H. Woodward, director of NASA's space propulsion and power division and co-chairman of the 1972 NSF/NASA Solar Energy Panel.

The goal, he said, is to develop collectors that will cost $1–$2/sq. ft., operate at 50% efficiency at 220F and last for 15 years. Current commercially available collectors cost $5–$20/sq. ft. and are only 20–30% efficient.

Work at Lewis includes initial standardized tests of the most promising solar collectors. A 4 × 4-ft. chamber produces simulated sunlight at varying intensities and angles and will be able to provide comparable test and performance data on different collectors. Such data currently are not available, Woodward said. The Lewis facility is available to industry, he added.

Lewis also is building a small 3-kw. facility that will test the several heating and cooling components as a system in order to obtain data on interactions and overall performance.

The Marshall Space Flight Center plans to have in operation by June a 1,500-sq.-ft. solar collector installed as a "roof" over three surplus trailers to simulate a small house. The collector will have a cover of Tedlar plastic instead of glass because Marshall engineers have found that Tedlar provides the same transparency at less cost. The thermal coating to be used was developed in the Skylab program and features a high 15:1 absorption-emissivity ratio.

NASA's biggest solar energy test project will get under way at the Langley Research Center in mid-1975. A 53,000-sq. ft. systems engineering building now being built will have a 15,000-sq.-ft. solar collector next to it. While NASA expects that commercial solar heating and cooling systems will be mounted on the roof, it is putting this one on the ground adjacent to the building to permit easy modifications to the collector and to keep the capital investment down.

This size collector will provide most of the building's heat and some of the cool air and will test the overall system and its storage capacity. The building also will be able to use Langley's conventional steam system for all of its heating and cooling. As a rule of thumb for current technology, a collector must have about the same area as a one-story building to fulfill all the structure's heating and cooling needs.

As Ian R. Jones, manager of the thermal energy systems department at TRW Systems, pointed out, "sizing the system to meet peak demands will result in underutilization of the capital investment for much of the time." Similarly, the most expensive electricity that power utilities produce is that generated at peak demand times.

The most cost-efficient heating and cooling system, therefore, is one that uses 40–70% solar energy depending on location and conventional fuel or electricity for the remainder.

The Langley test facility will be used to evaluate different collectors at the same time and to study such transitory effects as what happens when a cloud obscures part of the collector.

The tests will not get under way until mid-1975, a slippage of about six months due to delays in construction and material shortages for the building itself. Cost of the collector is estimated at $300,000–500,000, or an average of $13/sq. ft.

Emphasizing that the Langley facility is a test and not a demonstration project, NASA's Woodward said, "all we've demonstrated is how to make a damned expensive heating and cooling system."

While NASA is pondering the technical problems, some private companies are looking at other difficulties. TRW's Jones recently discussed these with the House Committee on Science and Astronautics. They include:

Compliance with national standards and local building codes, so that collectors could legally be installed on dwellings.

Approval of the Federal Housing Administration so that the agency will issue government-backed mortgages to houses with solar heating and cooling.

Agreements with construction unions. Unresolved is whether the collectors will be delivered to the site already complete or assembled there. If the latter, which union will do the work.

Customer acceptance. The many subtle factors involved in the esthetics that appeal to home owners may act against solar heating and cooling systems, at least initially. Also, owners must be convinced that a higher initial cost coupled with lower operating expenses over a long period is indeed worthwhile. Recent marketing experience indicates a buyer reluctance to such economics, Jones said.

Strong marketing will be needed to convince architects, builders and potential home buyers that solar energy is an economical alternative.

The need for solar energy heating and cooling systems to be cost-competitive at the outset suggests to Prof. George O. G. Lof of Colorado State University that there is a need for government subsidies to manufacturers.

The university has a $238,000 NSF contract to build a residential solar heating and cooling system, the first one to use state-of-the-art components.

The next step beyond using solar energy to heat and cool individual buildings is to use it to generate electricity for the structure. Such a house, called Solar One, has been built at the University of Delaware under the Direction of Dr. Karl W. Boer. In place of a solar collector, it uses cadmium sulfide solar cells to produce electricity. Behind the cells are air ducts that conduct heated air to the basement for storage and later use in heating and cooling.

The success of such a system obviously depends on the cost and efficiency of the solar cells. The cadmium sulfide cells are not quite as efficient (about 5%) as the silicon cells used in most spacecraft (11–13%), but they are far less costly. Boer hopes to get the price per peak kilowatt output below $200. No technological breakthrough is needed, he says. The NSF/NASA Solar Energy Panel found, however, that increases in efficiency and useful life probably will be necessary if such cells are to be widely used commercially.

Other researchers are concentrating on reducing the cost of silicon solar cells. NSF has a five-year objective of reducing the cost of a single cell by a factor of 10, to about $5 per watt. NASA's Woodward thinks the cost eventually will have to be under 50 cents per watt for commercial acceptance. In one promising recent development, Tyco Laboratories scientists, working under NSF sponsorship, have succeeded in growing continuous ribbons of silicon. This process is a definite improvement over the tedious and expensive one of growing individual silicon crystals.

Most current efforts to employ solar energy for large-scale production of electricity or heating clusters of buildings are concentrating on thermal conversion rather than large solar cell arrays.

Two concepts that have received study are:

FLAT-PLATE COLLECTOR

Aden B. Meinel and Marjorie Meinel of the University of Arizona have proposed a system

whereby collectors would gather heat that would be used to melt mineral salts. The molten salts could be stored in insulated tanks before being sent through a water system to produce steam. The steam then would drive turbine generators to make electricity.

The Meinels estimate that a square mile of collectors could produce enough heat to drive a 100-megawatt plant. A byproduct is that cattle could graze on the plants that would be able to grow in the shade of the collectors in the desert.

SOLAR TOWER

Reflectors are used to concentrate sunlight and focus it at the top of a tower in the center of the area. The concentrated sunlight would produce temperatures of 1,000F that would make steam for a generating plant. One disadvantage is the computer-controlled system that would be needed to keep the mirrors focused on the tower.

G. T. Schjeldahl Co. has a 12-month, $260,000 contract from NSF to explore such a system. Dr. Donald E. Anderson, the company's director of research, estimates that a square-mile array of heliostats, or sun-following mirrors, around a central tower could completely power a 400-megawatt generating plant.

Both systems need further research in the coatings of the flat-plate collectors and the mirrors to obtain the optimal material. In addition, they are expensive to build compared with conventional powerplants. NSF estimates the Meinels' system would cost two-five times as much as a fossil-fueled plant.

Regardless of the solar energy system or its size, the biggest barrier to widespread use is the cost of the unique materials needed. "Materials across-the-board are the major challenge to cheaper solar energy," NSF's Herwig said.

Further away and even more costly are two concepts for using geosynchronous satellites either to transmit or produce electricity.

Rockwell International's Dr. Krafft A. Ehricke has proposed a power-relay satellite that would provide cheap transmission of ground-produced electricity over distances of 4,000 mi. or more. The generating plants could use solar energy, nuclear power or fossil fuels and be located in deserts or other remote areas where they would have little impact on the environment.

The electricity would be transmitted by microwave to a satellite in synchronous orbit and then reflected down to a site close to a large center of consumption. Such a satellite could add to solar energy systems by enabling transmission from sunlit to dark areas of the earth, thus eliminating or reducing one of the principal drawbacks to solar energy—the need for a storage system. The relay satellite also would enable the transmission of solar energy-produced electricity from such places as the Sahara Desert to cloudy northern Europe.

Size of the satellite depends on the size of the ground transmitter. Cost of the transmitter antenna increases rapidly with size, and the smallest possible antenna is when it and satellite are the same size—about 3.4 km. (2.1 mi.) on a side. A transmitter antenna 10×10 km. (6.2 mi.) would permit a 1×1-km. satellite. Such a spacecraft would weigh 154,000–660,000 lb. depending on design and the power reflected. Ehricke assumes a cost of $500/lb. to get such a satellite to synchronous orbit. A power relay satellite, he says, would be lighter by a factor of 25 than an orbital power station.

Such a station, which would use large solar cell arrays to produce electricity for transmission to earth, has been proposed by Dr. Peter E. Glaser, vice president, engineering sciences of Arthur D. Little, Inc.

His firm, working with Grumman, Raytheon and Textron, has reported that a satellite solar power station should be considered as an alternate source of energy.

Such a satellite would be 11.73 × 4.33 km. (7.3×2.7 mi.). Two solar panels would flank a microwave transmitting antenna that would be 1 km. in diameter. Glaser estimates that electricity produced in the spacecraft could be transmitted to the existing power grid on earth with 68% efficiency.

After a 10-year technical verification program, a prototype satellite could be flying in 1990 and a commercial version by the end of the century, he said. The verification program is estimated to cost several hundred million dollars and a prototype 100-megawatt output satellite as much as $2 billion.

Both the power-generating satellite and the power relay satellite would require extensive use of the space shuttle. Glaser estimates that 10 orbiters would have to be dedicated to the program of building a commercial orbital power station. Ehricke said his concept would require a space tug with an ion propulsion engine to move satellite parts from low-earth orbit to synchronous orbit.

Both concepts currently are getting a low priority from both NSF and NASA because of a scarcity of funds and a desire for advances in current technology.

Neither concept would be available until the end of the century, while proponents say direct solar energy could be supplying as much as 10% of the heating and cooling required in the U.S. by the mid-1980s.

Congressional leaders and top NSF officials believe this country will be depending on coal, gas and oil and on nuclear fission for almost all its energy until 2000. Research and development programs in these areas are more important than solar energy, which nevertheless deserves continued and increased support, they believe.

AUSA REPLY TO THE BROOKINGS INSTITUTION RESERVE STUDY

Mr. THURMOND. Mr. President, the Association of the U.S. Army has prepared a non-nonsense rebuttal to the Brookings study which recommended Reserve and Guard force reductions of over 300,000 personnel.

The Brookings study is based on a number of misconceptions which, in my view, make the entire effort of limited value.

In any event, it is important that there be a response to these proposals and AUSA has provided such a response.

Mr. President, I ask unanimous consent that the AUSA position paper on the Brookings study be printed in the RECORD at the conclusion of my remarks.

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

AUSA POSITION PAPER

(A response to the Brookings Institution study on the U.S. Reserve Forces)

The Brookings Institution has recently issued the fifth in a group of studies on defense policy. This one is entitled "The U.S. Reserve Force: The Problem of the Week-End Warrior." The study has been prepared by Martin Binkin, a retired Air Force colonel and a senior fellow in the Brookings Foreign Policy Studies Group. He also served formerly in the office of the Assistant Secretary of Defense for Systems Analysis. The study was funded by money made available by the Ford Foundation.

Basically the study calls for a re-examination and restudy of our whole Reserve forces program. Binkin maintains that, if this were done, at least some of the following of his recommendations could be adopted:

I. Reduce size of Reserve Components.

A. Eliminate non-essential and marginally effective Army units

B. Merge the headquarters, training and recruiting facilities of the Army's Guard and Reserve

C. Reduce to cadre status the equivalent of four Army National Guard divisions (including associated support elements) and augment them with Reservists from IRR or standby Reserves on mobilization

D. Integrate selective elements of Army Reserve Components into five active Army divisions, thus reducing requirement for active manpower

E. Reduce number of individual Reservists in Naval Reserve and use some on assignment to Naval vessels undergoing overhaul to reduce active forces

F. Merge Air National Guard and Reserve headquarters, training and recruiting facilities. Limited integration of Reserve crews into strategic bomber and tanker forces

II. Eliminate the need for Reserve forces recruiting bonuses by reducing Reserve manpower requirements.

III. Revise Reserve retirement compensation to eliminate the "recomp" feature which bases amount of pay on pay scales in effect at retirees age 60 rather than the date he retires.

Binkin estimates these steps would reduce active military manpower by 60,000, Reserve manpower by 310,000 and, when fully effective, would yield average annual savings of about $1.4 billion in constant FY74 prices.

The study contains sufficient errors in fact, and an apparent lack of knowledge of some of the key features of our Reserve Component program, as well as on-going actions in the study area, to warrant a reply at least in sufficient depth to clarify the record. Additionally, a great many serious students of national defense would disagree with some of the basic philosophy on which Binkin bases his views and his recommendations.

While the study purportedly covers all the services, by far the greatest weight of his comments and suggestions are directed solely at the Army. It is these to which we will respond.

Binkin does not appear to be aware of the great amount of time, energy and manpower that has been consistently devoted for the past twenty-five years to the examination, re-examination and restructuring of the Reserve forces, as well as their role in our total force structure. It is quite possible that these components have been more studied, reorganized, realigned and otherwise harassed than any segment or system that has been part of our defense structure. He obviously either was not aware of or chose to overlook the current arbitrary 48,000 man cut in the Army's Reserve Components force structure which DOD directed earlier this year.

He also failed to mention the latest of many major studies of the Guard and Reserve which was directed by the Secretary of Defense on 23 August 1973. Included in this study's objectives are considerations of the availability, force mix, limitations and potential of these components in a national emergency. This study is underway now, to be completed by fall of 1974.

Early in his paper, he states that "a detailed rationale for Reserve forces has remained outside the range of debate." An examination of the Congressional Record or a casual inquiry to the service force planners, the Section 5 Committee, any Army Readiness Commander or, for that matter, senior Reserve Component commander would have clarified that error of assumption.

At the outset, he makes a sweeping premise that starts the whole study on the wrong path when he says that the "precise role of

the Reserve Components in current national security planning remains unclear." It is now and always has been. This is what the Total Force Concept is all about. It has been clearly stated on numerous occasions that our national defense posture is based on a one and one-half war strategy in which "NATO First" is a key element. The Army's contribution to this strategy is the 21 division force structure with the supporting elements.

In the Army, the Reserve Component portion is usually referred to as the 711,000 TO&E structure and includes all those elements which are considered essential to make the 21 division force viable and supportable. So there is a very clear cut rationale and understanding, not only of what units are needed, but why they are. As with any worthwhile plan, changes are required from time to time, but the basic plan remains intact. This fluctuation, particularly among smaller units, takes place with frequency.

Several times in this study, Binkin refers in a derogatory manner to the fact that the Reserve Components played no major role in Vietnam. On page 1, for example, he says, ". . . their failure to be used in Vietnam—the longest and most difficult war in U.S. history—cast strong doubts on their value and raises serious questions about their future role in national security." Again on page 40, "Vietnam experience cast a stigma on Reserve forces that will be difficult to erase." Nowhere in this study does he indicate that the decision not to mobilize more Reserve forces for Vietnam was a purely political decision made by President Johnson over the strongest objections of the Joint Chiefs of Staff and the Service Secretaries. History has shown it to be a bad decision and one that had a devastating effect on the active establishment. It was not a decision made by the Reserve Components and there is no evidence of any reluctance on their part to serve playing any part in the decision.

Later in the paper, the author cites a GAO report to point up that those Army units which were called up were disappointing. All three of the points he cites have to do with individual training and equipment and personnel shortages. He does admit these units were undergoing reorganization at the time they were called up. He fails to point out that during the six months or so before callup, they were flooded with untrained people that even a trained cadre couldn't digest. Surely he would not hold these units responsible for equipment shortages over which they had no control. These allegations make an invalid basis for judging "value" or "future role in national security."

One other basic point that obviously colors Binkins thinking needs to be clarified before going on to address some of his specifics. On page 19, he states the view that "The basic rationale for maintaining Reserve forces rests on economic grounds." This reflects a fundamental misunderstanding of our historic aversion to overly large standing forces and our traditional reliance on the citizen-soldier concept that is part of our constitutional heritage.

One would gather from the tenor of this study that Binkin sides with the adherents of the short war policy who believe, a) that Europe is probably the only place we would fight again, and b) that it would be all over so swiftly that the Reserve Components would not get involved in time to make a significant contribution.

The record of the past twenty-five years would seem to refute adequately the idea that the United States would not respond anywhere in the world where our basic interests were seriously challenged.

The concept of short wars has long been the Lorelei of military philosophers and, more significantly, political leaders. Geoffrey Blainey, in his excellent new book, *The Causes of War*, points out that one of the most recurrent clues illuminating the causes of war and so of peace is the optimism with which most wars were commenced. He goes on to document the point in great detail, using, among others as prime examples, World Wars I & II, the Soviets in Finland, North Korea's attack on the South, Anglo-French Campaign in the Suez and the fantastic case of India and China in 1962.

Moving on now to an examination of specific points in the Binkin study, let us examine these in more or less chronological order for ease of checking.

On the credit side, the author is quick to acknowledge that in the absence of the draft, "the Reserves have become the primary option available to the President for quickly expanding military forces in a national emergency." He could have been more precise by saying the *only* option available.

He suggests that hard choices await national security planners, who are faced with fitting maximum defense capabilities "within more limited defense resources." Successive Secretaries of Defense, as well as the President of the United States, have been at considerable pains to point out that our national priorities *have already been reordered* through the massive cuts which have already been made in our defense establishment and that what we are working at now is increased efficiency and effectiveness on what may be a *modestly rising* scale of defense expenditures. We have had occasion in the past to quote from the President's Foreign Policy Report to Congress three years ago. Perhaps it is pertinent to repeat: "It needs to be understood with total clarity . . . that defense programs are not infinitely adjustable . . . there is an absolute point below which our security forces must not be allowed to go. That is the level of sufficiency. Above or at that level, our defense forces protect national security adequately. Below that level is one vast undifferentiated area of no security at all. For it serves no useful purpose in conflicts between nations to have been almost strong enough."

Binkin goes on to discuss some of the problems incident to mobilization. He rightly points out that it does take a longer time to deploy Reserve Component units than those in the active establishment. He doesn't acknowledge the very active efforts to reduce the administrative work loads involved in mobilization and to get the maximum amount done prior to call-up. Nor is it clear, as it should be, in his remarks that deployment schedules take into account that our equipment pipeline and transportation system limitations make it evident that all units cannot be digested at once. In the order of priority, Reserve Component units are worked into the schedule at realistic intervals which take into account these problems. The fact remains, however, that readiness and deployment goals are being shortened as rapidly as conditions permit and should soon be substantially better than his estimate indicates. Certainly the active Army views this as a manageable problem.

This would have been the appropriate place for Binkin to describe and assess the really massive effort which the Army has put in motion to assist with these very problems. In a major reorganization effected by the Army early last year, training and readiness support of the Reserve Components was made the sole responsibility of the commanders of each of the three CONUS Armies which operate directly under the Army's new Forces Command. Under the CONUS Armies are nine Readiness Regions, each organized into subordinate groups and teams of experts who work shoulder to shoulder with Reservists to improve their readiness. These active Army people are doers and specialists in hands-on training, not staff supervisors. Since their mission is aimed exclusively at improving Reserve Component training and readiness, it is unfortunate that Binkin chose to ignore this effort. It should do much to change his views on this basic problem.

Binkin states that at the beginning of FY 73, about 60% of the Reserve maneuver units were without weekend training areas. This is incorrect. Only 18% are without necessary areas today. There is an on-going program to which he refers for armories and training areas that will improve this even more.

Again discussing readiness, he says that "Army National Guard units are designed to attain readiness at the company level" and "the post-mobilization training would delay division-sized deployments for perhaps four months." The company level training is a *minimum*. There is considerable training above that level that has been going on for some time. In the January 1974 issue of *Soldiers* magazine, there is a good description of the seven maneuver training commands which have been established from Army Reserve Training Division Brigades to write and organize field exercises for the active Army as well as the Reserve Components and to conduct tests from battalion to corps level.

But it would be wrong to infer that large units will ever get to the point where post-mobilization training is not required. The goal is to reduce the time. If the Reserve could be left alone for a while and the active Army's current support effort be given a chance to work, these goals can be met.

His chapter four suggests that sinister political forces are constantly plotting to maintain over-large Reserve forces to the detriment of our country's welfare.

There are political forces exercised in all segments of our society and many far more effectively than those on behalf of the Reserve Components. This will be borne out, if proof is needed, by data which those two "prosperous, united, articulate and highly active" Reserve Component lobby organizations would be willing to supply.

In the latter half of his paper, Binkin gives us his rationale which he believes could result in substantial cuts in the size and costs of our Reserve forces. He first addresses what he describes as "relatively small, obscure support units and activities." His first target is the 53 civil affairs units which he says have about 7,000 plus men. There may very well be too many of these units. But for an Army that has spent 25 years helping govern one of the world's major cities in Berlin and governed our second largest trading partner for a number of years before drafting her constitution, the civil affairs function needs a nucleus of units which are able to perform their specialty when we need them. So, while there may be more units than we need, it would be foolhardy to wipe them out as Binkin suggests.

Binkin is also of the opinion that medics, lawyers, construction workers and administrative people whose civilian skills are required need not be in units. One could apply the same logic to licensed pilots. In the first place, the President has no authority to call individuals to duty without Congressional action, so we would have to have complete mobilization before these people could be called up as individuals. But, even beyond this, to suggest that an amalgam of civilians, however talented, could be welded quickly into a functioning military unit flies in the face of all our past experience.

A minor point, Binkin raises the question as to why we still need 4,500 Army Guardsmen in Nike/Hercules units. The answer is we don't, and the slots assigned to these organizations have already been eliminated—another example of the continual up-dating of our Reserve organization.

Binkin also questions the need for the 21 separate brigades, including the special mission brigades. The answer is that all of these

are specifically targeted for early deployment in our total force mobilization plan.

He assumes that of the roughly 300,000 people in the non-divisional units he's been discussing, 200,000 are of marginal use and could be eliminated. This suggestion reveals a lack of knowledge of the functioning of land forces and the diverse elements whose teamwork is required for success in combat.

Binkin next makes a pitch for another try at some sort of a merger of the Guard and Reserve. He takes cognizance of past attempts in this direction and is fairly pragmatic in his assessments of the meager chances for a success of another effort. He offers a variation with his suggestion that the Army Guard and Reserve be combined into the Guard while the air components of each be combined under the Reserve. Although he rightly says that the elimination of headquarters saves very little, he nevertheless arbitrarily assigns annual savings of $30–$50 million to his merger plan on the assumption that combined base operations, training and recruiting would provide such savings. This is pure crystal ball.

As a further means of saving money, Binkin next suggests that four Reserve Component divisions and their supporting elements could be reduced to cadre status, since there would be time after mobilization to assign the additional personnel required, issue equipment, etc. As we have pointed out, there is a place in our Total Force Plan for these divisions, and it calls for them to be ready far sooner than they could be under any cadre system. In-being units can obviously be whipped into top shape far faster than those requiring so much filling and training after mobilization. Units that can be deployed in the first 60 days after mobilization are more valuable than those that come along later. Finally, anyone who has ever had any exposure to a cadre operation is aware of its severe limitations. Cadre units cannot adequately maintain the unit's equipment. They are not susceptible to effective training over any extended period of time. They do not provide the basis for either leadership or team training, both of which are essential, particularly for units of the combat arms. There is no teamwork, esprit or the other essentials to a successful military unit. In short, it's a bad idea.

He goes on to make a gratuitous comment that deserves refutation. He says: "Motivated in part by the past performance of Reserve units, and possibly by the conviction that current active forces will need but limited assistance to meet the range of likely contingencies, many defense planners appear to be counting on no more than four—and perhaps as few as two—National Guard divisions in the first six months following mobilization." He doesn't identify the planners, but that statement contradicts the testimony of the Secretary of Defense, the Secretary of the Army and the Army's Chief of Staff. On the record, this statement is completely opposite from the DOD positions.

He moves on next to suggest the possible replacement of some active Army units with Reserve Component units in what he terms "hybrid" divisions. Basically, what he is suggesting is that possibly a battalion of each brigade, and a battery of each of the artillery support units could be a Reserve Component unit. The same would apply to the division base units. He would only do this in CONUS land divisions *"not likely"* to be needed immediately in an emergency.

There may be occasions when our active divisions will be employed *without* mobilization. Obviously the "hybrid" divisions would be at only two-thirds of their strength if this took place.

There would always be a disparity in readiness between active and Reserve units which, in a "hybrid" situation, would slow the combat deployment of the total unit.

In all of his suggestions, the basic thought keeps coming through that we will face only one contingency at a time (if, in fact, we face any at all) or, if we do get committed, it will be all over in less than 90 days. Fortunately, our defense planners have a more prudent view.

The concept of leaving Reserve Component units satellited on active units for training does have merit. The Army has been experimenting with that idea for the last two years at Fort Hood in its so-called "Round Out" concept. Emerging from this experience is an "affiliation" program now being worked up which would provide for separate battalions and brigades to be attached to achive Army units for training, supervision, et al. It is even contemplated that they would fight with these units as an *augmentation*.

His final suggestion for cutting costs is in chapter seven, dealing with what he calls "Compensation Efficiencies."

First, he makes a pitch for not making available recruiting bonuses for the Reserve Components. As is the case elsewhere, not all his facts are straight.

He takes the Reserve Components to task when he says, "If greater reliance were placed on attracting people with previous service, possible shortages could be alleviated." The problem is *exactly* the opposite. The Reserve Components have not been meeting their quotas of *non-prior service personnel*. They have already been relying too heavily on prior-service people and with that source drying up when the remaining draftees leave the Army this fall, they will have to rely on getting non-prior service people. This was pointed up again in an article in the January 1974 *Soldiers* magazine: "Latest figures reveal the Guard is at 95% strength, the Reserves at 90% strength. But the figures are deceiving. Both the Guard and the Reserve are hitting lows when it comes to getting non-prior service people. The Guard, for example, is getting 1,700 monthly against a 4,000 requirement. The Reserve is not faring much better."

Actually, as the foregoing quote also points up, recruiting for the Reserve Components has improved considerably, and, were the recruiting aids requested made available by the Congress, many working on the problem believe the Reserve Components could maintain their strength goals.

Binkin would reduce the recruiting problem further by the massive cuts in authorized strength he has suggested.

The author's final point is his concern that the Reserve Component retirees may be overcompensated. He advocates that Reserve retirees be paid their retirement based on the pay scales in force on the date of their retirement rather than those prevailing at their age 60, when they actually begin to draw the pay. This suggestion will undoubtedly be considered with other facets of the retirement program now being examined.

In any consideration of retirement, it is useful to have a feel for the numbers under discussion. He did not include them. In response to query, we were advised by the Department of the Army that, as of 3 November 1973, the following were considered careerists and apt to go on to retirement:

	Army National Guard Percent	*Army Reserve Percent*
Officer	69.8	64.8
Enlisted	21.7	16.5

In one of his last chapters, Binkin presents the case for the short war which would, of course, make all mobilization plans obsolete. In his scenario, he gives no weight at all to what an adequate in-being total force defense establishment can do to prevent even a short war from starting.

Frankly, this study is a disappointment. It is shallow, negative and counterproductive. Criticism is undoubtedly warranted in many areas of our Reserve program. Hopefully, the on-going DOD study will identify those areas, so that our full effort can turn again to improving the strength, readiness and training of our Reserve Components.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session to resume consideration of Executive O, 81st Congress, 1st session, which the clerk will state by title.

The assistant legislative clerk read as follows:

A resolution of ratification with understandings and declaration to the International Convention on the Prevention and Punishment of the Crime of Genocide, Executive O, 81st Congress, 1st session.

The text of the resolution of notification and the understandings and declaration read as follows:

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of The Prevention and Punishment of the Crime of Genocide, adopted unanimously by the General Assembly of the United Nations in Paris on December 9, 1948, and signed on behalf of the United States on December 11, 1948 (Executive O. Eighty-first Congress, first session), subject to the following understandings and declaration:

1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in Article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.

2. That the United States Government understands and construes the words "mental harm" appearing in Article III(b) of this Convention to mean permanent impairment of mental faculties.

3. That the United States Government understands and construes Article VI of the Convention in accordance with the agreed language of the Report of the Legal Committee of the United Nations General Assembly that nothing in Article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

4. That the United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in Article V has been enacted.

The PRESIDING OFFICER. Time for debate between 11 a.m. and 12 noon will be equally divided and controlled by the Senator from Idaho (Mr. CHURCH) and the Senator from North Carolina (Mr. HELMS).

Who yields time?

Mr. PROXMIRE. Mr. President, the Senator from Idaho is off the floor at the moment so I suggest the absence of a quorum and ask unanimous consent that

the time for the quorum call be taken from both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. ABOUREZK). Without objection, is it so ordered.

Who yields time?

Mr. PROXMIRE. Will the Senator from Idaho yield me 3 minutes?

Mr. CHURCH. I yield the Senator 3 minutes.

Mr. PROXMIRE. Mr. President, as we vote on this crucial cloture motion, we should all be aware that this is it. This vote will determine whether or not the Genocide Convention will be adopted. Here is an occasion—a rare one—where, because the treaty must pass by a 2 to 1 vote, the cloture vote will be the tough one. A vote against cloture will doom the treaty. There will be no way Senators can vote for the treaty if the cloture motion is not agreed to.

Mr. President, once again, I ask Senators to recall what is behind this treaty. Let us face it: We are voting on whether we should join the fight, along with every other major nation in the world except mainland China, against the most vicious crime mankind can commit. Genocide is the planned, premeditated murder, extinction of an entire group of people. What we are voting on is the crime committed by the Nazi in Hitler's Germany in World War II. None of us can envision the monstrosity of 6 million Jews put to death in concentration camps—most of them gassed and then incinerated.

Mr. President, if we are to act against this monstrous crime of genocide there is no way for us to act except by international treaty. This is not a crime committed within this country. It never has been. I am confident it never will be.

What kind of a crime is genocide? It is a crime typically committed by governments that have authority and power in a country against persons within that country. How can you reach that kind of crime except by treaty? How?

We all know there is no way except by bringing the world community together in concert. Americans can be proud that after World War II, this country led the way by persuading the United Nations to adopt the Genocide Convention and start it on its way. The determination of mankind throughout the world to prevent this monstrous crime has gone a long way since then. As I said, every other major nation on Earth except this country and mainland China have agreed by ratifying the treaty. It is now up to us. President Nixon and every President since the United States persuaded the U.N. to adopt the treaty has supported it, and every Attorney General has found it to be constitutional and proper. The House of Representatives has no role to play in this treaty. It is entirely, completely, up to us—up to this body. And now it is up to this vote we are about to take.

Now, after 24 years in the Senate, after 26 years since the convention was adopted by the United Nations in 1948, it is up to the vote we are about to take, which we will take within the next 45 minutes.

I hope that when Senators vote on this treaty, they will recognize that they will admit that genocide is a crime, that we should act on it; that we should prevent it; that this Nation should not be the only free nation in the world, the only major free nation in the world, that has not acted; that this Nation should not be the only major nation other than mainland China that has not acted on this treaty; that the only way we can act is through adopting this treaty. There is no other way we can get at genocide.

It is easy for us to get a law passed in this country against the murder of one person, even murder that might be provoked in some way. What we are seeking is to agree on a treaty with other nations of the world to outlaw the crime of genocide committed against hundreds of thousands or millions of people, not because they have committed any crime, but because they have been born into an ethnic group or because they want to worship God in their own way.

I hope that the Senate will recognize its responsibility and its duty.

I thank the distinguished Senator from Idaho.

Mr. CHURCH. Mr. President, I yield myself such time as I may require.

First of all, I commend the able Senator from Wisconsin for his fine statement this morning. It is true, as he has pointed out, that the principal purpose of the Genocide Convention is to affirm that genocide is an international crime, so recognized and defined by all the parties to the treaty.

We should all remember that following the Second World War there were those who criticized the trial of the Nazi leaders for such heinous acts as the calculated, systematic extermination of Jews, not because of any sympathy for the savage things they had done, but because there was no crime of genocide that had been formally recognized by the world community. The crime had not been given the status of an international offense by a convention of the kind we are now considering.

Therefore, some eminent lawyers pointed out that the trial of the Nazi leaders violated the principle of Anglo-Saxon law that protects against ex post facto, or crimes created after the fact. There is no doubt that these critics had legal grounds for their protestation.

I think this is the reason why, shortly following the war, the United States itself proposed a Genocide Convention to which all civilized nations might subscribe, one which would clearly establish genocide as a recognized crime in international law. That, of course, is what this treaty does. In doing so, it is not unique. Other offenses are recognized as crimes in international law. Piracy, for example, has long been accepted as an international crime. This treaty would add the crime of genocide.

The principal undertaking of the parties to the treaty is to affirm that genocide is an international crime. The treaty then defines the offense as other crimes are typically defined, requiring not only the act but the intent, in this case, to destroy all or a substantial part of a religious or national or ethnic minority.

Next, the parties to the convention pledge that they will make genocide a crime under their own domestic law and undertake to punish genocide in their own courts. Now, one would think that such an undertaking by the United States would not provoke such heated opposition. I have found it difficult to understand why the United States, of all nations, would be so reluctant to join in a treaty of this kind. Every American State has on its statute books the crime of murder. Nearly all of our States prescribe punishment for murder that goes beyond the punishment contemplated in the legislation that would implement this treaty for the crime of genocide, yet murder is the deliberate taking of a single life. Why, then, should there be such reluctance to do as much when it comes to mass murder, the deliberate taking of many lives with the intent to destroy some particular group owing to its racial composition or its religious beliefs, the most offensive and heinous crime known to man?

Oh, it is said we must reject the treaty because somehow, in the fine print of the treaty, and if not there, then sometime in the future if this treaty is ratified, in some unspecified way, some American citizen might be extradited and tried in a foreign court on charges of having committed genocide. To set that argument completely to rest, we have offered a reservation to this treaty which constitutes an express condition to the articles of ratification, that would fully protect any American citizen against any such future jeopardy, however tenuous it might be. This reservation specifically preserves for the United States the right to try its own citizens in its own tribunals on the charge of genocide, even though the alleged act occurred outside the United States. Furthermore, the reservation imposes upon the Secretary of State the obligation to insert in any future treaty on the subject of extradition the following provisions:

(b) the Secretary of State, in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for any offense defined in this treaty when the offense has been committed outside the United States and

(1) where the United States is competent to prosecute before its own tribunals the person whose surrender is sought, and intends to exercise its jurisdiction; or

(2) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such an offense; or

(3) where the person whose surrender is sought would not be guaranteed all the basic rights of an accused under the United States Constitution

Now, how could language more plainly protect the constitutional rights of our citizens?

Mr. President, I make a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHURCH. Is this reservation now the pending business?

The PRESIDING OFFICER. The reservation has been reported. The reservation is the pending business.

Mr. CHURCH. That being the case, Mr. President, I see no reason why the Senate should not proceed to a vote on this reservation, so that this fearmongering can be set to rest. Nothing would be more appropriate than for the Senate to vote on this issue now, before we proceed to the question of cutting off debate on the treaty, itself, which vote is scheduled for 12 o'clock.

I direct this proposition to the Senator from Alabama because I would want him to be on notice. I do think that this is the way we should proceed so that when the vote on cloture comes everyone will know whether or not this reservation has been adopted. I make that suggestion to the Senator from Alabama in the hope that he might agree.

Mr. ALLEN. Mr. President, reserving the right to object, it is the understanding of the Senator from Alabama that the distinguished Senator from Idaho initiated a cloture petition which was filed on Friday and which obligates the Senate at approximately 12:15 p.m. to vote on the question of whether or not debate shall come to an end on the convention and all of its parts. So it would be presumptuous on the part of the Senator from Alabama to agree to a vote on a portion of the matter that is under debate, and that the entire Senate is already scheduled to pass on at 12:15.

So the Senator from Alabama would have to interpose an objection to the request of the distinguished Senator from Idaho to preserve the rights of all Members of the Senate who were on notice that a vote will come at 12:15 p.m. on the question of whether debate on the whole matter shall be brought to a close, including the reservation or understanding of the Senator from Idaho, which I might say, the Senator from Alabama favors and would like to see appended to the Convention that is before the Senate.

Mr. CHURCH. Mr. President, I had not anticipated that the Senator from Alabama would concur with the suggestion; and I know he is able to hold the floor, if necessary, until the time comes for the cloture vote. However, I do think it would be more logical for the Senate to vote on the reservation before passing on to whether or not debate should be shut off on the treaty itself.

How much time remains to the proponents?

The PRESIDING OFFICER. Nine minutes.

Mr. CHURCH. I yield as much of that time as the Senator from New York may require.

Mr. JAVITS. Mr. President, I would like to be notified when I have consumed 4 minutes.

The issue is very clearly drawn and I think it has been even more clearly drawn by the proposal which the Senator from Idaho (Mr. CHURCH) has made. The fact is that we face a filibuster on this treaty and although the treaty itself requires a two-thirds vote in order to be ratified the filibuster nonetheless continues, seeking, perhaps, to profit from the fact that some Members are reluctant to vote cloture who would be very anxious to vote to ratify the treaty. But this is all within the parliamentary domain, except I mention it and speak of it because I think it only fair that Members who are reluctant to vote cloture but wish to vote for the treaty realize this is the key that unlocks the door and that they can be completely frustrated in their desire if this filibuster is not broken.

Mr. President, another reason for voting cloture today is precisely because this treaty has been pending for a very long time—25 years—certainly more than ample time to examine every conceivable facet concerning the treaty, including the legal implications for individuals in the United States who may be charged with the crime of genocide. In all of that time, no persuasive arguments have been made so as to convince either the Foreign Relations Committee of the Senate or the President of the United States, or what I am sure will be a majority of the Senate, that this treaty should not be ratified.

Second, why ratify it with the convention and with the understandings and the declaration and all of the reservations which lock in, not once, but two and three times the fact that no American will be exposed to trial by a foreign court or by an international court if the United States wishes to try the indivdual, or really, without the consent of the United States for whatever reason it may seek to withhold it?

Mr. President, the reason is the conscience of this country and the conscience of mankind. This is a declaration of conscience, in essence, and it is critically important for that purpose because genocide can and still does happen, whether it happens in the extinction of a tribe in Africa, or in a civil war in another African country, or whether it may happen tomorrow in the extinction of some other group in the Soviet Union or some other place, or whether an effort to do so is made. The denunciation of the world is long overdue against this most despicable and, as the Senator from Idaho (Mr. CHURCH) has so properly said, heinous of all crimes.

So, regardless of the legal niceties—and we are more than taking care of them—every Member here must answer to his conscience as to whether he does or does not wish this declaration to be made now. And the key to the door, Mr. President, without ornaments or kidding about it, is this cloture vote. This is the vote which will decide whether or not the Senate will be permitted to express itself on the question.

In that regard, Mr. President, it has always been asserted by those who utilize this particular weapon more often than most others of us that, somehow or other, if it wants to, the Senate can work its will; but in this particular case we have a very clear, transparent use of the filibuster as a weapon, because the Senate cannot work its will, even though it sincerely wants to ratify the treaty, unless it votes for cloture.

So I say to Senators who are for the treaty, since it takes a two-thirds vote for the treaty, we, as proponents, may as well forget it if we do not have a two-thirds vote for cloture, but we are entitled to a fair shot at determining whether or not there are two-thirds of us who want to so vote.

The PRESIDING OFFICER. The 4 minutes of the Senator have expired.

Mr. JAVITS. May I have an additional minute or two?

Mr. CHURCH. Mr. President, I yield 1 additional minute to the Senator from New York.

Mr. JAVITS. I thank the Senator.

Mr. President, that is the issue which my colleagues face who are reluctant to vote for cloture. They will be frustrated and denied their opportunity to do what is required also by the same two-thirds vote in this case because of their own reluctance. It is up to us, not the other side. We will decide this issue. The opponents cannot really do anything about it. We either have two-thirds or we do not. The only question is, will those Senators vote their convictions on cloture? We hope, in this time of crisis for the morality of this country and the morality of mankind, that they will vote affirmatively.

The PRESIDING OFFICER. Who yields time?

Mr. ALLEN. Mr. President, acting for the distinguished junior Senator from North Carolina, who has control of the time, I yield myself 10 minutes.

Mr. President, this Genocide Convention was adopted by the General Assembly of the United Nations on December 9, 1948, and then was submitted by President Harry S Truman to the Senate for consideration on June 16, 1949. It has been before the Senate Foreign Relations Committee, I assume one could say, off and on since that time. Under the method of treatment of treaties, when a treaty is not approved during a session of Congress, I believe it goes back to the Foreign Relations Committee and remains within the breast of that committee until further action is taken.

So in recent years, starting, I believe, in 1970, the Senate Foreign Relations Committee apparently has been reactivating consideration of the treaty and has recommended to the Senate the ratification of this convention under certain conditions or certain understandings. In other words, the Foreign Relations Committee itself does not agree to the terms of the convention itself, and the committee attached to the convention as conditions for ratification by the Senate three understandings stating what the understanding the committee, and hence the Senate, and then the Nation as a whole, is as to the meaning of the terms.

The only trouble with that, Mr. President, is that the convention itself, under article IX, gives to the Court of International Justice the right to interpret the convention and the rights and duties and obligation of the signing parties.

Article IX reads as follows:

Disputes between the Contracting Parties relating to interpretation, application of fulfillment of the present Convention, including those relating to the responsibility of a State

for genocide or for any of the other acts enumerated in article III, shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

So, no matter what interpretation we place on it, the final determining factor would be on the Court of International Justice that would be interpreting the same.

I might state that there are some 30 or more countries that have set up reservations and declarations and understandings as to their adoption or their ratification of this treaty, and some of the iron curtain countries say that a submission of one of these disputes to the Court of International Justice must have the agreement of all parties. In other words, that gives them the right to veto the submission of any matter to the Court of International Justice having to do with the interpretation of the convention. They reserve veto power.

Page after page of reservations made by other nations are included. We are seeking to add four, counting the declaration of reservation. And the Senator from Idaho (Mr. CHURCH) seeks to add still another one this morning. So, when we get through, we have 30 or more nations saying, "We understand it this way. We reserve this right. We make this declaration with respect to it."

Where in the world would we be and who would understand what our rights, duties, and obligations are under the convention? If we do not know, the Court of International Justice would tell us what they are.

Mr. President, obviously during the last 25 years this idea concerning the adoption of this convention is not an idea whose time has come up to now. It certainly has not for the last 25 years.

Mr. President, I want to point out one interesting item in President Truman's message to the Congress or, in the message of the President of the United States by the Secretary of State, I guess, acting for him and speaking of the action by the U.N. This whole thing is trumped-up by the U.N. That is where it came from, Mr. President.

In the letter from the Secretary of State it states:

The first resolution of the General Assembly on this subject, 96 (I), adopted unanimously by the members of the United Nations on December 11, 1946, succinctly pointed out that—

Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings.

Mr. President, if that were the definition of genocide under this convention, the Senator from Alabama would support the convention. However, it defines genocide as "a denial of the right of existence of entire human groups, . . ."

That would cover the situation that has been referred to on the floor of the Senate concerning the mass extermination of the Jews by Hitler. We all decry that monstrous conduct, that monstrous crime of which Hitler and the Nazis were guilty.

Mr. President, let us see what the convention says on that subject. It says:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: . . .

Then they set up some of the offenses against this group in whole or in part. And one of the items is "causing serious bodily or mental harm to members of the group."

That would carry with it the words ahead of it which say "in whole or in part."

Mr. President, what is a part of a group? One individual would be part of a group. The distinguished Senator from Wisconsin, now on the floor, is one person. He is part of the group of Senators. If so, any individual would be part of a group.

This is not a racial matter because it applies, as it properly should, to national ethnical, racial, or religious groups.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. ALLEN. Mr. President, I yield myself an additional 5 minutes.

Mr. President, if we hark back to the definition of genocide as contained in the original resolution passed by the General Assembly, genocide is a denial of the right of existence of entire human groups. The Senator from Alabama would support this convention if that were contained in it.

Mr. President, if the Senate should ratify the genocide convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide, for reasons that I have just outlined.

One of the most drastic impacts the ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings, covered by categories (a), (b), and (e) of article II of the Convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of jurisdiction workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country would experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

Mr. President, that is a quotation from a speech which the Senator from North Carolina (Mr. ERVIN) delivered in the Senate in 1970.

Senator ERVIN went on to say:

If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

He further points out:

If the Senate should ratify the Genocide Convention, article I would impose upon the President, as the Chief Executive of the United States, the duty to enforce both the provisions of the convention and any acts of Congress implementing them as the supreme law of the land.

Mr. President, some 78 nations have ratified this convention. It does not amount to a row of beans. If it would punish a single act of genocide, the Senator from Alabama has not been made aware of it. Why are they waiting on the United States to ratify this treaty before they implement it? Are they waiting for the United States to furnish the money to support this court? Are they waiting for the United States to furnish the accused who are to be tried by this court?

There is no occasion whatsoever for the adoption of this convention insofar as it being necessary based on the last 25 years or any constructive activity resulting therefrom.

Mr. President, the list of the nations adopting this Genocide Convention is very interesting. Let us look at some of them. Some of these nations are where genocide takes place. We do not have genocide over here in the United States as that term is defined in the original resolution, talking about the planned mass extermination of an entire race.

The PRESIDING OFFICER. The Senator's additional 5 minutes have expired.

Mr. ALLEN. I yield myself 1 additional minute.

I see we have here the various Socialist Soviet Republics. They are listed here. Tunisia is listed. Romania is listed. Poland is listed. Czechoslovakia is listed. Hungary is listed. Haiti—they know something about genocides in Haiti. Ghana. The Federal Republic of Germany. Ethiopia. China. They know something about genocide in China. Here they are, ratifying the treaty. Chile. Cambodia. Bulgaria. Argentina. Algeria. Albania and Afghanistan.

Mr. President, why insist on the United States coming into this convention, subjecting ourselves to the whims and caprices of an international court of justice, and endangering the rights of our citizens?

The PRESIDING OFFICER. The Senator's additional minute has expired.

Mr. ALLEN. Mr. President I hope that debate will not be cut off. If debate is cut off, I hope that the Senate will reject the convention.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I propose to yield the remainder of my time to the distinguished Senator from Wisconsin. Before doing so, I simply want to remark that all of the argument about an international penal tribunal is entirely without basis. There is no such international penal court. There is no expectation that any such court will be established in the future. And even if it were to happen, the United States would not become a party to the court, or subject to its jurisdiction, unless or until another treaty were entered into and brought before the Senate for ratification.

Mr. ALLEN. Mr. President, will the Senator yield on my time?

Mr. CHURCH. Yes.

Mr ALLEN. The Senator states that

there is no such thing as an international court of justice.

Mr. CHURCH. No; I said an international penal court. An international penal tribunal is what the treaty mentions, and no such tribunal has been set up in the 25 years since the treaty went into effect.

Mr. ALLEN. I refer the Senator to page 35 of the hearings on the Genocide Convention. The Government of China was objecting to all of the reservations made by these Iron Curtain nations, and ends up saying:

Therefore, by virtue of the Advisory Opinion of the International Court of Justice on May 28, 1951, we would not regard the abovementioned States as being Parties to the Convention.

Mr. CHURCH. The Senator refers, of course, to the International Court of Justice. It has civil jurisdiction. It has no criminal jurisdiction; and it is not the penal court referred to in this convention.

Mr. President, I think we should be aware that the international penal tribunal, alluded to in the treaty, does not exist today, has never existed, and no one expects that it will come into existence.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. CHURCH. I yield.

Mr. JAVITS. This is a very important point, and it is important to avoid confusion. We have given exactly similar jurisdiction under the Japanese peace treaty, the Antarctic treaty, and the statute of the International Atomic Energy Agency, which I am sure are regarded as no threat whatever, and I believe that should be made very clear in this debate.

Mr. CHURCH. Mr. President, I yield the remainder of my time to the distinguished Senator from Wisconsin, who day after day, week after week, month after month, and year after year, has prodded at the conscience of this Senate to finally face up to a vote on the Genocide Convention.

Mr. PROXMIRE. Mr. President, I thank the Senator from Idaho.

I remind the Senator from Alabama, who said he would vote for this treaty if it did not provide for genocide being defined as acting in such a way as to cause mental harm to a part of a group. Of course, that makes it ridiculous. It sounds as if the Senator should give me a headache, he would be guilty of genocide. I think that we should be aware of what that mental harm constitutes. It is defined in the treaty as that which "causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs," and so forth.

This is what is meant by member harm. We should also be aware that "substantial part" does not refer to one person. It means, quoting from the treaty itself:

A part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

Mr. JAVITS. Mr. President, will the Senator yield very briefly?

Mr. PROXMIRE. I yield.

Mr. JAVITS. This is not a national thing. Hitler actually did practice the crippling of the minds of his victims. That is what this is in response to. That is a demonstrated historic way in which genocide is perpetrated.

Mr. PROXMIRE. Mr. President, I thank the distinguished Senator from New York.

I conclude by asking Senators not only to recall the debate of other Senators and to read the treaty, but to consider what is behind it.

Consider the fact that 6 million people in Germany were destroyed, that tens of millions of people throughout the years have been killed, and that others are more likely to be victims of genocide if we do not act.

Since it is so hard to envision 6 million, think of one, think of Ann Frank, that lovely young Jewish girl who, after hiding for years from the Nazis, was finally imprisoned and died a genocide victim in the Nazi concentration camp at Belsen. Think of what she said in her diary at the close of her life. She said:

In spite of everything, I still believe that people are really good at heart.

Mr. President, I would hope that we will recall this sentiment, and vote positively in the memory of Ann Frank, and with the determination that this terrible crime will not occur again, and that we will be able to dismiss the uninformed and in some cases spiteful letters. We have argued so negatively on an issue supported by the President of the United States, by the Attorney General, by every President since Harry Truman, and which is in the interests of a better world.

Mr. DOMINICK. Mr. President, no one denies that the acts defined in this proposed United Nation's Convention on the Prevention and Punishment of the Crime of Genocide are abhorrent. To undertake to prevent them from occurring and to punish those who participate in such acts is commendable.

Yet this convention, as it stands, furthers neither the prevention nor punishment of these acts, nor does it deter commitment of other equally abhorrent crimes of genocide.

There is no evidence to suggest that the convention has or would have any deterrent effect on those countries and individuals who believe it necessary to resort to genocide. Adherrence to the convention by the Soviet Union has not prevented the Soviets from continuing to harass their Jewish minority. The convention did not deter the Tutsis in Burundi from massacring between 100,000 and 200,000 Hutus. Unfortunately, the occurrence of numerous other similar deplorable examples, which have taken place with or without worldwide condemnation, further document the ineffectiveness of the convention.

I would note that in many cases this convention would not even apply.

I believe everyone here would agree that the crimes which gave rise to this Genocide Convention in the first place—mass murder of Jews in Germany—was done with the encouragement and at the direction of Nazi Germany. Indeed, in order for genocide to be an international crime, and therefore a matter of international concern which could appropriately be the subject of an international convention, it would appear that it must be committed with the complicity of the government concerned, not merely by individuals. How can genocide be an international crime unless a government participates in its perpetration? Yet, in the negotiations for the convention, the United States was unable to persuade other nations, specifically the Soviet Union, to include the idea of "complicity of government" in the definition of genocide. Under the convention as it now stands, only individuals are liable—not governments.

Furthermore, Mr. President, the original United Nations Declaration on Genocide of 1946, to which the United States subscribed, denounced genocide whether "committed on religious, racial, political, or any other grounds." This convention we have before us now, however, is designed only to protect a "national, ethnical, racial, or religious group." The Soviet Union successfully insisted on the exclusion of "political groups" from the convention.

Thus the very event which sparked the Genocide Convention in the first place—Nazi Germany's genocide against the Jews—and the events which trouble us today—Soviet political persecution of minority groups—are not dealt with in the version of convention which we are considering here today.

As far as the United States is concerned, the State Department has pointed out that "the physical acts of violence denounced by the Genocide Convention are punishable under existing laws of the United States and of its several States."

Thus the convention has not—and will not—restrain other countries. The United States actions and laws testify to its respect for the principles upon which the convention is based.

Even those who support ratification of this convention argue only that "this treaty seeks to set a higher standard of international morality" and that "respect for the feelings of mankind should lead us" to ratification.

These are fine uplifting arguments. They would have considerable merit if the provisions of the convention were limited to the same plane. What we have here, however, is not just a question of saluting fine ideals. The idealistic purposes behind ratification are fatally undercut by the potential dangers in the convention to our legal system and to our citizens. As was pointed out by the highly respected international lawyers, Orie L. Phillips and Eberhard P. Deutsch in the Journal of the American Bar Association in July 1970:

Concurrence in the lofty ideals that engender the promotion of moral issues should not substitute the ephemeral tissue of these ideals for the enduring fiber of constitutional limitations.

For these reasons the American Bar Association in both 1949 and 1970 urged the Senate to reject this convention.

The constitutional and legal pitfalls of this convention have been addressed by many over the years. Here I would like to focus on several issues which seem particularly crucial to me.

Mr. President, one of the basic principles of a just legal system is that a criminal statute must be unambiguous and precise. Any statute punishing genocide as this convention attempts to define it would be so vague and indefinite as to violate the due-process-of-law requirement under the Supreme Court's void-for-vagueness criterion.

All attempts to define and explain such key concepts in the convention as "complicity in genocide," "intent to destroy in whole or in part," "mental harm," and a "national, ethnical, racial, or religious group, as such," fail. Efforts to coordinate such a vague concept as "public incitement to commit genocide" with our first amendment guaranteeing free speech fail equally. What constitutes "complicity"? What is "a group as such"? What is "mental harm"? The convention rarely attempts to tell us and, where it does try, it is inadequate.

The three understandings and one declaration proposed by the Foreign Relations Committee hint at only the tip of the iceberg of confusion in this convention.

I would point out that of the 70-some countries which have ratified the convention, approximately 20 have done so with declarations, understandings, reservations, disagreements, et cetera, of all kinds relative to various sections of the convention. On top of this, over 10 other countries have ratified the convention with "objections," by which these nations refuse to accept reservations made by other countries.

The confusion surrounding ratification of this type led to the United Nations General Assembly in 1950 to request the World Court to answer a series of questions regarding the validity of such reservations and objections. In 1951, the World Court delivered its advisory opinion by a vote of 7 to 5, hardly a convincing or reassuring guideline to those of us who seek clarity about the purposes and scope of this convention. In any case, the advisory opinion, dealing with five different issues, was sufficiently vague and tortuous as to shed only minimal light on the points at issue.

Mr. President, I cite this background in order to illustrate the problems and issues that the vagueness and ambiguities in the convention have already surfaced during what should be a fairly straightforward ratification process. Those pitfalls that lurk in the implementation process loom even larger.

For example, in 1950 the Black Panthers, even in the absence of ratification of the Genocide Treaty by the United States, demanded that the United Nations investigate the slaying of Black Panthers by police officers on the ground that their slaying constituted genocide under the convention section which says:

> Genocide means killing members of a group.

Another example, Mr. President: If ratified, this convention could make American soldiers fighting under the flag of this country in foreign lands liable to trial and punishment for killing and wounding members of the enemy military forces. Americans who fought in Vietnam could be charged with genocide and possibly even brought to trial before an international court, as was urged by some of our Vietnam war critics at home and abroad during our involvement.

Questions have already been raised as to whether birth control clinics could constitute genocide under a section which includes within the meaning of genocide: "imposing measures intended to prevent births within the group." School busing has come under question as possible genocide under another section which defines it as "forcibly transferring children of the group to another group." I understand that in another case those who are demanding increased welfare benefits have asked that the U.N. investigate the actions of State legislatures in regard to social programs on the grounds that some welfare legislation constitutes genocide under the clause defining it as "deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part."

Mr. President, these examples illustrate what a Pandora's box of problems this convention represents. Efforts to define genocide in this convention have distorted and perverted the entire concept embodied in the word "genocide." In defining these acts as crimes, the convention would obligate the United States to prosecute and punish public officials and private citizens for acts alien to our concept of genocide and at odds with our law.

Ambiguity and confusion in defining a crime deprives an individual of his right to be informed of the full nature of what he is accused and delegates to judges and juries power to determine what is a crime. In addition, the convention envisages the establishment of an "international penal tribunal" which "may have jurisdiction with respect to those contracting parties which have accepted its jurisdiction." By ratifying the convention we are committing the United States to support such a court, thus raising the specter of American citizens being brought to trial before an international tribunal without the protections afforded them by our Constitution and laws.

Furthermore, Mr. President, the traditional jurisdiction of international law, that of relations between nations, is being changed by this convention to that of relations between nations and individuals, thereby establishing individual liability under international law. Because treaties are established by the Constitution as the supreme law of the land, ratification of the convention would require a fundamental alteration in our concept of criminal justice. Ratification will confer full and implicit power upon the Federal Government and a potential international court, making an unwarranted transfer of criminal prosecution from State to Federal jurisdiction and invalidating and superseding State constitutions, laws, and court decisions inconsistent with the vague ambiguities of the convention.

Furthermore, the convention provides that—

> Disputes . . . relating to the interpretation, application or fulfillment of the Convention . . . shall be submitted to the International Court of Justice.

Thus the International Court of Justice assumes jurisdiction over a domestic affair of the United States. The convention in effect not only converts domestic matters into international crimes, it then gives ultimate authority to define these crimes to the World Court.

This convention, negotiated in 1949, has lain dormant for 25 years. In its original conception, it contained many fatal flaws, which was why the Foreign Relations Committee never reported it in 1950. Experience since then has further demonstrated its limitations and dangers.

Mr. President, in both 1946 and 1947 the United States joined in a resolution of the General Assembly denouncing genocide as "contrary to moral law" and a "crime under international law." In that declaration we invited other nations to enact the necessary legislation for the prevention and punishment of this crime and recommended that international cooperation be organized so as to facilitate the speedy prevention and punishment of the crime of genocide.

The United States was at that time and has continued to be in the forefront of those who have sought to implement these principles at home and in the international arena. Our record, our acts, our laws, indeed our whole society, exemplifies our battle against the realities of all aspects of this crime.

Unfortunately, other nations have not pursued this battle in the same spirit. As a result, the convention we are considering now does not deal with the grim realities of genocide. In attempting to present the pretense as the reality, it creates real dangers for American citizens and our system of justice.

Mr. HUDDLESTON. Mr. President, I shall not support the Genocide Treaty at this time.

I should say at the outset that I do not find the proposed treaty as good as its proponents claim, nor as bad as its opponents suggest. But, I do not believe it will serve any particular purpose to approve it at the present.

Without question, I am opposed to the crime of genocide. The Nazi atrocities which gave birth to this convention can never be condoned, nor even understood. They are a blight upon 20th century civilization, for which we will, throughout history, all share some blame. It is incumbent upon all of us to exercise every effort to see that they are not repeated—in any country in any form.

But, I find little in the pending convention to contribute to those efforts. With the 78 nations which have approved

the convention, no cases of genocide have been brought to trial. Furthermore, a number of those nations have continued to pursue policies, in some cases against their own people, which can be said to hint of genocide. Thus, to suggest that this convention will indicate an American commitment to fight genocide or serve as a deterrent to it is, I believe, to mislead.

At the same time, the proposed convention raises questions relating to definition of crimes, the rights of American citizens to due process of law, extradition and to the traditional State prosecutions of criminal actions, which I do not believe have satisfactorily been answered. The reservation proposed by Senators CHURCH and JAVITS is certainly an improvement in the resolution of ratification, but there have been so many interpretations, clarifications, understandings, and reservations offered to the convention by various persons at various times that I question whether or not we really know what the convention means and what its impact upon the constitutional rights of Americans really is.

The language of the convention has been viewed as precise and as vague. The interpretation which the committee has placed upon it in the most recent report is a liberal construction, and, in doing so, the committee felt it necessary to list certain activities which it considered not to be covered by the convention, although there have been past suggestions that those very activities did indeed constitute genocide.

My predecessor, Senator John Sherman Cooper, a member of the Senate Foreign Relations Committee, during previous hearings on the convention, noted that much of the testimony related not to the convention, but to how to avoid it, a situation which must raise further question concerning the treaty.

Furthermore, the current signatories themselves have imposed so many reservations on the convention that there must be serious question about its applicability and exercise.

I believe the American people and the U.S. Government can and should act in accordance with the highest principles of human right and human dignity. But, I believe there are far better ways to do so than to pass the pending convention, which I do not believe will accomplish the aims of its supporters and could lead to a limitation on the constitutional rights of U.S. citizens, as its detractors have indicated.

Mr. HOLLINGS. Mr. President, the Genocide Convention proposed 25 years ago has some important signatories and deserves serious consideration. And serious consideration still requires that I vote against ratification. I believe the definition of genocide is faulty. What is intended is that extermination be committed not by an individual, but by a government. Individual crimes are well cared for under the domestic law in the United States and our ratifying this treaty will not help much in other countries. Since complicity of government is not required, but only the act of a single individual, what occurs is that domestic crimes become international offenses and immediately politics and racism enter the picture. The Black Panthers and other extremists will be wanting to bring charges in international courts against the President, against a Governor, against an Attorney General. This will stir up unnecessary misunderstandings and not work in the best interests of the Nation. We really need no proof that the United States opposes genocide. I served 3 years overseas in World War II against genocide and many an American has given the supreme sacrifice. This is the best proof of America's commitment, much better than a treaty. We could welcome a treaty if it were clear and convincing but to ratify a document that is confusing, that is looked upon by reasonable men as meaning different things but clearly appears to me to make international offenses out of domestic crimes and opens the door for racial, ethnic, religious, and nationalistic embroilments would create an atmosphere for genocide rather than clear the world of this scourge.

Mr. PACKWOOD. Mr. President, we meet today to vote on whether to close debate on the question of Senate ratification of the Genocide Convention. In my estimation, this vote is long overdue.

For almost 25 years we have had this treaty before us. President Truman first presented it to the Senate for its advice and consent on June 16, 1949. In 1950, hearings were held on it by a special subcommittee of the Senate Foreign Relations Committee and, although it was favorably reported to the full committee, along with suggested understandings, no further action was taken on it at the time. During the 20 years that followed, while 74 other nations ratified it, the convention remained in a Senate-imposed limbo. Then, on February 19, 1970, President Nixon sent a message to the State urging ratification of "this important convention." In the President's words:

> I believe we should delay no longer in taking the final convincing step which would reaffirm that the United States remains as strongly opposed to the crime of genocide as ever.

I most heartily agree.

Since 1970, hearings have again been held by the Foreign Relations Committee and, in December of 1970, the committee reported its findings and recommended that the Senate give its advice and consent to the convention. It is now February of 1974, and nearly 25 years after its negotiation, we are to vote for the first time on whether the Senate will indeed ratify the Genocide Convention.

Mr. President, this treaty has raised innumerable questions in the minds of thoughtful men. I have studied the articles of the convention, however, and the testimony of the witnesses, both pro and con, and I am convinced that it is in the interest of the United States to ratify it.

The purpose of the Genocide Convention is to make any act "committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such" an international crime. In 1946, when "the prevention and punishment of the crime of genocide" was added to the agenda of the first session of the United Nations General Assembly, World War II had just recently ended and the shock of the brutal systematic killing of 6 million Jews in Nazi Germany was still very close to the surface. Prof. Raphael Lemkin, who coined the word, "genocide," and who was largely responsible for the adoption of the convention by the United Nations, knew that horror first hand. Even though he was able to escape Poland when the Nazis invaded in 1939, he lost most of his family in German concentration camps. On December 9, 1948, the convention was approved by the United Nations General Assembly. It was signed by the U.S. Representative 2 days later.

There are 19 articles to the convention—the first nine outline the provisions of the convention, while the last 10 deal with the procedural aspects of ratification, entry into force, duration, et cetera. Since the Foreign Relations Committee report more than adequately discusses each of the nine substantive articles, as well as answers many of the questions regarding the potential ramifications of U.S. ratification of the convention, I will only comment briefly on several points which are repeatedly raised.

The seeming vagueness of terms in article II has been a point of considerable discussion from the first. In an effort to clarify the U.S. interpretation of these terms, two understandings have been filed in the resolution of ratification:

> 1. That the United States Government understands and construes the words "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such" appearing in article II, to mean the intent to destroy a national, ethnical, racial, or religious group by the acts specified in Article II in such manner as to affect a substantial part of the group concerned.
>
> 2. That the United States Government understands and construes the words "mental harm" appearing in article II(b) of this Convention to mean permanent impairment of mental faculties.

In the first of these understandings, the major emphasis is placed on intent. Without proof of intent to destroy a group as a group, there can be no charge of genocide. In 1950, Senator McMahon queried Deputy Under Secretary of State Dean Rusk on this point:

> Senator MCMAHON. They must have the intent to destroy the entire group.
>
> Mr. RUSK. That is correct.
>
> Senator MCMAHON. In other words, an action leveled against one or two of a race or religion would not be, as I understand it, the crime of genocide. They must have the intent to go through and kill them all.
>
> Mr. RUSK. That is correct. This convention does not aim at the violent expression of prejudice which is directed against individual members of groups.
>
> Senator LODGE. Is that the difference between genocide and homicide?
>
> Mr. RUSK. That is the principal difference, yes.

The second understanding is, I believe, self-explanatory. In this case, for a charge of genocide to be sustained, permanent impairment of mental faculties must be proven, along with the proof of

intent to commit genocide on the whole group of which the injured party is a member.

The relationship of the Genocide Convention to the Constitution seems, in my experience, to be one of the major sources of opposition to ratification. This is manifested in the argument that "direct and public incitement to commit genocide," one of the enumerated punishable acts in article III of the convention, threatens the constitutional guarantee of free speech. However, the Supreme Court, in 1969 in Brandenburg against Ohio, ruled that the protection of the Constitution does not extend to "advocacy * * * directed to inciting or producing imminent lawless action * * *" or to that which is "likely to incite or produce such action." Further, in his testimony before the subcommittee in 1970, Supreme Court Justice William H. Rehnquist, then Assistant Attorney General, stated that he was satisfied that the constitutional right to free speech would not, and could not, be adversely affected in any way by the ratification of the Genocide Convention.

Article VI of the convention, which deals with the trial of those persons charged with genocide, is one of the most controversial for those concerned with the preservation of their constitutional rights. It states:

Persons charged with genocide or any of the other acts enumerated in Article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Mr. President, this is an eminently legitimate concern and one which should receive our most serious attention. In its report, the Senate Foreign Relations Committee exhibited its sensitivity in this regard by stating:

The U.S. Government should make it clear to the other contracting parties that it intends to construe article VI so as to permit it to try its own nationals for punishable genocidal acts whether committed at home or abroad.

To further emphasize this stance, they recommended that the Senate include the following understanding in its declaration of ratification:

3. That the U.S. Government understands and construes article VI of the Convention in accordance with the agreed language of the report of the Legal Committee of the United Nations General Assembly that nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

As of this date, no international penal tribunal, as projected by article VI, has been established and the International Court of Justice has no penal or criminal jurisdiction. In the event that such a tribunal is established, separate action would be required—either through enactment of legislation or Senate ratification of the related treaty—to bring the United States under its jurisdiction.

Those doubts raised by article VI of the convention extend as well to article VII, which is concerned with extradition of those persons accused of genocide. However, article VII does not in itself constitute an extradition treaty. Under the terms of the article, the contracting parties are obligated to grant extradition "in accordance with their laws and treaties in force." At this time, the crime of genocide is not covered by U.S. law nor by any of our extradition treaties. This portion of the convention would become effective only upon implementation of the convention and S. 1758, the implementing legislation introduced by Senators SCOTT and JAVITS, specifically provides that—

It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18 of the United States Code [Genocide], when the offense has been committed outside the United States, and (a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or (b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

Before I close, I would like to draw attention to the fourth understanding which will accompany the resolution of ratification of the Genocide Convention. It closely relates to article V which provides that—

The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III.

Under the terms of the fourth understanding:

The United States Government declares that it will not deposit its instrument of ratification until after the implementing legislation referred to in article V has been enacted.

In other words, this treaty will have no effect on the United States or her citizens until the implementing legislation, S. 1758, has been acted upon by both Houses of Congress and signed into law by the President. This is a most important point, Mr. President, and one which I have the feeling is not abundantly clear to most people. As the Senate Foreign Relations Committee put it, this is a two-step procedure—ratification of the convention and enactment of implementing legislation. Both are of equal importance. I ask unanimous consent, Mr. President, that the text of the implementing legislation introduced by Senators SCOTT and JAVITS, S. 1758, be printed in the RECORD at the end of my remarks. I think it is useful, when discussing action to be taken on the convention, that the language of the bill which will translate the words of this international agreement into the laws of this country be before us.

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

(See exhibit 1.)

Mr. PACKWOOD. Mr. President, the American commitment to the preservation and propagation of human rights is well known. It is the cornerstone of our democracy and an integral part of our everyday life. And, yet, we belie that credo by holding back our approval of a treaty which deals intimately with those rights and, most particularly, with the denial of them.

Some tell us that this treaty threatens our own rights; that our citizens will be denied—if accused of genocide—trial by their peers as guaranteed by the Constitution, that they will be hauled off to an international court on a trumped up charge of genocide. If I entertained even the vaguest doubts about this, I would not be standing here today.

I urge my colleagues to ratify the Genocide Convention. We are nearly 25 years late in doing so.

EXHIBIT 1

S. 1758

A bill to implement the Convention on the Prevention and Punishment of the Crime of Genocide

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) title 18, United States Code, is amended by adding after chapter 50 the following new chapter:

"Chapter 50A.—GENOCIDE

"Sec.
"1091. Definitions.
"1092. Genocide.

"§ 1091. Definitions

"As used in this chapter—

"(1) 'National group' means a set of persons whose identity as such is distinctive in terms of nationality or national origins from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(2) 'Ethnic group' means a set of persons whose identity as such is distinctive in terms of its common cultural traditions or heritage from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(3) 'Racial group' means a set of persons whose identity as such is distinctive in terms of race, color of skin, or other physical characteristics from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(4) 'Religious group' means a set of persons whose identity as such is distinctive in terms of its common religious creed, beliefs, doctrines, or rituals from the other groups or sets of persons forming the population of the nation of which it is a part or from the groups or sets of persons forming the international community of nations.

"(5) 'Substantial part' means a part of the group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity.

"(6) 'Children' means persons who have not attained the age of eighteen and who are legally subject to the care, custody, and control of their parents or of an adult of the group standing in loco parentis.

"§ 1092. Genocide

"(a) Whoever, being a national of the United States or otherwise under or within the jurisdiction of the United States, willfully without justifiable cause, commits,

within or without the territory of the United States in time of peace or in time of war, any of the following acts with the intent to destroy by means of the commission of that act, or with the intent to carry out a plan to destroy, the whole or a substantial part of a national, ethnic, racial, or religious group shall be guilty of genocide:

"(1) kills members of the group;

"(2) causes serious bodily injury to members of the group;

"(3) causes the permanent impairment of the mental faculties of members of the group by means of torture, deprivation of physical or physiological needs, surgical operation, introduction of drugs or other foreign substances into the bodies of such members, or subjection to psychological or psychiatric treatment calculated to permanently impair the mental processes, or nervous system, or motor functions of such members;

"(4) subjects the group to cruel, unusual, or inhumane conditions of life calculated to bring about the physical destruction of the group or a substantial part thereof;

"(5) imposes measures calculated to prevent birth within the group as a means of effecting the destruction of the group as such; or

"(6) transfers by force the children of the group to another group, as a means of effecting the destruction of the group as such.

"(b) Whoever is guilty of genocide or of an attempt to commit genocide shall be fined not more than $20,000, or imprisoned for not more than twenty years, or both; and if death results shall be subject to imprisonment for any term of years or life imprisonment. Whoever directly and publicly incites another to commit genocide shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(c) The intent described in subsection (a) of this section is a separate element of the offense of genocide. It shall not be presumed solely from the commission of the act charged.

"(d) If two or more persons conspire to violate this section, and one or more of such persons does any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000 or imprisoned not more than five years or both.

"(e) The offenses defined in this section, wherever committed, shall be deemed to be offenses against the United States.

(b) The analysis of title 18, United States Code, is amended by adding after the item for chapter 50 the following new item:

"50A. Genocide ..... 1091".

SEC. 2. The remedies provided in this Act shall be the exclusive means of enforcing the rights based on it, but nothing in the Act shall be construed as indicating an intent on the part of the Congress to occupy, to the exclusion of State or local laws on the same subject matter, the field in which the provisions of the Act operate nor shall those provisions be construed to invalidate a provision of State law unless it is inconsistent with the purposes of the Act or the provisions of it.

SEC. 3. It is the sense of the Congress that the Secretary of State in negotiating extradition treaties or conventions shall reserve for the United States the right to refuse extradition of a United States national to a foreign country for an offense defined in chapter 50A of title 18, United States Code, when the offense has been committed outside the United States, and

(a) where the United States is competent to prosecute the person whose surrender is sought, and intends to exercise its jurisdiction, or

(b) where the person whose surrender is sought has already been or is at the time of the request being prosecuted for such offense.

WE MUST RATIFY THE GENOCIDE CONVENTION

Mr. HUMPHREY. Mr. President, it has been 27 years since the General Assembly of the United Nations unanimously passed a resolution declaring "that genocide is a crime under international law." The memory of Hitler's attempt to exterminate the Jewish people was still fresh—and this was the international community's response. It was our pledge not to allow this terrible tragedy to recur, our assertion that national sovereignty did not go so far as to allow any government to try to eliminate a racial, ethnic, religious, or national group from the face of the Earth.

Twenty-four years go, the treaty which gave force to this resolution, the Convention on the Prevention and Punishment of the Crime of Genocide, was submitted to the Senate for advice and consent by President Truman. No other piece of legislation has been before this body for so long. It is time the United States finally ratifies the convention we were instrumental in formulating and getting approved after World War II. Presidents Truman, Kennedy, Johnson, and Nixon have all urged the Senate to approve the convention. The Foreign Relations Committee has held three sets of hearings and has several times ordered the convention favorably reported to the Senate. The constitutional arguments against the convention have been proven unfounded; the fears that it would be used unjustly against Americans have been shown to be groundless.

The Senate must now act to give its advice and consent to ratification of the Genocide Convention. We must do so because we are committed to defending the basic human rights of all men, the first of which is the right to life. Only through international cooperation and international law can these rights be assured. Only if we are willing to take the important first step of making genocide a crime under international law can we proceed toward the goal of a world in which all men are guaranteed all their fundamental human rights.

President Kennedy, arguing in favor of the United States becoming a signatory to human rights treaties, said:

The day-to-day unfolding of events makes it clearer that our own welfare is interrelated with the rights and freedoms assured the peoples of other nations. . . . There is no society so advanced that it no longer needs periodic recommitment to human rights. The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

The Honorable Arthur J. Goldberg, testifying before a Foreign Relations Committee subcommittee on the Genocide Convention in 1971, stated:

At a time when our commitment to human rights is being questioned by some of our own people and by others overseas, it is particularly important that we ratify a treaty so thoroughly consistent with our national purpose. A continuing dedication and reaffirmation of the humane principles of our Bill of Rights is very much in order.

DEDICATION TO HUMAN RIGHTS

Mr. President, it is time we reaffirm our dedication to human rights in the eyes of the world by ratifying the Genocide Convention. We cannot afford to have our commitment to these principles appear shallow. These expressions in our Declaration of Independence and our Constitution have long influenced men and nations throughout the world.

Our belief that the guarantee of fundamental human rights is essential to world peace, a belief shared by many of the charter members of the U.N., provides the foundation for the international order that has been built since World War II. Human rights are mentioned in the preamble and six different articles of the charter. Chapter I, article 1 states that the United Nations was created to "promote respect for human rights and fundamental freedoms of all." The Economic and Social Council is empowered in the charter to recommend ways and means to assure the observance of human rights and is directed to set up commissions for the promotion of human rights.

Though in many ways our Constitution provided the model for the U.N. Charter, and though we took the lead in this basic international commitment to human rights, the United States has often since had a difficult time persuading other nations in the U.N. to follow our lead in adopting practical measures for the promotion of human rights. Often, when we have sought to make the U.N. more effective in this area, our refusal to ratify the Genocide Convention is brought up as evidence of the shallowness of our own commitment to human rights.

Mr. William Korey cited two examples of this in an article in the September 26, 1972, issue of World magazine:

The United States found it difficult, if not impossible, to champion any human-rights project at the U.N. The Soviet Union, usually on the defensive when the issue of more effective implementation machinery concerning human rights was proposed at the U.N. could and would charge the U.S. with hypocrisy. In January, 1964, for example, when the U.S. member of the Subcommission on Prevention of Discrimination, Morris Abram, advocated "forceful measures of implementation" in dealing with racial and ethnic discrimination, his Soviet colleague had but to remind the body that the U.S. was not even a contracting party to the Genocide Convention. The embarrassed American responded, with an obvious air of discomfort, that he could only "regret, of course, that my country has not ratified the convention on genocide."

Two years later, Abram, while serving on the U.N. Commission on Human Rights, vigorously endorsed a Costa Rican proposal that would have marked a significant breakthrough in the area of international human-rights enforcement. The proposal involved the creation of an independent office, the high commissioner for human rights, who would function as a kind of international ombudsman. The Soviet Union's response was devastating. Its representative pointed out that in view of the fact that Americans "resolutely refused to accept legal obligations" through ratification of human-rights treaties, it was "almost indecent" and certainly "hypocritical" for the U.S. to advocate the establishment of special human-rights institutions in the international field.

Today, Americans are expressing concern about the violation of human rights

in many parts of the world and are attempting to use this country's power and influence to guarantee the rights of those living in other countries.

We are concerned about the Soviet Union's denial of basic rights to its citizens. We seek to make the restoration of a small part of the Russian people's rights—the right to freely migrate—part of the price for Soviet trade with the United States.

We are concerned about the rights of the citizens of Greece. We recently voted in the Senate to stop all military assistance to the Greek regime until the rights of the citizens of that country were restored.

There have been numerous statements on the floor of the Senate expressing concern for the rights of the people of Chile. We have urged the Chilean Government to respect the freedom of Chilean citizens to express their political views.

These are only a few current examples of the U.S. belief that the fundamental human rights of all people must be guaranteed. Our attempts to further this goal would be more successful if we ratified the convention which guarantees the most fundamental of rights—the right to life—to millions of people.

GENOCIDE A THREAT TO INTERNATIONAL PEACE

In addition to this basic moral reason for ratifying the Genocide agreement, there are many practical reasons.

First, genocide is a threat to international peace and stability. If any country attempts to destroy a group within its boundaries, members of that group in other countries will surely urge their governments to take some action against the nation committing genocide. The Genocide Convention is an attempt to assure that the response of the international community, to any nation's attempt to eliminate a population group, will be an orderly and united one. It is also hoped that a strong affirmation by the whole international community that genocide is a crime will be a disincentive to committing genocide in the first place.

The U.S. refusal to ratify the convention severely limits its effectiveness in this regard. If a nation so strong and so central to an international order based on the consent of all states refuses to accede to the convention, the possibility of an effective, united, peaceful international response to genocide becomes remote.

A second practical reason for U.S. accession to the Genocide Convention is to undo the damage that has been done to our prestige and credibility as a nation by our refusal to sign. Any nation that wants to call into question the sincerity of our commitment to universal human rights need only point to our failure after 25 years to ratify this convention. Any nation accusing us of practicing genocide against our own people or those of other nations can point to this failure to ratify the convention and say that we must have something to hide and that we must not want to outlaw this crime. Even the many nations which realize our failure to ratify the convention does not reflect in any way a reduced commitment to human rights must wonder why we have not signed this important international assertion of the right to life.

GENOCIDE A CRIME

Another important reason for our ratifying the Genocide Convention is expressed in the 1946 General Assembly resolution, which declared genocide a crime:

> Genocide is a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings; such denial of the right of existence . . . results in great losses to humanity in the form of cultural and other contributions represented by these human groups. . . . Many instances of such crimes of genocide have occurred where racial, religious, political and other groups have been destroyed, entirely or in part.

Some have argued that genocide, like homicide, is an entirely domestic concern, that it is, therefore, not an appropriate subject for an international treaty. This is to say that the attempt to extinguish a group of people is a purely national concern—that the loss of the cultural and other contributions these people make to mankind is a loss only to one nation, not to the entire world.

However, if it is considered appropriate for the United States to sign an international agreement to protect seals from extinction, why is it not appropriate to sign an agreement to protect groups of the human population from destruction?

Those who argue that genocide is a purely domestic matter also overlook the fact that an attempt to destroy a major group of people could rarely be made without the consent or participation of the government in power. If any action is to be taken to prevent this crime, it must be taken by the international community as a whole. The loss of any group of people is a loss to all mankind; and all men must join together to prevent it.

A final reason for ratifying the Genocide Convention is that it is an important step in the direction of the system of international law this Nation is committed to building. As Arthur Goldberg has pointed out, our signing this convention will not guarantee that all nations will respect the right to life of major groups within their boundaries—any more than our ratifying the Constitution guaranteed that all men in this country would respect the human rights of all others. But, like the Bill of Rights, this will establish a foundation on which to build a just and stable order. It will help create the atmosphere in which respect for the right to life can gradually grow throughout the world.

Mr. President, in spite of the strong moral and practical arguments for ratifying the Genocide Convention, some still believe that the United States should not become a party to it.

The word "genocide" has been used by some to refer to other, far lesser crimes, to acts committed by American citizens in which there was certainly no "attempt to destroy, in whole or in part, a national, ethnic, racial, or religious group, as such." Those who argue against ratifying this convention are fearful that our ratification will lead to American citizens being extradited and tried abroad on charges of "genocide" by people who have created their own meaning of the word to suit their own purposes.

In the extensive debate we have had on this subject over the past 25 years and in the numerous hearings that have been held on this convention, these fears have been proven to be groundless.

The Genocide Convention calls for extradition for genocide charges only "in accordance with laws and treaties in force." As the Foreign Relations Committee report pointed out—

> Neither U.S. law, nor any extradition treaty to which the United States is a party, covers genocide at this time.

Section 3 of the legislation implementing our accession to the convention reserves for the United States the right to refuse extradition for the crime of genocide in negotiating future extradition treaties or conventions. In short, there is no provision now for extradition of Americans for the crime of genocide; and if such treaties are made in the future, we will reserve the right to try our own citizens rather than have them extradited.

The third understanding which the Foreign Relations Committee has included in the Resolution of Ratification makes it clear to the other contracting parties that the United States intends to try its own nationals for punishable genocidal acts, whether these acts were committed at home or abroad.

A second fear expressed by those who oppose this convention is that Americans abroad will be tried on trumped-up charges of genocide. The example given is that the North Vietnamese might have charged American POW's with genocide. The fact is that our ratifying the convention will not affect in any way the right of a foreign country to try American nationals within its jurisdiction. Foreign countries can now try and sentence Americans on charges of anything ranging from possession of narcotics to murder to genocide.

Another fear that has been expressed is that Americans will be tried for genocide before the "international penal tribunal" mentioned in article VI rather than in the United States. No such international penal tribunal now exists. If one were to be established the United States would have to recognize its jurisdiction through ratification of a treaty or enactment of a law. We are, therefore, not now deciding that Americans can be tried before an international tribunal for the crime of genocide. We are simply deciding whether the United States will agree with other nations that genocide is a crime under international law, and that it will be illegal in this country and punishable under our system of justice.

Those who argue against ratifying the convention are fearful that what they regard as "ambiguities" in its language will resut in genocide being defined so broadly as to infringe on basic rights of Americans. They believe that because genocide is defined in article II as acts committed "with intent to destroy in whole or in part" a group of people, Americans will be charged with genocide for isolated

acts of violence or harassment based on prejudice. It is also believed that under this definition of genocide, it will be extended to cover acts of war, deplorable incidents such as My Lai, and police action during riots.

I believe that the first understanding submitted by the Foreign Relations Committee clarifies this "ambiguity" by making it clear that the genocidal acts must "affect a substantial part of the group concerned." This understanding, coupled with the requirement that "intent to destroy" the entire group must be proven, limits the definition of genocide to situations similar to the attempt by Hitler to destroy the European Jews. The intent to destroy clause also eliminates the possibility that the clause "imposing measures intended to prevent births," would be interpreted to mean voluntary birth control, or that the clause "conditions of life calculated to bring about its physical destruction," would be interpreted to refer to people living in conditions of extreme poverty.

The second reservation makes it clear that "mental harm" means permanent impairment of mental facilities—not just any form of mental stress.

Finally, it must be pointed out that making "direct and public incitement to commit genocide" a punishable act in no way denies the freedom of speech. Incitement to commit a crime is not legal in this country now; and a legal distinction is made between advocacy of a crime and "incitement" to commit that crime.

Mr. President, our ratification of the Genocide Convention will not result in Americans being tried in foreign courts or before an international tribunal on trumped-up charges of genocide. Nor will it result in Americans being convicted of genocide here for acts which do not entail an intent to destroy a group and which do not affect a substantial part of that group.

Our ratification of this convention will greatly enhance the credibility of our commitment to human rights and international law. It will help assure that the international community will respond to threats to destroy groups of people, and will respond in an orderly and unified way. It will contribute to the development of a body of international law guaranteeing the basic human rights of all men. For these reasons, we must finally act to ratify the Genocide Convention.

IN SUPPORT OF GENOCIDE TREATY

Mr. KENNEDY. Mr. President, I rise today to urge that the Senate reaffirm our Nation's traditional support for the cause of international justice and humanitarian responsibility by voting to ratify the Genocide Treaty.

Our Nation's longstanding commitment to help alleviate the tragic dimensions of conflict is under test today. So, too, is our dedication to the principles of international law and equality—principles which are so integral to the fabric of our national heritage. Few nations can match America's incomparable record of persistance in the cause of justice and morality in the conduct of interstate relations. This continuing dedication to the humane principles of international law pays tribute to America's long recognized role as a world leader in the fight for international humanitarianism. And it is a tribute to our Nation's constant vigilance in upholding the rights of, and in deterring the mistreatment of, minority populations, wherever they may be.

All of this is on trial today. For, if we are to remain true to this heritage, it is imperative that the Senate go on record, once and for all, against the tragic excesses of war and civilian destruction, and finally vote to uphold the Genocide Treaty.

Mr. President, as chairman of the Judiciary Subcommittee on Refugees, I have seen firsthand the waste of violence and the human toll involved in genocidal conflict. The Refugee Subcommittee's hearings are replete with examples of massive destruction and misery, as well as unprecedented human suffering, created by modern conflict. This burden of strife which, in a very real way, is shared by all of the world, is due, in large part, to the senseless consequences of minority oppression. The purposeful ideals of the Genocide Convention seek to deter such tyranny.

Over the last decade the world has all too often learned of the systematic massacre of civilian populations. Too often the simple protests of the international community have failed to stop such violence. This is because many nations have just as often found legal refuge in certain narrow principles of sovereignty which should no longer be applicable today, and which will not be applicable under the Genocide Convention. Many nations have long ago voiced their abhorrence for such acts of mass violence, by ratifying this declaration of international decency. All in all, 76 nations have supported the intent of this convention. Such widespread concurrence has made the Genocide Convention the most inclusively supported international treaty second only to the United Nations Charter.

During the United Nations debate on the Genocide Convention in 1949, then U.S. Assistant Secretary of State Ernest Gross stated:

> We should proceed with this Convention before the memory of recent horrifying acts have faded from the minds and conscience of man.

To date, we have seen other nations act to prevent a recurrence of past atrocities, and it is long over due for them to hear from us as well. For even as the Senate debates the Genocide Treaty the shadow of massive human suffering in distant lands is as real today as it was when Assistant Secretary Gross spoke before the United Nations in 1949.

Turmoil and violence remain a constant companion to millions of civilians around the globe. In South Asia, the young nation of Bangladesh has yet to adequately recover from the disastrous losses inflicted upon its population by Pakistan in 1971. Reports over the last year from Burundi speak of continuing civil strife and slaughter. Thousands have perished in tribal massacres, and many more will likely die during the days ahead. But the ruthless course of war spreads elsewhere as well. The ceaseless war of Indochina continues to inflict nothing less than virtual disaster upon peoples who have not known of peace nor security for two decades.

This seemingly never-ending succession of human violence and continuing conflict—and the toll of innocent civilians which it leaves in its wake—must be a very real source of concern in our deliberations on this treaty. For although its provisions will not fully end such violence, nor will our ratification of it stop all future injustices, yet I believe our Nation can no longer remain silent about them. With war-ravaged populations suffering wherever we turn, why has the Senate remained so reluctant to add America's voice in support of the principles of the Genocide Convention?

Mr. President, as we all know, it was almost 25 years ago that the United Nations General Assembly—acting in response to the atrocities of World War II—called upon its member states to ratify a convention for the prevention and punishment of genocide. The history of the drafting of the Genocide Convention should be a source of pride for all Americans, since the major impetus for this treaty came from our own diplomats. When President Truman submitted the convention to the Senate with his enthusiastic endorsement, he requested that the Senate consent to its adoption. Since then, the Genocide Convention has undergone nearly a quarter century of intense congressional scrutiny. Our failure to act decisively during these years has created a burden of neglect—neglect of principles for which we pride ourselves in setting an example for other nations to follow. It is time, Mr. President, for us to follow our own example and for the Senate to act in favor of those principles.

Many of my colleagues have had ample opportunity to express their reservations over some of the convention's provisions. However, most of these objections have now been remedied with the proposed reservations to be added to our signing the treaty. As we know, legislation providing for this must be enacted before our instrument of ratification is complete. Contrary to the concerns voiced by several of my colleagues, the convention does not, nor will it, impose any fearful obligations upon the United States. And, we know that personal freedoms guaranteed by our Constitution cannot be abridged by international treaty obligations.

The extensive record of the Foreign Relations Committee's hearings justifies the conviction that this treaty has received careful consideration and scrutiny. Each article to the treaty was studied for possible conflict with the laws of our States as well as with the laws of the Federal Government. I am confident that we can render our support to the convention knowing that our Nation can in no way suffer harm.

A similar process of review and reservations occurred a few years ago, during the Senate's consideration of the Protocol Relating to the Status of Refugees, which was ratified after debate by the Senate in 1968. This Senate action has in no way abridged our Constitution nor the legislative prerogatives of the Congress. But it has served to help the homeless, and to clarify our Nation's policy toward asylum and refugees.

And so in considering the Genocide Treaty, we stand to lose a great deal if we reject the thoughtful recommendations of past administrations, and the votes of our own colleagues on the Foreign Relations Committtee, and fail to ratify this treaty. How do we answer to the international community if we reject this needed instrument of international law? Do we tell them that the United States will no longer serve as a leader in the battle for common respect of international morality? Do we tell friend and foe alike that our failure to accede to the treaty expresses our lack of concern over the international problem of genocide? And will it not be a sad day for our Nation if our failure to agree to the Genocide Convention should seriously impair those countries wishing to take affirmative action against some future, mindless act of genocide?

Mr. President, our decisions and debate today will have far greater significance upon world events than our mere approval of a long forsaken document. For if history is to serve as our guide, we must remember that genocidal acts are not simply sorry episodes out of the past, but are very real problems today which demand far greater concern and more defined obligations on our part.

I urge the Senate to vote in favor of the resolution of ratification.

Mr. ALLEN. Mr. President, the statement has been made that there is no penal court of international justice. That is what the whole thing is looking toward, punishment of the crime of genocide.

This is an opening and entering wedge for the setting up of such a court. The point that the Senator from Alabama has made and makes again is that if 78 nations of the world have ratified this convention, and have not gone forward to implement the provisions of the convention by setting up a penal court, it must not be such a good idea after all. It takes only 20 nations adopting the convention for the convention to be operative, and they have 78. So if it is such a good idea, why have they not gone forward with it?

I challenge them to show one single constructive act done under this convention—one single instance of the crime of genocide being punished in any of these nations that have adopted the convention and that have defined genocide.

Apparently it is serving no useful purpose in the other nations of the world, and I see no occasion for the United States putting the necks of our citizens in a noose to subject them to possible penalties under such a court, when, as, and if it is set up. I predict that if this convention is adopted during this very session of Congress, we will see the International Court of Justice penal section move forward.

The VICE PRESIDENT. The time of the Senator from Alabama has expired.

All time has expired.

CLOTURE MOTION

The VICE PRESIDENT. Under the previous order the Senate will now proceed to vote on the cloture motion which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate upon the pending resolution of ratification to the International Convention on the Prevention and Punishment of the Crime of Genocide (Executive O, 81–1).

Mike Mansfield, Frank Church, Jacob K. Javits, Alan Cranston, Edward W. Brooke, Abraham Ribicoff, John V. Tunney, William Proxmire, Charles H. Percy, James B. Pearson, Richard S. Schweiker, Hugh Scott, Lowell P. Weicker, Jr., Gale W. McGee, Bob Packwood, Robert P. Griffin.

CALL OF THE ROLL

The VICE PRESIDENT. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[No. 31 Ex.]

Abourezk	Ervin	Metzenbaum
Aiken	Fannin	Mondale
Allen	Fong	Moss
Baker	Fulbright	Muskie
Bartlett	Goldwater	Nelson
Beall	Griffin	Packwood
Bellmon	Gurney	Pastore
Bennett	Hansen	Pell
Bentsen	Hart	Percy
Bible	Haskell	Proxmire
Biden	Hatfield	Randolph
Brock	Hathaway	Ribicoff
Brooke	Helms	Roth
Buckley	Hollings	Schweiker
Burdick	Hruska	Scott, Hugh
Byrd, Harry F., Jr.	Huddleston	Scott, William L.
Byrd, Robert C.	Hughes	Sparkman
Cannon	Humphrey	Stafford
Case	Jackson	Stennis
Chiles	Javits	Stevens
Church	Johnston	Stevenson
Clark	Kennedy	Symington
Cook	Magnuson	Taft
Cotton	Mansfield	Talmadge
Cranston	Mathias	Thurmond
Curtis	McClellan	Tower
Domenici	McClure	Tunney
Dominick	McGee	Weicker
Eagleton	McGovern	Williams
Eastland	McIntyre	Young
	Metcalf	

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Louisiana (Mr. LONG) and the Senator from Georgia (Mr. NUNN) are absent on official business.

Mr. GRIFFIN. I announce that the Senator from Kansas (Mr. PEARSON) and the Senator from Kansas (Mr. DOLE) are necessarily absent.

The PRESIDING OFFICER (Mr. HASKELL). A quorum is present.

The question is, Is it the sense of the Senate that debate on the pending resolution of ratification of the International Convention on the Prevention and Punishment of the Crime of Genocide shall be brought to a close? The yeas and nays are mandatory under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from Hawaii (Mr. INOUYE), and the Senator from New Mexico (Mr. MONTOYA) are necessarily absent.

I further announce that the Senator from Georgia (Mr. NUNN) and the Senator from Louisiana (Mr. LONG) are absent on official business.

On this vote, the Senator from Indiana (Mr. BAYH) and the Senator from Alaska (Mr. GRAVEL) are paired with the Senator from Louisiana (Mr. LONG).

If present and voting, the Senators from Indiana and Alaska would vote "yea" and the Senator from Louisiana would vote "nay."

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

I further announce that, if present and voting, the Senator from Georgia (Mr. NUNN) would vote "nay."

Mr. GRIFFIN. I announce that the Senators from Kansas (Mr. PEARSON and Mr. DOLE) are necessarily absent.

The yeas and nays resulted—yeas 55, nays 36, as follows:

[No. 32 Ex.]

YEAS—55

Abourezk	Hatfield	Packwood
Aiken	Hathaway	Pastore
Beall	Hughes	Pell
Bellmon	Humphrey	Percy
Bentsen	Jackson	Proxmire
Biden	Javits	Randolph
Brooke	Kennedy	Ribicoff
Burdick	Magnuson	Schweiker
Byrd, Robert C.	Mansfield	Scott, Hugh
Case	Mathias	Stafford
Chiles	McGee	Stevens
Church	McGovern	Stevenson
Clark	McIntyre	Symington
Cranston	Metcalf	Taft
Eagleton	Metzenbaum	Tunney
Fong	Mondale	Weicker
Griffin	Moss	Williams
Hart	Muskie	
Haskell	Nelson	

NAYS—36

Allen	Domenici	Johnston
Baker	Dominick	McClellan
Bartlett	Eastland	McClure
Bennett	Ervin	Roth
Bible	Fannin	Scott, William L.
Brock	Fulbright	Sparkman
Buckley	Goldwater	Stennis
Byrd, Harry F., Jr.	Gurney	Talmadge
Cannon	Hansen	Thurmond
Cook	Helms	Tower
Cotton	Hollings	Young
Curtis	Hruska	
	Huddleston	

NOT VOTING—9

Bayh	Hartke	Montoya
Dole	Inouye	Nunn
Gravel	Long	Pearson

The PRESIDING OFFICER. On this vote there are 55 yeas and 36 nays. Two-

thirds of the Senators present and voting not having voted in the affirmative, the cloture motion is rejected.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE SESSION—ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session and that there be a resumption of the period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 3 minutes.

Mr. JAVITS. Mr. President, I reserve the right to object, and I would like to ask the Senator this question: Where does that leave the executive session on the Genocide Treaty, unless that is wrapped up in the unanimous consent?

Mr. ROBERT C. BYRD. It would be set aside for not more than 30 minutes.

Mr. JAVITS. Is that part of the unanimous consent?

Mr. ROBERT C. BYRD. Yes; it would be.

Mr. JAVITS. I thank my colleague.

The PRESIDING OFFICER. Is there objection? Without objection——

Mr. TOWER. Mr. President, I am delighted that the Senator from Arizona is on the floor, because I intend to make some rather uncomplimentary remarks about him.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JAVITS. Does that request include that 30 minutes he set aside and then the genocide treaty comes back to us? Is that correct?

The PRESIDING OFFICER. The Senator from West Virginia asked unanimous consent that the Senate go out of executive session, proceed to 30 minutes of morning business, but at the end of that 30 minutes it would be up to the Senate to decide whether or not it would go back into executive session.

Mr. JAVITS. Then I object.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session, that there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements limited therein to 5 minutes, and that at the conclusion of the period for the transaction of routine morning business the Senate go back into executive session and resume its consideration of the genocide convention.

The PRESIDING OFFICER. Is there objection? The Chair hears none——

Mr. McCLELLAN. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Does the Senator from Arkansas object?

Mr. McCLELLAN. I reserve the right to object so I can ask a question.

I would like to have about 10 minutes to make some remarks on the budget sometime now or pretty soon. I wonder how that can be arranged.

Mr. ROBERT C. BYRD. That was the purpose of putting the Senate back into routine morning business. I understood the Senator desired to speak.

Mr. McCLELLAN. It may take more than 5 minutes. I thought about 10.

Mr. ROBERT C. BYRD. Another Senator would yield 5 minutes to the able Senator from Arkansas. There will be no problem.

Mr. McCLELLAN. Very well. I have no objection.

The PRESIDING OFFICER. The Chair hears no objection to the unanimous-consent request, and it is agreed to.

The Senate resumed consideration of legislative business.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Texas is recognized.

CHALLENGE TO CHILI COOK-OFF

Mr. TOWER obtained the floor.

Mr. GOLDWATER. Mr. President, a parliamentary inquiry. Will the Senator from Texas use his microphone? If he is going to insult me, I want to hear it.

Mr. TOWER. Mr. President, I note from an article in the Houston Chronicle of this past weekend that the junior Senator from Arizona, the Honorable BARRY GOLDWATER, apparently made some comment on Texas chili at a function this past week at the National Press Club.

The Chronicle quoted the Arizona Senator as saying: "I have heard that the club serves only Texas chili. Tell me this is not true. A Texan does not know chili from leavings in a corral."

Now, Mr. President, if this is an accurate quote of the distinguished junior Senator from Arizona, I submit that this raises very grave questions about that Senator's taste.

The whole world knows, Mr. President, that the best chili anywhere is brewed in Texas. Ask any Texan over the age of 3 months if there are any doubts lingering in the mind of anyone. Is not Texas the site for the annual world's champion chili cookoff at Terlingua? Is Texas not the home of the late great chili king, Wick Fowler, whose family still packages the world-famous Two Alarm Chili at Austin? Is the Chili Appreciation Society International not headquartered at Dallas, where some of the world's foremost chili experts reside?

Comparing Arizona chili to Texas chili is like comparing Phyllis Diller to Sophia Loren.

Mr. President, every Texan who has ever cooked chili knows he could make better chili than anyone from Arizona with one hand tied behind his back.

The junior Senator from Arizona has gone too far. A Texan just cannot take this lying down. I therefore, Mr. President, challenge the junior Senator from Arizona to a chili cookoff. The junior Senator from Arizona, if he chooses to accept this challenge, can choose the time and place for this chili cookoff with three impartial judges mutually agreed on. This will prove once again that nobody can cook chili like a Texan—not even Arizona's most distinguished citizen, who is grievously in error on this point.

Mr. GOLDWATER. Mr. President, the Senator from Texas still did not clear up the remark I made about not knowing chili from leavings in a corral.

Mr. TOWER. We know that an Arizonan cannot tell the difference.

Mr. GOLDWATER. But the Senator from Texas will not name that substance with which to make chili which they use a lot in Texas because they do not know the difference. [Laughter.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GOLDWATER. Mr. President, I will be very glad to accept the challenge. It will be a real experience for me to teach a Texan how to do something that he does not know how to.

Mr. TOWER. Mr. President, that remains to be seen.

THE FACTS ABOUT DEFENSE SPENDING

Mr. McCLELLAN. Mr. President, the Department of Defense budget request for fiscal 1975—a record $84.6 billion—has, as expected, already touched off the usual uninformed charges about military overspending and the wasteful arms race spiral.

Once again, our citizens are being told that defense spending is the prime cause of the rapidly increasing cost of the Federal Government and that our national wealth is being squandered on unnecessary military expenditures while human needs go begging.

No myth is more long lived—or more pernicious. The fact is that since 1964, defense spending has been steadily decreasing as a percentage of the total budget while spending on human resources has constantly increased—and fiscal 1975 is no exception.

Since fiscal 1965, the cost of the Federal Government has gone up $186 billion—from $118.4 billion to $304.4 billion estimated for fiscal 1975. Of that total increase, only 21 percent or $38.6 billion is attributable to military spending. The remaining 79 percent, or $147.4 billion is attributable to nonmilitary functions and services, such as human resources and general government.

Since 1965, Federal outlays for human resource items—education and manpower; health, including medicare and medicaid; income security, including

benefits—have increased from 30 percent to 50 percent of the Federal budget—$35.4 billion to $151.5 billion.

This means that over the last decade, the Federal Government has spent $123.8 billion more for human resources programs than it has on the military functions of the Department of Defense—$909.8 billion for human resources as compared to $786 billion for defense, and this includes the major costs of the longest war in our Nation's history.

The defense share of the total Federal budget continues to decline. In fiscal 1975, for example, proposed defense outlays constitute only 28 percent of the total Federal budget—down 11 percent from the fiscal 1965 level. The costs of defense programs, as proposed for fiscal 1975, will require a smaller percentage of the gross national product and of the Federal budget than in any year since 1950.

Moreover, defense spending has been rising far less rapidly than any other major item in the budget. While total Federal outlays have increased by about 157 percent in the past decade—from $118.4 billion to $304.4 billion estimated for 1975—defense spending increased by only 84 percent during this same period—from $45.9 billion to $84.6 billion.

At the same time:

Federal aid to education jumped 462 percent, from $1.3 billion to $7.6 billion.

Public assistance increased 365 percent, from $3.1 billion to $14.5 billion.

Social security and other retirement and disability programs increased by 283 percent, from $19.6 billion to $75.1 billion.

Health services, including medicare and medicaid increased by 4,418 percent, from $496 million to $22.4 billion.

So, Mr. President, it is clearly evident that contrary to the misconceptions of many persons—including some Members of the Senate—the truth is that we are spending far less today to maintain our national security than we are spending for human needs and nondefense programs.

Many persons assumed with some logic that once the Vietnam war was over, defense appropriations would show a marked reduction that would approach the pre-war level. Regretfully, the so-called peace dividend has been swallowed up by continuing inflation; by the ever-increasing sophistication of our weapon systems and the cost of the all-volunteer force.

Inflation is the No. 1 enemy in our efforts to establish lower defense costs and to reduce defense spending. For example, one need look no further than a check of some of the major food items served in the mess halls of the Armed Forces to see the effects of inflation on defense costs:

Cost of food items	Cost in 1964	Cost today [1]	Percent change
White bread, 1 lb	0.21	0.32	53.3
Round steak, 1 lb	1.04	1.75	68.3
Rib roast, 1 lb	.83	1.55	86.7
Chuck roast, 1 lb	.57	1.02	78.9
Pork chops, 1 lb	.88	1.58	79.5
Bacon, 1 lb	0.67	1.43	113.4
Hamburger, 1 lb	.49	1.02	108.2
Pork loin, 1 lb	.61	1.20	96.7
Milk, ½ gal	.48	.82	70.8
Butter, 1 lb	.74	1.00	35.1
Eggs, 1 doz	.54	.83	53.7
Coffee, 1 lb	.82	1.08	31.7

[1] November 1973.

In little more than a year, the Department of Defense reports that the average daily rate for feeding enlisted personnel has increased from $1.65 to $2.28 as of January 1, 1974.

Weapons and equipment have experienced similar increases in cost. Much of this is due to inflation, but in addition, the sophistication demanded of modern weaponry has also taken its toll.

In World War II, a B–29 bomber cost $680,000. Today's FB–111 costs $9.5 million—almost 14 times as much.

A P–51 fighter aircraft of 30 years ago cost $54,000. An A–7A of today costs $2.8 million—more than 50 times as much.

Or consider more recent comparisons:

In 1964 the cost of a 2½-ton Army truck was $8,700. Today it costs $15,500.

A jeep has gone from $3,300 in 1964 to $4,160 in 1973.

An M–60 tank produced in 1964 cost $170,000. Today the M–60A1 is priced at $295,400.

A nuclear submarine of 1964 cost about $81 million; today an SSN costs $181 million.

Military personnel costs, have in recent years, increased even more markedly as a result of inflation and the all-volunteer concept. During fiscal 1975, personnel and related costs will account for 56.1 percent of Department of Defense outlays, or $47.5 billion. This represents an increase of $3.6 billion in spending on personnel in 1 year alone, over the $43.9 billion earmarked for this purpose during fiscal 1974.

Although the number of military personnel will have been reduced from 3.5 million men in 1968 to 2.2 million in 1975, average per capita cost is expected to double—from $5,500 to $11,000 in 1975. As a result, total active duty pay costs for our military personnel will rise from $19 billion in 1968 to $24 billion in 1975.

Military spending is up $6.2 billion over last year but more than half of this, $3.6 billion, will go for military and civilian pay and related personnel costs. Of the remaining $2.6 billion, over $1 billion will go for procurement; $1 billion for operation and maintenance; $0.4 billion for research and development and $0.2 billion for military construction. In view of the high cost and dollar drain of the Vietnam war which diverted funds normally devoted to these activities, it is remarkable indeed that these requests were held at such a modest level.

Proposed defense spending is up 8 percent over last year, but pollution control is up 54 percent; medicare and other health programs are up 13 percent; social security benefits are up 16 percent; public aid, food stamps, and similar programs are up 25 percent; and unemployment pay is up 27 percent.

Make no mistake, Mr. President, protecting the welfare and security of our people has been and will continue to be high on our priority list. But just as we cannot afford the luxury of unnecessary defense expenditures neither can we afford the risk of becoming a second rate military power.

Despite increased spending on defense, Mr. President, the unresolved and vital question is whether the United States is falling behind the Soviet Union militarily—whether we are meeting and whether we can meet the challenge of expanding Russian military might?

While the United States was fighting an expensive and inconclusive war in Southeast Asia, the Russians were spending lavishly to improve and enlarge their arsenal of nuclear and conventional weaponry. The Soviet Union continued to pursue an aggressive program of development of new weaponry and to expand their sphere of influence into new areas of the globe.

As American defense forces, measured in terms of constant purchasing power and percentage of the budget have been reduced, Soviet forces and spending have been increased. For example, while the spending programs of the Department of Defense now account for only 5.9 percent of our gross national product, defense spending absorbs 12 percent of the gross national product of the Soviet Union.

In order to prevent a serious imbalance of military strength from resulting—an imbalance which could be fatal to our system of government and our way of life—the United States must continue to modernize and to improve the readiness of its combat forces.

It is my profound hope that the negotiations for a strategic arms limitation and mutual balanced force reductions will be successful in preserving the present balance of power and will insure a generation of peace.

Nevertheless, while negotiations continue, the United States must maintain adequate force levels and a technological lead over any potential enemy. Freedom cannot be guaranteed or maintained without resolution and the essential military strength to defend it.

I ask unanimous consent that two charts prepared by the Senate Committee on Appropriations be printed in the RECORD. One shows the relationship of defense spending to the cost of human resources programs, while the other compares fiscal 1974 and fiscal 1975 Department of Defense outlays by function. And I ask unanimous consent that a perceptive article on the relationship between the United States and Soviet defense postures from Time magazine of February 11, 1974, be printed in the RECORD.

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

BUDGET OUTLAYS BY FUNCTION

[In millions of dollars]

	Fiscal year 1965			Fiscal year 1975 (proposed)			
	Amount	Percent of total budget	Percent of GNP	Amount	Percent of total budget	Percent of GNP	Budget dollars and percentage increase from fiscal year 1965 to fiscal year 1975
Department of Defense	$45,973	0.388	0.070	$84,600	0.277	0.058	Up $38,627 or 84 percent.
Federal aid to education	1,349	.011	.002	7,577	.025	.005	Up $6,228 or 462 percent.
Public assistance	3,119	.026	.005	14,505	.048	.010	Up $11,386 or 365 percent.
Retirement and disability (including Social Security)	19,603	.167	.030	75,114	.247	.052	Up $55,511 or 283 percent.
Health services, Medicare, Medicaid and others	496	.004	.001	22,412	.074	.015	Up $21,916 or 4,418 percent.
Interest (net)	10,358	.088	.016	29,122	.095	.020	Up $18,764 or 181 percent.
Other	37,532	.316	.057	71,115	.234	.049	Up $33,583 or 89 percent.
Total	118,430	100	.181	304,445	100	.209	Up $186,015 or 157 percent.

10-YEAR COMPARISON OF DEPARTMENT OF DEFENSE OUTLAYS TO TOTAL OUTLAYS

	Fiscal year 1965			Fiscal year 1975			Increase	
	Amount	Percent of total budget	Percent of GNP	Amount	Percent of total budget	Percent of GNP	Amount	Percentage
Defense	45,973	0.39	0.070	84,600	0.28	0.058	+38,627	0.21
Federal Government other than Defense	72,457	.61	.111	219,845	.72	.151	+147,388	.79
Total	118,430	100	.181	304,445	100	.209	+186,015	100

Note: Columns may not add due to rounding.

DEPARTMENT OF DEFENSE OUTLAYS

[Dollar amounts in billions]

	Fiscal year 1974		Fiscal year 1975	
	Amount	Percentage	Amount	Percentage
Personnel and related costs	$43.9	56.0	$47.5	56.1
Military pay	(17.9)	(22.8)	(19.0)	(22.4)
Civilian pay	(13.8)	(17.6)	(14.9)	(17.6)
Other military personnel	(6.9)	(8.8)	(6.7)	(7.9)
Retired pay	(5.2)	(6.6)	(6.0)	(7.0)
Family housing (excluding pay)	(.8)	(1.0)	(.9)	(.1)
Operation and maintenance, (excluding pay)	12.1	15.3	13.3	15.7
Procurement (excluding pay)	$14.3	18.2	$15.5	18.3
Research and development (excluding pay)	7.0	8.9	7.4	8.7
Military construction	1.2	1.5	1.4	1.7
Adjustments	−.2	−.3	−.6	−.7
Total	78.4	100.0	84.6	100.0

Note: Columns do not add because of rounding.

[From Time, Feb. 11, 1974]

ARMING TO DISARM IN THE AGE OF DÉTENTE

From a launch site deep in Kazakhstan near the Aral Sea, two giant Soviet rockets streaked 4,500 miles to a target area some 850 miles northwest of Midway in the Pacific late last month. It was Russia's first full-range test of its SS-19 intercontinental ballistic missile. Like the U.S. Minuteman III, it carries multiple nuclear warheads aimed at separate targets. To U.S. military strategists in the Pentagon, the successful Soviet firings were fresh confirmation that for all the genuine gains of détente, the arms race between the world's premier superpowers is still very much alive.

The Russian missile advances had been expected since the latest shots followed a series of shorter-range tests of two other new missiles on a range ending on the Kamchatka peninsula in eastern Siberia last spring and summer. Nonetheless, one of their chief consequences will be to focus this year's debate in Congress over the defense budget on the question: Is the U.S. falling behind the Soviet Union militarily? Arsenals of experts are likely to be rolled out to argue both sides of the highly complex question. But there is no dispute about the fact that while the U.S. was fighting the expensive and inconclusive Viet Nam War, the Russians were spending lavishly to improve their stores of nuclear and conventional weapons. Their armed forces are now larger than those of the U.S. and, particularly in the case of the Soviet navy, often equipped with newer hardware. More important, the continuing Russian effort, together with the ceilings imposed on U.S. arms levels in the 1972 Strategic Arms Limitations Talks (SALT I) with Moscow, leads analysts to fear that in the mid-1980s the Soviets might finally overtake the U.S.

To Americans, such a prospect can only be profoundly unsettling. It was reflected in the applause for President Nixon's declaration in his State of the Union message: "We must never allow America to become the second strongest nation in the world." But how that pledge can be guaranteed is yet to be determined, and it depends as much on the Soviet Union as on the U.S. Congress and President. Both Moscow and Washington now seem poised at the beginning of another round in the nuclear arms race that could cost billions of rubles and dollars. The new round seems likely to be prevented only if the two countries decide to accept a measure of military parity, negotiate permanent limits to their nuclear armaments, and learn to accept a nuclear balance in which there is no first among equals.

TWO GOALS

The man in charge of the U.S. military response to the new Russian challenge is James Rodney Schlesinger, 45, who was sworn in as Secretary of Defense last July 2. By profession an economist and military strategist, the tall, pipe-smoking Schlesinger demonstrated deft and tough skills in administration and problem solving in his previous jobs as chairman of the Atomic Energy Commission and director of the Central Intelligence Agency (*see box page 16*). At the Pentagon, he has set two goals for himself: 1) to overcome the legacy of the Viet Nam War, which has left the services top-heavy with brass, depressed in morale and saddled with a so far faltering volunteer system as a replacement for the draft; and 2) to enable the American armed forces to meet the new Soviet weapons threat.

The second goal has an odd, atavistic ring to many Americans, educated by the achievements and rhetoric of the President and Secretary of State Henry Kissinger to believe that the U.S. and the Soviet Union are well into a new era of trade and détente. Indeed, the two countries are on a new and significantly improved footing with each other. But because Nixon and Kissinger are rightly convinced that détente can only be constructed on a realistic equality of U.S. and Soviet armed might, Schlesinger and his Pentagon have a vital role to play in the Administration's grand design. Kissinger and Schlesinger work closely together, coordinating their moves, breakfasting at least once a week when the Secretary of State is in Washington. After two summits and SALT I, the nuclear balance is still, looking to the future, weighted to the Soviets' advantage. Schlesinger's task is to provide the muscle and tools to help Kissinger bring the balance back to center in further negotiations.

Schlesinger believes that to do his job will require spending more money on the military. Since 1968 defense has accounted for a steadily decreasing portion of total federal spending. The outlays for fiscal 1974 will total $79.5 billion; when adjusted for inflation, this is the lowest Pentagon spending since the Korean War began. Even before Schlesinger became Secretary of Defense, he was warning that cutting more out of military spending was a "self-defeating game" that might eventually give the Soviets the appearance—if not the reality—of being stronger than the U.S. Once in office, he was even more emphatic: "It is an enchanting illusion that you can simply take large amounts of money out of the defense budget and cut only fat and not muscle. It was an illusion in 1949, and it is an illusion that we can ill afford today."

Accordingly, Nixon will ask Congress this week for Pentagon spending of $85.8 billion

next year. In addition, the President will ask Congress to vote $6.8 billion for long-term Pentagon contracts and to supplement this year's defense spending by $6.2 billion. The extra money for 1974 is needed to cover inflation and military-pay increases, as well as to buy $2.2 billion worth of ammunition and weapons to replace those shipped to Israel during the Middle East war.

Inflation and pay boosts are also responsible for $5 billion of the increase in the amount proposed for next year. But the heart of the budget argument and the portion that is aimed as a warning message at Moscow is the Pentagon request for $9.4 billion for research and development of new weapons in fiscal 1975, an amount on top of the $8.1 billion being spent for that purpose this year. Schlesinger has long believed that "the appropriate means for hedging against surprise is through an enhanced R. and D. program." The budget, the first to be drawn up under his supervision, calls for money to begin research into new missiles, a new submarine and new technology that will enable the nation to fight a limited nuclear war—something less than the all-out holocaust of reciprocal annihilation on which U.S. nuclear strategy has been based for 25 years.

Is Russia about to surpass the U.S. in atomic arms? There is, unfortunately, no objective way to quantify nuclear capability. The debate usually centers on three measurements: the number of launchers, their throw weight (payload) and the number of warheads deliverable. Russia has not only more launchers than the U.S. (*see chart page 18*), but bigger missiles—with up to 120% more throw weight. The U.S., however, has almost twice as many warheads on its missiles. Thus, as Harvard Professor Paul Doty puts it, "If you are a [U.S.] hawk, you argue throw weight, and if you are a dove, you argue warheads."

U.S. ADVANTAGE

Even if the numbers game was not contradictory, it would not give an accurate picture of both countries' relative nuclear strength. On one level, each superpower has more than enough warheads to destroy civilization; the surplus, as Winston Churchill once said, serves only to "make the rubble bounce." In anything other than an all-out nuclear war, however, accuracy of missiles becomes the critical factor. Here the U.S. has a substantial technological advantage. It requires three of Russia's burly SS–9 missiles—each with a 25-megaton yield—to hit the same targets as one U.S. Minuteman III with its three warheads and total yield of 600 kilotons.

The better American guidance systems enable the U.S. warheads to strike within a quarter of a mile of the target. The Pentagon believes that Soviet missiles can do no better than hit one-half mile from the target. The Soviets depend on size to compensate for their missiles' inferior electronic brainpower.

Because of that technological advantage—and the U.S. lead in long-range bombers—Nixon agreed to grant the Russians numerical superiority in launchers in the SALT I agreements. At the time, the U.S. wrongly believed that the agreement might break the Soviet momentum in missile advances by setting a five-year ceiling on the number of offensive missiles each side can have. The U.S. was limited to 1,054 land-based intercontinental ballistic missiles (ICBMs), 44 missile-launching submarines and 710 submarine-launched ballistic missiles (SLBMs). The Soviet were permitted 1,618 ICBMs—91 more than they have—62 missile-launching submarines and 950 SLBMs. The agreement set no restrictions on the number of warheads that could be placed on each rocket. Nor did it limit bombers, short- and medium-range missiles and tactical nuclear weapons that can be used on the battlefield.

Thus when the SALT I agreement was signed May 26, 1972, Admiral Thomas H. Moorer, chairman of the Joint Chiefs of Staff, felt that there was "relative strategic [nuclear] parity" between the two countries. By 1975 half of the U.S. land-based missiles would be MIRVs (multiple independent re-entry vehicles): each launcher tipped with a package of three independently targeted warheads that can hit widely separated, preplotted targets. Some Soviet missiles in operation then also had multiple warheads, but they were not independently targeted. When fired, they sprayed from the missile launcher along a straight line like pellets from a shotgun. In addition, though the Soviets had more missile-firing submarines, U.S. subs were quieter, making them harder to detect, and many of the American SLBMs carried from ten to 14 warheads each. As a further deterrent, the U.S. maintained three times as many longrange bombers as Russia.

The rough balance of nuclear forces—and the equanimity of Pentagon planners—was unexpectedly upset last summer when the Russians conducted those earlier tests of their own MIRVed missiles. The U.S. had thought the Russians were five years away from developing MIRV. Despite the tests, Schlesinger does not expect Russia to finish development of MIRV technology before 1976—and, more important, does not expect the Soviets to match U.S. inventory before the mid-1980s. Still, the tests were a disquieting sign that the relentless Soviet momentum in weapons research is closing the technology gap.

RESEARCH GAP

To high-ranking officers like Moorer, U.S. military power "has clearly peaked and is now declining." Arms Control Expert Donald G. Brennan of the Hudson Institute fears that if the purse strings are not loosened, the Soviet Union "will pull ahead both in terms of strategic and conventional forces." Both to maintain the strength necessary to make détente work and to protect itself, the U.S. cannot wait for that to happen before acting. New weapons take five to ten years to reach production. General George S. Brown, head of the Air Force Systems Command, points out that in research, "momentum is the key."

The Soviet Union keeps secret how much it spends on military research and development, and Western estimates of the figures vary widely. The Stockholm International Peace Research Institute believes that it averages up to $10 billion a year, while U.S. intelligence analysts say that the current expenditure is more like $16 billion–$20 billion. In comparison, the U.S. in recent years has been spending about $8 billion annually. Pentagon Research Chief Malcolm R. Currie says that the Russians have greatly enlarged the pool of engineers and scientists available to its military effort, though it is not known how many are actually engaged in such research. In 1960 Russia had 225,000 research scientists and engineers, while the U.S. had 400,000. Today Russia has 625,000, and the U.S. 550,000. Schlesinger and other Pentagon planners complain that the Soviets have deployed one new submarine-launched missile and are testing four new land-based missiles. The U.S. is planning a new missile for the Trident submarine but has no new ICBM in the works.

Outside the Pentagon, there is widespread agreement that Russia is indeed striving to surpass the American nuclear arsenal. Declares Foreign Affairs Specialist Zbigniew Brzezinski: "SALT I on the American side was a plateauing in weapons development. Given the secrecy and level of Soviet development, the situation is increasingly less and less stable." And in the Kissinger-Schlesinger world view, stability is the key not only to security but diplomacy. But there is disagreement over whether the nuclear statistics have any real meaning. According to M.I.T. Political Scientist George Rathjens, "More hardware at this point is irrelevant [because] modest numbers of thermonuclear weapons will suffice to inflict levels of damage on nations that would be unacceptable under all circumstances."

Numbers of nuclear weapons, however, do have psychological importance to the people and politicians of both countries. Harvard's Doty explains: "To the extent that numbers influence worldwide opinion, then numbers become a realistic basis for argument, even though they do not have much to do with the worldwide arms situation. It is important to distinguish between military reality on the one plane and political perception on the other." In this sense, the real danger lies in giving an impression that there is an imbalance in nuclear power in favor of the Russians that would breed insecurity. Adds the Hudson Institute's Brennan: "Either we persuade the Soviets to accept reasonable limitations on strategic forces or we are obliged to maintain our forces at a level that will prevent the Soviet Union from having superiority or believing that they have superiority."

Just that was supposed to take place at the SALT II talks, which began in Geneva last March to seek a permanent agreement on limiting offensve nuclear arms. However, those talks appear to have bogged down. Under pressure from Democratic Senator Henry ("Scoop") Jackson of Washington, who believes that the U.S. conceded too much at SALT I, President Nixon has insisted that the permanent agreement gives both countries roughly equal numbers of nuclear weapons. Last October the Russians reportedly offered to halt technological improvements at the level attained by the U.S. but insisted on keeping the numerical advantage granted them by SALT I. The Soviet obduracy has led Jackson to conclude that Russia does not "view the SALT deliberations as a path to mutual security through nuclear stability based on strategic equality." As one Pentagon strategist puts it, "It is clear to all that the Russians want superiority and then they will be ready to talk to us about deals."

NEW WEAPONS

To get the talks moving, the Administration wants "bargaining chips" in the form of new weapons and argues that they may prove even more necessary if the talks fail. Nixon's budget request includes $1.3 billion to continue accelerating the development of the Trident missile-firing submarine, which eventually will cost $1.3 billion each to produce. The Navy wants Trident to start replacing Polaris submarines in 1978. The budget also contains $500 million for development of the B–1 bomber. The Air Force hopes to buy 244 of them for $11 billion by 1980 as a successor to aging B–52s. In addition, the Air Force wants $20.6 million to test-fire eight Minuteman missiles from their silos in Montana 5,000 miles into the Pacific to demonstrate the system's reliability. The budget also would permit researchers to begin work on several new weapons systems. Among the items:

$125 million for cruise missiles that could be fired from either submarines or airplanes. Powered throughout its flight by a jet engine, the 15-ft.-long missile would fly up to 1,500 miles, hugging the surface to elude Soviet radar, and deliver its warhead squarely on target.

$248 million for advanced ICBM technology. Included in it is money for a new nuclear warhead called MARV (for maneuverable re-entry vehicle) that could change direction in flight—something no country's ICBMs do now—to evade defensive missiles. It also would be more accurate than any existing Minuteman warhead.

$16 million for the propulsion system of the Narwhal, a new small submarine that

would carry an undetermined number of nuclear-tipped missiles and be so fast and maneuverable that it could presumably evade Soviet antisubmarine forces for years to come, though the Soviets have a surprise abuilding in that area themselves.

As further pressure on the Soviets to moderate their position at SALT II, Schlesinger recently disclosed that U.S. nuclear doctrine has been undergoing "major change" since last spring. For 20 years American and Soviet strategy has been based on a concept of deterrence that came to be known as mutual assured destruction. Called MAD, an acronym coined by the Hudson Institute's Brennan, the doctrine holds that peace is best maintained by threatening to obliterate an entire enemy society in retaliation for a nuclear attack. Thus, the policymakers argue, nuclear war becomes unthinkable.

Over the past three years, however, Nixon has from time to time expressed ethical and practical reservations about MAD. In his foreign policy message to Congress last May, for example, the President declared that deterrence based on the ability to kill tens of millions of Soviet citizens was "inconsistent with American values." He also said that he wanted a nuclear strategy that would have "greater flexibility," a phrase that went unexplained—and virtually unnoticed by the public—until last summer. At that time, Schlesinger disclosed that the U.S. missile force was being retriggered to give the U.S. a "counterforce" capability, *i.e.*, the means to strike—if desired—only at Soviet military forces and installations rather than let loose a wholesale volley that would also destroy population centers.

To justify the change in strategy, the Secretary of Defense argued that MIRV advances might tempt the Soviet Union to launch a limited nuclear strike against the U.S. Under MAD, the only possible U.S. nuclear response would be an all-out attack on Soviet cities. That would not only be inhumane but suicidal, because Russia would retain enough missiles—particularly those aboard submarines, which are virtually invulnerable to attack—to obliterate U.S. population centers. Consequently, the President might decide to save American lives by not retaliating, in effect acquiescing to the aggression.

MORE BUTTONS

To avoid that, Schlesinger said, the President had to be allowed to respond in kind—for example, to destroy the submarine base at Murmansk in exchange for a hypothetical initial Russian obliteration of the U.S. base at Groton, Conn. Says Schlesinger: "We cannot allow the Soviets unilaterally to obtain a counterforce option that we ourselves lack. We must have a symmetrical balancing of the strategic forces on both sides."

The new strategy constitutes multiplying the number of buttons available to be pushed in a crisis, to provide more varieties of retaliation. As Schlesinger noted, "Most of the military objectives are already targeted." What Pentagon strategists are trying to do is wargame every limited attack the Soviets could make and program an appropriate, specific, equivalent American response to it. Declares Schlesinger: "We must maintain a military balance that offers no temptation to anybody." And, he might have added, that encourages Moscow to continue along the détente road with the U.S.

To critics, the counterforce strategy constitutes a dangerous escalation, since it changes the rules of the nuclear game: by making nuclear war more flexible, it becomes more thinkable, perhaps more tolerable, and therefore more possible. They also think it an expensive escalation, believing that it will inevitably require more accurate missiles and perhaps even bigger ones. Declares Columbia Professor Emile Benoit, an expert on the economics of defense: "We don't know how much we will spend, and we may be even less secure in the end." Indeed, the 1975 budget request includes about $10 million for a Command Data Buffer System that would allow the U.S. to switch a missile to a new target in 20 minutes. The process, which requires programming each missile's computers, now takes up to 36 hours.

Further, Benoit believes that counterforce could lead to irresistible pressure for the U.S. and U.S.S.R. to build more missile defense systems. Under SALT I, both nations are restricted to token defensive systems of two antiballistic missile sites each. Some critics warn that the Russians may look on counterforce not as a defensive measure but as an offensive one, enabling the U.S. to launch a limited first strike.

But Schlesinger argues convincingly that a first strike by either country is impossible until it finds a way to destroy the other's missile-firing submarines. Both fleets are expected to be virtually invulnerable for the foreseeable future, despite vast amounts of money being spent on research into antisubmarine warfare (a total of $2.5 billion a year by the U.S. Navy alone). Indeed, counterforce looks less like a fundamental change in American nuclear strategy than a forceful way of telling the Soviets that the U.S. is willing to continue the arms race if agreement on limiting nuclear weapons is not reached at SALT II. In the blunt words of a Schlesinger adviser on nuclear strategy, M.I.T. Professor William W. Kaufman: "We will match them."

VULNERABLE FORCES

Nonetheless, Christoph Bertram, assistant director of the highly respected Institute for Strategic Studies in London, predicts that if the current Soviet technical development continues and no defense is found, "all U.S. land-based missile forces would be highly vulnerable by the end of the decade." One alternative would be to abandon land-based missile systems altogether—a step that has been suggested by both the Federal of American Scientists and analysts at the Brookings Institution. The idea is also supported by Fred C. Iklé, the chief of the U.S. Arms Control and Disarmament Agency. Such a change would save billions of dollars and still leave the U.S. its missile-firing submarines and nuclear bombers. But Pentagon strategists point out that bombers can be shot down and that eventually submarines may also become vulnerable. They prefer to complicate the Russians' offensive problems by relying on the present triad nuclear force.

Pentagon planners' concerns about the changing nuclear balance of power are equaled by their worries about what is happening to the balance of nonnuclear military power. There too Russia has been dramatically expanding its forces and modernizing its equipment in recent years.

Until the mid-1950s, Russia maintained only a coastal-defense fleet. Since then, it has rapidly expanded its fleet, outbuilding the U.S. in naval vessels by a ratio of 8 to 1, and the Russian fleet of 221 major surface combat ships today sails all oceans of the world. For the most part, Russian vessels are younger than American ships (an average of about eight years *v.* about 18 years), and the Soviet guided-missile cruisers of the *Kresta II*–class pack more punch than anything comparable in size in the U.S. fleet. Norman Polmar, U.S. editor of *Jane's Fighting Ships*, estimates that the Soviets lead the world in antiship missiles, introduction of new technologies to warships and numbers of attack submarines. Last year the Russians launched their first aircraft carrier. At 45,000 tons, it is about half as large as the big U.S. carriers like the nuclear-propelled *Nimitz*. It will be able to bring helicopters and vertical-takeoff and landing aircraft to the scene of a battle but lacks the catapult needed to launch fixed-wing fighters or bombers.

STEADY IMPROVEMENTS

Meanwhile, the U.S. has trimmed its active fleet to 174 major surface combat ships. Nonetheless, Polmar believes that the U.S. Navy still leads the Soviets in a number of critical areas. Among them: carrier aviation (1,120 fighters and bombers aboard 14 attack carriers), nuclear-propelled surface ships and the ability to refuel and resupply ships at sea. This last capability permits the U.S. to keep a ship at sea for a longer period of time than the Russians, though Polmar expects the Soviets to catch up within a year or two.

In tactical aircraft, the U.S. still outclasses the Russians in performance, though not in numbers; however, the Soviets have made steady improvements. According to Admiral Moorer, they produced about eight new fighters in the 1960s, a decade in which the U.S. turned out only one—the problem-ridden F-111. Now the U.S. is developing two new fighters, the F-15 for the Air Force and the F-14 Tomcat for the Navy. The Tomcat is equipped to carry the Phoenix missile, which is capable of knocking out the Soviets' newest interceptor, the MIG-25, but costs $23.3 million—more than twice the original estimated price. The Soviet Union has the edge in antiaircraft missiles. Its air defenses boast some 10,000 launchers, including the deadly SA-6, which knocked down U.S.-built jets with devastating accuracy during the Middle East war.

On the ground, the balance of forces can be seen most graphically in Europe, which Pentagon planners still regard as the most likely place for a conventional war between the U.S. and Russia. When Nixon took office in 1969, U.S. forces were geared to what defense planners termed the "2½-war concept." It meant that in theory the U.S. was prepared to fight three wars at the same time—one in Europe, another in Asia and a "brushfire" war somewhere else. Since the U.S. withdrew its forces from Viet Nam, however, the strategic premise has been changed to 1½ wars, with the main event envisaged in Europe.

From the Baltic to the Bohemian Forest, some 750,000 NATO troops (190,000 of them supplied by the U.S. forces in West Germany) face approximately 850,000 troops from the Warsaw Pact nations, though not all are of top quality. The Communists hold an even greater superiority in tactical aircraft (4,300 *v.* 1,890) and in tanks (about 19,000 *v.* 6,500). Despite the antitank missiles the Arabs and Israelis used so effectively against each other last year, military planners still consider the tank the key weapon in ground combat. The Soviets have both a new medium tank (the T-62) and a new light tank in production and are testing still another new medium tank. Nonetheless, as Schlesinger points out, the U.S. and its 13 NATO allies have "other compensating advantages." The most potent is a 7,000-to-3,500 edge in small, tactical nuclear warheads, which can be lofted at the enemy forces by artillery or short-range rockets in case of attack.

MUTUAL REDUCTIONS

Many people would like to withdraw U.S. forces from Europe, but Schlesinger agrees with the Administration position that such a move would be disastrous without equivalent pullbacks by Russia. He views NATO as "the spine and adhesive" that holds off Soviet political pressure and the threat of "Finlandization" of Europe. For three months, the NATO and Warsaw Pact countries have been conducting mutual force reductions talks in Vienna, and the Administration regards keeping American soldiers in Europe as a bargaining chip that will force Soviet concessions. Says Schlesinger: "It would be foolhardy indeed not to give this process a chance to work itself out." So far, however, there has been no visible progress at the talks. The chief difficulty seems to be

finding a way to compensate for the fact that the U.S. would have to withdraw troops across the Atlantic, the Russians only to their borders near by.

Apart from meeting the Soviet challenge in Europe and elsewhere. Schlesinger must contend with the morale problems left over from Viet Nam, the nation's longest and most unpopular war. Some top-ranking officers are still bitter that the politicians interfered with their conduct of the war. Their resentment contributes to a crisis of the military spirit that infects all ranks and may well be more difficult to handle than the manifold problems of race, drugs and discipline.

There has been no decline in applications to the military academies, but officers like Lieut. General Albert P. Clark, superintendent of the Air Force Academy, finds "that Viet Nam has made things more difficult. The military image has been tarnished to the point where it is more difficult to make a man proud of the uniform." Explains one instructor at the academy: "When we signed up to go to military school, they gave us parties. When these guys go home on leave, their girl friends won't let them wear their uniforms."

Some officers think that the situation is improving, and that pride in the military is growing again, among enlisted men as well as officers. Brigadier General Charles C. Rogers, commander of the VII Corps Artillery in Stuttgart, finds that "soldiers are beginning to wear their uniforms off duty again. Only a few do it, but that's a step forward." Moreover, he detects "an improvement in morale, military courtesy and readiness to accept traditions. Soldiers still ask 'Why?' and need explanations, but they offer much less resistance."

A more pressing problem to Schlesinger is the efficient use of personnel. Since 1968 U.S. forces have been cut from 3.5 million men and women to 2.2 million (during the same period, Russian forces grew from 3.2 million to 3.4 million). But because of what the military calls "grade creep," the U.S. Army today has one four-star general for every 20,000 men, compared with one for every 145,000 men during the Korean War. The other branches have similarly exaggerated ratios of officers to men. Moreover, only about 15% of servicemen have combat jobs, a larger portion of personnel in noncombat jobs than ever before. Schlesinger calls it the "teeth-to-tail" problem.

Last year Congress ordered the Pentagon to trim 43,000 men from the military. Schlesinger intends to cut 58,000 by July. His budget for 1975 does add one new brigade to the Army but requires the 4,000-5,000 men to be drawn from existing noncombat ranks.

Schlesinger also is considering more base cutbacks. Last spring then-Secretary of Defense Elliot Richardson announced that 274 military installations in the U.S. would be closed, reduced or consolidated to save $350 million a year. Schlesinger has ordered the services to recommend this spring enough other bases that could possibly be closed to save an additional $500 million a year.

Schlesinger must also devise a way to keep up the quality of the military's enlistees. In June 1973 the military draft ended, and the services began depending entirely on volunteers. Thanks to their more dramatic missions and weaponry, the Air Force and Navy have been able to meet their recruiting quotas. But the volunteer Army has not, and so far the quality of the volunteers leaves something to be desired. High school graduates now make up only 54% of the Army's ranks (and only 41% of the volunteers during the last three months of 1973), compared with 67% ten years ago. Blacks accounted for 27% of the new recruits in the last eleven months of 1973; in 1970 only 13% of all Army men were black.

Schlesinger says that the Pentagon "cannot guarantee the success of a volunteer Army" but will make every effort to make it work. As an inducement to volunteers. Congress has approved bonuses—$2,500 for a high school graduate enlisting for four years in a combat arm, $15,000 to a doctor who signs up—and has dramatically raised military pay. It now costs taxpayers $12,448 a year to maintain each person in uniform, compared with $3,443 in 1950. In all, the volunteer force has added $3.1 billion a year to the Pentagon budget. Manpower now accounts for 56% of defense costs, compared with 43% ten years ago. Still even skeptics like Chairman John Stennis of the Senate Armed Services Committee agree that the volunteer Army should have three years to prove itself before a decision is made about whether to resume the draft.

DWINDLING RESERVES

Pentagon costs have also sharply escalated because of the energy crisis. In 1973 the military spent $1.6 billion for fuel, next year it estimates the cost at $3.1 billion, despite a drop of about 17% in usage. The savings were accomplished by such measures as cutting the time spent by ships at sea by as much as 20% and military flying time by 18%. Schlesinger says that there has been "some degradation of readiness," even though in the event of a war the military could commandeer fuel from civilians. Still, the cutoff of Middle East oil caused reserve stocks to dwindle to 15% of capacity (the actual figures are classified). The Pentagon expects the Arab oil embargo to end soon and military reserves to be back to normal by the end of June.

Schlesinger argues that big as the proposed $85.8 billion budget for 1975 sounds, it is really rather modest. Allowing for inflation, it is about $8.7 billion less than was spent in 1964, before the big Viet Nam buildup began. The proposed 1975 outlays would consume 5.9% of the U.S. gross national product—the same portion as last year but far less than the 8.3% of the G.N.P. spent on defense in 1964. Pentagon spending for 1975 also would amount to only 27.2% of the planned federal budget for the year, down almost one percentage point from this year. In 1964 42¢ of every federal dollar went for defense.

SHARP ATTACKS

Similar arguments, as well as an intense lobbying campaign that involved buttonholing about 70 Senators, enabled Schlesinger to get the Pentagon's 1974 procurement budget through Congress virtually unscathed. This year though, congressional critics will make a sharp attack on the counterforce nuclear strategy. Democratic Senator Harold Hughes of Iowa complains: "Either the doctrine is nothing new or it is the opening gun in a new arms race leading to a first-strike capability for the U.S. Schlesinger ruled out our seeking a first-strike force in his confirmation hearings. Is he now trying to reverse himself?" Warns Democratic Senator Thomas J. McIntyre of New Hampshire, chairman of the Senate Armed Services Subcommittee on Research and Development: "If Schlesinger is trying to pick a fight on first-strike capabilities, he's going to get one."

Other than that debate, Schlesinger will probably encounter little opposition to his budget from Congress. Its members are too preoccupied by Watergate, too worried about an economic slowdown and too apprehensive about the Russian advances in rocketry to make much of a fight. Even Democratic Representative Patricia Schroeder of Colorado, who has been a consistent critic of Pentagon spending, predicts: "The budget will come barreling through."

Schlesinger sees no contradiction in the U.S.'s arming itself with new weapons at the same time that it seeks to disarm through agreement with Moscow. Russia, he says, "is still a totalitarian state" and must be dealt with "in a cautious process." He further explains: "It is necessary for the U.S. to participate in the maintenance of a worldwide equilibrium of forces, and this requires the American people to do what to some seems to be inconsistent: to pursue détente—an alleviation of political tensions—and to maintain an adequate defense capability. We want to have a relaxation of political relations with the Soviet Union, and at the same time our military posture must be sufficiently strong so that we maintain worldwide equilibrium of military forces."

Mr. HUMPHREY. Mr. President, I would like to make a comment on the remarks of the able and distinguished chairman of the Appropriations Committee. It is a little premature for most of us in Congress to make too much comment on the President's budget, which we have just received, just as we received the other day the report of the Council of Economic Advisers of the President.

The President in his state of the Union message told us, of course, there will be no recession.

We are given, in this present budget that comes from the White House on defense spending in fiscal 1975, an increase of $6.9 billion, or 7.8 percent. But that is not all. That is deceptive, because there is another $6.2 billion which is supplemental, that the President is submitting as a supplemental defense spending measure for fiscal 1974. So really what it amounts to is an increase of $13.1 billion.

Mr. President, I do not think the numbers are as important as to know what we are getting for what we are spending. I am going to put some time into this matter, and I am asking my colleagues to do the same.

What are we getting in our defense structure? Is it related to the present thrust of our diplomacy? Our military forces must be related to the diplomatic and political objectives of this Nation, and I believe it is time for a total, comprehensive review of the national security forces and apparatus of the Government of the United States.

We have been picking at it piecemeal, item by item, weapons system by weapons system. I think that is the wrong way to do it. It makes headlines, but it does not make sense.

I am urging the Committee on Armed Services and other committees of Congress to take the time now, if need be even by some form of select committee, to examine into the whole structure of the Armed Forces of the United States.

I happen to believe we have too many civilians in the Department of Defense. I happen to believe we have too many support troops for each combat soldier. I happen to personally believe we have too many overseas bases, especially in the Asian area, and I happen to believe we have a propensity for adding every kind of gimmick to a weapons system we can possibly conceive.

I think it is time, Mr. President, for Congress not to argue about the figures alone, but to find out what we are getting for the money we spend, and what kind of a defense system we have to back up

the political and diplomatic objectives of this Nation.

A REMINDER OF OUR HERITAGE

Mr. HUMPHREY. Mr. President, the Congress has an excellent opportunity during the coming months to focus the Nation's attention on some of the most glorious moments in its history. In view of the magnitude of our present crises, the country needs a boost in morale.

The opportunity I refer to is embodied in the Meeting House Preservation Act, a bill which would give a permanent legacy to citizens of every State and territory of this great Nation.

The act, which calls for restoration of 55 historical sites, 1 for each State and territory, would focus attention on the Nation's Bicentennial in 1976. The act calls for each historical site to be restored and ready for use by citizens' organizations when Bicentennial activities get underway in 1976.

I am delighted to join in the cosponsorship of this legislation, S. 2877, introduced by my distinguished colleague, the Senator from Texas (Mr. TOWER).

AVAILABILITY OF APPROPRIATIONS, 1974: GUARANTEED STUDENT LOANS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 650, H.R. 12253.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 12253) to amend the General Education Provisions Act to provide that funds appropriated for applicable programs for fiscal year 1974 shall remain available during the succeeding fiscal year, and that such funds for fiscal year 1973 shall remain available during fiscal years 1974 and 1975.

The PRESIDING OFFICER (Mr. HASKELL). Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment to strike out all after the enacting clause and insert:

That, (a) as used in this section, the term "applicable program" means any program to which the General Education Provisions Act applies.

(b) (1) Notwithstanding any other provision of law, unless enacted in express and specific limitation of the provisions of this section—

(A) any funds appropriated to carry out any applicable program for the fiscal year 1973; and

(B) any funds appropriated to carry out any applicable program for fiscal year 1974; shall remain available for obligation and expenditure until June 30, 1975.

(2) Nothing in this section shall be construed to approve of the withholding from expenditure or the delay in expenditure of any funds appropriated to carry out any applicable program for fiscal year 1973 beyond the period allowed for apportionment under subsection (d) of section 3679 of the Revised Statutes (31 U.S.C. 665).

SEC. 2. (a) Clause (I) of the first sentence of paragraph (1) of subsection (a) of section 428 of the Higher Education Act of 1965 is amended to read as follows:

"(I) less than $15,000 and has been accepted for enrollment at an eligible institution or, in the case of a student who is attending such an institution, is in good standing at such institution as determined by such institution; or".

(b) The amendment made by this section shall be effective thirty days after the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, in order that Senators may not be inhibited with respect to the 5-minute limitation that was previously entered during routine morning business, I ask unanimous consent that time on this measure be limited to not more than 30 minutes, to be equally divided between the Senator from Rhode Island (Mr. PELL) and the Senator from New York (Mr. JAVITS), and that paragraph 3 of rule XII be waived.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. And that upon the disposition of the bill, or at the conclusion of the 30 minutes, whichever is the earlier, the Senate return to executive session for debate on the Genocide Convention.

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

Mr. PELL. Mr. President, the bill pending before the Senate, H.R. 12253, reported unanimously by the Senate Committee on Labor and Public Welfare, is a measure which seeks to deal simply and swiftly with two emergency situations which have arisen concerning Federal education programs.

EXTENSION OF THE TYDINGS AMENDMENT

Section 1 deals with the Tydings amendment, which is contained in section 414(b) of the General Education Provisions Act. This section in layman's language allows funds appropriated but not spent by local educational agencies in 1 fiscal year to be carried over to the next fiscal year. The presence of a July 1, 1973, expiration date for the amendment caused the emergency facing school officials across the country and generated this pending bill.

The language was initially enacted in 1970, in response to widespread reports that lateness of appropriations for educational programs had all too often led to unwise expenditure of funds to avoid their reversion to the Treasury. Experience since then has shown that providing for the carryover of funds has allowed State and local school authorities to engage in orderly planning for expenditure of education funds, even when they are appropriated late in the fiscal year.

The Appropriations Act for the Department of Labor and Health, Education, and Welfare for fiscal year 1974 was not signed by the President until December 18, 1973, halfway through the fiscal year. In the absence of carryover authority, which expires on June 30 of this year, school officials will be obligated to spend a year's appropriation in a 6-month period. This does not make fiscal sense.

The problem is further compounded by the administration's action with respect to fiscal year 1973 funds. Nearly $500 million in appropriated education funds was illegally impounded by the President and only released for expenditure, after a number of lawsuits had been filed, in December of 1973. This creates an additional burden for local and State educators, since, although the "Tydings amendment" does apply to these funds, its effect is only to allow the carryover of these fiscal year 1973 funds through fiscal year 1974. This means these funds must also be spent by July 1, 1974.

The committee is fully aware of the problems that the June 30 expiration date of the Tydings amendment has generated. S. 1539, the Education Amendments of 1974, reported by the Subcommittee on Education to the Senate Committee on Labor and Public Welfare, contains a 5-year extension of the carryover provision. In addition, to meet the situation created by the illegal impoundment of fiscal year 1973 funds, S. 1539 authorizes an additional year of carryover authority in situations where moneys are released as a result of a judicial proceeding.

The administration has also recognized the problem implicit with the expiration of the Tydings amendment. It attempted through correspondence with both Houses of the Congress to create a climate which would assure the school administrators that the "Tydings amendment" would not lapse. However, local and State education agency superintendents and administrators were understandably leery of making plans and obligating funds on the possibility of congressional enactments and assurances from the Department of Health, Education, and Welfare, for they have relied on such assurances in the past only to be faced with a recommitted or vetoed appropriation bill. Therefore, we cannot blame them for desiring a more concrete solution to this situation. This concern has been transmitted to Members of both the Senate and the House. Therefore, H.R. 12253 passed by the House authorizes a 1-year extension of the existing provision, to allow fiscal year 1974 appropriations to be spent in fiscal year 1975. And in a new paragraph it specifically authorizes expenditure of fiscal year 1973 funds not made available until fiscal year 1974 through such year and through fiscal year 1975.

The committee's modification of the House-passed language is designed to achieve the same ends. Since the amendment is intended to solve a one-time emergency problem, it is not drafted as an amendment to the General Education Provisions Act, which is designed to provide continuing guidelines for the conduct of all Office of Education programs. In addition, the committee language makes it clear that authorization of carry-over into fiscal year 1975 of illegally-impounded fiscal year 1973 funds shall in no way be construed as an endorsement of such impoundment. The extra year is intended to assist the local and State educational community out of a difficulty not of its own making; it is not in any way meant to serve as a condonation of the President's action in withholding congressionally appropriated funds, or to create new authority under which the Department of Health, Education, and Welfare can withhold appropriated funds.

The Senate Committee on Labor and Public Welfare took action on this measure last Wednesday, the 30th of January. Since then two questions have been raised which require discussion and clarification.

The first relates to just what funds are covered by the "Tydings amendment." Generally, we are speaking of all those programs lumped under the rubric of elementary and secondary education. However, there are a few State-administered higher education programs, such as title I of the Higher Education Act.

The question has been raised as to carryover authority with regard to funds which have been appropriated for the basic educational opportunity grant program. The language of the statute is quite clear. Those funds are to be fully obligated. There is no carryover authority. If, for example, the applications for basic grants only cover 70 percent of the appropriated funds, the remaining 30 percent should be reallocated to those students already participating. Whatever mechanism is chosen with regard to the basic educational opportunity grant funds, it should be understood by all, that the Department of Health, Education, and Welfare cannot use this extension of the "Tydings amendment" as a peg on which to base a withholding of those funds. Indeed, I understand the General Counsel of the Department of Health, Education, and Welfare has advised that the "Tydings amendment" does not cover student assistance funds and in that I concur.

GUARANTEED STUDENT LOAN PROGRAM

The committee amendment also amends language adopted in the Education Amendments of 1972 which has been interpreted by the Department of Health, Education, and Welfare at variance with congressional intent. Specifically, the provision clarified by the committee amendment is contained in section 428(a)(1) of the Higher Education Act of 1965, as amended. This provision has been administered by the Department as if it required a needs test of all applicants for a subsidy on interest on their guaranteed or federally insured student loan. This was certainly never the position of the Senate nor, the committee believes, of the Conference Committee on the Education Amendments of 1974.

As originally enacted, the guaranteed loan program was intended to be a program designed to provide a loan of convenience to students from middle-income families, as well as to those in greater need. For the extremely needy, grants were available under the educational opportunity grant program. For those from slightly higher income backgrounds, work-study opportunities and national defense student loans were available.

Guaranteed loans were available through private lending sources, with repayment of principal guaranteed by the Federal Government. For those students with adjusted family incomes of less than $15,000, the Federal Government paid an interest subsidy during the in-school and repayment periods. For those from families with adjusted family incomes of more than $15,000, no subsidy was paid.

In their work on the Education Amendments of 1972, Members were concerned that $15,000 was no longer a realistic measure of ability to pay for higher education. Although costs had spiraled, the law had not been changed to reflect that fact. All discussions concerning the possibility of including some sort of needs assessment into the program, centered on raising the ceiling for receipt of an interest subsidy for those students from families with incomes above $15,000 who had a need for such loan assistance.

The implementation of the change has led to exactly the opposite result. Imposition of a needs test by the Department of Health, Education, and Welfare on all applicants for a subsidized loan has, in many instances, resulted in a determination of zero need for students from families with incomes of less than $15,000. The effect on participation in the guaranteed loan program has been catastrophic.

A status report from Commissioner of Education John R. Ottina, dated December 20, 1973, notes that since March 1, the number of loans is down about 35 percent, as compared with experience under the old legislation, despite the fact that, because of increasing enrollments and rising costs, the need for such loans has increased. Office of Education projections for fiscal year 1974 estimate a decline in number of loans of 366,000 or 29 percent over the experience of fiscal year 1972, when the prior law was in effect. Students who had received subsidized loans under the program have been denied further loans. Obviously, a legislated change designed to open up the program has been interpreted in a manner that severely limits its coverage.

The Subcommittee on Education has repeatedly advised the Office of Education of its concern about the interpretation of the amended language. Indeed, I personally in June and October of last year raised this issue in open hearing and warned that if the Agency did not take appropriate remedial action, the Congress could well take some type of emergency action. The Senate committee's amendment to the House bill is that promised emergency action.

The committee amendment would clarify congressional intent concerning the guaranteed loan program by eliminating any reference to need for those students with family incomes of less than $15,000. The language assures that the needs test now required by the Department of Health, Education, and Welfare will only be applied to those students with adjusted family incomes of more than $15,000, potentially making those students also eligible for interest subsidies in instances where they can demonstrate a need for the loan.

While there are many other problems regarding the guaranteed student loan program—indeed, there are some who would raise the interest subsidy level to a family income of $20,000—the amendment is purposely limited in scope. We are only making clear what we believe the legislation already states. However, a certain ambiguity in the technical language was seized upon to limit the scope of the program. The amendment before the Senate is to my mind not new legislation but a clarification of earlier law, the ambiguity—if there is one—will have been swept away.

In adopting this amendment, the Congress also makes it clear that the Education Amendments of 1972 attempted to create a system of student assistance which was not only aimed at the student from a low-income family. It was our intent to legislate a vertical structure under which a student from the middle-income family could receive some type of assistance, as well as one covering the lower-income student. Any attempt by the Department of Health, Education, and Welfare to skew the student assistance program to the most needy is in contravention of congressional intent.

As I stated earlier, there are other problems concerning the guaranteed student loan program. Unfortunately, the Subcommittee on Education is presently working upon a major elementary and secondary education bill. Our ability to deal with a major guaranteed student loan program revision is restricted. Therefore, while I welcome and indeed praise these efforts now being undertaken with regard to study of the program, I would be remiss if I did not state that meaningful final action could well be delayed until the late fall, if at all. The rising costs faced by college students needing loans today dictate that we now adopt the pending language to meet the emergency. It may be the one opportunity we have for some time to come.

Mr. JAVITS. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER (Mr. HASKELL). The Senator from New York is recognized for 3 minutes.

Mr. JAVITS. Mr. President, I support H.R. 12253 which was reported unanimously from the Committee on Labor and Public Welfare, of which I am the ranking minority member.

As has been pointed out, this bill has two sections. The first of these sections extends the authority of the carryover provision in the General Education Provisions Act—the so-called Tydings amendment provision—so that education funds appropriated for fiscal year 1974 will remain available during fiscal year 1975 and that fiscal year 1973 funds which were impounded and released during the current fiscal year will also remain available for expenditure during next year. This carryover language, first enacted in 1968 and expiring on June 30, 1974, is much needed by State and local educational agencies and should be extended so that they may plan and enter into contracts at this time and not be under undue pressures to spend all their Federal funds by the June 30 deadline. Both New York State and local educational agencies in New York strongly support this provision.

Section 2 of the bill would clarify congressional intent concerning the guaranteed loan program contained in title IV of the Higher Education Act by eliminating the reference to need for

students with adjusted family incomes of $15,000 or less, thus restoring the law, insofar as these students are concerned, to the situation which obtained prior to the 1972 amendments.

This is a much needed amendment, especially for middle-income students. Last summer, at my behest, the Subcommittee on Education held hearings on the guaranteed student loan program. Substantial testimony was received from witnesses supporting the need for the language now contained in section 2 of this bill.

On July 31, in discussing the hearings in colloquy with the distinguished chairman of the Education Subcommittee (Mr. PELL) I inserted in the RECORD the excellent staff report of the House Committee on Education and Labor following visits to seven regional offices of the Office of Education from July 16 to 23. The report indicated that students in the middle-income brackets are particularly adversely affected by the decline in guaranteed student loans, the very students to whom the program is primarily directed and pointed out that—

> The most frequently and urgently stated reason for the decline, was the needs analysis requirement. "You have changed the program", one could paraphrase much of what was said, "from loans of convenience to loans of necessity. It is no longer a program for middle-income people. It is now for those who can demonstrate need."

The report went on to point out that "a frequently voiced complaint was that the needs test multiplied the paperwork involved and tripled application processing time."

In concluding, I should like to recall a passage from the supplemental views submitted by all the minority Senators of the Committee on Labor and Public Welfare as part of the report on S. 659, the bill which eventually became Public Law 92-318, the Education Amendments of 1972:

> In considering the availability of a higher education, we refer not only to those in the poverty category but also the large number of young people from middle-income families whose resources are insufficient to meet the mounting costs of a college education. We must be careful lest our campuses be occupied principally by those at the poverty level, who qualify for special aid, and those from the upper income brackets, who can afford to pay—a campus peopled only by the very rich and the very poor, pricing out the middle income, is also violative of the American system.

Mr. BEALL. Mr. President, I yield myself as much time as I may consume.

Mr. President, I rise in support of H.R. 12253. Along with Senators DOMINICK, DOMENICI, and JAVITS, we introduced Senate bill 2890, which is identical to the House-passed measure.

As was pointed out, in 1968 Congress enacted this provision which was originally sponsored by my predecessor, Senator Tydings. The provision, of course, allows education agencies to carry over funds appropriated in one year to the succeeding year. This provision has been invaluable to the school districts and has done much to prevent unwise and wasteful spending. Without this provision, the school districts would be forced to spend their funds in the fiscal year appropriated, or lose those funds. Given this alternative, they rush to spend the funds. We remember the old adage "Haste makes waste." It is not conducive to good planning. Funds are needed to continue their operations, even more so now, since the administration recently released $466 million in impounded education funds. Without continuation of this amendment, all funds would have to be spent by June 30, 1974, or they will revert to the Treasury.

It has been pointed out that the Senate committee also included an amendment to eliminate the so-called means test for students in families with incomes less than $15,000 a year.

I wish to make it clear that I am not opposed to the amendment. Indeed, I share the concerns of the chairman with respect to the growing difficulties that middle-income families have experienced as a result of rising college costs.

However, I am concerned that adding on this amendment dealing with the student loan program might delay and even jeopardize the enactment of the main purpose of this bill, which is to permit the school districts to carry over funds from 1 year to the next.

I am well aware of the great concern on the part of the educational community as to the committee's action in adding in this additional provision. I understand that some Members in the House are adamantly opposed to the student loan amendment. I also understand that Representative QUIE, the ranking Republican member, is adamant in his position.

I think it should be pointed out that the House Special Committee, chaired by Representative O'HARA, is going to begin hearings on the legislation today.

So, I am going to support the legislation, but I hope it is clearly understood by all concerned that the local school districts must have some final action by the first of March, which is the time they are supposed to make their commitments and prepare their budget for the next fiscal year.

I hope we all understand that there is a possibility we could be jeopardizing the enactment of the original bill; that is, the bill that would allow the carryover of funds, by adding in this amendment. I hope that, should that become a possibility, the Senate, in conference, would recede from its position, if necessary, so that the amendment can proceed in a more orderly fashion, so that the school districts will know that this bill will become law prior to the first of March, when they must make a final decision.

Mr. PELL. Mr. President, I appreciate the concern of the Senator from Maryland (Mr. BEALL). I differ with him a bit, in that I think there is an emergency from the viewpoint of the middle-income kids who are finding it difficult to get loans due to the needs test.

There are two points I would like to touch upon. While many viewed prompt action on the Tydings amendment as an answer to an emergency situation, we on the Education Subcommittee and I as chairman, also view the situation in the guaranteed student loan program to be of an emergency nature. When a program decreases by about 35 percent, that means that many youngsters who were getting loans are no longer receiving them. From correspondence we receive, it appears that many youngsters could well be dropping out of college. This was and still is an emergency situation. That is why we took the unusual action of acting on the House-passed bill as we did.

I can assure those who are concerned that the Senate does not intend to allow the authority under the Tydings amendment to lapse. Indeed, I said this on the first day of this session in a record statement. However, it is my hope that, just as the Senate acted swiftly on a House-passed emergency measure, the House will act with just as much alacrity on the amended bill correcting what we perceive to be an emergency situation in the guaranteed student loan programs as well as the Tydings amendment.

I would hope that we would stand firm on this amendment. If the will of the Senate as a whole is to adopt the guaranteed loan amendment, this may entail a little delay, before final action; but I would not want to give a signal to the other body that we did not think the guaranteed student loan amendment was of vital interest and that we would not stand firm in the conference.

Mr. BEALL. Mr. President, I want to add that I share the concern of the chairman of the committee about the means test. I agree with his position. But the overriding issue in this case is making the local school districts aware of the fact—making it a fact that they will have the ability to carry over the funds from 1 school year to the next.

I will stand firm with the Senator up to a point, and that point will be when it becomes clear that we might be jeopardizing the ability of the local school districts to carry over these funds.

Mr. BENTSEN. Mr. President, I want to commend the Senator from Rhode Island (Mr. PELL) and the other members of the Labor and Public Welfare Committee for bringing this education measure to the floor today.

It is of particular importance to me, because it includes the substance of two education bills which I introduced in the 93d Congress.

The first of these measures was S. 2478, which I introduced on September 24, 1973. It would remove the so-called "means test" in the guaranteed student loan program for students from families earning less than $15,000 per year.

At the time I introduced that measure, I noted that students from families with moderate incomes were having great difficulty in securing loans to attend college. Most of our federally supported programs of student financial aid are geared, as they should be, to children from poor families, to give them accessibility to a higher education they would otherwise be unable to obtain.

Over the years, Congress has established a number of student aid programs directly to the poor—national defense student loans, educational opportunity grants, the college work-study program,

and more recently, the innovative basic opportunity grant program. These programs are estimated to benefit nearly 2 million students.

However, Mr. President, the problem of accessibility to a college education is not limited to the very poor, even though they must receive our priority. In recent years, and particularly this last year, children from parents in the supposedly moderate-income group, earning $10,000 to $15,000 a year, have experienced extraordinary difficulties in acquiring the necessary financial support to enter college.

The committee report notes a projected 29-percent drop in guaranteed student loans this year. In August of last year, U.S. News & World Report noted that loans were off 52 percent in the 26 States where the State agencies run the program. In Pennsylvania, they were off 78 percent, in Georgia, 64 percent.

The principal problem has been the so-called means test, written into the education amendments of 1972, and, in my view, misinterpreted by the administration.

Prior to that legislation, if a student's family had an adjusted income of less than $15,000 a year, the student was eligible for an interest-subsidized loan of $1,500 a year until graduation, with Federal or State agencies guaranteeing the loan.

But the 1972 amendments stipulated that loans must be made according to actual family need rather than income. This year, families applying for guaranteed loans must make a complete disclosure of their assets and pass a means test to establish their need for education aid.

Mr. President, a means test can be very deceptive. The system may well be blind concerning whether the family holds liquid or nonliquid assets. An equity in a home built up carefully over 20 years does not automatically signal a family's ability to contribute to a college education; in my State, as in others, people cannot borrow against their homestead.

Even where such borrowing is not prohibited, a strong public policy argument can be made that a family should not be forced to place their homes in jeopardy for any reason, even one so noble as a college education.

Under the new procedures now in force, the colleges' financial aid officer, after reviewing the application with the "needs test," recommends to the bank the amount a student requires. The bank, while free to loan a higher amount, very rarely does so; in the District of Columbia, for example, over 60 percent of the banks will not loan above the college's recommendation, which is often arbitrarily low.

H.R. 12253, which contains the thrust of my bill introduced last year, would remove the "means test" for children of moderate income families earning up to $15,000 a year. I believe this is a necessary step; college, no less than other services in our society, has suffered from the ravages of inflation. The U.S. Office of Education reported, for example, that the cost of tuition, housing, and food at a private 4-year college now averages $3,281 a year, up from $2,712 in 1970. Costs at public institutions have also soared.

We want to direct student aid programs primarily to the poor, but we do not want to freeze out those of moderate income. Moderate-income people have largely supported our State and Federal Government; they have felt the pressure of a staggering increase in food costs in recent months; and they have experienced the credit crunch during the period of the highest interest rates in our history.

The bill is a small step toward providing these families some relief from the high costs of a college education for their children.

The second part of this bill is directed to a problem which primarily affects elementary and secondary education. It was the subject of my bill, S. 2907, which was introduced on January 28 of this year.

Under the so-called "Tydings amendment," which lapsed on June 30, 1973, local school districts were able to engage in a degree of orderly planning, since the Tydings amendment allowed them to carry over unexpended funds from 1 fiscal year into the next fiscal year. That amendment has not been renewed, and it will not be possible for the districts to wait for final passage of the Elementary and Secondary Education Act to have it renewed. Many of these districts will have to fire staff and cancel programs as early as March or April if they are not assured their fiscal 1974 funds will be available in fiscal 1975.

H.R. 12253 renews the Tydings amendment.

In addition, the bill addresses the problem of the approximately $500 million in fiscal 1973 education funds, impounded by the administration and only recently released. Without a specific provision in law, those funds would have to be spent by June 30 of this year, and the school districts in my State tell me that this would cause them to expend funds in a hasty and careless manner. The fiscal 1973 funds may also be spent in fiscal 1975 once this measure is signed into law.

In my own State, Mr. President, millions of dollars of these fiscal 1973 funds have only recently become available. They included some $10 million in ESEA title I funds, more than $550,000 in ESEA title II funds, well over $4 million in vocational education funds, and substantial amounts of funding under NDEA title III, ESEA title V and programs for the education of the handicapped. If local officials were to attempt to spend these funds before June 30, there would be widespread confusion and inefficiency.

For some time, Mr. President, I have been concerned about allowing our school districts to engage in effective, long-range planning. Too often the Congress passes appropriations bills well into the year, giving the districts little time to react. Moreover, the Office of Education is frequently tardy in moving guidelines out to the States so that programs can be carefully implemented.

These policies and delays have created budgetary problems for our school administrators. The President's proposal for forward funding of education programs is a sound one, which I will support; however, it will do little to alleviate our present problems, which must be addressed at once.

I strongly support this bill. Once again, let me congratulate and thank the chairman of the Senate Education Subcommittee for bringing these measures to the floor. They have both been of great concern to me, and I am pleased to see the committee take positive action on them.

Mr. PELL. I thank the Senator from Texas for his comments.

It has been said that imitation is one of the greatest compliments one can give another individual. In this regard, the Senator's ideas were indeed ahead of the introduction of this pending bill. I am glad that he approves of the way his ideas have been reflected in the committee amendment. I thank the Senator for his support very much.

Mr. BENTSEN. I thank the Senator.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. CHILES. Mr. President, I, too, want to compliment the Senator from Rhode Island and the committee for this bill.

The thrust of the original bill, as it comes from the House, is certainly noteworthy, allowing the carryover of funds. Certainly, this has been occasioned with the impoundment that has come to the fore.

The junior Senator from Florida has had occasion, with a couple of continuing resolutions in the appropriations bill, to try to pick out some language that would allow funds to be carried over, at least so that many of the State bodies and others could determine what their legal position was and the whole question of impoundment. I believe this measure goes considerably further than that in trying to peg down the funds so that they will not lapse.

The junior Senator from Florida also was interested in the student loan amendments that we were talking about in 1972, and he had occasion to put some information before the committee, which the committee picked up, much of it with regard to providing for the warehousing of student loans. I think the complete thrust of the legislation in the student loan amendments was to try to liberalize the loaning process, to try to allow the banks to make more loans, in setting a way in which they could discount their loans and warehouse their loans.

Lo and behold, after we had taken those steps, trying to broaden the loan program and make more loans available, we found that the interpretation of the act and the administration of the act was to try to use the provisions dealing with the needs test to actually narrow the scope of the loan. I think that brought much consternation to many Members of Congress who were interested in seeing this program broadened. This is a loan program which would allow middle-income families to send their children to college. We have said many times that the rich can afford to go to college, and the very poor can do so be-

cause programs are made available for them, but this group in the middle is continually pinched by the rising cost.

This is a program in which the student borrows the money and pays it back after he graduates, so that the money can revolve into the program. I think it is one of the best ways of trying to promote education, and now we find that in the needs test the program is handicapped and greatly reduced.

I think this legislation will go through, and the Senator from Rhode Island and the other Senate conferees should stand firm on the amendment in regard to the needs test, because I believe it is one of the most important features of the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD an article published in the New York Times of February 4, 1974, entitled "Congress Seeking To Help Students."

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

CONGRESS SEEKING TO HELP STUDENTS—EASING OF REQUIREMENTS FOR NO-INTEREST LOAN SOUGHT

(By Evan Jenkins)

WASHINGTON, February 2.—Efforts are under way in Congress to make it easier for middle-class college students to get loans under a Federal program whose use has declined sharply despite rising enrollments and educational costs.

The Senate Committee on Labor and Public Welfare adopted this week an amendment by the chairman of its Education Subcommittee, Claiborne Pell, Democrat of Rhode Island, to exempt students with family income under $15,000 from any needs-test to qualify for Government payment of loan interest during the students' school years. Approval of the measure by the full Senate is expected next week.

Until last year, the Government automatically paid the interest subsidies for such students on federally guaranteed loans under the Higher Education Act of 1965. Those from wealthier families got no subsidy.

At a time of greatly increased college costs, Congress in 1972 amended the law to make the assistance available to students who could demonstrate need, regardless of family income. The change went into effect last March.

The purpose, supporters of the latest change say, was only to broaden the eligibility for the subsidies, not to apply the needs-test to the under-$15,000 group.

But the Department of Health, Education and Welfare interpreted the amendment to mean that all applicants must pass a needs-test. Some from families with incomes under $15,000 were determined to have "zero need."

The new amendment would eliminate the need requirement for those students and retain it for those with higher family incomes.

The subsidy question is important because the loans carry lower interest than other consumer loans, and banks are reluctant to make them if they must also go through the expense and paper work involved in collecting interest from individual borrowers.

ARRANGEMENT DESCRIBED

Under the subsidy arrangement, the Government pays the interest—repayment of principal is put off until after the students finish school—in relatively simple transactions covering all eligible borrowers from a particular bank.

From March 1 through Dec. 20, 1973, the number of loans under the program was off by 32 per cent compared to the experience under the old legislation, according to the Office of Education.

Supporters of the Pell amendment attribute the drop to the application of the needs-test, though other observers point out that it coincided with higher interest charges generally and a tightening of credit markets.

Despite its expected easy passage in the Senate, the fate of the measure in the House is uncertain. Some members of both parties there feel that a more sweeping change in student assistance programs should take precedence over this one amendment.

Mr. PELL. I thank the Senator from Florida very much for his remarks and his support.

Mr. BEALL. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Under Secretary of Health, Education, and Welfare, giving the Department's views on this measure.

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

THE UNDER SECRETARY OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C.

Senator GLENN J. BEALL, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BEALL: This letter is to express the Administration's views on H.R. 12253 as it was reported by the Senate Committee on Labor and Public Welfare on January 30. We are pleased with the extension of Section 414(b) of the General Education Provisions Act the House passed version of H.R. 12253. We consider that prompt extension of the Tydings Amendment is vitally necessary to our nation's State and local school agencies so that they can program their Federal educational funds rationally and effectively.

However, we strongly oppose the provision added to H.R. 12253 by the Senate Committee which changes the rules for interest subsidies on Federally guaranted student loans. The change would make loans of up to $2,-500 a year eligible for a 7% interest subsidy while a student was in school and for certain subsequent periods if he came from a family with "adjusted family income" of less than $15,000 which often means over $20,000 in actual income.

We fully share the concern that loan funds be readily available to all students, including those who have had difficulty obtaining loans this last year. As you know, the President has instructed the Secretaries of the Treasury and of Health, Education, and Welfare to contact lenders under the program to get them to reaffirm their commitment to the Nation's educational needs by making adequate funds available for student loans. Over the last few months we have been actively engaged in efforts to find out from lenders just what changes in the way the program works would lead them to increase their student loans. Where management changes are called for, necessary action will be taken immediately. Where legislative action appears to be needed, it will be requested.

What is crucial here is to make sure that adequate loan funds are available, and not to expand the universe of those eligible for the 7% subsidy. At times during the past year these two issues seemed to be linked, because many lenders used the criteria for subsidy eligibility as a basis for rationing the funds they were willing to invest in the program.

We believe that a move to a near-total subsidy of this program may not be effective and is certainly premature.

We are convinced that the leveling off in loan volume is not primarily the result of the institution of a needs test but rather is largely due to such complex, inter-related factors as:

"Tight" money;

Lender concerns over the illiquidity of student loans; and

Initial problems in setting up loan servicing practices to accommodate more unsubsidized loans.

Additional steps are being taken to assure adequate program growth:

Operations of the Student Loan Marketing Association will both increase the supply of lendable funds and increase liquidity of the student loan paper in lender portfolios;

Paperwork can and will be simplified to reduce lender administrative costs.

It concerns me that precipitate actions now to expand interest subsidies on the scale proposed would impose a major constraint on actions which can be taken in revising this program to increase benefits to both low and middle income students.

We believe that upcoming hearings this spring on the expiring GLSP legislation would be the proper place to consider thoroughly the proposed changes in Guaranteed Student Loan subsidies. The bulk of the loans for this school year have already been made; the lending season for next fall begins in July. Changes made this spring can be put in place in time for this summer's lending cycle. When there is sufficient time for full consideration of the atlernatives, as there is in this case, it seems logical and rational to proceed deliberately rather than hastily.

We therefore strongly urge that this rider be deleted from H.R. 12253.

We have been advised by the Office of Management and Budget that enactment of this bill with the changes in the rules for interest subsidies would not be consistent with the Administration's objectives.

Sincerely,

FRANK C. CARLUCCI,
Under Secretary.

Mr. HOLLINGS. Mr. President, there have been some questions raised over the intent of H.R. 12253. In particular, the question comes up as to whether the education moneys discussed here would remain available for an additional year at the educational agency level, rather than at the Federal level. This is an important issue to clear up for two reasons:

First, I believe it is the understanding of the Appropriation Committees, both in the House and Senate, that the money will be available at the educational agency level—not in the Office of Education.

Second, there was some confusion when this law was first enacted, a few years ago, as to just where the extended availability applied. I ask unanimous consent to insert at this point a portion of HEW's interpretation of the intent of that earlier provision.

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

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., January 28, 1974.

MEMORANDUM

To: Dr. John Ottina, Commissioner of Education

From: Education Division, Office of the General Counsel

Subject: Secondary Obligation and Expenditure of Fiscal Year 1973 Funds Released in Fiscal Year 1974: Your memo of December 25, 1973

In your note to us concerning availability of Fiscal Year 1973 funds (received here Jan-

uary 2), you state that it is your understanding from a previous memorandum of this Office that the Tydings Amendment (section 414(b) of the General Education Provisions Act (GEPA), 20 U.S.C. 1225(b)) permits a recipient to obligate Federal funds in the fiscal year succeeding the fiscal year in which the funds were actually made available by the Federal Government. In this connection, you pose three questions:

(a) In the case of fiscal year 1973 funds which are made available now as a result of Presidential order, what is the latest date by which these funds must be obligated?

(b) Who must make the obligation, *i.e.*, the State or the local educational agency?

(c) During what period must services be rendered in order that recipients comply with the conditions of the Tydings Amendment?

I. BACKGROUND

1. The Tydings Amendment reads as follows:

Notwithstanding any other provision of law, unless enacted in specific limitation of the provisions of this subsection, any funds from appropriations to carry out any programs to which this title is applicable during any fiscal year, ending prior to July 1, 1973, which are not obligated and expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation and expenditure during such succeeding fiscal year.

2. A discussion of the history, applicability and interpretation of the Amendment was set forth in our memo to Joe Keen of April 21, 1970, a copy of which is attached as Tab A.[1]

3. As stated in that memo, it is our view that the Tydings Amendment applies only to continuing State-administered programs. The Amendment was enacted to overcome the traditional rule that for these programs, recipients must use the funds made available to them during the fiscal year for which the funds were appropriated.[2] Project grants are not subject to the same limitation. As long as a project grant "meets the needs" of the fiscal year for which the appropriation was made, it does not matter that the project itself may extend into subsequent fiscal years.[3]

4. In addition to this background, it should be noted that the literal language of the statute provides for local obligations within two fiscal years—the fiscal year for which the appropriation was made, and the succeeding fiscal year. No special provision is made for a situation where (as in our case) the funds do not become available to the recipient until the fiscal year succeeding the fiscal year for which the appropriation was made. Thus, under a literal reading of the statute, funds appropriated for fiscal year 1973 would have to be obligated and expended at the local level no later than June 30, 1974. However, as set forth below, we believe that several options may be open to the Office of Education if it desires to provide some relief to recipients with respect to the fiscal year funds not allocated until this fiscal year.

II. OPTIONS

The most satisfactory solution, from a legal standpoint and from the standpoint of affording recipients "certainty" with respect to the use of the federal funds in question, would be to obtain legislative relief from Congress, if this is feasible as a practical matter. No other approach that we have been able to conceive would be as inclusive in coverage or as free from legal doubt as a statute which explicitly permits these funds to be obligated at the local level during a specified period (for example, between the date of allocation and June 30, 1975). In the absence of legislation, we offer the following not necessarily mutually exclusive options as possible approaches to the problem.

1. Extended period for project type programs

As noted above, the traditional rule that obligations must be made at the local level during the year of appropriation, applies only to "continuing" programs. As stated in our memo of April 2, 1970, it is our view that this rule would not have to be applied to "research and demonstration projects and other types of special projects which are not expected to continue indefinitely into the future, but rather terminate upon the completion of a specific objective," including projects of this nature properly carried out under a State-administered program.[4]

To impelment this concept, a *Federal Register* document would have to be published to override, with respect to these funds, the general provisions regulations, which now provide only for obligations in the appropriation year plus an additional year under the Tydings Amendment (45 CFR § 100b.55(a), (b)). Details regarding the regulations would have to be worked out, of course. States would be informed that this is an option which is open to them if they would otherwise have difficulty expending the funds by June 30 of this year. Project-type grants could be made by States (subject to the program's statutory limitations) with the FY 1973 funds, for projects which meet current needs and which would be completed within a definite period.

FOOTNOTES

[1] Memo, Chernock to Keen, "Availability of funds beyond the end of the fiscal year—§ 405(b) of Title IV, P.L. 90–247" (4/21/10).

[2] Memo, Mardian to Kelly, "BOB 'advance funding proposal for certain OE State-grant programs" (12/23/69); Memo, Education Division, OGC, to McMillen, "Vocational Education—Questions regarding use of fiscal year 1970 funds in subsequent fiscal years" (4/2/70). Underlying this entire area has been a long continuing and yet unresolved dialogue as to whether, absent an extension provision like 414(b) of the GEPA, funds appropriated for a fiscal year made available to a State under a State-administered, continuing, formula grant program (such as titles I, II, or III of the ESEA) are available for obligation and expenditure by State and local recipients only during such fiscal year or may remain available during a succeeding period. As indicated in the memos cited above, the "traditional" view has been that availability is limited to the fiscal year of appropriation at least in the case of "continuing" activities. To a large degree this conclusion is based on inferences drawn from the nature of State administered programs and expectations involved in the appropriations process with respect to such programs. Moreover, there is the suggestion, discussed in the December 23, 1969, memo of Mr. Mardian that the need for special legislation to permit forward funding (§ 412 of the GEPA, 20 U.S.C. 1223) indicates that legislation is needed to authorize such funding and that a proposal to permit States to obligate FY 1970 funds by approving teacher contracts for services to be performed in the succeeding fiscal year would be unauthorized as in effect "back door" forward financing. More relevant, however, may be provisions for reallotment of funds not needed for a fiscal year contained in various eduction program statutes. See, *e.g.*, § 202(b) of ESEA.

An alternative view is that nothing in the law requires a restriction on recipient "secondary" obligations and such restrictions as crept into the regulations for State administered programs were the product of policy determinations rather than legal mandates.

We reach no ultimate conclusion in this memorandum as to which approach is more legally tenable.

[3] Memo, Hiller and Yourman to Duffy, "Grants and Contracts—Rules Governing Obligation and Availability of Appropriations" (6/15/66).

[4] The distinction, for purposes of establishing the period of availability of funds under a State-administered program, between (1) continuing programs and (2) discrete special projects was applied in the memorandum of our Division, dated April 2, 1970, cited in note 2 above. We had been asked whether fiscal year 1970 funds made available under Part B of the Vocational Education Act could be used by the recipient States in fiscal year 1971. We advised that with respect to continuing programs under the Act the funds could not be so used. The underlying assumption of this advice was that such funds were appropriated to support, on a continuing basis, activities (such as regular vocational education programs) expected to continue indefinitely in the future and that, accordingly Congress appropriated funds for a fiscal year on the expectation that they would be used for activities conducted in that fiscal year; continuing activities in future fiscal years would be funded out of future fiscal years' appropriations. On the other hand, activities like construction contracts and special non-continuing "one shot" projects could be placed in a different footing. The traditional notions of fund availability would not be violated if the States used the fiscal year 1970 funds to approve in fiscal year 1970 research, demonstration, or other special projects to be carried out during a period extending beyond that fiscal year.* * *

Mr. HOLLINGS. Would the Senator from Rhode Island set the record straight on this question?

Mr. PELL. Mr. President, the question posed is one which I believe we should clearly speak to. I attempted to make very apparent in my opening statement that the funds I am speaking of are funds that are already at the State or local educational agency level, when I said:

> The extra year is intended to assist the local and State educational community out of a difficulty not of its own making; it is not in any way meant to serve as a condonation of the President's action in withholding congressionally-appropriated funds, or to create new authority under which the Department of Health, Education, and Welfare can withhold appropriated funds.

In closing, I can assure the Senator that it is our view that the Tydings amendment refers to local and State educational agencies. As floor manager when this was first enacted, I know the legislative history to so reflect this.

Mr. WILLIAMS. Mr. President, the Senate is considering today H.R. 12253, a bill recently reported by the Committee on Labor and Public Welfare, to allow fiscal year 1974 appropriations to be spent in fiscal year 1975, and to authorize the expenditure of fiscal year 1973 funds which were impounded and have only recently been made available by the President to be expended through fiscal year 1974 and fiscal year 1975. This bill, as passed by the House of Representatives and reported with amendments by the Labor Committee, is intended to provide assurances to the education community that they may enter into contracts with these funds for the next school year and avoid the unnecessary and sudden expenditure of all funds by the end of the current fiscal year. Further problems have resulted from the recent release of impounded fiscal year 1973 funds, adding additional moneys which would only be available

through June 30, 1974, under current provisions of law—Tydings amendment, section 414(a) of the General Education Provisions Act. H.R. 12253, while not condoning the action of the President in impounding the fiscal year 1973 funds, does extend the time that these moneys shall be available through fiscal year 1975, and provides that fiscal year 1974 funds will be available through fiscal year 1975.

Continued concern has been voiced to the committee over the extension of the Elementary and Secondary Education Act in order to assure that the provision of current law which allows authorized funds to be carried over into the next fiscal year will also be extended.

This legislation should alleviate those fears.

GUARANTEED STUDENT LOAN PROGRAMS

Furthermore, Mr. President, H.R. 12253 as reported from the committee, contains an amendment to the Guaranteed Student Loan program which will clarify the intent of the Congress with respect to the purpose of the loan program, and individual's eligibility for these loans. Prior to the Education Amendments of 1972—Public Law 92-318—this loan program had been conceived as a program of loans to assist middle-income students with higher education costs. Students from families with incomes under $15,000, were eligible for unsubsidized loans. In response to the changing economic situation in the United States, the Senate and conferees broadened eligibility in Public Law 92-318 for the subsidized loan program: Students from families over $15,000 could be approved for a federally-subsidized loan if they had "need." However, this provision has been construed by the Office of Education to the point where today all students are required to demonstrate financial need, whether or not they are above the $15,000 income level.

The impact of this change has been substantial: The U.S. Office of Education reports that loan volume in the Guaranteed Student Loan program is down 32 percent from the experience under the previous legislation. This has meant that in a time of unsurpassed increases in inflation and rising costs of higher education, large numbers of middle-income college students have been unable to obtain a federally-subsidized loan. Letters and reports I have received from my own State of New Jersey indicate that severe hardship has occurred because of this situation. Where, in the past, students have relied on these student loans to defray their college expense, they and their families now find they are no longer eligible. In a State with a very high cost of living, decreases in this loan program have meant that one of the only sources of assistance from the Federal Government for college education for middle-income students is no longer available to them. Actual figures from the Department of Higher Education in New Jersey reinforce this point. Actual guaranteed loan volume dropped from 37,242 in 1971 to 28,155 in 1973, a 24.4 percent decrease. The State Department of Higher Education believes that these figures are actually low, and that a more accurate measure of unfulfilled need must take into account the increasing inflationary situation. With high increases in the cost of living, many more middle-income students have applied for such a loan and have been turned down, but would not be recorded in the decreased loan volume.

The committee amendment to H.R. 12253 will provide an answer to those students who have been unsuccessful in obtaining subsidized loans for their college education. It will clarify congressional intent that students under $15,000 are automatically eligible for a subsidized student loan, by eliminating all reference to "need" for these students. Under the program, these students are, by definition, construed to be needy. Students with incomes over $15,000 will then continue to be eligible for the guaranteed student loan program by proving financial need. I believe, Mr. President, this amendment is a very important one, and wish to indicate my strong support to my colleagues.

Mr. PELL. Mr. President, although the amendments affecting the guaranteed student loan program was only adopted by the Committee on Labor and Public Welfare last Wednesday, it is already starting to generate much support.

I ask unanimous consent to insert in the RECORD at this time a copy of a letter from Mr. Rex J. Morthland, president of the American Bankers Association, which endorses the action taken by the Senate, as well as a letter from Ralph K. Huitt, executive director of the National Association of State Universities and Land-Grant Colleges.

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

NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES,
Washington, D.C., February 5, 1974.

The Honorable CLAIBORNE PELL,
Chairman, Subcommittee on Education, Senate Committee on Labor and Public Welfare, Old Senate Office Building, Washington, D.C.

DEAR SENATOR PELL: I am writing at the direction of this Association's Executive Committee, which is meeting this morning, to commend your effort to remove the requirement of a needs analysis as a qualification for a Guaranteed Student Loan for students from families with incomes under $15,000.

As you know, we believe that the current needs analysis requirement is one of the principal causes of the marked reduction in the number of loans executed during the current academic year. The correction of the standards for loan eligibility will be very useful to large numbers of middle-class families who depend on borrowing to meet rising costs of education.

As you and other members of Congress in both Houses have suggested, the entire Guaranteed Student Loan program deserves review. More liberal amendments may be required to assure the availability of funds from banks, to cut down on defaults and to determine better who should participate in the program's benefits. Nevertheless, as an interim measure that is all that is feasible now, your amendment will go far to alleviate an immediate problem in the program.

We are grateful for your continued concern for the welfare of students in the post-secondary education community.

Sincerely,

RALPH K. HUITT,
Executive Director.

THE AMERICAN BANKERS ASSOCIATION,
Washington, D.C., February 4, 1974.

The Honorable CLAIBORNE PELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PELL: The American Bankers Association was pleased that the Committee on Labor and Public Welfare unanimously adopted an amendment to H.R. 12253 related to the guaranteed student loan program.

As you know, in previous testimony before your Subcommittee, the Association recommended that the restrictive needs test that was being applied to the guaranteed student loan program be either drastically revised or eliminated for those students whose adjusted family income is below $15,000.

The recent action taken by the Committee on this matter will be of great assistance to students and lenders in obtaining and dispensing the subsidized student loans.

If this legislation passes the Congress, we hope that the Office of Education will issue, with the utmost speed, the necessary rules and regulations to carry out the intention of Congress.

Your continuing interest in this program is greatly appreciated.

Sincerely,

REX J. MORTHLAND.

Mr. MATHIAS. Mr. President, I rise in support of H.R. 12253. I am pleased to note that the Labor and Public Welfare Committee voted unanimously to report this bill to the Senate floor.

As the committee report states, this measure addresses two emergency situations which must be corrected without any further delay. I am referring to the so-called Tydings amendment, which authorizes States to carry over appropriated funds into the fiscal year succeeding that for which they were appropriated, and the Department of Health, Education, and Welfare's interpretation of the provisions in the guaranteed student loan program by the Education Amendments of 1972.

The problems posed by the expiration of the Tydings amendment were succinctly stated in a letter I received from Dr. James A. Sensenbaugh, Maryland State Superintendent for Schools, on February 1, 1974, urging my support for H.R. 12253. I am sure that Dr. Sensenbaugh was speaking for all of Maryland's local school boards and superintendents when he said:

In the normal budgeting practice of local and state school systems, a balanced budget is required by July 1, the beginning of the fiscal year. This allows proper planning, design of programs, hiring of staff, and the delivery of services to children by September when school begins.

Unfortunately, the federal budget practice is not as neat as state and local practice. The FY 74 federal aid to education appropriation was approved on December 18, 1973. In order to spend these funds wisely, we need additional time until June 30, 1975 which H.R. 12253 would give us.

As you know, impounded FY 73 education funds were available on December 19, 1973. The critics of these programs could very well ask how wisely we spent these monies that were not planned for. In some cases, the amounts involved were 50% of the annual program amounts. To solve this problem, again we turn to the relief offered by the extension of the Tydings amendment.

In this connection, I am pleased to note that the President's fiscal year 1975 budget will address one of the most persistent concerns of education officials in

my State as well as educators throughout the Nation. To allow for better planning and budgeting by State and local officials, the President will seek from the Congress advanced funding for all of the education programs in his legislative proposals starting with a 1974 supplemental request for use in the upcoming school year, 1974–75. The supplemental requests, according to the HEW budget, will total $2,852 million; an increase of $179 million over the regular 1974 appropriation for the current school year. Moreover, in fiscal year 1975, the President is requestion $2,875 million in the regular budget for advance funding of the 1975–76 budget year.

While I am sure we shall debate the level of funding in the supplemental and regular budget requests, I hope we can all agree that advanced funding for Federal support in elementary and secondary education is an idea whose time has come.

Mr. President, if there is one subject in which practically all school officials actively support, it is advanced funding. Just recently, I received an excellent letter from the Baltimore County Schools Budget Officer, Ted J. Smith, which presented the need for congressional attention to this matter. Mr. President, I ask unanimous consent that Mr. Smith's letter to me be printed in the RECORD.

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

BOARD OF EDUCATION
OF BALTIMORE COUNTY,
Towson, Md., January 30, 1974.

Hon. CHARLES MCC. MATHIAS, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MATHIAS: My experience currently as Budget Officer for the Board of Education of Baltimore County and as Supervisor of State Aid for the State of Maryland prior to my current position, causes me to offer the suggestion which follows:

While the Board of Education of Baltimore County receives a very small fraction of its revenue from the federal government, the funds allocated, with the exception of impact aid, are intended for specific objectives which it is hoped will zero in on important areas of concern and promote measurable improvement in those areas.

Imperative to improvement objectives is the need for comprehensive program planning. The point of this correspondence is that the current federal allocation process impedes that imperative.

I am just now receiving various newsletters, flashes from the Maryland State Department, memos from our local federal program office—the list is endless it seems—regarding potential allocation of fiscal 1974 funds. The fiscal year is 58% complete! By the time final allocations are made the fiscal year will be 83% complete! While this annual mystery has served to establish a proliferation of agencies and bureaucrats to interpret the latest reading from Washington, it plays hell with the local budget process, and more importantly prevents the completion of a meaningful program planning process which includes knowledge of monies available.

It would seem to me that a feasible alternative to the current state of affairs would be to have Congress allocate funds to be used in the second preceding fiscal year. I.e., the allocations proposed by the President, as amended by Congress in the 1974–75 budget proposal should be intended for expenditure by the local subdivision in the year 1976–77.

I am currently preparing our 1974–75 budget, which by law must be approved by the County government by June 1, 1974. I am not able to include in that budget presentation any federal involvement with any degree of accuracy. Not only are 1974–75 federal figures not available, 1973–74 allocations have not yet been determined!

Since 1973–74 federal allocations will not become firm until the Board's 1974–75 budget process is complete, it would seem appropriate that those allocations should become a part of the 1975–76 budget appropriation. This approach would permit a six-month period for program planning with a known allocation of funds. That plan could then be included in the next budget cycle.

In conclusion, I guess what I am advocating is the Tydings amendment multiplied by two. It is an approach that should be seriously considered so that project directors can tend to the educational affairs for which they were employed and spend less time worrying about the latest information regarding allocations.

Your attention to my concern is appreciated.

Sincerely,

TED J. SMITH,
Budget Officer.

Mr. MATHIAS. I am confident that the Senate will deal with this issue in due course. The issue before us today is the emergency facing our public schools across the country because of the expiration of the Tydings amendments. Our schools need this carryover authority. It is fiscally responsible for us to give them this authority. I urge my colleagues to support this measure.

Mr. DOMINICK. Mr. President, I rise in support of H.R. 12253, as amended. As the ranking Republican on the Education Subcommittee, I had previously joined with Senator BEALL in introducing legislation identical to H.R. 12253.

The bill does two things. First, it provides that funds appropriated for fiscal years 1973 and 1974 shall remain available for obligation and expenditure until June 30, 1975. This type of carryover of funds has been available to State and local school authorities since 1968 under the so-called Tydings amendment, but the authority for such carryovers is to expire on June 30 of this year, thus necessitating the passage of the legislation now before us.

Experience has shown that allowing State and local school authorities to carry over funds from 1 fiscal year to the next has permitted them to engage in more orderly planning for expenditure of education funds, even when the funds are appropriated late in the fiscal year. Without such a provision, there would often be unwise expenditure of education funds to prevent their reversion to the Treasury.

An additional burden was placed on educators recently with the release of some $500 million in appropriated fiscal year 1973 education funds which had been impounded by the President and released in December 1973, the middle of the fiscal year. These funds will have to be spent by July 1 of this year unless we enact carryover legislation.

The second thing this bill will do is to eliminate the so-called needs test for students applying for subsidies on interest on guaranteed student loans whose families have incomes of less than $15,000.

The imposition of a needs test by the Department of Health, Education, and Welfare has, in many instances, resulted in a determination of "zero need" for students from families with incomes of less than $15,000. The effect of this needs test cannot be precisely measured, but it is a known fact that the number of guaranteed student loans is down 32 percent despite the fact that due to rising costs the need for such loans has actually increased. This legislation, H.R. 12253, if enacted, should open up the program once again to our Nation's students.

Mr. President, I urge my colleagues to support this measure, which, if enacted, will be of invaluable assistance both to our Nation's schools and to our Nation's students.

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

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended, so as to read: "An Act to make certain appropriations available for obligation and expenditure until June 30, 1975, and for other purposes."

ACCESS TO THE NEWS MEDIA

Mr. CRANSTON. Mr. President, I would oppose any move in Congress as was suggested yesterday in this chamber to enact a law that would compel newspapers to print the replies of political candidates whom they have criticized.

I oppose Government editorship of a free press as strongly as I oppose Government censorship.

Once the Government is given the power to tell newspapers what they must print in the name of "fairness," it is only a matter of time before the Government will be telling newspapers what they must not print—also in the name of "fairness."

This dangerous situation and deplorable situation already exists in radio and television. I cite the recent order by the Federal Communications Commission that the National Broadcasting Co. has to "balance" with additional programing a recent documentary, "Pensions: The Broken Promise," because in the Government's opinion it did not present other and different views of the American pension system.

The U.S. Supreme Court on January 14 agreed to review the case of Miami Herald Publishing Co. against Tornillo, on appeal from the Florida Supreme Court.

Pat L. Tornillo, Jr., a candidate for the Florida Legislature in 1972, sued the Miami Herald when it refused to print two

verbatim replies to two editorials attacking him. A Florida law, passed in 1913, requires a newspaper to give equal space for a reply from a political candidate if it "assails" his personal character or charges him with "malfeasance or misfeasance in office or otherwise attacks his official record.

The circuit court for Dade County dismissed the complaint, holding that the statute violated the 1st and 14th amendments of the U.S. Constitution. The Florida Supreme Court reversed that decision and held the law to be constitutional.

I do not intend to argue the constitutionality of the Florida law inasmuch as the matter is now pending before the high court, but I believe the Senate must resist the temptation to set up big brother as the arbiter of fairness in the press.

I believe that the American press by and large is eminently honest, objective and fair. A newspaper's sense of professionalism and its readers' demands for fair play are far superior safeguards for fairness and freedom of the press than the heavy hands of self-serving Government agents.

Radio and television are already struggling under this heavy hand through the Government's imposition of the so-called fairness doctrine. This requires broadcasters "to afford reasonable opportunity for the discussion of conflicting viewpoints on controversial issues of public importance."

There is reason to believe that more freedom for the broadcaster would actually increase the airing of controversial opinions.

The fairness doctrine often actually inhibits the broadcasting of controversial programs or opinions because some broadcasters fear "trouble" with the FCC when it comes time for them to seek a renewal of their licenses.

It has been suggested on the floor of the Senate and by the Florida Supreme Court that the FCC's fairness doctrine for electronic media should also be applied to print media. I strongly disagree. Instead of giving the government power to interfere with newspaper editorials, we should be seeking ways to do away with Government interference in radio and television.

Last month the White House Office of Telecommunications Policy raised the question of Government control over cable television. It is my view that governmental control over cable television programs should be the absolute minimum.

For the past year I have had my staff researching how this same freedom can also be granted commercial and public television.

I disagree withe the assertion made on this floor that a national right to reply law is now even more urgent in light of court decisions in libel cases which virtually deprive public officials of the opportunity to recover damages unless they can prove malice.

That is a chance a person has to take when he runs for public office.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 10:30 a.m. tomorrow.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the recognition of the two leaders or their designees under the standing order tomorrow there be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes each.

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

ORDER FOR LEGISLATIVE SESSION AT CONCLUSION OF BUSINESS TODAY AND EXECUTIVE SESSION AT THE CONCLUSION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate concludes its business today, it go back into legislative session, and that at the conclusion of routine morning business tomorrow, the Senate return to executive session.

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

ORDER FOR DIVISION AND CONTROL OF 1 HOUR OF DEBATE PRIOR TO VOTE ON CLOTURE MOTION TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, when the Senate returns to executive session following the transaction of routine morning business, the 1 hour debate under Senate rule XXII begin to run on the motion to invoke cloture and that the time be equally divided and controlled by Mr. HELMS and Mr. CHURCH, as was the case today.

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

EXECUTIVE SESSION—GENOCIDE CONVENTION

The Senate resumed the consideration of Executive order (81st Cong., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. ROBERT C. BYRD. Mr. President, has the Senate returned to executive session?

The PRESIDING OFFICER. The Senate has returned to executive session.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I wish to ask the distinguished Senator from North Carolina if he desires that the Senate remain in executive session at this time or does he prefer to go into legislative session?

Mr. ERVIN. I think we might remain in executive session for a while.

Mr. ROBERT C. BYRD. Very well.

Mr. ERVIN. Mr. President, I have read the Genocide Treaty many times and every time I read it it reminds me of the man who went to a lawyer and told the lawyer he wanted to bring a suit to get a divorce from his wife. The lawyer asked the client, "Why do you want to divorce your wife?"

He said, "Because she talks and talks and talks and talks all the time."

The lawyer said, "Well, what does she talk about?"

The husband said, "She don't say."

Mr. President, that is a perfect description of the Genocide Treaty. Nobody knows what it means. The people who wrote it apparently were incapable as far as the English version is concerned of saying in simple English words what they intended the treaty to mean. So I am going to submit some amendments. The first is an amendment in the nature of an understanding.

This treaty provides, among other mysterious things, that a person is guilty of genocide if he inflicts a mental harm on a person of another race or nationality. It does not say what "mental harm" is, but, Mr. President, I have offered in the Senate some very wise bills and the Senate has rejected them; and every time they rejected one of the wise proposals that I offered, it gave me mental harm.

Mr. President, I submit and ask to have printed so it may be called up tomorrow an amendment in the nature of an understanding. It states:

Strike out paragraph 2 and insert in lieu thereof the following:

(2) That the U.S. Government understands and construes the words "mental harm" appearing in Article II(b) of this convention as unintelligible and imposes no obligation upon the United States.

Mr. President, I ask unanimous consent that the amendment be considered as read for the purposes of rule XXII.

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

Mr. ERVIN. Mr. President, I also offer an amendment to the same effect as the understanding I have just introduced. This amendment would strike paragraph 2 of the resolution and insert the following:

2. That the United States Government declares that the words "mental harm" appearing in Article II(b) of this Convention are unintelligible and impose no obligation upon the United States.

Mr. President, I ask unanimous consent that this amendment be deemed to have been read for the purposes of rule XXII.

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

Mr. ERVIN. Mr. President, I also submit an amendment to amend Article V by inserting at the end thereof the following new paragraph:

The present Convention is not a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States.

Mr. President, I ask unanimous consent that the amendment be printed and considered as read for the purposes of rule XXII.

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

Mr. ERVIN. Mr. President, I also submit an amendment to amend article V by adding at the end thereof the following new paragraph:

The laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the present Convention; and the present Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement the present Convention.

Mr. President, I ask unanimous consent that the amendment be considered as having been read for the purpose of rule XXII.

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

Mr. ERVIN. Mr. President, I also submit an amendment to article V of the Resolution of Ratification. This amendment would add at the end of article V the following new paragraph:

The present Convention does not obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the present Convention.

I ask unanimous consent that the amendment be considered as having been read for the purpose of rule XXII.

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

Mr. ERVIN. Mr. President, I submit an amendment to article II of the Resolution of Ratification to add at the end thereof the following paragraph:

The killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of the present Convention; and the present Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States.

I ask unanimous consent that this amendment to the Resolution of Ratification be deemed to have been read for the purposes of rule XXII.

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

Mr. ERVIN. Mr. President, I would like to show what a peculiar treaty this is. It provides that any killing under certain circumstances will constitute genocide. It makes no difference, as far as the treaty is concerned, whether that killing occur in war or in peace. It makes no exception whatsoever for a killing by an American soldier of an enemy in war.

Under the words of this treaty, a soldier would be guilty of genocide and would have to be extradited and could be extradited, and we would have to honor a request for extradition to have him taken to the foreign country with which we are at war to have him tried in its courts, under the provisions of this treaty, for killing an enemy soldier of the foreign country, in war, as a member of the military forces of the United States.

It provides that the United States shall honor a request for extradition of Americans, to be tried in foreign courts, under the terms of this treaty. Many of these foreign courts do not have a presumption of innocence. Many of them do not have a clause against self-incrimination as is set forth in the fifth amendment. Many of them do not have a provision, as the sixth amendment does, to have counsel for the defense.

So, to meet the situation, I am going to submit an amendment, which I shall send forward to the desk in just a moment, to amend article VI of the resolution of ratification to add at the end thereof the following paragraph:

Neither the United States nor any state or political subdivision of the United States shall be obligated by the present Convention to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by the present Convention or any legislation implementing it unless it affirmatively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States.

I send forth this amendment and ask unanimous consent that it be deemed to have been read for the purpose of rule XXII.

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

Mr. ERVIN. Mr. President, as I construe this very vaguely worded convention, it undertakes to empower the International Court of Justice to overrule the decisions of the Supreme Court of the United States, and even hand down a judgment to the effect that acts of Congress intended to implement provisions of this treaty do not constitute a sufficient implementation.

I have never been able to understand why some people think the United States would be better governed if it were governed by foreigners instead of by American citizens; or why we would have sounder judicial decisions if we empowered the International Court of Justice to overrule the Supreme Court of the United States, or to make an adjudication that Congress had not complied with the terms of the treaty.

This treaty undertakes to say that every nation which becomes bound by it shall pass legislation to implement it. So it obligates the United States to implement with legislation and, at the same time, gives the International Court of Justice the authority to see to it that the U.S. legislation is sufficient to enable the United States to perform its duties under the treaty.

To take care of this peculiar situation, I propose an amendment to article 8 by adding, at the end thereof, the following new paragraph:

The present convention shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its jurisdiction.

Mr. President, I ask unanimous consent that this amendment be considered to have been read for the purposes of rule XXII.

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

The amendment ordered to be printed in the RECORD, is as follows:

Amend article VIII by adding at the end thereof the following new paragraph:

The present Convention shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction.

Mr. ERVIN. Mr. President, I submit several understandings which embody provisions similar to those set forth in the seven amendments which I have submitted. I ask unanimous consent that these understandings be printed and offered, and I ask unanimous consent that they be deemed to have been read for the purposes specified in rule XXII.

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

The understandings ordered to be printed in the RECORD are, as follows:

UNDERSTANDING (NO. 12 EXEC.)

At the end of the resolution of ratification add the following:

5. That the United States Government understands and construes this Convention as not authorizing the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empowering the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction.

UNDERSTANDING (NO. 13 EXEC.)

At the end of the resolution of ratification add the following:

5. That the United States Government understands that neither the United States nor any state or other political subdivision of the United States shall be obligated by this Convention to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by this Convention or any legislation implementing it unless it affirm-

atively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States.

(IN THE NATURE OF A RESERVATION)—(No. 14 EXEC.)

Amend the language preceding paragraph 1 by inserting immediately after "understandings" a comma and the following: "reservation,".

Strike out paragraph 2 and insert in lieu thereof the following:

2. The reservation that the United States Government construes the words "mental harm" appearing in article II(b) of this Convention as being unintelligible and imposing no obligation upon the United States.

UNDERSTANDING (No. 15 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands and construes this Convention not to be a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States.

UNDERSTANDING (No. 16 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands that the laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement this Convention.

UNDERSTANDING (No. 17 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands and construes this Convention not to obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the Convention.

UNDERSTANDING (No. 18 EXEC.)

At the end of the resolution of ratification add the following new paragraph:

5. That the United States Government understands that the killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of this Convention; and this Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States.

Mr. ERVIN. Mr. President, I also send forward six reservations which embody provisions similar to the provisions of the amendments and the understandings which I have submitted. I ask unanimous consent that these reservations be printed, and that they lie upon the table until they are taken up. I also ask unanimous consent that these reservations to the resolution and the treaty be deemed to have been read for the purposes of rule XXII.

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

The reservations ordered to be printed in the RECORD are as follows:

RESERVATION (No. 19 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the laws of the United States and of the several states and of the other political subdivisions of the United States making homicides and other acts of violence punishable as crimes fulfill all obligations imposed upon the United States by the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not repeal or invalidate or impair any of those laws or obligate the Congress to enact legislation to implement the Convention".

RESERVATION (No. 20 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide is not a self-executing treaty, and none of its provisions constitute enforceable rules of domestic law in the United States or any state or other political subdivision of the United States".

RESERVATION (No. 21 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide does not obligate the United States, or empower the President of the United States, to employ the armed forces of the United States either at home or abroad to enforce any provision of the Convention".

RESERVATION (No. 22 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the killing or injuring in any declared or undeclared war of any enemy of the United States by any member of the armed forces of the United States does not constitute genocide within the meaning of the Convention on the Prevention and Punishment of the Crime of Genocide; and the Convention does not confer jurisdiction upon the International Court of Justice, or any international penal tribunal, or any foreign court, to try or to punish any person because of his participation in any way in any such act while serving in the armed forces of the United States".

RESERVATION (No. 23 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that neither the United States nor any state or other political subdivision of the United States shall be obligated by the Convention on the Prevention and Punishment of the Crime of Genocide to surrender any person residing or sojourning within its borders to any international or foreign authorities for trial by any international or foreign court for any offense made punishable by the Convention or any legislation implementing it unless it affirmatively appears that the presumption of innocence prevails in the international or foreign court and that the person in question will be protected by safeguards equivalent to those secured by the Constitution of the United States to an accused charged with a Federal crime in a court of the United States".

RESERVATION (No. 24 EXEC.)

Before the period at the end of the resolution of ratification insert a semicolon and the following: "and subject to the reservation that the Convention on the Prevention and Punishment of the Crime of Genocide shall not authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of the United States, or empower the International Court of Justice to make any decision binding on the United States in respect to matters which the United States deems to be essentially within its domestic jurisdiction".

Mr. ERVIN. Mr. President, it would be extremely unwise for the Senate of the United States to ratify the Genocide Convention which was reported by the Committee on Foreign Relations on March 6, 1973.

HISTORY OF THE GENOCIDE CONVENTION

During the 1940's activists connected with the United Nations engaged in a strenuous effort to establish by treaties laws to supersede domestic laws of nations throughout the Earth. The Genocide Convention represents one of these efforts. It originated in a resolution of the United Nations condemning genocide as a crime whether "committed on religious, racial, political, or any other grounds." When reduced to its final form it excluded genocide committed on "political" grounds because some of the parties to it did not wish to surrender even nominally their right to exterminate political groups hostile to their rulers. Under its provisions, individuals as well as persons exercising governmental power would be subject to trial and punishment for offenses which have always been regarded as matters falling within the domestic jurisdiction of the various nations.

The Genocide Convention was adopted by the General Assembly of the United Nations on December 10, 1948, and was submitted by President Harry S. Truman to the Senate for its consideration on June 16, 1949. The Senate Foreign Relations Committee appointed a subcommittee composed of very able Senators, who conducted hearings in January and February 1950, and reported to the full committee that the United States should not ratify the convention in any event unless the Senate adopted four substantial understandings and one substantial declaration. Since this report was made, the Senate Foreign Relations Committee and the Senate itself by inaction have refused to ratify this convention.

In contrast to the attitude represented by this inaction during the preceding 20 years, the Senate Foreign Relations Committee has tried to resurrect the convention and revive the question of ratification during the past few months notwithstanding the fact that there has been no change of circumstances which would make what was unwise in 1950 and 1971 wise in 1974.

The only argument now advanced for ratification of this convention is that it would improve the image of the United States in the eyes of Russia and other totalitarian parties to the convention, which strange to say have repudiated by understanding and reservations many of the provisions of the convention.

For example, these nations refuse to

be bound by article IX which subjects their actions under it to the jurisdiction of the International Court of Justice. Some of the proponents of ratification by the Senate advance the rather strange argument that the United States can safely ratify the Convention because there is no effective way to enforce its provisions against the United States if the United States refuses to abide by them. I cannot buy this argument because I think that any nation which makes a contract in the form of a treaty should accept its obligations even in the event such obligations prove to be contrary to its own interest. Otherwise, why make treaties.

Before discussing the obligations which the United States would assume as the result of Senate ratification of the Genocide Convention, I wish to call attention to its salient provisions.

PROVISIONS OF THE GENOCIDE CONVENTION

By the Genocide Convention or treaty the contracting parties affirm in article I "that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish."

Articles II and III of the Convention read:

ARTICLE II

In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) Imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group.

ARTICLE III

The following acts shall be punishable;

(a) Genocide;

(b) Conspiracy to commit genocide;

(c) Direct and public incitement to commit genocide;

(d) Attempt to commit genocide;

(e) Complicity in genocide.

Article IV specifies that "persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals."

Under that provision if the President of the United States were to order the American Army into action to repel an enemy invading the United States and any American soldiers killed any of the enemy—and the enemy, of course, would be of a different national group—then the President of the United States could be tried for genocide under this treaty. That shows how ridiculous the treaty is.

Article V obligates the contracting parties to enact the necessary legislation to give effect to the provisions of the convention and to provide effective penalties "for persons guilty of genocide or of any of the other acts enumerated in article III."

Article VI provides that "persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the nation in the territory of which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

Article VII provides that the parties to the treaty pledge themselves in genocide cases to grant extradition in accordance with their laws and treaties. Article VIII provides that "any contracting party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in Article III."

Article IX provides that "disputes between the Contracting Parties relating to the interpretation, application, or fulfillment of the present Convention—shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

This brings me to the considerations which ought to deter the Senate from ratifying the Genocide Convention. Time and space compel me to limit my statement to only the most substantial of them.

CONVENTION DISTORTS CONCEPT OF GENOCIDE

First, if the Senate should ratify the Genocide Convention, the United States would be obligated by it to prosecute and punish public officials and private citizens of our country for acts alien to the concept embodied in the term genocide.

The definition of genocide appears in article II which states that the term genocide embraces five specified acts "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The convention definition of genocide is inconsistent with the real meaning of the term, which is "the systematic, planned annihilation of a racial, political, or cultural group." The word annihilation clearly contemplates the complete destruction or the complete wiping out of the designated group.

Yet, the convention definition covers the destruction either in whole or in part of members of a group embraced by it. This means that a public official or a private individual is to be subject to prosecution and punishment for genocide if he intentionally destroys a single member of one of the specified groups.

When it considered this convention in 1950, the subcommittee of the Committee on Foreign Relations took note of the fact that the convention distorts and perverts the entire concept embraced in the word "genocide," and for that reason stated that the Senate ought not to consider ratification of the convention unless it announced this understanding of its meaning:

That the United States Government understands and construes the crime of genocide which it undertakes to punish in accordance with this convention, to mean the commission of any of the acts enumerated in article II of the convention, with the intent to destroy an entire national, ethnical, racial, or religious group within the territory of the United States, in such manner as to affect a substantial portion of the group concerned.

This distortion and perversion of the plain concept embraced in the word "genocide" represents an effort on the part of the drafters of the convention to make punishable either in the courts of an adherent to the treaty or in an international tribunal to be established under the terms of the treaty, all of the acts enumerated in articles II and III of the convention.

Since an intent to destroy a single person belonging to one of the four designated groups would subject an official or individual to punishment, the treaty would make virtually every person in any nation adhering to it a potential victim of genocide as the meaning of that term is distorted and perverted by the convention. This is true simply because virtually every person on earth belongs to one or more of the four groups designated.

This observation is made exceedingly plain by the fact that an ethnical group is a "social group within a cultural and social system that claims or is accorded special status on the basis of complex, often variable traits including religious, linguistic, ancestral, or physical characteristics."

In its March 6, 1973, report (Executive report 93-5) the Foreign Relations Committee proposes an understanding which, in effect, acknowledges this problem with the convention's language, but which certainly does not resolve it. Indeed, the understanding proposed by the committee in this connection increases the confusion as to the meaning of the convention.

DRASTIC IMPACT OF CONVENTION ON OUR SYSTEM OF GOVERNMENT

Second, article II, section 2 of the Constitution provides that "the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Article VI of the Constitution provides that "the Constitution and the laws of the United States, which shall be made in pursuance hereof, and all treaties made or which shall be made under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding."

If the Senate should ratify the Genocide Convention, these constitutional provisions would automatically make the Convention the law of the land, put all of its self-executing provisions into immediate effect as such, and impose upon the United States the obligation to take whatever steps are necessary to make its nonself-executing provisions effective. This means that the provisions of the Genocide Convention would immediately supersede all State laws and practices inconsistent with them, and would nullify all provisions of all acts of Congress and prior treaties of the United States inconsistent with them.

While Congress could repeal provisions of the Genocide Convention by future legislation, the States would be bound by them as long as the Convention remained in effect. Moreover, the Genocide Convention would immedi-

ately require and authorize Congress to enact legislation implementing its provisions even though such legislation were beyond the power of Congress in the absence of the Convention, and even though such legislation would deprive the States of the power to prosecute and punish in their courts acts condemned by articles II and III of the Convention.

Surely, the Senate should pause and ponder what impact the ratification of the Genocide Convention would have on our system of government.

It is noted that virtually all the other nations of the earth have no constitutional or legal principle similar to article VI of the Constitution of the United States making treaties "the supreme law of the land," and that for this reason treaties do not take effect as internal law in other nations unless their legislative branches of government adopt laws subsequent to their ratification giving them such effect.

Third, one of the most drastic impacts the ratification of the Genocide Convention would have upon our system of government is in the criminal field. If the Senate should ratify the Genocide Convention, the duty and the power to prosecute and punish criminal homicides, assaults and batteries, and kidnapings, covered by categories (a), (b), and (e) of article II of the convention would be forthwith transferred from the States which have always had such duty and power in respect to these crimes to the Federal Government. To make this transfer of jurisdiction workable, Congress would be required to enact new laws laying down rules of procedure to govern the trial of these newly created Federal and international crimes. Pending the passage of such laws, our country would experience utter confusion in the administration of criminal justice in respect to homicides, assaults and batteries, and kidnapings.

Proponents of ratification may argue that many homicides, assaults and batteries, and kidnapings would not fall within the definition of genocide. This contention accentuates rather than minimizes the folly of ratifying the Genocide Convention.

As has been pointed out, virtually every person in America falls within one or more of the four groups designated in the Genocide Convention, and any offense denounced by the Genocide Convention against any one of them would ostensibly fall within the scope of the Convention. The jurisdiction of the Federal courts under the Genocide Convention would not depend upon what the jury found in particular cases. It would depend upon the allegations made in the indictments or informations charging the offenses.

Consequently, we can reasonably expect that demands will be made that every homicide, every assault and battery inflicting serious injury, and every kidnaping shall be tried in a Federal court, or in an international court to be established pursuant to the convention. What this will do to increase the congestion in the already overburdened Federal courts of our land beggars description.

In the absence of ratification of the convention, demands were made in 1970 that the United Nations investigate the slaying of Black Panthers by police officers on the ground that their slaying constituted genocide under article II(a), and that the United Nations investigate the action of the legislature of one State in respect to welfare benefits on the grounds that the legislative action constituted genocide under article II(c).

I respectfully suggest that the Senate should pause and ponder whether it is desirable to ratify a convention which would necessitate a fundamental alteration in the way in which criminal justice has been administered in the United States ever since our country came into existence as a free republic.

When the subcommittee on the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it clearly recognized that ratification of the convention would play havoc with our system of administering criminal justice in respect to domestic crimes made Federal and international crimes by articles II and III, and for this reason decided that the Senate should not ratify the convention in any event without making this declaration:

> In giving its advice and consent to the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, the Senate of the United States of America does so considering this to be an exercise of the authority of the Federal Government to define and punish offenses against the law of nations, expressly conferred by article I, section 8, clause 10 of the United States Constitution, and consequently, the traditional jurisdiction of the several States of the Union with regard to crime is in no way abridged.

Confusion in the administration of criminal justice in respect to domestic crimes made Federal or international crimes by the Genocide Convention would not disappear with the enactment of legislation by Congress implementing the convention. The validity of this observation may be illustrated by taking a single crime, that of unlawful homicide. Under the Constitution of the United States, Congress does not have the power to make unlawful homicides generally Federal or international crimes. If ratified by the Senate, the Genocide Convention would give Congress this power in respect to homicides constituting genocide under the definition contained in the convention. Jurisdiction to prosecute and punish other unlawful homicides would remain in the State.

The only distinction between unlawful homicides transferred by the Genocide Convention and Acts of Congress implementing it to the Federal Government would depend upon whether the homicide is committed with genocidal intent. As a consequence, every unlawful homicide would apparently be within the jurisdiction of both the Federal and the State government insofar as the external circumstances of the slaying are concerned.

Hence, either State or Federal courts could assert jurisdiction in respect to virtually all homicides, and an acquittal of the charge in one court would not bar a second prosecution based on the same facts in the other court. This being true, a person could be twice placed in jeopardy for the same offense.

The power of a Federal court to try a person for a homicide on the ground that it constitutes genocide depends upon the allegations of the indictment and not upon the ultimate finding of the jury. On a trial in the Federal court, the jury would be compelled to acquit the accused of genocide unless it found that he acted with the requisite genocidal intent, no matter how atrocious the circumstances attending the homicide otherwise might be. In such a case, the accused would go unwhipped of justice unless he was placed upon trial a second time in a State court.

The Senate should be slow to ratify any convention which would make such confusion in the administration of criminal justice in cases of this kind.

MEANING OF CONVENTION SHROUDED IN UNCERTAINTY

Fourth. If the Senate should ratify the Genocide Convention, it would place obligations upon the United States to prosecute and punish as genocides acts whose nature the convention fails to disclose and to take steps whose nature the convention fails to reveal.

If the convention is ratified, article II(b) would impose upon the United States the duty to prevent and to prosecute and punish public officials and individuals who cause mental harm to members of any one of the four groups named in the convention. One of these is religious groups. I submit that religious groups are concerned about the behavior of other people as well as their own behavior and it would certainly do mental harm to a religious group to see other people committing sins even though those sins were not crimes. Yet this convention, if ratified by the Senate, would obligate the United States to prosecute persons who caused mental harm to members of a religious group by committing sins which are not crimes. What mental harm means in this context is totally incomprehensible, and what psychological acts or omissions are made punishable in this context are left in obscurity. When the Subcommittee of the Senate Foreign Relations Committee considered the Genocide Convention in 1950, it reached the conclusion that the Senate ought not to ratify the Genocide Convention in any event unless it expressed this understanding:

> That the United States Government understands and construes the words "mental harm" appearing in article II of this Convention to mean permanent physical injury to mental faculties.

In its report of March 6, 1973, the Foreign Relations Committee proposed an understanding to the convention in language almost exactly like and with the same apparent meaning as the subcommittee's language of 1950. Even this language does not reduce to reasonable certainty the meaning of mental harm to members.

If the convention is ratified, article II(c) would impose upon the United States the duty to prevent and to prosecute and punish anyone who deliberately inflicts "on the group conditions of life calculated to bring about its physical destruction in whole or in part." What this means, no mind can fathom. Does it

mean that a State or county official who refuses to give to a member of one of the four groups designated in the convention the amount of welfare benefits deemed desirable is to be punished or prosecuted for genocide? Does it mean that the Court of International Justice shall have power under article IX to adjudge that Congress or a State legislature which does not make available to members of one of the four groups what the Court deems to be adequate welfare benefits has violated the convention?

If the convention is ratified, article III(c) makes any official or individual in our land punishable for "direct and public incitement to commit genocide." What does this mean? Does it mean that the convention undertakes to make a Senator or a Congressman punishable for genocide if he makes a speech outside of the Chamber of his respective House in which he justifies the action of Arabs in killing Jews, or the action of Jews killing Arabs? Does it undertake to deprive public officials and citizens of America of the right to freedom of speech with respect to matters falling within the terms of the Genocide Convention?

If anyone believes that the first amendment invalidates my apprehension on this score, let him read and ponder *Fox* v. *Washington*, 236 U.S. 273, and *Feiner* v. *New York*, 340 U.S. 315, as well as the majority and dissenting opinions in *Terminiello* v. *Chicago*, 337 U.S. 1.

If the convention is ratified, public officials and private citizens of our land will be subject to punishment in Federal courts or possibly in international penal tribunals to be established under article VI if they are guilty of the undefined offense designated as "complicity in genocide." What is "complicity in genocide?" The convention does not say.

When the subcommittee of the Senate Foreign Relations Committee considered the Convention in 1950, it recognized the vagueness and uncertainty of this proposed Federal and international crime, and recommended that the Senate should not ratify this Convention in any event without stating the following reservation:

That the U.S. Government understands and construes the words "complicity in genocide" appearing in article II of this Convention to mean participation before and after the fact and aiding and abetting in the commission of the crime of genocide.

If the Convention is ratified, article II would impose upon the United States the obligation to prevent and to punish as a crime under international law any act of genocide "whether committed in time of peace or in time of war," and article VIII would authorize any party to the Convention to call on the United Nations to take such action against the United States under the charter of the United Nations it considers "appropriate for the prevention and suppression of acts of genocide, or any of the other acts enumerated in article III" occurring or likely to occur anywhere in the United States.

What actual obligation does article I impose upon the United States with respect to events occurring either in peace or in war in lands beyond the seas? Does it require the United States to go to war to prevent one nation from killing the nationals of another nation? The Convention does not say, but article IX places the power to determine this question in the International Court of Justice.

Does article VIII imply that the United States agrees that the United Nations is to investigate or take action concerning the acts of public officials and individuals occurring within the borders of the United States? The Convention does not say, but article IX leaves this determination to the International Court of Justice.

Able lawyers have expressed the fear that article VI imposes upon the Congress an implied commitment to support the creation of an international court for trials of American citizens for genocide. I find myself in complete harmony with their opposition to subjecting our citizens and other persons within our territorial jurisdiction to trial, conviction, and sentence for acts of genocide committed in the United States by an international penal tribunal where they would not be surrounded by the constitutional safeguards and legal rights accorded persons charged with a domestic crime.

Fifth. If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy.

This is made indisputable by article I which provides that genocide is punishable under the convention whether it is committed in time of peace or in time of war, and by the fact that it contains no provision exempting soldiers engaged in combat from the coverage of the provisions of the convention. When soldiers kill or seriously wound members of a detachment of the military forces of a hostile nation, they certainly do so with intent to destroy, in whole or in part, a national group as such. Hence, their acts in combat fall clearly within the purview of the convention. In such cases, they are triable and punishable under article VI in the courts of the nation in whose territory their acts are committed, or in such an international penal tribunal "as may have jurisdiction with respect to those contracting parties which shall have accepted its jurisdiction."

These things being true, American soldiers who killed or seriously wounded North Vietnamese soldiers or members of the Vietcong, or South Vietnamese civilians in South Vietnam, might have been triable and punishable in court sitting in South Vietnam; and American aviators who killed North Vietnamese soldiers or civilians in bombing raids upon targets in North Vietnam and who were taken prisoner by the North Vietnamese, might have been triable and punishable in the courts of North Vietnam.

No sophistry can erase this obvious interpretation of the Genocide Convention.

I add at this point that there is no provision in the convention which would prevent a foreign nation from dealing with this matter in an ex post facto fashion, because there is no provision outlawing ex post facto trials.

CONVENTION SUBORDINATES THE AMERICAN GOVERNMENT TO THE WORLD COURT

Sixth. If the Senate should ratify the Genocide Convention, article I would impose upon the President, as the Chief Executive of the United States, the duty to enforce both the provisions of the convention and any acts of Congress implementing them as the supreme law of the land.

Article V would obligate the Congress to enact legislation to give effect to all the provisions of the convention, and to provide effective penalties for persons guilty of genocide or of any of the other acts enumerated in article III, and article VI would obligate the Supreme Court of the United States and all inferior Federal courts created by Congress to interpret and apply all of the provisions of the convention and of the acts of Congress implementing it to cases coming before them under the terms of the convention and the acts of Congress implementing such terms.

Seventh. If the Senate should ratify the Genocide Convention, it would bring into play article IX which provides that disputes between the parties to the convention relating to the "interpretation, application, or fulfillment" of the convention "shall be submitted to the International Court of Justice at the request of any of the parties to the dispute."

Under this article the International Court of Justice would be empowered to decree that the President of the United States, as Chief Executive Officer of the United States, had interpreted and applied the provisions of the convention incorrectly and by so doing impose upon the President of the United States its notions as to how the convention should be interpreted and enforced; the power to adjudge that legislation enacted by Congress to give effect to the provisions of the convention was insufficient to fulfill the obligations imposed upon it by the convention; and the power to adjudge that the Supreme Court of the United States and Federal courts inferior to it had interpreted and applied the provisions of the convention incorrectly and by so doing require these tribunals to apply its notions as to how such provisions should be interpreted and applied to future cases coming before them.

When their attention is called to the drastic powers which the ratification of the Genocide Convention would bestow upon the International Court of Justice in respect to the President, the Congress, and the Supreme Court and other inferior Federal courts, the proponents of ratification assert that these agencies of the Government of the United States do not have to obey the rulings of the International Court of Justice if they deem that such rulings infringe upon the fundamental sovereignty of the United States. In so doing they ignore the solemn obligation assumed by the United States under article 94 of the charter of the United Nations which reads as follows:

Each member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

The Charter of the United Nations clearly contemplates that the United Nations will not interfere in the domestic affairs of any nation. The Genocide Convention goes a bow shot beyond the charter of the United Nations. It undertakes to regulate certain domestic affairs of the parties to it by converting what have always been domestic crimes into international crimes, and confers upon the International Court of Justice the vast powers set forth in article IX.

Consequently, if the Senate should ratify it, the Genocide Convention would render the Connally reservation, which was designed to prevent the International Court of Justice from exercising jurisdiction over any domestic affair of the United States, inapplicable to any of the matters covered by the convention, and would nullify the Vandenberg reservation to the jurisdiction of the International Court of Justice which stipulates that American acceptance of compulsory jurisdiction of the Court shall not apply to "disputes arising under a multilateral treaty, unless all parties to the treaty affected by the decision are also parties to the case before the Court, or the United States specially agrees to jurisdiction."

What I have said does not militate against the good intentions of those who drafted the Genocide Convention, or those who favor its ratification. All of us are opposed to the systematic, planned annihilation of any national, ethnical, racial, or religious group. The existing laws of the United States and its several States are adequate to punish all of the physical acts of violence denounced by the Genocide Convention. Hence the Senate does not need to ratify the Genocide Convention in order to make these acts punishable as crimes if committed within the borders of our land.

But the Senate should not permit itself to be persuaded by the good intentions of the proponents of ratification to ratify a convention which would have such a tragic impact upon the system of government which has always existed in our land, and which for the first time in our history undertakes to make undefined psychological harms inflicted in some manner Federal and international crimes.

The American Bar Association has twice urged the Senate to reject the Genocide Convention—once in 1949 and again in 1970.

Mr. President, I urge that the Senate reject the convention. There already is protection by Federal and State laws and it would be a great tragedy if in a moment of good intentions we were to ratify a convention which would play havoc with our system of government and havoc with the manner in which our criminal laws always have been enforced and which would impose on us obligations, the nature of which the treaty fails to reveal.

I appeal to the Senate to reject this very unwise, vague, and very indefinite convention.

Mr. President, I yield the floor.

Mr. JAVITS. Mr. President, we have all been waiting to hear the Senator from North Carolina who has been considered for a long time to be the principle opponent of the ratification of this treaty. In the course of the debate up to now we have had the testimony of the distinguished Senator before our committee but we have not had this argument on the floor. It is an exteremly important development in respect of the treaty because when one espouses the point of view in this way it is the only time when those who do not entertain that point of view can reject it.

I intend, perhaps with others, to deal with every point made by the Senator from North Carolina. At this particular moment, having heard some part of what he said but not all of it I am only able to cope with some parts of it, but I believe it is so critically important that these parts be coped with at once and that the whole of the argument be analyzed and refuted in due course, and that will be very brief, I assure the Senate. I take the floor for that purpose now.

First and foremost, Mr. President, the debate today and the debate tomorrow is concerned not with the issue of the detailed merits of the treaty which the Senator from North Carolina is at perfect liberty to analyze and disagree with, as he has for a long time. The debate today and tomorrow is concerned with whether or not we should get to a vote on the treaty and the reservations and amendments thereto. The Senator has introduced, as he said, a number of amendments and a number of reservations. They will be voted up or down.

We have just had exactly that situation in respect to the Legal Services bill where the Senate voted cloture. That is all that we, the opponents, ask for in respect of this matter now. The Senate can reject the treaty. It takes a two-thirds vote of those present and voting; one-third of the Senate, if everyone is present, can veto this ratification.

The question now is: Shall we ever get to the point where the Senate shall vote on the reservations—it has not even been able to vote on our reservation which everyone agrees is eloquent and locks in everything they say they are worried about—and be able to vote on the treaty itself if this posture persists. That is what we make our play for now. The Senate should not be denied the right to vote.

These declarations and reservations are submitted and amendments are submitted, and I am sure the Senate will by rollcall vote them up or down. There is plenty of time for that. I do not remember the exact figures—they are easily checked—but I do not believe that any Member, even any opponent in respect to cloture on the Legal Services bill, used up his hour. It was possible, even with quorum calls and time taken for rollcalls, to fully debate anything any Member wished to vote upon and as many things as any Member within reason wished to impose. So cloture is by no means throttling debate on amendments or the will of the Senate on the treaty; it is only the capacity of the Senate to get to the merits.

I respectfully submit that everything that has been said by our distinguished colleague implies that we should get to the merits. This is a highly controversial question. It is argued it has persisted for many years, it is time to lay it to rest. Fine, I agree. Let us lay it to rest. Let us lay it to rest by voting on the merits, on every reservation and amendment, and every aspect of the matter, up and down. That is the central point.

There is no point in taking our eye off the ball. The central point in this whole discussion is not what are the merits of the treaty or the merits of any reservation, but are we going to get to it at all? I respectfully submit in a matter of this kind, with this moral quality, that Senators of good will and honest feelings about humanity and the feelings of humanity should join, whether they vote to ratify or not.

Strangely enough, our check has shown that there are Members willing to vote to ratify the treaty who will not vote cloture and some who will vote cloture and not vote to ratify the treaty. I am all with the latter group. Every Senator must use his own judgment and conscience in terms of whether he will or will not vote for the ratification of the treaty after considering all the arguments, but to stymie and frustrate us in even getting to a vote on the merits is another matter. I do not think that is what the vote is all about or what the Senate is all about.

I feel that Senators should be willing to see any one of these reservations and amendments come to issue. Otherwise why are they being presented if we are going to be cut off at the pass, and nothing is going to happen because there is no opportunity to get at the merits.

Second, about the position of the American Bar Association. Our committee took note of that. The house of delegates, by 4 votes, by a vote of 130 to 126, rejected a motion to reverse its opposition to the ratification of the convention and upheld its resolution of 1949 to oppose it. It is very, very significant that a whole galaxy of other distinguished organizations, including some of the most prominent committees of the American Bar Association itself, have come out in favor of the convention.

I do not know what vestigial fears remain in the house of delegates compositely as such, although even that is by very close margin, but I point out the sections in favor of the ratification: Section of Individual Rights and Responsibilities, World Order Under Law Committee, Criminal Law Section, Section of International and Comparative Law, Section of Family Law, and the Section of Judicial Administration.

Opposed, on the other side, was the young lawyers section.

These other sections, all of which I have named, have come out for the treaty, as have other distinguished bar associations, including the very distinguished and very prominent Association of the Bar of the City of New York, of which I have the honor to be a member, and which is the most extensive bar association in the country.

So I do not believe, under all those circumstances, that the American Bar Association resolution—as I say, adopted by so narrow a margin—in the face of so contrary an opinion, should outweigh the

arguments on the substantive aspects of this particular treaty.

There are two points in respect of the treaty which stand out to me of what I was able to hear of our distinguished colleague's argument. I have it now before me, and I am very grateful for making available to us a copy of his remarks so that overnight we may prepare our argument on the other side. But two points that struck me as I listened to them were, first, the argument about the International Court of Justice, not the penal court, which is not in existence, but the International Court of Justice, and what this treaty says about that and the criminal laws of the United States as allegedly covering this situation.

First as to the International Court of Justice, we have a provision in this treaty which is article IX, to which the Senator from North Carolina (Mr. ERVIN) has referred.

First let me read the paragraph relative to the jurisdiction from the court's statute:

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or *in treaties and conventions in force.* [Emphsis added.]

The article itself of the treaty reads as follows:

Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in article III shall be submitted to the International Court of Justice at the request of any of the parties to the dispute.

The answers to the arguments which have been made are as follows:

One, a number of the countries in the Communist bloc have ratified the Genocide Treaty subject to the reservation that they do not consider themselves bound by article 9; therefore, that reservation may be invoked by any other member similarly—that is Hornbook law—just as the reservation which the Senator from Idaho (Mr. CHURCH), the Senator from Wisconsin (Mr. PROXMIRE), and I proposed may be invoked by any other signatory of the treaty against us.

Point No. 1: If we do not like it, we can reject it.

Point No. 2: It has always been true of the International Court of Justice, and it is well known, that the court has no enforcement powers; therefore its opinions are, in essence, advisory. That has been true of a number of cases. Of the very few cases it has decided, that has been true in a number of them.

Point No. 3: We have shown no fear in respect of the matter of jurisdiction of the International Court of Justice in other treaties, because we have included exactly such provisions in the Japanese peace treaty, the Antarctic treaty, to which the Soviet Union was a party, by the way, and the Statute of the International Atomic Energy Agency—mighty important international combines.

Finally, if there is any desire on the part of the Senate, any worry on the part of the Senate, to make that doubly or triply so, it can be accomplished by a reservation—I have little doubt that the Senator from North Carolina (Mr. ERVIN) has already presented one—with respect to article IX which is comparable to reservations adopted by the countries in the Communist bloc. I would be unhappy about that, because I think it is unnecessary and adds further weights to the reservations and to the ratification of the treaty. Nevertheless, if we are ever permitted to come to the issue, it can be done and perhaps a majority of the Senate would support it. In any case, it certainly can be done at this stage of the ratification process.

The last point which I do want to comment on very seriously, because it is a mixture of law and politics, relates to the crime of genocide. If I heard our distinguished colleague correctly, he said, "If committed within the borders of our Nation."

Mr. President, I am for this treaty because it deals with the crime of genocide wherever committed, and I hope very much Members of the Senate will be honest with themselves in that regard. If this country is not frightened by the crime of genocide no matter where committed, and does not—cutting away all the legal technicalities—wish to brand that as a heinous, infamous, detestable, punishable international crime, then I do not know what we have come to. We have succored the ill and the starving in many parts of the world with our substance. We have gone to war and have suffered hundreds of thousands of casualties expressly in the name of elementary justice and in the name of our own high self interest because we knew that the fate which might await us was the fate which we were seeking to redress or prevent for others. Once this kind of unreasoning crime is loose in the world, it can strike anybody, including ourselves. We Americans have learned many things, including the current oil crisis, and that it can happen here.

So, upon that fundamental issue, I simply have to ask the Senate and individual Members of this body to take their stand as a question of conscience or to take it with the Senator from North Carolina (Mr. ERVIN). If all we have said today means that we will deal with genocide in the United States, then this treaty should not be ratified; but if two-thirds of the Senate feel that genocide ought to be branded as an international crime for what it is, in view of the history, the recent history, of mankind, and the security of mankind in the future, then we will ratify the treaty. It is just that straight, and there is no use in fudging that question.

As to the rest of the argument, Mr. President, I believe, because I respect the Senator from North Carolina (Mr. ERVIN) so much, I should read his presentation with the care with which he himself deals with matters. He and I have had the inestimable privilege as Senators of debating high matters of policy and high matters of law for well over a decade, and I wish to show that same respect to the arguments which the Senator has prepared and which I would like to study and reply to.

Mr. President, unless the Senator from North Carolina (Mr. ERVIN) or some other Senator wishes the floor, I am about to suggest the absence of a quorum.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. HELMS). Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ERVIN. Mr. President, I ask unanimous consent that the Senate return temporarily to legislative action, and that upon the conclusion of the legislative action, the Senate return to executive action, to take up anew the Genocide Convention.

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

Mr. JAVITS. Mr. President, reserving the right to object, I hope the Senator will limit the discussion which he wishes to hold in legislative session to 1 hour, and that the unanimous consent agreement will be complete in that the unanimous consent request will call for a return to executive session, and that the Genocide Treaty will thereupon be again before the Senate as the pending business.

Mr. HRUSKA. Mr. President, reserving the right to object, I have a contribution to make on this same subject after the Senator from North Carolina concludes his remarks. On the understanding that he will not go too far into that 60 minutes which he seeks to have allotted, I shall not object.

Mr. JAVITS. I would be happy, if the Senator wishes, to make it an hour and a half, which would suit me.

Mr. HRUSKA. Not to exceed an hour, and if we need more we may ask for it?

Mr. JAVITS. That is all right, so long as we come back this afternoon to executive session, with the Genocide Treaty before us.

Mr. ERVIN. Mr. President, I modify my unanimous-consent request to embody the suggestions of the Senator from Nebraska and the Senator from New York.

Mr. HRUSKA. Mr. President, will the Senator yield for a unanimous-consent request?

The PRESIDING OFFICER. There is a unanimous-consent request before the Senate. Is there objection to the request of the Senator from North Carolina?

Mr. ROBERT C. BYRD. Mr. President, what is the pending question?

The PRESIDING OFFICER. That the pending business be temporarily laid aside.

Mr. HRUSKA. Mr. President, I ask unanimous consent that J. C. Argetsinger, Ken Lazarus, and Doug Marvin of my staff be accorded the privilege of the floor during the consideration of this measure.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the Senator's

request, but what is the pending business?

The PRESIDING OFFICER. The pending question before the Senate is a unanimous-consent request that the pending business be put aside for 1 hour——

Mr. ERVIN. And that the Senate go into legislative session.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? Without objection, it is so ordered.

Mr. ERVIN. Mr. President, I ask unanimous consent that Quincy Rogers of Senator MATHIAS' staff and Larry Baskir and Mark Gitsenstein of my staff be accorded the privilege of the floor during the consideration of this measure.

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

Does the Senator from Nebraska wish to renew his unanimous-consent request?

Mr. HRUSKA. I renew my request, Mr. President.

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

INTRODUCTION OF S. 2963 THE CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

Mr. ERVIN. Mr. President, with Mr. HRUSKA, Mr. MATHIAS, Mr. KENNEDY, Mr. BAYH, Mr. TUNNEY, Mr. YOUNG, Mr. BROOKE, Mr. MANSFIELD, Mr. ROBERT C. BYRD, Mr. BURDICK, Mr. ROTH, Mr. HUGH SCOTT, Mr. THURMOND, and Mr. FONG, I introduce for appropriate reference the "Criminal Justice Information Control and Protection of Privacy Act of 1974." The purposes of this legislation are to impose certain restrictions upon the type of information which can be collected and disseminated by law enforcement agencies on the Federal, State, and local levels; to place limitations upon the interchange of such information both among such agencies and outside the criminal justice community and otherwise to protect the privacy and reputations of persons about whom the agencies have collected information.

This legislation deals with the most prized but also the most perishable of our civil liberties—the right to privacy. Although the bill is limited to the activities of criminal justice agencies, its enactment would represent an important first step in reestablishing a workable balance between the information needs of Government on the one hand and the sanctity, individuality, and privacy of American citizens on the other. To understand the impact on personal privacy and the urgent need for this legislation, let me first review the significance of recordkeeping by law enforcement and other Government agencies.

I. GOVERNMENT RECORDKEEPING AND THE RIGHT TO PRIVACY

During the past few decades the demands by Government for personal and sensitive information about its citizens have escalated. This insatiable appetite for information among Government policymakers and administrators is closely related to the increasing responsibility which we have placed upon government, especially the Federal Government, for our health, safety, and well-being. The Government is expected to manage the most complex economy in history; to collect and expend billions of tax dollars in a productive manner each year; as well as to study and attempt to ameliorate the various crises which seem to plague our country with depressing regularity, involving our environment, energy resources, crime, and so on. Most Americans are willing to cooperate by divulging information about virtually every aspect of their lives if they believe it will help the Government fulfill these responsibilities.

Yet if we have learned anything in this last year of Watergate, it is that there must be limits upon what the Government can know about each of its citizens. Each time we give up a bit of information about ourselves to the Government, we give up some of our freedom. For the more the Government or any institution knows about us, the more power it has over us. When the Government knows all of our secrets, we stand naked before official power. Stripped of our privacy, we lose our rights and privileges. The Bill of Rights then becomes just so many words.

Alexander Solzyhenitsyn, the Russian Nobel Prize winner, suggests how an all-knowing government dominates its citizens in his book "Cancer Ward:"

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber, banks, buses, trams and even people would all lose the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man, permanently aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

Perhaps it should come as no surprise that a Russian can master the words to describe the elusive concept we in America call personal privacy. He understands, in a way which we cannot, the importance of being a free individual with certain inalienable rights, an individual secure in the knowledge that his thoughts and judgments are beyond the reach to the state or any man. He understands those concepts because he has no such security or rights but lives in a country where rights written into law are empty platitudes.

Privacy, like many of the other attributes of freedom, can be easiest appreciated when it no longer exists. A complacent citizenry only becomes outraged about its loss of integrity and individuality when the aggrandizement of power in the Government becomes excessive. By then, it may be too late. We should not have to conjure up 1984 or a Russian-style totalitarianism to justify protecting our liberties against Government encroachment. Nor should we wait until there is such a threat before we address this problem. Protecting against the loss of a little liberty is the best means of safeguarding ourselves against the loss of all our freedom.

The protection of personal privacy is no easy task. It will require foresight and the ability to forecast the possible trends in information technology and the information policies of our Government before they actually take their toll in widespread invasions of the personal privacy of large numbers of indivdual citizens. Congress must act before those new systems are developed, and before they produce widespread abuses. The peculiarity of those new complex technologies is that once they go into operation, it is too late to correct our mistakes or supply our oversight.

Our Founding Fathers had that foresight when they wrote the Bill of Rights. The first, fourth, and fifth amendments are among the most effective bulwarks to personal freedom conceived by the mind of man. Justice Brandeis in his classic dissent in the wiretapping case, *Olmstead* v. *United States*, 277 U.S. 438, 478 (1927), described with unsurpassed eloquence the importance of the right to privacy set out in the Constitution. These words do not go stale from repetition:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognize the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

Government data collection on individuals is not a brand new phenomenon. The Federal Government has been collecting immense amounts of very sensitive information on individuals for decades. Income tax, social security, and census come to mind immediately. Various surveys by experts, private organizations such as the National Academy of Sciences, and a number of congressional committees have established the fact that the Federal Government stores massive amounts of information about all of us.

Several individual dossier files have received considerable publicity in recent years. For example, the Defense Department has several extensive files of very sensitive information, including dossiers on 1.6 million persons in its industrial security files. In the Justice Department alone, there is at least one civil disturbance file with 22,000 names; a file of approximately 250,000 names in the organized crime section; rap sheets or fingerprint cards on over 20 million individuals in the FBI's identification division files, and records on well over 450,000 persons in the FBI's National Crime Information Center—NCIC; and over 40 million names in the master index of the Immigration and Naturalization Service. The National Driver Register of the National Highway Safety Bureau contains 3,300,000 names. There are 69,000 names in the Secret Service files of persons considered potentially dangerous to the

President, and the Secret Service computer contains hundreds of thousands of others.

Many of these records are in manual files as opposed to storage in computerized data banks. However, the trend is toward automation of the files so that information on an individual can be made instantly available to users. The FBI's 20 million fingerprint rap sheets are being automated. A survey which the Subcommittee on Constitutional Rights is conducting reveals that there are over 800 data banks in the Federal Government, many of which are automated, containing personal information on American citizens.

These figures and other information which the subcommittee's survey has revealed suggest that a revolution is about to take place within the huge information warehouses of the Federal Government. The revolution is going to be caused by two major developments within the Federal bureaucracy—both resulting from the application of highly sophisticated information technology to the Government's files.

First, with the advent of computers the Government is able to increase by geometric proportions the amount of information it can collect on individuals. Prof. Arthur Miller of the Harvard Law School, in his book "The Assault on Privacy," suggests that it will soon be technically feasible to store a 20-page dossier on every single American on a piece of tape less than 5,000 feet long. At the same time, the new technology permits the Government to reduce to microseconds the amount of time necessary to get access to the information. For example, the NCIC computer is able to locate one of its 450,000 criminal histories on an individual, reproduce it and transmit the file to a remote terminal in California or Florida in less than 5 seconds.

Second, and perhaps even more ominous than the computerization of the information, is the development of nationwide information networks by the Federal and State governments, utilizing telephone and other telecommunications lines. These information networks are designed to increase dramatically the number of people and agencies which can access the computerized data banks operated by the Federal, State, and local governments. When the NCIC computerized criminal history is fully operational, it will be one of the largest data bank-information networks of personal dossiers ever attempted. Eventually, roughly 40,000 State and local police departments will have instantaneous access to computerized files on an estimated 21 million individuals who at some time in their lives have been arrested by State, local, or Federal police. The General Accounting Office estimates that this ambitious project may cost over $100,000,000 in Federal, State, and local revenues. Already LEAA's allocations over the past 4 years is estimated at $50 million, not counting State and local expenditures.

The NCIC system is not the first of these systems nor will it necessarily be the largest. As Eugene Levin, an expert on data bank-information networks has pointed out, the Department of Defense has done the pioneering work in this area. The Advanced Research Projects Agency of the Department of Defense has implemented a network which ties together many huge and dissimilar scientific computers. However, the difference between NCIC and the types of systems pioneered by Defense is that the former has sensitive personal information on individuals while the latter is designed to facilitate the transfer of innocuous scientific information.

Mr. Levin suggests the dangers that this new computer-communications technology will have upon our lives once Government begins to use it to collect and disseminate information on individuals:

> The greatest deterrent to extensive government surveillance of individuals has not been the lack of technology of "bugging," nor do considerations of legality, morality, or ethics seem to carry much weight. The deterrent has been "data pollution," which buries an investigator under bits and bytes. It has not been possible to handle (gather, filter, store, process, retrieve, format, disseminate) the huge volume of information on all individuals in anything approaching a useful time frame. *Now it can be done.*

If traditional Government recordkeeping practices and records policies have not yet posed an intolerable threat to personal privacy or reputations, it is only because of the benign inefficiency of these file-drawer record systems. Until very recently, significant amounts of information were not collected about individuals and therefore were not available to others. Use of information collected and kept on a decentralized basis is slow, inefficient, and frustrating. It requires an immense effort to collect information on a specific individual from a variety of different agencies, and then to have it sent out to the agency requesting it. It is ironic but true that what has thus far saved much of our privacy and our liberty has been the complacency, inefficiency, and intraagency jealousies of the Government and its personnel.

This decentralization, of course, is being radically changed by computerization and remote access through data networks. The information in Government files is often rather superficial and general and, in large part, dated and useless. The new technology allows for the collection of much more information on individuals as well as for systematic updating. With computerization and automatic remote access, the Government's ability to collect information increases astronomically and its capacity to broadcast what it ingests to every part of the Nation increases at the same rate. Once an individual gives up information about himself to the Government, he, and in most cases the Government, loses control over it. The citizen cannot, and the Government usually does not, control who can see the information. Nor can he or the Government insure the accuracy of what is broadcast. Increasingly, these systems will influence, if not determine, whether an individual will get Government benefits, be extended credit, get a job, or be considered a criminal and be harassed by police.

II. CRIMINAL JUSTICE DATA BANKS: A MICROCOSM

Over the past few years the Subcommittee on Constitutional Rights, which I chair, has been studying the impact of Government computerized networks and recordkeeping of personal information in the hope of developing legislation to reverse these trends. In the course of this effort, I have come to the conclusion that the need for legislative action respecting criminal justice data banks cannot wait for the development of a comprehensive legislative solution which applies generally to all Government data collection. Therefore, I have drafted legislation which deals with this area in the hope that the experience of developing and enacting this legislation will provide guidance in formulating a more complete Government policy on privacy.

The question of Government collection and dissemination of criminal records and other routine law enforcement information must be the first target for data bank privacy legislation. If Congress can successfully develop privacy safeguards for law enforcement information, collection and dissemination, then our experience may make easier the establishment of a more comprehensive policy. Some of the most advanced technology is being used in local, State, and Federal criminal justice data banks. The type of information being collected in such systems is as sensitive as any collected by Federal or State governments. The complexity of the questions of granting or denying access to subjects and other individuals are as difficult as those involved in any other area of government recordkeeping. I hope that Congress consideration of the "Criminal Justice Information Control and Protection of Privacy Act of 1974" will be the first step in its effort to come to grips on a national level with the assault on privacy by governments and private enterprise wherever it may exist.

Criminal recordkeeping has a long history. Since the 1920's the FBI has been providing a nationwide manual exchange of arrest records for State and local police departments. The purpose of this system is to supplement the files of State and local police departments by making available the arrest record of any person ever arrested for a crime by any police agency. The police utilize these records, called rap sheets, for investigative purposes, even though many of the records never indicate whether the subject has ever been prosecuted, much less convicted, of the crime for which he was arrested.

To my mind, a record of an arrest without any indication of a disposition of the charges arising out of that arrest is virtually useless for law enforcement purposes, and is highly prejudicial if used for non-law enforcement purposes. Yet I understand that in several States as many as 70 percent of the records do not contain dispositions. I would not be surprised to find that the percentage of incomplete records is ever higher in FBI files since those files are based on State files and the FBI depends upon States and localities for record updating.

A record which shows a disposition of no prosecution, dropped charges, or ac-

quittal may have more value, but it is also highly prejudicial if controls on its dissemination do not exist. The number of such records in Federal, State, and local files is significant. In 1972 there were 8.7 million arrests in the United States. Of those 8.7 million arrests, about 1.7 million were for what the FBI terms serious offenses—homicide, rape, robbery, assault, and so forth. According to the FBI, almost 20 percent of the adults arrested for these serious offenses are never even prosecuted and, of those prosecuted, approximately 30 percent are not convicted. For juvenile arrests and arrests for the 7 million less serious crimes, the percentage of no prosecutions and no convictions is much higher. This suggests that there are probably several million so-called criminal records on persons who were never prosecuted or convicted of the charge for which they were arrested, but which are added to the FBI files each year and available for distribution to any local police department, State civil service commissions, and certain private concerns.

The rap sheet distribution system by the Identification Division of the FBI operates without formal rules. Custom and several letters from the Director of the FBI to local police departments seem to be the only limitation on access to the information. The rap sheets are made available to government licensing agencies, government personnel departments, and, in all too many cases, either directly or indirectly to private employers. By 1973 the magnitude of the dissemination was immense. Each day the Identification Division receives over 11,000 requests for record searches, a large portion of which are from non-law-enforcement agencies.

Unfortunately, when an employer obtains this so-called criminal record information, he is not so concerned with whether the arrest contains disposition of charges or whether the subject was convicted. As far as most employers are concerned, the subject of such a record is a "criminal" and his application is automatically rejected. One survey of New York City employment agencies found that 75 percent would not accept for referral an applicant with an arrest record, whether or not he was convicted. Although the Bureau discourages dissemination of rap sheets to private enterprise for employment purposes. once the information is in the hands of local police, it is effectively out of the control of the Bureau. For example, a few months ago a grand jury in Massachusetts began hearing evidence that State police officers were selling police records to department stores and other private businesses and credit agencies. This unfortunate abuse continues in case after case.

The FBI sends rap sheets to State and municipal civil service commissions as a matter of course. One study found that most State, local and municipal employers consider an arrest record, even one short of a conviction, in determining employment eligibility. As many as 20 percent of these Government employees automatically disqualify someone with an arrest record regardless of the disposition on the record. When you consider these employment policies in light of the fact that the FBI may have rap sheets on almost 10 percent of the population and the fact that Federal, State, and local government employment totals 18 percent of the work force, the impact of this dissemination should be obvious. The FBI does not now have the necessary authority and tools to deal with these and other problems. One purpose of this legislation is to supply the legislative authority that so far is absent.

In 1970, the Law Enforcement Assistance Administration funded a prototype computerized network for sharing criminal offender records. The experiment, called Project SEARCH—system for the electronic analysis and retrieval of criminal histories—took place in the summer of 1970 and demonstrated to the satisfaction of the Justice Department the feasibility of a nationwide computerized network for the exchange of such information. In December of 1970 Attorney General Mitchell authorized the FBI to assume operation of the project SEARCH computerized criminal history—CH—project. The Bureau transferred the CH file to its National Crime Information Center—NCIC—where it already had operational computerized files on stolen securities and persons with outstanding arrest warrants interfaced with a nationwide telecommunications network. The Bureau's ultimate plan is to convert rap sheets received after January 1970 to the CCH file and to also enter into the NCIC/CH file arrests made by any State, local or Federal police office. By 1984 there will be some 8 million records on American citizens contained in NCIC and instantly available to approximately 40,000 local police departments.

The law enforcement community is aware of the dangers inherent in collection and dissemination of criminal history information. According to a recent Justice Department report:

> The potential for misusing a criminal record has been amply demonstrated in court cases involving nonautomated records, particularly affecting employment eligibility. Thoughtful law enforcement officials recognize the danger which comes with automation and the interstate exchange of records. The potential problems arising from disclosure, whether authorized or not, are increased many times over those existing in the manual systems.
>
> Most modern law enforcement officials seriously desire to protect the individual's reasonable right to privacy, particularly in those cases where inclusion in the file may have been a mistake or an unjustified result of the formality of criminal justice processes.

Both Project SEARCH and NCIC have made good faith efforts to develop privacy and security guidelines for the operation of their computerized criminal history files. Project SEARCH created a special committee on privacy and security. Their original Privacy and Security Report, Technical report No. 2—popularly called "Tech 2"—was the first comprehensive proposal for adopting privacy rules to the operation of computerized record systems. This bill, and indeed, most other legislation, can trace its antecedents to this original work. NCIC also established a policy advisory committee for its CCH file soon after it took over operation of the SEARCH/CCH file. That group has drafted informal privacy and security guidelines which are revised periodically and do deal with some of the more difficult issues. However, the regulations are largely hortatory. They place most of the security responsibilities on the local data banks which plug into NCIC and do not provide effective enforcement mechanisms. In all fairness, the Bureau cannot be blamed for these inadequacies. It no doubt feels that without special Federal legislation, it lacks the authority to require State and local users to comply with Federal standards on use and collection of criminal justice information. In any case, the most effective remedies, both civil and criminal, must be firmly based in Federal statutory law. Director Kelley recognizes that and has called for Federal legislation which would replace and supplement the informal guidelines pursuant to which NCIC is presently operated. Both Attorney General Saxbe and his predecessor Attorney General Richardson have recognized the need for legislative action, and have taken the lead in developing administration policy in this area.

III. PRIVACY LEGISLATION ON CRIMINAL JUSTICE DATA BANKS

In preparing legislation on this topic I have been influenced greatly by the writings of Prof. Alan Westin of Columbia Law School and Arthur Miller of Harvard Law School, two of the Nation's experts on data banks and privacy. Also, much credit must be given to the HEW Advisory Committee on Automated Personal Data Systems. I have attempted to draft legislation which comports with the recent report of the National Advisory Committee on Criminal Justice Standards and Goals. This Justice Department Commission sets out four basic "potential hazards to the right of privacy" which any privacy legislation relating to criminal justice data banks must address:

> Certainly, privacy can become seriously damaged when the information contained in the national system is (a) inaccurate, (b) incomplete, (c) unjustified, or (d) improperly disseminated.

All of the privacy standards proposed by the Commission, and all of the provisions of the legislation which I am introducing today are addressed to these potential hazards.

The Advisory Commission placed a high priority in reducing, if not eliminating, the amount of inaccurate information in criminal justice information systems. In the Commission's words:

> Joseph A. Burns, 28, of Magnolia Street could have his entire life seriously harmed because of an unwitting confusion between him and Joseph A. Burns of Cass Avenue or Joseph A. Burns, 19, of no known address.

It proposes several standards to govern the quality of information allowed into criminal justice information systems, and access by data subjects for the purpose of review and challenge of their own records. The Commission also takes a strong position against the distribution of incomplete data, such as a record of an arrest with no indication of the disposition of the charges arising out of that

arrest. The recommendations oppose the inclusion of any intelligence information in such systems. According to the Commission:

> The criminal justice information system should not supply any information such as the fact that Mr. A was refused entry across the Canadian border in 1970 for lack of sufficient funds, that Mr. A was identified twice in 1969 by police photo-intelligence personnel in the company of leaders of a peace demonstration, or that Mr. A. was a passenger in a car that was stopped and searched—and was permitted to proceed—by New Jersey authorities in 1969. Even though such information might exist in police intelligence files—and the Commission takes no position here on whether it should—it has no plaec in the criminal justice information system.

In my judgment, this is one of the most important issues, and my legislation fully endorses this position.

The report proposes a number of enforcement mechanism to insure that its standards are obeyed. It recommends civil and criminal sanctions, the creation of state regulatory commissions and mandatory system audits to insure compliance. My legislation contains similar provisions.

The most difficult question with which the Commission deals and which is also addressed in my legislation, is the question of who shall have access to information contained in criminal justice data banks. In particular, should criminal justice information be made available to noncriminal justice agencies? The Commission answers that question as follows:

> Easy availability of criminal justice information files for credit checks, pre-employment investigations, and other noncriminal justice activities is highly prejudicial to the operation of a secure information system designed only for law enforcement agencies.

I heartily agree and my legislation reflects that position.

IV. THE CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

The Criminal Justice Information Control and Protection of Privacy Act of 1974 is intended to provide a basis for discussion and hearings. It does not pretend to be a final statement on the subject. However, the bill is quite detailed and attempts a resolution of all the major privacy and security issues which have arisen in the development of law enforcement data banks. It endeavors to balance the legitimate needs of law enforcement with the requirements of individual liberty and privacy. It would for the first tim.e give firm statutory authority for criminal justice data banks, a major obstacle in the development of such systems. It would impose upon the data banks strict but manageable privacy limitations. Not the least important, the bill also attempts to solve fundamentally important questions of Federal-State relationships in these comprehensive national information systems.

The bill is divided into three titles. The first title sets out the definitions of 19 terms used in the act. The second title sets out general statutory rules for the collection and dissemination of routine information as well as the more sensitive intelligence information. In the most controversial areas this title sets out specific legislative solutions. For example, there is a complete ban on non-criminal justice use of incomplete information such as raw arrest records. In certain areas, such as right of access, this title sets out general rules but leaves discretion to the States and localities. The third title of the act establishes a joint Federal-State administrative structure for enforcement of the act and for actual operation of interstate criminal justice data banks such as NCIC. This title also requires the States to establish a similar administrative structure for intrastate computer systems.

The highlights of the bill are as follows:

Scope.—The bill would reach criminal justice data banks operated by Federal, State, or local governments. Comprehensive legislation must reach every possible component of the complex interstate data bank network which has grown up in the past decade. Congress cannot depend solely upon internal State legislative action because no one State can effectively regulate what happens to arrest records, and other criminal justice information or intelligence information which finds its way into a data bank in another State. The fact that these systems use interstate communications facilities, are connected with other State systems, or joined with interstate and Federal networks provides, together with the widespread Federal financial support, the necessary constitutional nexus for the legislation.

Focus.—The bill is directed primarily and in the greatest detail at those types of records which have been abused the most—arrest records and so-called "criminal history" records. With regard to records where there are few reported cases of abuse, such as identification records, wanted records or outstanding warrant records, the legislation is much more flexible. In the case of intelligence records, where the potential for abuse is great, the legislation bars computerized information systems. I expect that in the course of hearings on this legislation technical problems will be raised with the specific language used for arrest and criminal history records; that abuses of identification records will be identified; and that law enforcement agencies may make a case for specific exceptions to the ban on computerization of intelligence information or propose concrete suggestions for the regulation of these systems in lieu of an outright prohibition on computerization. One purpose of this bill is to serve as a basis for hearings and discussion on the privacy and data banks controversy.

General dissemination rules: The bill adopts the position of the Senate in its twice unanimously adopted Bible-Ervin rider to recent Justice Department appropriation bills and permits only complete conviction records to be distributed to private employers and other non-law-enforcement users. Here again the bill opts in favor of limited dissemination in the case of records which have an established history of abuse—incomplete arrest and criminal history records. On the question of exchange between law enforcement agencies, the bill adopts a position similar to that of the National Advisory Commission. Generally, only conviction records could be exchanged between police departments. A criminal history record or even a raw arrest record could be given to another department only after the requesting agency had rearrested thes ubject. It may be the hearings will suggest other limited instances in which raw arrest records can be used.

Updating.—Operators of criminal justice data banks would have to keep all of their records as up to date as in technically feasible and records would have to be accurate. Each data bank must also keep logs reflecting those to whom raw arrest records and certain other sensitive information is sent so that incomplete, inaccurate, or challenged records can be tracked down and corrected or destroyed. The purpose of these provisions is to create an accounting system for information which is permitted to enter and circulate in the data bank network. Strict rules on collection and dissemination are unenforceable if there is no method for keeping track of information flow and meaningless without a requirement that information be as accurate and up to date as possible.

Right of access.—The bill provides every citizen with a right to access any data bank, whether computerized or not, for the purpose of challenge and correction. The challenge procedure includes a hearing before the supervisory personnel of the data bank and if necessary, an appeal to a U.S. District Court. Every significant piece of privacy legislation, including the two administration arrest records bills introduced in the last Congress, contain a citizen access provision similar to the one proposed in this bill.

Civil and criminal penalties.—Operators of data banks will be held criminally and civilly liable for violations of the act. Liability will arise where there is negligence as well as willfullness. Liquidated damages of $100 for each violation would be available, plus complete recovery for all actual and general damages, and where appropriate, exemplary damages, litigation costs and attorneys' fees. This legislation will only command respect if operating personnel and their agencies are held civilly liable for their negligent failure to comply with the letter of each provision.

Administrative provisions.—The bill would create a new independent Federal-State cooperative agency to oversee enforcement of the act. The agency will issue regulations, go to court to enjoin violations and actually take over policy control of the Federal interstate criminal history data bank (NCIC). The purpose of these provisions is to create an agency, which is outside the present law enforcement community and without vested interests in present law enforcement data banks, to administer the act. These provisions of the bill also would give the States their proper role in the development of policy. Representatives of each State will share in the formulation of regulations issued pursuant to the act.

These administrative provisions reflect the concern expressed by many repre-

sentatives of State and local law enforcement agencies that legislation not delegate great powers to the Federal Government and thereby subordinate the States in the operation of a law-enforcement responsibility that is properly theirs. While none of us in Congress or in the Federal Government desire to see a Federal police force, we must recognize that Federal involvement inevitably leads to Federal control. We must be alert to this trend in law enforcement even if we have been a little lax in other areas over the years. Total Federal control over the information systems of State and local police forces is one sure path to a federalized police system in fact if not in name. It might be best to return to the original LEAA plan for project SEARCH. That was a State-controlled, State-operated interstate system, with the Federal Government playing a limited role in providing financing and research. If that is not possible, then the next best approach is a true Federal-State arrangement such as I have proposed in this bill. This is one area where the President's ideal of a New Federalism ought to take concrete form. Since I expect that the States will welcome a return to greater State responsibility and the idea does conform to the New Federalism idea, I have great hopes of a general agreement on this important aspect of the bill.

System audits.—The bill provides for audits of practices and procedures of criminal justice data banks on a random basis by the new independent Federal-State agency and by the States themselves. Most privacy experts agree that systematic audits by outside agencies is a necessary adjunct to civil remedies and citizen rights of access and challenge for enforcement of effective legislation. As long as data bank operators realize that they are subject to random audit by independent computer experts, they are unlikely to ignore the restrictions set out in the act.

V. CONCLUSION

In conclusion, I would like to reaffirm my earlier statement that this legislation is introduced to provoke discussion and to serve as the basis of hearings. Neither I, nor any of the cosponsors feel wedded to all of the provisions of the bill. The Justice Department has been working on similar legislation for the past several months. The President described this legislation in his state of the Union address. I understand that the administration's bill is quite similar in approach to my own, though there are significant technical differences of the two bills. I welcome the administration's effort in this regard and I firmly believe that this issue is both of sufficient national importance and is of such technical complexity that a bipartisan approach is absolutely necessary. In this spirit, I am announcing today hearings before the Subcommittee on Constitutional Rights, which has jurisdiction over this subject, for the purpose of a complete and objective review of both proposals. I consider both my proposal and the Justice Department's forthcoming proposal of equal interest to the subcommittee. I hope that through the hearings which will begin in the near future, we can work out a consensus both within the subcommittee and with the administration so that privacy legislation relating to criminal justice data banks can be enacted before the end of the Congress.

I ask unanimous consent that the bill, a section-by-section analysis of the bill, two columns written by William Safire and Tom Wicker from the New York Times, an editorial in the Washington Post, calling for Federal legislation on this question, be reprinted at this point in the CONGRESSIONAL RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and without objection, the bill and the material will be printed in the RECORD, as requested.

S. 2963

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 "Criminal Justice Information Control and Protection of Privacy Act of 1974".

TITLE I—FINDINGS AND DECLARATION OF POLICY; DEFINITIONS

CONGRESSIONAL FINDINGS AND DECLARATION POLICY

SEC. 101. The Congress finds and declares that the several States and the United States have established criminal justice information systems which have the capability of transmitting and exchanging criminal justice information between or among each of the several States and the United States; that the exchange of this information by Federal agencies is not clearly authorized by existing law; that the exchange of this information has great potential for increasing the capability of criminal justice agencies to prevent and control crime; that the exchange of inaccurate or incomplete records of such information can do irreparable injury to the American citzens who are the subjects of the records; that the increasing use of computers and sophisticated information technology has greatly magnified the harm that can occur from misuse of these systems; that citizens' opportunities to secure employment and credit and their right to due process, privacy, and other legal protections are endangered by misuse of these systems; that in order to secure the constitutional rights guaranteed by the first amendment, fourth amendment, fifth amendment, sixth amendment, ninth amendment, and fourteenth amendment, uniform Federal legislation is necessary to govern these systems; that these systems are federally funded, that they contain information obtained from Federal sources or by means of Federal funds, or are otherwise supported by the Federal Government; that they utilize interstate facilities of communication and otherwise affect commerce between the States; that the great diversity of statutes, rules, and regulations among the State and Federal systems require uniform Federal legislation; and that in order to insure the security of criminal justice information systems, and to protect the privacy of individuals named in such systems, it is necessary and proper for the Congress to regulate the exchange of such information.

DEFINITIONS

SEC. 102. For the purposes of this Act—

(1) "Information system" means a system, whether automated or manual, operated or leased by Federal, regional, State, or local government or governments, including the equipment, facilities, procedures, agreements, and organizations thereof, for the collection, processing, preservation, or dissemination of information.

(2) "Criminal justice information system" means an information system for the collection, processing, preservation, or dissemination of criminal justice information.

(3) "Criminal justice intelligence information system" means an information system for the collection, processing, preservation, or dissemination of criminal justice intelligence information.

(4) "Automated system" means an information system that utilizes electronic computers, central information storage facilities, telecommunications lines, or other automatic data processing equipment used wholly or in part for data collection, analysis, or display as distinguished from a system in which such activities are performed manually.

(5) "Disposition" means information disclosing that criminal proceedings have been concluded, including information disclosing that the police have elected not to refer a matter to a prosecutor or that a prosecutor has elected not to commence criminal proceedings and also disclosing the nature of the termination in the proceedings; or information disclosing that proceedings have been indefinitely postponed and also disclosing the reason for such postponement. Dispositions shall include, but not be limited to, acquittal, acquittal by reason of insanity, acquittal by reason of mental incompetence, case continued without finding, charge dismissed, charge dismissed due to insanity, charge dismissed due to mental incompetency, charge still pending due to insanity, charge still pendng due to mental incompetence, guilty plea, nolle prosequi, no paper, nolo contendere plea, convicted, deceased, deferred disposition, dismissed civil action, extradited, found insane, found mentally incompetent, pardoned, probation before conviction, sentence commuted, adjudication withheld, mistrial-defendant discharged, or executive clemency.

(6) "Dissemination" means the transmission of information, whether orally or in writing.

(7) "Criminal justice information" means information on individuals collected or disseminated, as a result of arrest, detention, or the initiation of criminal proceeding, by criminal justice agencies, including arrest record information, correctional and release information, criminal history record information, conviction record information, identification record information, and wanted persons record information. The term shall not include statistical or analytical records or reports, in which individuals are not identified and from which their identities are not ascertainable. The term shall not include criminal justice intelligence information.

(8) "Arrest record information" means information concerning the arrest, detention, or commencement of criminal proceedings on an individual which does not include the disposition of the charge arising out of that arrest, detention, or proceeding.

(9) "Correctional and release information" means information on an individual compiled by a criminal justice or noncriminal justice agency in connection with bail, pretrial or posttrial release proceedings, reports on the mental condition of an alleged offender, reports on presentence investigations, reports on inmates in correctional institutions or participants in rehabilitation programs, and probation and parole reports.

(10) "Criminal history record information" means information disclosing both that an individual has been arrested or detained or that criminal proceedings have been commenced against an individual and that there has been a disposition of the criminal charge arising from that arrest, detention, or commencement of proceedings. Criminal history record information shall disclose whether such disposition has been disturbed, amended, supplemented, reduced, or repealed by further proceedings, appeal, collateral attack, or otherwise.

(11) "Conviction record information" means information disclosing that a person

has pleaded guilty or nolo contendere to or was convicted on any criminal offense in a court of justice, sentencing information, and whether such plea or judgment has been modified.

(12) "Identification record information" means fingerprint classifications, voice prints, photographs, and other physical descriptive data concerning an individual which does not include any indication or suggestion that the individual has at any time been suspected of or charged with criminal activity.

(13) "Wanted persons record information" means identification record information on an individual against whom there is an outstanding arrest warrant including the charge for which the warrant was issued and information relevant to the individual's danger to the community and such other information that would facilitate the regaining of the custody of the individual.

(14) "Criminal justice intelligence information" means information on an individual on matters pertaining to the administration of criminal justice, other than criminal justice information, which is indexed under an individual's name or which is retrievable by reference to identifiable individuals by name or otherwise. This term shall not include information on criminal justice agency personnel, or information on lawyers, victims, witnesses, or jurors collected in connection with a case in which they were involved.

(15) "The administration of criminal justice" means any activity by a governmental agency directly involving the apprehension, detention, pretrial release, posttrial release, prosecution, defense adjudication, or rehabilitation of accused persons or criminal offenders or the collection, storage, dissemination, or usage of criminal justice information.

(16) "Criminal justice agency" means a court sitting in criminal session or a governmental agency created by statute or any subunit thereof created by statute, which performs as its principal function, as expressly authorized by statute, the administration of criminal justice. Any provision of this Act which relates to the activities of a criminal justice agency also relates to any information system under its management control or any such system which disseminates information to or collects information from that agency.

(17) "Purge" means to remove information from the records of a criminal justice agency or a criminal justice information system so that there is no trace of information removed and no indication that such information was removed.

(18) "Seal" means to close a record possessed by a criminal justice agency or a criminal justice information system so that the information contained in the record is available only (a) in connection with research pursuant to section 201(d), (b) in connection with review pursuant to section 207 by the individual or his attorney, (c) in connection with an audit pursuant to section 206, or (d) on the basis of a court order pursuant to section 205.

(19) "Judge of competent jurisdiction" means (a) a judge of a United States district court or a United States court of appeals; (b) a Justice of the Supreme Court of the United States; and (c) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing access to criminal justice information.

(20) "Attorney General" means the Attorney General of the United States.

(21) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

TITLE II—COLLECTION AND DISSEMINATION OF CRIMINAL JUSTICE INFORMATION AND CRIMINAL JUSTICE INTELLIGENCE INFORMATION

DISSEMINATION, ACCESS, AND USE—GENERALLY

SEC. 201. (a) Criminal justice information may be maintained or disseminated, by compulsory process or otherwise, outside the criminal justice agency which collected such information, only as provided in this Act.

(b) Criminal justice information may be collected only by or disseminated only to officers and employees of criminal justice agencies: *Provided, however,* That beginning two years after enactment of this Act such information may be collected only by or disseminated only to officers and employees of criminal justice agencies which are expressly authorized to receive such information by Federal or State statute. Criminal justice information shall be used only for the purpose of the administration of criminal justice.

(c) Except as otherwise provided by this Act, conviction record information may be made available for purposes other than the administration of criminal justice only if expressly authorized by applicable State or Federal statute.

(d) Criminal justice information may be made available to qualified persons for research related to the administration of criminal justice under regulations issued by the Federal Information Systems Board, created pursuant to title III. Such regulations shall require preservation of the anonymity of the individuals to whom such information relates, shall require the completion of nondisclosure agreements by all participants in such programs and shall impose such additional requirements and conditions as the Federal Information Systems Board finds to be necessary to assure the protection of privacy and security interests. In formulating regulations pursuant to this section the Board shall develop procedures designed to prevent this section from being used by criminal justice agencies to arbitrarily deny access to criminal justice information to qualified persons for research purposes where they have otherwise expressed a willingness to comply with regulations issued pursuant to this section.

DISSEMINATION OF CERTAIN CRIMINAL JUSTICE INFORMATION TO CRIMINAL JUSTICE AGENCIES

SEC. 202. (a) Except as otherwise provided in this section and in section 203, a criminal justice agency may disseminate to another criminal justice agency only conviction record information.

(b) A criminal justice agency may disseminate arrest record information on an individual to another criminal justice agency—

(1) if that individual has applied for employment at the latter agency and such information is to be used for the sole purpose of screening that application,

(2) if the matter about which the arrest record information pertains has been referred to the latter agency for the purpose of commencing or adjudicating criminal proceedings and that agency may use the information only for a purpose related to that proceeding, or

(3) if the latter agency has arrested, detained, or commenced criminal proceedings against that individual for a subsequent offense, and the arrest record information in the possession of the former agency indicates (A) that there was a prior arrest, detention, or criminal proceeding commenced occurring less than one year prior to the date of the request, and (B) that active prosecution is still pending on the prior charge. In computing the one-year period, time during which the individual was a fugitive shall not be counted. The indication of all revelant facts concerning the status of the prosecution on the prior arrest, detention, or proceeding must be sent to the latter agency and that agency may use the information only for a purpose related to the subsequent arrest, detention, or proceeding.

(c) A criminal justice agency may disseminate criminal history record information on an individual to another criminal justice agency—

(1) if that individual has applied for employment at the latter agency and such information is to be used for the sole purpose of screening that application,

(2) if the matter about which the criminal history information pertains has been referred to the latter agency for the purpose of commencing or adjudicating criminal proceedings or for the purpose of preparing a pretrial release, posttrial release, or presentence report and that the agency may use the information only for a purpose related to that proceeding or report, or

(3) if the requesting agency has arrested, detained, or commenced criminal proceedings against that individual for a subsequent offense or if the agency is preparing a pretrial release, posttrial release, or presentence report on a subsequent offense and such information is to be used only for a purpose related to that arrest, detention, or proceeding.

(d) A criminal justice agency may disseminate correctional and release information to another criminal justice agency or to the individual to whom the information pertains, or his attorney, where authorized by Federal or State statute.

(e) This section shall not bar any criminal justice agency which lawfully possesses arrest record information from obtaining or disseminating dispositions in order to convert that arrest record information to criminal history information. Nor shall this section bar any criminal justice information system to act as a central repository of such information so long as a State statute expressly so authorizes and so long as that statute would in no way permit that system to violate or to facilitate violation of any provision of this Act. Nor shall this section bar any criminal justice agency from supplying criminal history information to any criminal justice information system established in the Federal Government pursuant to section 307 of this Act.

DISSEMINATION OF IDENTIFICATION RECORD INFORMATION AND WANTED PERSONS RECORD INFORMATION

SEC. 203. Identification record information may be disseminated to criminal justice and to noncriminal justice agencies for any purpose related to the administration of criminal justice. Wanted persons information may be disseminated to criminal justice and noncriminal justice agencies only for the purpose of apprehending the subject of the information.

SECONDARY USE OF CRIMINAL JUSTICE INFORMATION

SEC. 204. Agencies and individuals having access to criminal justice information shall not, directly or through any intermediary, disseminate, orally or in writing, such information to any individual or agency not authorized to have such information nor use such information for a purpose not authorized by this Act: Provided, however, That rehabilitation officials of criminal justice agencies with the consent of the person under their supervision to whom it refers may orally represent the substance of such individual's criminal history record information to prospective employers if such representation is in the judgment of such officials and the individual's attorney, if represented by counsel, helpful to obtaining employment for such individual. In no event shall such correctional officials disseminate records or copies of records of criminal history record information to any unauthorized individual or agency. A court may disclose criminal justice information on an individual in a published opinion or in a public criminal proceeding.

METHOD OF ACCESS AND ACCESS WARRANTS

SEC. 205. (a) Except as provided in subsection 201(d) or in subsection (b) of this section, an automated criminal justice information system may disseminate arrest record information, criminal history record information, or conviction record information on an individual only if the inquiry is based upon positive identification of the individual by means of identification record information. The Federal Information Systems Board shall issue regulations to prevent dissemination of such information except in the above situations, where inquiries are based upon categories of offenses or data elements other than identification record information. For the purposes of this section "positive identification" means identification by means of fingerprints or other reliable identification record information.

(b) Notwithstanding the provisions of subsection (a), access to arrest record information, criminal history record information, or conviction record information contained in automated criminal justice information systems on the basis of data elements other than identification record information shall be permissible if the criminal justice agency seeking such access has first obtained a class warrant from a State judge of competent jurisdiction, if the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the information sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the criminal justice agency's responsibilities in the administration of criminal justice and the information sought to be obtained is not reasonably available from any other source or through any other method. A summary of each request for such a warrant, together with a statement of its disposition, shall within ninety days of disposition be furnished the Federal Information Systems Board by the judge.

(c) Access to criminal justice information which has been sealed pursuant to section 206 shall be permissible if the criminal justice agency seeking such access has obtained an access warrant from a State judge of competent jurisdiction of the information sought is in the possession of a State or local agency or information system, or from a Federal judge of competent jurisdiction, if the informtion sought is in the possession of a Federal agency or information system. Such warrants may be issued as a matter of discretion by the judge in cases in which probable cause has been shown that (1) such access is imperative for purposes of the crimilan justice agency's responsibilities in the administration of criminal justice, and (2) the information sought to be obtained is not reasonably available from any other source or through any other method.

SECURITY, ACCURACY, UPDATING, AND PURGING

SEC. 206. Each criminal justice information system shall adopt procedures reasonably designed—

(a) To insure the physical security of the system, to prevent the unauthorized disclosure of the information contained in the system, and to insure that the criminal justice information in the system is currently and accurately revised to include subsequently received information. The procedures shall also insure that all agencies to which such records are disseminated or from which they are collected are currently and accurately informed of any correction, deletion, or revision of the records. Such regulations shall require that automated systems shall as soon as technically feasible inform any other information system or agency which has direct access to criminal justice information contained in the automated system of any disposition relating to arrest record information on an individual or any other change in criminal justice information in the automated system's possession.

(b) To insure that criminal justice information is purged or sealed when required by State or Federal statute, State or Federal regulations, or court order, or when, based on considerations of age, nature of the record, or the interval following the last entry of information indicating that the individual is under the jurisdiction of a criminal justice agency, the information is unlikely to provide a reliable guide to the behavior of the individual. Such procedures shall, as a minimum, provide—

(1) for the prompt sealing or purging of criminal justice information relating to an individual who has been free from the jurisdiction or supervision of any law enforcement agency for (A) a period of seven years if such individual has previously been convicted of an offense classified as a felony under the laws of the jurisdiction which such conviction occurred, or (B) a period of five years, if such individual has previously been convicted of a nonfelonious offense as classified under the laws of the jurisdiction where such conviction occurred, or (C) a period of five years if no conviction of the individual occurred during that period, no prosecution is pending at the end of the period, and the individual is not a fugitive; and

(2) for the prompt sealing or purging of criminal history record information in any case in which the police have elected not to refer the case to the prosecutor or in which the prosecutor has elected not to commence criminal proceedings.

(c) To insure that criminal justice agency personnel may use or disseminate criminal justice information only after determining it to be the most accurate and complete information available to the criminal justice agency. Such regulations shall require that, if technically feasible, prior to the dissemination of arrest record information by automated criminal justice information systems, an inquiry is automatically made of and a response received from the agency which contributed that information to the system to determine whether a disposition is available.

(d) To insure that information may not be submitted, modified, updated, disseminated, or removed from any criminal justice information system without verification of the identity of the individual to whom the information refers and an indication of the person or agency submitting, modifying, updating, or removing the information.

ACCESS BY INDIVIDUALS FOR PURPOSES OF CHALLENGE

SEC. 207. (a) Any individual who believes that a criminal justice information system or criminal justice agency maintains criminal justice information concerning him, shall upon satisfactory verification of his identity, be entitled to review such information in person or through counsel and to obtain a certified copy of it for the purpose of challenge, correction, or the addition of explanatory material, and in accordance with rules adopted pursuant to this section, to challenge, purge, seal, delete, correct, and append explanatory material.

(b) Each criminal justice agency and crimial justice information system shall adopt and publish regulations to implement this section which shall, as a minimum, provide—

(1) the time, place, fees to the extent authorized by statute, and procedure to be followed by an individual or his attorney in gaining access to criminal justice information;

(2) that any individual whose record is not purged, sealed, modified, or supplemented after he has so requested in writing shall be entitled to a hearing within thirty days of such request before an official of the agency or information system authorized to purge, seal, modify, or supplement the criminal justice information at which time the individual may appear with counsel, present evidence, and examine and cross-examine witnesses;

(3) any record found after such a hearing to be inaccurate, incomplete, or improperly maintained shall, within thirty days of the date of such finding, be appropriately modified, supplemented, purged, or sealed;

(4) each criminal justice information system shall keep and, upon request, disclose to such person the name of all persons, organizations, criminal justice agencies, noncriminal justice agencies, or criminal justice information systems to which the date upon which such criminal justice information was disseminated;

(5) (A) beginning on the date that a challenge has been made to criminal justice information pursuant to this section, and until such time as that challenge is finally resolved, any criminal justice agency or information system which possesses the information shall disseminate the fact of such challenge each time it disseminates the challenged criminal justice information. In the case of a challenge to criminal justice information maintained by an automated criminal justice information system, such system shall automatically inform any other information system or criminal justice agency to which such automated system has disseminated the challenged information in the past, of the fact of the challenge and its status;

(B) if any corrective action is taken as a result of a review or challenge filed pursuant to this section, any agency or system which maintains or has ever received the uncorrected criminal justice information shall be notified as soon as practicable of such correction and immediately correct its records of such information. In the case of the correction of criminal justice information maintained by an automated criminal justice information system, any agency or system which maintains or has ever received the uncorrected criminal justice information shall if technically feasible be notified immediately of such correction and shall immediately correct its records of such information; and

(6) the action or inaction of a criminal justice information system or criminal justice agency on a request to review and challenge criminal justice information in its possession as provided by this section shall be reviewable by the appropriate United States district court pursuant to a civil action under section 308.

(c) No individual who, in accord with this section, obtains criminal justice information regarding himself may be required or requested to show or transfer records of that information to any other person or any other public or private agency or organization: *Provided, however,* That if a Federal or State statute expressly so authorizes, conviction record information may be disseminated to noncriminal justice agencies and an individual might be requested or required to show or transfer copies of records of such conviction record information to such noncriminal justice agencies.

INTELLIGENCE SYSTEMS

SEC. 208. (a) Criminal justice intelligence information shall not be maintained in criminal justice information systems.

(b) Criminal justice intelligence information shall not be maintained in automated systems.

TITLE III—ADMINISTRATIVE PROVISIONS; REGULATIONS; CIVIL REMEDIES; CRIMINAL PENALTIES

FEDERAL INFORMATION SYSTEMS BOARD

SEC. 301. (a) CREATION AND MEMBERSHIP.—There is hereby created a Federal Information Systems Board (hereinafter the "Board") which shall have overall responsibility for the administration and enforcement of this

Act. The Board shall be composed of nine members. One of the members shall be the Attorney General and two of the members shall be designated by the President as representatives of other agencies outside of the Department of Justice. The six remaining members shall be appointed by the President with the advice and consent of the Senate. Of the six members appointed by the President, three shall be either directors of statewide criminal justice information systems or members of the Federal Information Systems Advisory Committee at the time of their appointment. The three remaining Presidential appointees shall be private citizens well versed in the law of privacy, constitutional law, and information systems technology. The President shall designate one of the six Presidential appointees as Chairman and such designation shall also be confirmed by the advice and consent of the Senate.

(b) COMPENSATION OF MEMBERS AND QUORUM.—Members of the Board appointed by the President shall be compensated at the rate of $100 per day for each day spent in the work of the Board, and shall be paid actual travel expenses and per diem in lieu of subsistence expenses when away from their usual places of residence, as authorized by section 5703 of title 5, United States Code. Five members shall constitute a quorum for the transaction of business.

(c) AUTHORITY.—For the purpose of carrying out its responsibilities under the Act the Board shall have authority to—

(1) issue regulations as required by section 303;

(2) review and disapprove of regulations issued by a State agency pursuant to section 304 or by any criminal justice agency which the Board finds to be inconsistent with this Act;

(3) exercise the powers set out in subsection 307(d);

(4) bring actions under section 308 for declaratory and injunctive relief;

(5) operate an information system for the exchange of criminal justice information among the States and with the Federal Government pursuant to section 307;

(6) supervise the installation and operation of any criminal justice information system or criminal justice intelligence information system operated by the Federal Government;

(7) conduct an ongoing study of the policies of various agencies of the Federal Government in the operation of information systems;

(8) require any department or agency of the Federal Government or any criminal justice agency to submit to the Board such information and reports with respect to its policy and operation of information systems or with respect to its collection and dissemination of criminal justice information or criminal justice intelligence information and such department or agency shall submit to the Board such information and reports as the Board may reasonably require; and

(9) conduct audits as required by section 306.

(d) OFFICERS AND EMPLOYEES.—The Board may appoint and fix the compensation of a staff director, legal counsel, and such other staff personnel as it deems appropriate.

(e) REPORT TO CONGRESS AND TO THE PRESIDENT.—The Board shall issue an annual report to the Congress and to the President. Such report shall at a minimum contain—

(1) the results of audits conducted pursuant to section 306;

(2) a summary of public notices filed by criminal justice information systems, criminal justice intelligence information systems, and criminal justice agencies pursuant to section 305; and

(3) any recommendations the Board might have for new legislation on the operation or control of information systems or on the collection and control of criminal justice information or criminal justice intelligence information.

FEDERAL INFORMATION SYSTEMS ADVISORY COMMITTEE

SEC. 302. (a) CREATION AND MEMBERSHIP.—There is hereby created a Federal Information Systems Advisory Committee (hereinafter called the Committee) which shall advise the Board on its activities. The Committee shall be composed of one representative from each State appointed by the Governor, who shall serve at the pleasure of the Governor. However, once the State has created an agency pursuant to subsection 304 (b), the State's representative on the Committee shall be designated by that agency and shall serve at the pleasure of that agency.

(b) CHAIRMAN AND SUBCOMMITTEE.—The Committee shall be convened by the Board and at its first meeting shall elect a chairman from its membership. The Committee may create an executive committee and such other subcommittees as it deems necessary.

(c) AUTHORITY.—The Committee shall make any recommendations it deems appropriate to the Board concerning the Board's responsibilities under this Act, including its recommendations concerning regulations to be issued by the Board pursuant to section 303, concerning the Board's operation of interstate information systems pursuant to section 307, and concerning any recommendations which the Board might make in its annual report to Congress and the President.

(d) OFFICERS AND EMPLOYEES.—The Committee shall have access to the services and facilities of the Board and if the Board deems necessary the Committee shall have its own staff.

FEDERAL REGULATIONS

SEC. 303. The Board shall, after appropriate consultation with the Committee and other representatives of State and local criminal justice agencies participating in information systems covered by this Act and other interested parties, promulgate such rules, regulations, and procedures as it may deem necessary to effectuate the provisions of this Act. The Board shall follow the provisions of the Administrative Procedures Act with respect to the issuance of such rules. All regulations issued by the Board or any criminal justice agency pursuant to this Act shall be published and easily accessible to the public.

STATE REGULATIONS AND CREATION OF STATE INFORMATION SYSTEMS BOARD

SEC. 304. Beginning two years after enactment of this Act, no criminal justice agency shall collect criminal justice information from, nor disseminate criminal justice information to, a criminal justice agency—

(a) which has not adopted all of the operating procedures required by sections 206 and 207 and necessitated by other provisions of the Act; or

(b) which is located in a State which has failed to create a State information systems board. The State information systems board shall be an administrative body which is separate and apart from existing criminal justice agencies and which will have statewide authority and responsibility for:

(1) the enforcement of the provisions of this Act and any State statute which serves the same goals;

(2) the issuance of regulations, not inconsistent with this Act, regulating the exchange of criminal justice information and criminal justice intelligence information systems and the operation of criminal justice information systems and the operation of criminal justice intelligence information systems; and

(3) the supervision of the installation of criminal justice information systems, and criminal justice intelligence information systems, the exchange of information by such systems within that State and with similar systems and criminal justice agencies in other States and in the Federal Government.

PUBLIC NOTICE REQUIREMENT

SEC. 305. (a) Any criminal justice agency maintaining an automated criminal justice information system or a criminal justice intelligence information system shall give public notice of the existence and character of its system once each year. Any agency maintaining more than one system shall publish such annual notices for all its systems simultaneously. Any agency proposing to establish a new system, or to enlarge an existing system, shall give public notice long enough in advance of the initiation or enlargement of the system to assure individuals who may be affected by its operation a reasonable opportunity to comment. The public notice shall be transmitted to the Board and shall specify—

(1) the name of the system;

(2) the nature and purposes of the system;

(3) the categories and number of persons on whom data are maintained;

(4) the categories of data maintained, indicating which categories are stored in computer-accessible files;

(5) the agency's operating rules and regulations issued pursuant to section 206 and 207, the agency's policies and practices regarding data information storage, duration of retention of information, and disposal thereof;

(6) the categories of information sources;

(7) a description of all types of use made of information, indicating those involving computer-accessible files, and including all classes of users and the organizational relationships among them; and

(8) the title, name, and address of the person immediately responsible for the system.

(b) Any criminal justice agency, criminal justice information system, or criminal justice intelligence information system operated by the Federal Government shall satisfy the public notice requirement set out in subsection (a) of this section by publishing the information required by that subsection in the Federal Register.

ANNUAL AUDIT

SEC. 306. (a) At least once annually the Board shall conduct a random audit of the practices and procedures of the Federal agencies which collect and disseminate information pursuant to this Act to insure compliance with its requirements and restrictions. The Board shall also conduct such an audit of at least ten statewide criminal justice information systems each year and of every statewide and multistate system at least once every five years.

(b) Each criminal justice information system shall conduct a similar audit of its own practices and procedures once annually. Each State agency created pursuant to subsection 304(b) shall conduct an audit on each criminal justice information system and each criminal justice intelligence information system operating in that State on a random basis, at least once every five years.

(c) The results of such audits shall be made available to the Board which shall report the results of such audits once annually to the Congress by May 1 of each year beginning on May 1 following the first full calendar year after the effective date of the Act.

PARTICIPATION BY THE BOARD

SEC. 307. (a) Subject to the limitations of subsections (b) and (c) of this section, the Board may participate in interstate criminal justice information systems, including the provision of central information storage facilities and telecommunications lines for interstate transmission of information.

(b) Facilities operated by the Board may include criminal history record information

on an individual relating to a violation of the criminal laws of the United States, violations of the criminal laws of two or more States, or a violation of the laws of another nation. As to all other individuals, criminal justice information included in Board facilities shall consist only of information sufficient to establish the identity of the individuals, and the identities and locations of criminal justice agencies possessing other types of criminal justice information concerning such individuals.

(c) Notwithstanding the provisions of subsection (b), the Board may maintain criminal history record information submitted by a State which otherwise would be unable to participate fully in a criminal history record information system because of the lack of facilities or procedures but only until such time as such State is able to provide the facilities and procedures to maintain the records in the State, and in no case for more than five years. Criminal history record information maintained in Federal facilities pursuant to this subsecsection shall be limited to information on offenses classified as felonies under the jurisdiction where such offense occurred.

(d) If the Board finds that any criminal justice information system or criminal justice agency has violated any provision of this Act, it may (1) interrupt or terminate the exchange of information as authorized by this section, or (2) interrupt or terminate the use of Federal funds for the operation of such a system or agency, or (3) require the system or agency to return Federal funds distributed in the past, or it may take any combination of such actions or (4) require the system or agency to discipline any employee responsible for such violation.

CIVIL REMEDIES

SEC. 308. (a) Any person aggrieved by a violation of this Act shall have a civil action for damages or any other appropriate remedy against any person, system, or agency responsible for such violation after he has exhausted the administrative remedies provided by section 207.

(b) The Board or any State agency created pursuant to subsection 304(b) shall have a civil action for declaratory judgments, cease and desist orders, and such other injunctive relief against any criminal justice agency, criminal justice information system, or criminal justice intelligence information system within its regulatory jurisdiction.

(c) Such person, agency, or the Board may bring a civil action under this Act in any district court of the United States for the district in which the violation occurs, or in any district court of the United States in which such person resides or conducts business, or has his principal place of business, or in the District Court of the United States for the District of Columbia.

(d) The United States district court in which an action is brought under this Act shall have exclusive jurisdiction without regard to the amount in controversy. In any action brought pursuant to this Act, the court may in its discretion issue an order enjoining maintenance or dissemination of information in violation of this Act, or correcting records of such information or any other appropriate remedy except that in an action brought pursuant to subsection (b) the court may order only declaratory or injuctive relief. In any action brought pursuant to this Act the court may also order the Board to conduct an audit of the practices and procedures of the agency in question to determine whether information is being collected and disseminated in a manner inconsistent with the provisions of this Act.

(e) In an action brought pursuant to subsection (a), any person aggrieved by a violation of this Act shall be entitled to a $100 recovery for each violation plus actual and general damages and reasonable attorneys' fees and other litigation costs reasonably incurred. Exemplary and punitive damages may be granted by the court in appropriate cases brought pursuant to subsection (a). Any person, system, or agency responsible for violations of this Act shall be jointly and severally liable to the person aggrieved for damages granted pursuant to this subsection. Any criminal justice information system or any criminal justice intelligence information system which facilitates the transfer of information in violation of this Act shall be jointly and severally liable along with any criminal justice agency or person responsible for a violation of this Act.

(g) For the purposes of this Act the United States shall be deemed to have consented to suit and any agency or system operated by the United States, found responsible for a violation shall be liable for damages, reasonable attorneys' fees, and litigation cost as provided in subsection (f) notwithstanding any provisions of the Federal Tort Claims Act.

CRIMINAL PENALTIES

SEC. 309. Whoever willfully disseminates, maintains, or uses information knowing such dissemination, maintenance, or use to be in violation of this Act shall be fined not more than $5,000 or imprisoned for not more than five years, or both.

PRECEDENCE OF STATE LAWS

SEC. 310. (a) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information or criminal justice intelligence information or the operation of criminal justice information systems or criminal justice intelligence information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in this Act shall take precedence over this Act or regulations issued pursuant to this Act.

(b) Any State law or regulation which places greater restrictions upon the dissemination of criminal justice information or criminal justice intelligence information or the operation of criminal justice information systems or criminal justice intelligence information systems or which affords to any individuals, whether juveniles or adults, rights of privacy or protections greater than those set forth in the State law or regulations of another State shall take precedence over the law or regulations of the latter State where such information is disseminated from an agency or information system in the former State to an agency, information system, or individual in the latter State. Subject to court review pursuant to section 308, the Board shall be the final authority to determine whether a State statute or regulation shall take precedence under this section and shall as a general matter have final authority to determine whether any regulations issued by a State agency, a criminal justice agency, or information system violate this Act and are therefore null and void.

APPROPRIATIONS AUTHORIZED

SEC. 311. For the purpose of carrying out the provisions of this Act there are authorized to be appropriated such sums as the Congress deems necessary.

SEVERABILITY

SEC. 312. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

REPEALERS

SEC. 313. The second paragraph under the headings entitled "Federal Bureau of Investigation; Salaries and Expenses" contained in the "Department of Justice Appropriations Act, 1973" is hereby repealed.

EFFECTIVE DATE

SEC. 314. The provisions of this Act shall take effect upon the date of expiration of the one-hundred-and-eighty-day period following the date of the enactment of this Act: *Provided, however,* That section 311 of this Act shall take effect upon the date of enactment of this Act.

CRIMINAL JUSTICE INFORMATION CONTROL AND PROTECTION OF PRIVACY ACT OF 1974

SECTION-BY-SECTION DISCUSSION

Title I—Findings and declaration of policy; definitions

Section 101 summarizes the constitutional, legal and practical reasons Congress is taking action to regulate the exchange of criminal justice information. It also states the constitutional authority to legislate: the Commerce clause and the Federal participation in state and interstate information systems.

Section 102 lists definitions of terms used in the proposed legislation. The definitions are important because they establish the scope of coverage of the legislation. For example "criminal justice agency" is defined so that the restrictions on data collection and dissemination contained in the bill cover any state, local or Federal governmental agency maintaining such data.

"Criminal justice information" is defined so that limited exchange of routine information reflecting the status of a criminal case and its history, or reports compiled for bail or probation can be exchanged between governmental agencies. All other information referenced under an individual's name and related to criminal activity is called "criminal justice intelligence" and is placed under stricter limitations.

Title II—Collection and dissemination of criminal justice information and criminal justice intelligence information

Section 201 sets the general policy on the collection and dissemination of criminal justice information. Criminal justice information can only be used for criminal justice purposes unless a state or Federal statute specifically authorizes dissemination of conviction records to non-criminal justice agencies. The section permits researchers access to the information only if the privacy of the subjects of the information is protected.

Sections 202 and 203 deal with the exchange of criminal justice information among criminal justice agencies. The general rule is that only conviction records may be exchanged. However, there are limited exceptions to that general rule. For example, corrections and release information can be disseminated outside of the agency which collected it only where expressly authorized by state or Federal statute. Fingerprint information may be freely disseminated as long as no stigma is attached. Wanted persons information, that is identifying information on a fugitive, may be disseminated liberally for the purpose of apprehending the fugitive. Raw arrest records and records of criminal proceedings which did not result in conviction could be exchanged in certain carefully defined situations.

Section 204 prohibits agencies or persons who lawfully gain access to information from using the information for a purpose or from disseminating the information in a manner not permitted by the legislation.

Section 205 is based on a provision contained in Project SEARCH's model state statute and the Massachusetts arrest records statute. It places limitations on access to criminal justice information via categories other than name. For example, it would require investigators to get a court order before accessing a criminal justice data bank

by offense—i.e., a printout on all persons charged with Burglary I with certain physical descriptions and from a certain geographical area. According to the commentary on the SEARCH model statute: "(the provision) is modeled on the provisions which now govern wiretapping and electronic eavesdropping. It is intended to interpose the judgment of an impartial magistrate to control the usage of an investigative method that may, if misused, create important hazards for individual privacy". Section 205 creates a similar procedure for the opening of sealed records.

Section 206 requires every agency or information system covered by the act to promulgate regulations on security, accuracy, updating and purging and sets out in general terms what those regulations must provide. The regulations must provide a method for informing users of changes in disseminated information and for the purging of old, outdated and irrelevant information.

Section 207 requires every agency or information system covered by the act to establish a process for access and challenge of incorrect or inaccurate information. The section sets out in considerable detail what those regulations must provide. This section should be read along with section 308 which provides court review procedures where the agency fails to comply with section 207 or any other provision of the Act.

Section 208 places simple but very strict limitations on the collection and dissemination of intelligence information. Such information may not be maintained in automated systems and must be kept separate and apart from all other criminal justice files.

Title III—Administrative provisions; regulations; civil remedies; criminal penalties

Title III creates a novel Federal-state administrative structure for enforcement of the Act. Section 301 establishes a Federal Information Systems Board, an independent agency with general responsibility for administration and enforcement of the Act. The Board would be composed of representatives of the Department of Justice and two other Federal agencies, plus six other members nominated by the President, with the advice and consent of the Senate. Of the latter six members, three must be representatives of state governments and three private citizens well versed in civil liberties and computer technology. The President would also designate a chairman from the latter six members.

The Board would have the authority to issue general regulations applying the Act's policies. It could operate the interstate information system authorized by section 307. It would conduct audits pursuant to section 306, and would have other necessary enumerated powers as well as authority to conduct general studies of information systems and make recommendations to the Congress for additional legislation.

Section 302 creates an Information Systems Advisory Committee composed of one representative from each state. The Committee shall advise the Board on all of the Board's responsibilities under the Act and in particular provide advice on the Board's operation of the interstate information system established pursuant to Section 307 and the Board's promulgation of regulations pursuant to Section 303.

Section 303 requires the Federal Information Systems Board to issue regulations which implement this Act.

Section 304 requires each state to establish a central administrative agency, separate and apart from existing criminal justice agencies, with broad authority to oversee and regulate the operation of criminal justice information systems in that state. This section is based upon the concept embodied in the Project SEARCH model statute and the Massachusetts statute. Beginning two years after enactment no information system or agency could exchange information with a system or agency in a state which has not created such an agency or with a system or agency which has not adopted all of the regulations required by sections 206 and 207 or elsewhere in the Act.

Section 305 is based upon a suggestion contained in the Report of the Secretary's Advisory Committee on Automated Personal Data Systems of the Department of Health, Education, and Welfare. It requires every information system or agency to give public notice, once annually, of the type of information it collects and disseminates, its sources, purpose, function, administrative director or other pertinent information. It also requires every system or agency to give public notice of an expansion and any new system to give public notice before it becomes operational so that interested parties will have an opportunity to comment.

Section 306 requires audits of systems and agencies which collect and disseminate information. The audits are to be conducted by the Federal Information Systems Board, by an independent state agency created pursuant to Section 304 and by each criminal justice agency.

Section 307 is a general grant of authority permitting the Federal Government to operate an interstate criminal justice information system under the policy control of the Federal-State board. However, the Federal role is carefully circumscribed. Information contained in such a Federal system is limited to a simple index containing the subject's name and the name of the state or local agency which possesses a more complete file. The Federal Information Systems Board could maintain more complete files on violations of a criminal law of the United States, violations of the criminal law of two or more states, or violations of the laws of another nation. Only persons charged with felonies could be listed in the data banks. If a given state lacks the facilities to operate an automated information system the Information Systems Board could provide the facilities for a period of five years.

The section also lists certain administrative actions that may be taken by the Federal Information Systems Board in the event that a criminal justice information system is found to have violated any provision of the Act.

Section 308 provides the judicial machinery for the exercise of the right granted in Section 207 and elsewhere in the Act. The aggrieved individual may obtain both injunctive relief and damages, $100 recovery for each violation, actual and general damages, attorney's fees, and other litigation costs whether violations were willful or negligent.

Section 309 provides criminal penalties for violations of the Act.

Section 310 provides that any state statute, state regulation or Federal regulation which imposes stricter privacy requirements on the operation of criminal justice information systems or upon the exchange of criminal justice information takes precedence over this Act or any regulations issued pursuant to this Act or any other state law when a conflict arises. Subject to court review pursuant to section 308, the Federal Information Systems Board would make the administrative decision as to which statute or regulation governs, and whether a regulation comports with this Act.

Section 311 authorizes the appropriation of such funds as the Congress deems necessary for the purposes of the Act.

Section 312 is a standard severability provision.

Section 313 repeals a temporary authority for the Federal Bureau of Investigation to disseminate Rap sheets to non-criminal justice agencies.

Section 314 makes this Act effective six months after its enactment.

[From the New York Times, Jan. 10, 1974]

THREE BROTHERS

(By William Safire)

WASHINGTON, January 9.—"Little Brother" is watching you.

The poking and prying into an individual's private life by "Big Brother"—the Federal Government—is a matter of great concern, but the less-publicized snooping of "little" and "middle" brothers is more pervasive and no less a danger to personal freedom.

"Little Brother" is the hard-to-reach private organization that determines whether or not you are a good retail credit risk. Deadbeats do not deserve credit, but a great many honest livebeats have found themselves denied the right to live life on the installment plan because of computer foul-ups or the indelibly recorded judgments of vindictive neighbors.

The Fair Credit Reporting Act of 1970 helps the determined credit rejectee to find out who is rattling his rating, but "Little Brother" is still hard to find and nearly impossible to budge.

Right now, at State of the Union time, President Nixon is considering a proposal that would come to the aid of the individual's battered right to privacy in these ways:

1. Making it possible for an individual to see what is in his credit record and how it is being used;

2. Enabling that credit-seeker to correct and amend information that is inaccurate or incomplete;

3. Placing a legal "burden of reliability" on credit agencies so that they must take precautions against abuse of their files;

4. Preventing the use of information that people give about themselves for one purpose from being used for another purpose—which happens when you send in your address to receive an item and wind up on some mailing lists you don't want to be on.

5. Requiring agencies that ask individuals for information to inform them whether they are legally required to provide it. Sometimes you have to answer the Census Bureau, for example, and sometimes you can tell their doorbell-ringers to get lost.

Such proposals to shore up privacy are creditable, so to speak; so is an idea now being discussed in the White House to put restraints on "Middle Brother," the computerized cooperation between local police departments and state and Federal law enforcement agencies.

Police officials should have a quick way of identifying suspects or examining far-off records of previous convictions, and the F.B.I.'s National Crime Information Center has long been available to state agencies—but once placed in computers, how secure will F.B.I. files be? When does sensible record-keeping become a dreaded "dossierization"?

One of the hottest controversies raging within the law-enforcement community is whether computers used by lawmen should be "dedicated" or "shared." Computer salesmen say it is cheaper and more efficient to "share" giant computers with banks and insurance companies, rather than to dedicate a computer to police work alone—but there is the danger of a smart programmer breaking the police code and having access to information that should be confidential.

Sounds esoteric—but a mistake here could put a crimp in privacy for decades to come. The legislative proposal the President is mulling over would make the Federal Law Enforcement Assistance Administration, which would put up the money for computerization, aware of the need for the most stringent safeguards.

This White House interest in curbing both little and middle brother is vital and welcome

but it does not deal with the privacy question now on the front burner: warrantless wiretaps, the encroachment on Fourth Amendment protections by "Big Brother."

Such tapping was declared illegal by the Supreme Court in 1971; since then, no taps can be placed directly on American citizens even in national security cases without a court warrant—at least, that's how a nervous White House interprets the Supreme Court decision.

President Nixon is not one to cheerfully give away any of the powers of office, but the man who opened Pandora's Box of eavesdropping would be well advised to help nail down the lid.

One solution would be to do away with warrantless wiretaps entirely, forcing future Attorneys General to go to Federal judges for permission to do any tapping. This would drive the intelligence community up the wall; but isn't warrantless wiretapping a danger to liberty that outweighs the advantage of listening in to foreign embassies—especially when they know we're listening?

Since the state of this Union has been so deeply afflicted by matters related to eavesdropping, the President does well to think about civil liberties in dealing with the "little brother" of credit ratings and the "middle brother" of computerized police records. But that still leaves Big Brother. If the President were to take the lead in doing away with warrantless wiretaps, he would astound his friends, confound his critics and show history he was able to profit from his most costly lesson.

[From the New York Times, Feb. 5, 1974]

MR. NIXON DISCOVERS PRIVACY

(By Tom Wicker)

Skeptical chuckles may have seemed in order when Richard Nixon promised in his 1974 State of the Union Message a "major initiative" and a "cabinet-level review" on the matter of privacy—particularly on safeguarding information stored in computers by interlinked Federal and state criminal justice agencies. Mr. Nixon, after all, had wiretapped his own staff and his Administration had failed since 1970 to take such a "major initiative," despite the repeated requests of Congress that it do so.

But never mind the chuckles. The Justice Department immediately followed the State of the Union Message with the detailed legislative proposal so long awaited. Beyond that, Senator Sam J. Ervin Jr., chairman of the constitutional rights subcommittee, is ready with his own more restrictive bill, and the prospects seem brighter than they ever have been for action at last.

"At last" is not too strong a phrase. Sweden, for example, passed in April 1973, a comprehensive law governing the collection and dissemination of criminal justice information. But little has been done here, although in recent years Federal funding through the Law Enforcement Assistance Administration has achieved a phenomenal growth of criminal justice data banks throughout most of the states; all fifty soon will be involved in the system.

Interlinked among themselves and with the massive Federal system operated by the F.B.I., these data banks are collecting an enormous amount of information about millions of American citizens, by no means all of them criminal offenders. The nature, use and distribution of that information is virtually unregulated by anyone; as noted here before, Massachusetts alone found last year that more than 75 public and private agencies having nothing to do with criminal justice had achieved regular access to its criminal offender files.

The Department of Justice bill would go far to fill this void, by providing as a matter of law that individuals could review their own records, correct inaccuracies and sue anyone disclosing the information improperly. The measure also would sharply limit those to whom any of the records could be disclosed, and require the sealing of individual records after a specified time.

Senator Ervin's proposal would improve on the Justice Department bill in important respects. For example, it would provide that an arrest record showing no subsequent disposition of the case, or one showing an acquittal or that the case had been dropped, would be "programmed" out of the reach of criminal justice agencies as well as any other public or private inquirers one year after the original arrest. Even during that first year, such a record would be available to police only if the person involved was re-arrested on some other charge.

More importantly, the Ervin bill would place the entire Federal, state and interstate criminal justice data system under the regulation of a nine-man board—one representative each from the Department of Justice and two other interested Federal agencies, three representatives from involved state agencies, and three representatives of the public at large, all appointed by the President and confirmed by the Senate.

This board would remove the system from the exclusive control of police and criminal justice agencies, provide some amelioration of Federal domination, and—so Mr. Ervin hopes—establish an effective instrument for efficient and equitable regulation of unforeseen problems as they arise, with the necessity for new legislation.

All this is strong medicine for some criminal justice organizations to swallow; predictably enough, Clarence M. Kelley, the director of the F.B.I., has declined full endorsement of even the Justice Department bill. He is reported to be reflecting the views of numerous police departments, particularly on the matter of sealing—that is, closing to any inquirer—criminal records seven years following the subject's release from custody on a felony conviction (five years in misdemeanor cases). Some other Federal agencies with an interest in criminal justice records also have reservations about the Justice Department bill, raising the question whether it really is an "Administration proposal."

Nevertheless, Mr. Nixon himself is on the record at least pro forma; Mr. Ervin plans to be a cosponsor of the Justice Department measure, and such Nixon stalwarts as Roman Hruska of Nebraska and Milton Young of North Dakota have been induced to cosponsor the Ervin bill. This cross-sponsorship bodes well for some kind of regulatory legislation, and almost any would be an improvement on the present vacuum.

At the least, the need for control has been stated at the highest level; both the Justice and Ervin bills recognize the principle that those who compile and operate the data banks should not have discretion to determine their use; and even while declining endorsement of a specific bill, Director Kelley said he welcomed legislation to "insure the maximum protection of individual rights."

[From the Washington Post, Feb. 4, 1974]

CONTROLLING THE DATA BANKS

President Nixon was absolutely right in his State of the Union address when he included protection of individual privacy among those issues which should get legislative attention this year. Since Mr. Nixon is a very recent convert to this view, many uncertainties remain about how quickly and fully the commitment will be translated into specific policies. Thus it is doubly encouraging that the Department of Justice is proceeding at once to send Congress its long-waited bill to control federal, state and interstate criminal justice data banks.

The unveiling of any comprehensive administration measure on criminal records would be reason for some celebration. The Congress first requested recommendations from the Justice Department back in 1970, but the response was half-hearted at best until former Attorney General Elliot Richardson made the subject a personal priority last year. Attorney General William Saxbe has followed through, and the result is a rather impressive bill which sets out broad, general policies intended to insure that all criminal records in automated or interstate files will be accurate, timely and complete, that individuals will be able to review and correct files on themselves, and that there will be far less trafficking in criminal records among public and private agencies outside the law enforcement field.

Some points of contention remain. Within the administration, the FBI is said to be less than enthusiastic about the new bill, and several other federal agencies will probably be going to Congress on their own to seek authorization to continue current practices such as checking the criminal records of job and credit applicants. On Capitol Hill, Sen. Sam J. Ervin (D–N.C.) is ready to introduce his own regulatory bill. The Ervin proposal is more stringent and detailed than the Justice Department measure in several important respects, and it would also transfer regulatory authority over federal criminal history files from the Justice Department to an independent federal-state board. But it appears that this year such substantive issues can finally be seriously addressed—and even resolved with some harmony and dispatch—because a good working alliance is developing among Senator Ervin, the Justice Department and Sen. Roman Hruska (R-Neb.), ranking Republican on the Senate Judiciary Committee and a potential pivotal figure in the discussion to come.

Thus on the top-priority privacy issue of criminal records, the debate has advanced from whether Congress should legislate anything to what kind of bill should be passed. The outlook is not so promising, however, on related fronts. While endorsing the protection of privacy as a general principle the other night, Mr Nixon did not propose any specifics. Instead, he simply announced another study—"an extensive Cabinet-level review" of government and industry practices impinging on privacy. Thus the President seems to have shelved, among other things, the report of the HEW advisory panel which called for a code of "fair information practices" for all federal data banks. He also seems to have postponed any positive administration involvement in the congressional efforts to deal with such specific problems as credit reporting, the secrecy of bank records and the rights of participants in federal programs.

The most striking flaw in Mr. Nixon's approach was his definition of the "privacy problem" primarily as a function of advancing technology. Computers have indeed eroded man's ability to control who knows how much about a person's private life and how such knowledge is used. But the basic problem is less the capability of machines than the curiosity of man, particularly the curiosity of those in positions of power over the lives of their fellow citizens. We need no further studies of the potential dangers of official nosiness—wiretapping, bugging, illegal searches, political surveillance, harassment of dissident groups, and the other abuses and excesses which have aroused such public concern. Mr. Nixon did not address himself to this subject at all. Until he does so, his commitment to protecting privacy will remain vague and incomplete.

Mr. HRUSKA. Mr. President, I should like to congratulate and commend the distinguished Senator from North Carolina (Mr. ERVIN) for the very well prepared, well organized, documented, and

competently assembled statement he has just presented concerning criminal justice information systems.

It is a splendid opening statement on a very vital subject. I believe that its tenor testifies well to the vast scope and the complexity of the area of law with which it is concerned.

It will be considered a classic, I am sure, and will be often cited because of its fine discussion of the law and the techniques regarding criminal data systems, as well as the general philosophy which the Senator from North Carolina spells out in his excellent manner.

Much work and many studies have been devoted to this subject.

The Senator from North Carolina has alluded to many of those facets, and all of us can be impressed by the far-reaching consequences of the failure to act, with deliberation, to be sure, and yet, as expeditiously as wisely and practicable to deal with the bills introduced today.

Again I commend the Senator from North Carolina and congratulate him for his very fine contribution.

INTRODUCTION OF S. 2964—CRIMINAL SYSTEMS ACT OF 1974

Mr. HRUSKA. Mr. President, I am pleased to introduce on behalf of the Department of Justice a bill entitled "Criminal Justice Information Systems Act of 1974," S. 2964. I send it to the desk and ask that it be appropriately referred.

The PRESIDING OFFICER (Mr. HELMS). The bill will be received and appropriately referred.

Mr. HRUSKA. Mr. President, this bill will provide for and facilitate the collection, classification, maintenance, and use of criminal justice information; and also make provision for and regulate access thereto, as well as uses and dissemination thereof. It is intended to provide strong safeguards against unwarranted violation of privacy of the individuals to whom such information pertains, and to insure physical security and integrity of criminal justice information systems, and for other related purposes.

At the same time, I am further pleased to cosponsor with my valued friend, the distinguished senior Senator from North Carolina (Mr. ERVIN), the Criminal Justice Information Control and Protection of Privacy Act of 1974, S. 2963, which he introduced earlier this afternoon, and of which he is the author. Senator ERVIN's bill takes a somewhat different approach to several aspects of the subject than are contained in the bill which I have introduced, but generally their respective fundamental objectives, thrust, and other provisions parallel each other.

Mr. President, in introducing the one bill and in cosponsoring the other, it should be made clear that I am not indorsing or approving either in its entirety. The thrust, the fundamental objectives, and in many provisions, yes, there is indorsement and approval. Some of the cosponsors to the bill I am introducing have also expressed this thought. But in each there are a number of provisions which must be subjected to close scrutiny, searching analysis, and full study before they are accepted, modified, or rejected. Certain of the provisions in each bill will be controversial and even mutually exclusive so that a choice will be mandatory. Indeed there is much room for debate and sincere difference of opinion.

As to some of such instances as they are now drafted I find that I myself have not reached a firm judgment.

But, Mr. President, both of these bills have much merit. Both will be excellent vehicles to serve as bases for processing legislation on the pertinent subject matter. It is with this thought in mind that I have expressed favor for each, namely, that we will hear from various witnesses the opposing views and elicit more complete information and implications. Also there will be later discussions among our colleagues on the Judiciary Committee and in the Senate, so that a composite judgment may be formulated.

It may be unrealistic to assume that both bills will be viewed with equal favor by all, but it should not be too much to hope that the task of seeking a common, acceptable ground upon which to enact a law will be performed with good faith and fairness. It is in that spirit that I join with the Senator from North Carolina, and in that spirit also that I accept his joining with me in my offering of the bill of the Department of Justice.

Mr. President, I have long been concerned with the need to protect the rights of privacy of the citizens of this country and to guarantee that such rights are provided for in the operation of criminal justice information systems. I have been particularly concerned with insuring that criminal justice records are complete and accurate and that the exchange of such records is accomplished in a manner which safeguards the rights of citizens while, at the same time, providing for the legitimate needs of the criminal justice system and of the society which it serves.

In 1970 I supported an amendment offered by Senator MATHIAS to the Omnibus Crime Control and Safe Streets Act of 1968 to require the Law Enforcement Assistance Administration to submit recommendations for legislative action which would assist in promoting the integrity and accuracy of criminal justice data and would insure that the collection, dissemination, and processing of such information in criminal justice systems would be designed to provide maximum protection for the constitutional rights of all persons covered by such systems. In the 92d Congress I introduced the Criminal Justice Information System Security and Privacy Act of 1971, S. 2546, which was the LEAA response to Senator MATHIAS' amendment.

In the first session of this Congress, Senator MCCLELLAN and I supported and supplemented the amendment by the distinguished Senator from Massachusetts (Mr. KENNEDY) to the Crime Control Act of 1973 which required LEAA to issue regulations to insure as far as practicable the completeness and accuracy of information contained in LEAA-funded criminal justice systems. The amendment, section 524(b) of the Crime Control Act, limited the dissemination of criminal justice information in LEAA-funded systems to legally authorized needs and required that individuals have access to their records in order to insure that information contained about them in the system is accurate and complete. I stated at that time that additional legislation would be forthcoming which would supplement and complement that amendment to the Safe Streets Act.

The Criminal Justice Information Systems Act of 1974 is that legislation. It applies to all criminal justice information systems funded in whole or in part by the Federal Government. It also applies to all interstate criminal justice information systems, and to the extent that a State or local system exchanges information with a federally funded or interstate system such system would also be subject to the provisions of this legislation.

The Criminal Justice Act applies to both manual and automated information systems. It deals comprehensively with the dissemination of arrest records and the access and use of all criminal justice information. Strong provisions are provided for an individual to review information contained in the system for the purpose of challenge or correction. Criminal justice agencies contributing criminal offender record information to a criminal justice information system are required to supply accurate and complete data and must regularly and accurately revise such data to include dispositional information.

The bill provides that criminal intelligence data must be kept separately from criminal offender record information and may only be used for a criminal justice purpose.

Provision is also made in this act for the sealing of criminal offender record information under specified circumstances. Dissemination and use of criminal justice information for noncriminal justice purposes is severely limited. The bill sets forth administrative sanctions and civil and criminal penalties for the violation of the provisions.

There are many similarities between the Criminal Justice Information Systems Act of 1974 and Senator ERVIN's bill, the Criminal Justice Information Control and Protection of Privacy Act of 1974 which I am cosponsoring today.

Both bills reflect much of the work of the LEAA-funded programs, Project SEARCH—System for Electronic Access and Retrieval of Criminal Histories—which in 1970 developed strong regulations for protecting the security and privacy of criminal justice systems. They also reflect many of the recommendations of the National Advisory Commission on Criminal Justice Standards and Goals as set forth in its commendable task force report on criminal justice systems. The security and privacy controls of the Federal Bureau of Investigation and its National Crime Information Center are also reflected in the bills.

Both bills recognize the harm which can occur through the exchange of inaccurate or incomplete records and provide methods to insure that data collected will be both accurate and complete. Each allows an individual to

review a criminal offender record concerning himself for the purpose of correction.

Both bills contain requirements for sealing of records where an individual has been free from the jurisdiction of a criminal justice agency for a set period of time and the information is unlikely to provide a reliable guide to the behavior of the individual. Each requires annual public notice by a criminal justice agency of the existence and character of its automated systems.

Both bills set forth dissemination limitations and provide for administrative sanctions, civil and criminal remedies for violation of the acts.

It is because of these similarities and because of our traditional interest in achieving bipartisan support for legislation that I am cosponsoring Senator ERVIN'S bill and Senator ERVIN is cosponsoring my bill.

Senator ERVIN has done a great service in providing us with this bill, as has the Department of Justice, through its Attorney General and his very dedicated staff, in compiling and formulating the bill which I have introduced. This is a complicated area, and the more ideas we have to consider the better able we will be to provide the best possible legislation. In keeping with this spirit of cooperation and bipartisanship, I look forward to the development and progress which the hearings which have been announced will produce, and which later developments will also follow.

The steadily increasing capability of the criminal justice system for gathering, processing and transmitting information requires prompt attention to the issues of system security and individual privacy. Criminal justice has a valid need for more and better information but there is an equally valid need to insure that this information is kept in a secure manner where it cannot be destroyed and to guarantee that the constitutional rights of citizens who have their records entered in this system are fully protected. There must be a balancing between all of these interests. The legislation introduced today seeks to strike that balance.

Hearings on these bills and on any other pertinent bills will be forthcoming soon, and I hope that as a result thereof we can put together a mutually acceptable bill in a reasonable time.

It is my further hope that in setting these hearings for a specific day and specific hour, some accommodation will be made for other committees, subcommittees, of the Committee on the Judiciary as well as others, because, while all of us must sacrifice the opportunity, in some instances, to follow through on some hearings on this particular subject, I am sure that we would all like to be present at as many of those hearings as possible.

Mr. President, I ask unanimous consent that the text of my bill, along with the letter of transmittal from the Attorney General and his section-by-section analysis, be printed in the RECORD immediately following my remarks.

There being no objection, the bill, the section-by-section analysis and letter of transmittal were ordered to be printed in the RECORD, as follows:

S. 2964

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 "Criminal Justice Information Systems Act of 1974."

FINDINGS AND PURPOSE

SEC. 2. (a) The exchange of criminal justice information including criminal offender record information or summaries of the criminal records of individuals, between Federal and State criminal justice agencies or between criminal justice agencies located in different States is a useful and proper aid to law enforcement. However, such exchange and the handling of the information must be accomplished in a manner which safeguards the interests of the individuals to whom the information refers.

(b) Particular risks, from the standpoint of the individual, may be presented when criminal justice information is used for a purpose not related to criminal justice. No such use should be permitted unless it is clearly necessary and is justified on the basis of weighing the interests of the individual (including the right of privacy, procedural rights, and access to employment) against the needs of government or of society.

(c) Enforcement of criminal laws is primarily the responsibility of State and local governments. However, Federal regulation of the criminal justice information systems which are covered by this Act is appropriate because of the Federally connected or interstate nature of those systems. This Act is based upon the powers of Congress—

(1) to place reasonable conditions upon the receipt of Federal grants or other Federal services or benefits,

(2) to regulate use of the means of interstate communication, and

(3) to enforce the Due Process and Equal Protection Clauses of the Fourteenth Amendment.

DEFINITIONS

SEC. 3. For the purpose of this Act—

(a) "Criminal justice information system" means a system, including the equipment, facilities, procedures, agreements, and organizations, utilized for the collection, processing, preservation or dissemination of criminal justice information.

(b) "Automated system" means a criminal justice information system that utilizes electronic computers or other automatic data processing equipment, as distinguished from a system in which all operations are performed manually.

(c) "Criminal offender record information" means information contained in a criminal justice information system, compiled by a criminal justice agency for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status.

(d) "Criminal intelligence information" means information compiled by a criminal justice agency for the purpose of criminal investigation, including reports of informants and investigators, contained in a criminal justice information system and associated with an identifiable individual. The term does not include criminal offender record information.

(e) "Criminal offender processing information" includes all reports identifiable to an individual compiled at any stage of the criminal justice process from arrest or indictment through release from supervision. This term does not include criminal intelligence information.

(f) "Criminal justice information" means criminal offender record information, criminal intelligence information and criminal offender processing information.

(g) "Criminal justice" means any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon or parole authorities.

(h) "Criminal justice agency" means a public agency or component thereof which performs as its principal function a criminal justice activity.

(i) "Interstate system" means a criminal justice information system which is used for the transfer of criminal justice information between criminal justice agencies located in two or more States.

(j) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(k) "Attorney General" means the Attorney General of the United States or his designee.

(l) "Sealing" means the closing of a record so that the information contained in the record is available only (1) in connection with review pursuant to section 6 by the individual or (2) on the basis of a court order or a specific determination of the Attorney General.

COVERAGE

SEC. 4. (a) This Act applies to any criminal justice information system which is—

(1) operated by the Federal Government,

(2) operated by a State or local government and funded in whole or in part by the Federal Government,

(3) an interstate system, or

(4) operated by a State or local government and engaged in the exchange of criminal justice information with a system covered by paragraphs (1), (2), or (3): Provided that a system described only by paragraph (4) shall be subject to this Act only to the extent of its participation with a system described by paragraphs (1), (2), or (3).

(b) This Act applies to criminal justice information obtained from a foreign government or an international agency to the extent that such information is contained in a criminal justice information system subject to this Act. Whenever any criminal justice information contained in a criminal justice information system subject to this Act is provided to a foreign government or an international agency, appropriate steps should be taken to assure that such information is used in a manner consistent with the provisions of this Act.

(c) The provisions of this Act do not apply to lists or systems utilized by criminal justice agencies for the sole purpose of identifying or apprehending fugitives or wanted persons.

ACCESS AND USE

SEC. 5. (a) The provisions of this section apply to any criminal justice information system subject to this Act and to any agency or person who, directly or indirectly, obtains criminal justice information from such a system.

(b) Direct access to information contained in a criminal justice information system subject to this Act shall be available only to authorized officers or employees of a criminal justice agency.

(c) (1) Except as provided in paragraphs (2) and (3), criminal intelligence information may be used only for a criminal justice purpose, and only where need for the use has been established in accord with regulations issued by the Attorney General.

(2) Criminal intelligence information may be used for a purpose not related to criminal justice if the Attorney General determines, with regard to the particular case or class of cases, that such use is necessary because of reasons of national defense or foreign policy.

(3) Criminal intelligence information compiled by a criminal justice agency which is a component of a Federal, State or local agency may be made available to a non-criminal-justice component of the same agency if the information is necessary for performance of a statutory function of the non-criminal-justice component. Such information may be used by the non-criminal-justice component only in connection with performance of a statutory function.

(d) (1) Except as provided in paragraphs (2)–(4), criminal offender processing information may be used only for a criminal justice purpose, and only where need for the use has been established in accord with regulations issued by the Attorney General.

(2) Particular criminal offender processing information may be made available to the individual to whom the information refers, pursuant to a court order or a Federal or State statute or regulation.

(3) Criminal offender processing information may be made available to qualified persons for research related to criminal justice under procedures designed to assure the security of the information released and the privacy of individuals to whom the information refers.

(4) Criminal offender processing information may be used for a purpose not related to criminal justice if such use is expressly authorized by a court order or Federal or State statute. The Attorney General shall determine, with regard to the particular case or class of cases, whether such use is expressly authorized by statute, and his determination shall be conclusive.

(e) (1) Criminal offender record information may be used for criminal justice purposes or for other purposes which are expressly provided for by Federal statute or Executive order or State statute. The Attorney General shall determine, with regard to the particular case or class of cases, whether such use is expressly provided for by statute or by Executive order, and his determination shall be conclusive.

(2) Criminal offender record information may be made available, pursuant to section 6, to the individual.

(3) Criminal offender record information may be made available to qualified persons for research related to criminal justice under procedures designed to assure the security of the information released and the privacy of individuals to whom the information refers.

(f) Any agency operating a criminal justice information system subject to this Act shall maintain records with regard to—

(1) requests from any other agency or person for criminal justice information. Such records shall include:

(A) regarding any request for use for a criminal justice purpose, the identity of the requester, the nature of the information provided and pertinent dates; and

(B) regarding any request for use for a non-criminal-justice purpose, the identity of the requester, the nature, purpose and disposition of the request, and pertinent dates.

(2) the source of criminal offender record information: *Provided*, That regulations of the Attorney General may provide for exceptions with regard to the source of identifying data.

REVIEW OF CRIMINAL OFFENDER RECORD INFORMATION BY THE INDIVIDUAL

Sec. 6. (a) Any individual who complies with applicable regulations shall be entitled to review criminal offender record information regarding himself contained in any criminal justice information system subject to this Act, and to obtain a copy of the information for the purpose of challenge or correction.

(b) Each Federal agency which operates a criminal justice information system and each State shall adopt regulations to implement this section. Such regulations shall (1) require that an individual making such a request verify his identity by fingerprints or other specified means, (2) explain the procedures for making such requests and performing such review, including such matters as time, place and fees, and (3) provide for the waiver, in appropriate cases, of any applicable fees.

(c) Except with regard to national defense or foreign policy cases, or with regard to the appointment of a judge or a civil officer, which appointment is subject to the advice and consent of the Senate, when criminal offender record information is requested, in accord with paragraph (5) (e) (1), for a purpose not related to criminal justice, the criminal justice agency to which the request is made shall require the requester to notify the individual that criminal offender record information concerning him is being requested, and that he has a right to review his record for the purpose of challenge or correction.

(d) No individual who, in accord with subsection (a) or (c), obtains a copy of criminal offender record information regarding himself may be required or requested to show or transfer that copy to any person or agency.

(e) If, after review of information obtained pursuant to subsection (a) or (c), the individual disputes its accuracy or completeness, he may apply for correction or revision to the agency responsible for original entry of the allegedly incomplete or inaccurate information. When correction or revision is warranted, the responsible agency shall immediately make the necessary correction or revision and take appropriate steps to have the correction or revision made with respect to all criminal justice information systems containing the information.

(f) In the event that an individual is dissatisfied with the decision of a criminal justice agency with respect to his request for correction or revision of information, the individual shall be afforded administrative review in accord with applicable regulations.

(g) If an individual is dissatisfied with the final administrative decision, he may obtain judicial review of that decision by bringing an action pursuant to subsection 14(a).

ACCURACY AND COMPLETENESS OF CRIMINAL OFFENDER RECORD INFORMATION

Sec. 7. (a) Any criminal justice agency which contributes criminal offender record information to a criminal justice information system subject to this Act shall assure that the information it contributes is accurate and complete and that it is regularly and accurately revised to include dispositional and other subsequent information.

(b) All Federal, State or local criminal justice agencies, including courts and correctional authorities, shall take the steps necessary to achieve compliance with subsection (a).

DISSEMINATION OF ARREST RECORDS

Sec. 8. (a) This section applies to any criminal justice information system subject to this Act and to any agency or person who, directly or indirectly, obtains criminal offender record information from any such system.

(b) No information relating to an arrest may be disseminated without the inclusion of the final disposition of the charges if a disposition has been reported. Any agency or person requesting or receiving information relating to an arrest from a system subject to this Act shall use such information only for the purpose of the request. Subsequent use of the same information shall require a new inquiry of the system to assure that it is up-to-date.

(c) Except as provided in subsection (d), criminal offender record information concerning the arrest of an individual may not be disseminated or used for a non-criminal-justice purpose if—

(1) the individual is acquitted of the charge for which he was arrested,

(2) the charge is dismissed,

(3) a determination to abandon prosecution of the charge is made by the prosecuting attorney, or

(4) an interval of one year has elapsed from the date of the arrest and no final disposition of the charge has resulted and no active prosecution of the charge is pending: *Provided*, that the one-year period does not include any period during which the individual is a fugitive.

(d) The prohibition set forth in subsection (c) shall not apply—

(1) when the Attorney General determines, with regard to the particular case or class of cases, for reasons of national defense or foreign policy it should not apply,

(2) with regard to the appointment by the President of a judge or a civil officer whose appointment is subject to the advice and consent of the Senate,

(3) with regard to use, pursuant to paragraph (5) (e) (3), for research purposes,

(4) with regard to use, pursuant to subsection (6) (a) or (c), by the individual for adjudication of a claim that the information is inaccurate or incomplete.

(5) where a court order specifically provides otherwise, or

(6) where a Federal statute expressly provides that the prohibition shall not apply.

SEALING OF CRIMINAL OFFENDER RECORD INFORMATION

Sec. 9. (a) Criminal offender record information shall be sealed in accord with the requirements of a court order, a Federal or State statute, or regulations issued by the Attorney General, when appropriate notification is provided by the agency directly responsible for compliance with the order, statute, or regulation.

(b) The regulations shall, as a minimum, provide for the sealing of criminal offender record information regarding an individual who has been free from the jurisdiction or supervision of any criminal justice agency for—

(1) a period of seven years if the individual has previously been convicted of an offense for which imprisonment in excess of one year is permitted under the laws of the jurisdiction where the conviction occurred,

(2) for a period of five years if the individual has previously been convicted of an offense for which the maximum penalty is not greater than imprisonment for one year under the laws of the jurisdiction where the conviction occurred, or

(3) for a period of five years following an arrest if no conviction of the individual occurred during that period, no prosecution is pending at the end of that period, and the individual is not a fugitive.

(c) (1) The regulations may exempt from full compliance with the requirements of this section criminal justice information systems for which full compliance is not feasible because of the manual nature of the systems.

(2) The regulations shall set forth procedures regarding access to a sealed record (A) in connection with review pursuant to section 6 by the individual or (B) on the basis of a court order or (C) a specific determination of the Attorney General.

PRECEDENCE OF STATE LAWS

Sec. 10. Nothing in this Act is to be construed to diminish greater rights of privacy or protection provided by a State law or regulation governing use, updating, or sealing of records in that State's criminal justice information system. Use of information in interstate systems or the use of information obtained through interstate transfer shall be governed solely by this Act and implementing regulations.

SECURITY OF CRIMINAL JUSTICE INFORMATION SYSTEMS

SEC. 11. (a) The security of information in a criminal justice information system subject to this Act shall be assured by management control by a criminal justice agency.

(b) All criminal justice information systems subject to this Act shall meet security standards promulgated by the Attorney General to guard against unauthorized access to data contained in the systems. These standards will include, but not be limited to—

(1) Implementation, operation and management control of criminal justice information systems.

(2) System design standards which take maximum advantage of security provided by existing technology.

(3) Physical security standards for the system facility and associated telecommunications networks.

(4) Administrative procedures for gaining access to data, safeguarding data and removing of data.

(c) The Attorney General shall provide for a continuous review and periodic audits of the operations of criminal justice information systems to assure that there is full compliance with the standards issued pursuant to this section and that appropriate corrective actions and sanctions are promptly invoked when required.

OPERATING PROCEDURES

SEC. 12. (a) All criminal justice information systems subject to this Act shall include operating procedures which are consistent with the regulations established and promulgated by the Attorney General and at a minimum shall—

(1) include a program of verification and audit to insure that criminal offender record information is regularly and accurately updated,

(2) limit access and dissemination of criminal justice information in accordance with the provisions of this Act,

(3) provide an administrative review mechanism for challenges by individuals to the accuracy or completeness of their records,

(4) Undertake an affirmative action program for the training of system personnel,

(5) require a complete and accurate record of access and use made of any information in the system including the identity of all persons and agencies to which access has been given, consistent with section 5(f).

(b) Each agency which operates an automated criminal justice information system subject to this Act shall publish notice at least once a year of

(1) its existence,

(2) the nature of the system,

(3) policies regarding storage, duration of retention and dissemination,

(4) procedures whereby an individual can review criminal offender record information regarding himself,

(5) the title, name and business address of the person immediately responsible for the system.

With regard to a system operated by the Federal Government, such notice shall be published in the Federal Register.

(c) Any agency operating or participating in a criminal justice information system subject to this Act may be required to provide periodic reports to the Attorney General.

ADMINISTRATIVE SANCTIONS

SEC. 13. (a) In the event that a criminal justice agency (1) obtains information from a criminal justice information system subject to this Act and uses or disseminates that information in a manner which violates this Act or regulations issued by the Attorney General, or (2) fails to provide dispositional information required by subsection 7(a), the agency may be denied access to criminal justice information systems subject to this Act.

(b) An agency or person, other than a criminal justice agency, who obtains criminal offender record information and uses that information in violation of this Act or regulations issued by the Attorney General may be denied the use of criminal offender record information subject to this Act.

(c) Procedures for implementing this section shall be set forth in regulations issued by the Attorney General. The regulations shall provide that no sanction may be imposed pursuant to subsection (a) until the Attorney General or, where appropriate, a State official has (1) provided notice of the alleged violation to the criminal justice agency in question, (2) determined that compliance cannot be secured by voluntary means, and (3) determined, after opportunity for hearing, that substantial or repeated violation of this Act or regulations issued by the Attorney General has occurred.

CIVIL AND CRIMINAL REMEDIES

SEC. 14. (a)(1) To obtain judicial review, pursuant to subsection 6(g), of a final administrative decision, an individual may bring a civil action against the responsible agency.

(2) An individual with respect to whom criminal justice information has been maintained, disseminated or used in violation of this Act or implementing regulations may bring a civil action against the individual or agency responsible for the alleged violation. If relief is sought against both the individual and the agency responsible for the alleged violation, such relief shall be sought in a single action.

(b)(1) If a defendant in an action brought under subsection (a) is an officer or employee or agency of the United States, the action shall be brought in an appropriate United States district court.

(2) If the defendant or defendants in an action brought under subsection (a) are private persons or officers or employees or agencies of a State or local government, the action may be brought in an appropriate United States district court or in any other court of competent jurisdiction.

(c) The district courts of the United States shall have jurisdiction over actions described in subsection (b), without regard to the amount in controversy.

(d) A prevailing plaintiff in an action brought under subsection (a) may be granted equitable relief, including injunctive relief, and actual damages, and may be awarded costs and reasonable attorney fees. In appropriate cases, a prevailing plaintiff may also be awarded exemplary damages.

(e) Any person who disseminates or uses criminal justice information knowing such dissemination or use to be in violation of this Act or any applicable regulations shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

(f) Good faith reliance upon the provisions of this Act or of applicable law governing maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed or approved by the Attorney General shall constitute a complete defense to a criminal action brought under this Act. With respect to damages, such reliance shall constitute a complete defense for an individual or an agency in a civil action brought under this Act. Such reliance shall not constitute a defense with respect to equitable relief.

COMPLIANCE WITH ACT

SEC. 15. Any State or local agency which operates or participates in a criminal justice information system subject to this Act shall comply with this Act and with regulations issued by the Attorney General and shall be deemed to have consented to the bringing of actions pursuant to subsection 14(a).

REGULATIONS OF THE ATTORNEY GENERAL

SEC. 16. After appropriate consultation with Federal and State agencies which operate or use criminal justice information systems, the Attorney General shall issue regulations implementing this Act.

AUTHORIZATION

SEC. 17. There are hereby authorized to be appropriated such funds as may be necessary for the Attorney General to implement this Act.

EFFECTIVE DATE

SEC. 18. This Act shall become effective one year after the date of enactment, except that section 17 shall become effective upon the date of enactment.

CRIMINAL JUSTICE INFORMATION SYSTEMS ACT OF 1974—SECTION-BY-SECTION ANALYSIS

Sec. 1 is the enactment and title clause.

Sec. 2. Findings and Purpose—

Subsection (a) refers to the usefulness of exchanging criminal justice information between Federal and State criminal justice agencies and between States, but points out the need to safeguard the rights of affected individuals.

Subsection (b) states that criminal justice information is to be used for a non-criminal-justice purpose only when such use is justified on the basis of weighing the interests of the individual against the needs of government or society.

Subsection (c) sets forth the constitutional basis for the Act.

Sec. 3. Definitions—

Subsection (a). "Criminal justice information system". This definition sets forth the basis for the coverage of the Act. The term refers to systems, automated or manual, for the collection, processing, preservation or dissemination of criminal justice information.

Subsection (b). "Automated system" is defined as a criminal justice information system which utilizes electronic computers or other automatic data processing equipment. This term applies where part of the system is automated and part manual, for example, a system which stores criminal offender record information in a computer file.

Subsection (c). "Criminal offender record information" includes (1) the factual summary of events of each formal stage of the criminal justice process: notations of arrest, the nature and disposition of criminal charges, sentencing, confinement, parole and probation status, formal termination of the criminal justice process as to a charge or conviction and (2) physical and other identifying data.

Subsection (d). "Criminal intelligence information" is defined as information which is compiled by criminal justice agencies for purposes of criminal investigation and which is indexed under an individual's name or otherwise associated with an individual. Such information may include reports of informants or investigators. This term does not include criminal offender record information, and any agency which maintains both criminal intelligence information and criminal offender record information must keep the two types of information separate. However, accounts of arrests or convictions may be expected in investigative reports, and there is no intention to exclude such non-systematic references to offender record information from criminal intelligence files.

Subsection (e). "Criminal offender processing information" is defined as detailed reports (as opposed to notations), identifiable to an individual, and compiled by any criminal justice agency for the purpose of processing the individual from the time of arrest to the time of release from supervision. This would include background reports on in-

dividual offenders such as arrest reports, presentence reports, etc.

Subsection (f). "Criminal justice information" is defined to include criminal offender record information, criminal intelligence information, and criminal offender processing information. Files that are not maintained in an individually identifiable manner, such as chronologically ordered police blotters and court dockets, are not considered within the scope of the Act.

Subsection (g). "Criminal justice" is defined to mean any activity pertaining to the enforcement of criminal laws. This term includes police efforts to prevent, control or reduce crime or to apprehend criminals. Also included are activities of prosecutors, courts and corrections, probation, pardon or parole authorities.

Subsection (h). "Criminal justice agency" means a public agency, Federal, state or local, whose principal function is the performance of activities pertaining to criminal justice. The definition includes a "component" of a public agency if the principal function of the component is performing activities relating to criminal justice. For example, a unit of the Internal Revenue Service which has as its principal function investigation of criminal violations of the tax laws would be a "criminal justice agency" even though the Internal Revenue Service as a whole would not come within that definition.

Subsection (i). "Interstate system" is defined as a system for the transfer of criminal justice information between criminal justice agencies located in two or more states.

Subsection (j). "State" is defined to include the District of Columbia, Puerto Rico and the territories or possessions of the United States.

Subsection (k). "Attorney General" is defined as the Attorney General of the United States or his designee.

Subsection (l). "Sealing" is defined as the closing of a record so that information will no longer be available except for review by an individual to whom the record pertains or by court order, or a specific determination of the Attorney General.

Sec. 4. Coverage—

Subsection (a) specifies the type of systems which are covered by this Act. Such systems include those operated by the Federal Government, funded in whole or in part by the Federal Government, an interstate system and any system which is engaged in the exchange of criminal justice information with the above systems to the extent of such participation.

Subsection (b) provides that the Act applies to criminal justice information obtained from a foreign government or an international agency to the extent that such information is contained in a system subject to this Act. When such information is provided to a foreign government or an international agency, use of the information by the foreign government or international agency should be consistent with this Act.

Subsection (c) exempts lists or systems used by criminal justice agencies for the purpose of identifying or apprehending fugitives or wanted persons.

Sec. 5. Access and Use—

Subsection (a) sets forth that the provisions of this section apply to any criminal justice information system subject to this Act and to any agency or person who obtains information from such a system either directly or indirectly.

Nothing in the Act is intended to prevent the public release of general information concerning an offense, a specific arrest, indictment, or disposition, within a reasonable time after the event has occurred.

Subsection (b) limits direct access to criminal justice information systems to authorized officers and employees of criminal justice agencies. Standards and procedures for determining what officers and employees are "authorized" are to be prescribed by regulations. All information permitted for non-criminal justice purposes must be obtained through a criminal justice agency.

Subsection (c) provides that criminal intelligence information may only be used for a criminal justice purpose (except as stated below) and that need for such use must have been established in accord with regulations issued under the Act. Thus, an agency seeking such information has the burden of establishing its entitlement and systems are to be designed so that such information is not routinely obtainable by the requesting agency. The provision allows criminal intelligence information to be used for non-criminal justice purposes if the Attorney General determines in a particular case or class of cases that use is necessary for reasons of national defense or foreign policy.

Subsection (d) provides that criminal offender processing information may be used only for a criminal justice purpose (except as stated below) and only where need has been established in accord with regulations to be issued under this Act. Pursuant to a court order, Federal or state statute or regulation particular criminal offender processing information concerning an individual may be made available to him. Under procedures which shall assure security and privacy of such information, information may also be made available to qualified persons for research related to criminal justice. Criminal offender processing information may be made available for a non-criminal justice purpose if such use is expressly provided for in a Federal or State statute.

Subsection (e) relates to use of criminal offender record information and provides that such information may be used for criminal justice purposes. That is, one criminal justice agency may obtain criminal offender record information from another agency for use with regard to the former's criminal justice responsibilities.

Criminal offender record information may be used for a purpose not related to criminal justice if such use is expressly provided for in a Federal statute or executive order or in a state statute. A municipal ordinance is not a sufficient basis unless the ordinance implements or is a type expressly authorized by a state statute dealing with use of criminal offender record information.

The determination whether a statute or executive order "expressly provides for" such use shall be made by the Attorney General. His determinations shall be conclusive.

The provisions of Subsection (e) allowing for non-criminal justice uses of offender record information are subject to the further limits on arrest records contained in Section 8.

One reason for the delayed effective date of this statute is the hope that it will provide an opportunity for states and the Federal Government to carefully review the statutory authorizations that now exist.

Criminal offender record information may also be made available to qualified persons for research pertaining to criminal justice. Such use is to be governed by regulations which shall establish procedures to assure the security of the information which is released and to protect the privacy of the individuals to whom the information relates.

Subsection (f) requires that records must be maintained for each criminal justice information system with regard to (1) requests for use of criminal justice information and (2) the source of criminal offender record information.

Sec. 6. Review of Criminal Offender Record Information by the Individual—

Subsection (a) requires that an individual, after complying with applicable regulations, be entitled to review criminal offender record information regarding himself and obtain a copy for the purpose of challenge or correction. This requirement does not apply to either criminal intelligence information or criminal offender processing information. It is intended that the regulations will contain procedures to allow an attorney to act on behalf of an individual, and to facilitate individual review of records maintained at geographically distant points.

Subsection (b) provides that each Federal and State agency adopt regulations to implement this section.

Subsection (c) requires that whenever criminal offender record information is requested for a non-criminal justice purpose, the requester must notify the individual to whom the information refers that information is being requested concerning him, and that he has a right to review the record for purposes of challenge or correction. The regulations will contain procedures designed to assure that such notice is given prior to release of the information in order to minimize the chances for release of inaccurate information.

Subsecion (d) prohibits any agency or person from requiring or requesting an individual to show or transfer a copy of this information regarding himself.

Subsection (e) states that an individual who exercises his right of review and who disputes the accuracy or completeness of the information may apply to have the information corrected or supplemented. The application is to be made to the agency (or agencies) responsible for the allegedly inaccurate or incomplete information. Normally the individual applying for corrective action must apply to the arresting agency or to the prosecutive agency, court or correctional institution, where appropriate. The responsible agency will normally not be the agency maintaining a statewide or national file.

Any necessary corrections or revisions are to be made by the responsible agency as soon as possible and are to be disseminated to all past recipients of the erroneous or incomplete information.

Subsection (f) requires that any individual who is not satisfied with the disposition of his request for correction or revision be afforded administrative review.

Subsection (g) gives a right of judicial review to any individual who is not satisfied with the decision resulting from final administrative review.

Sec. 7. Accuracy and Completeness of Criminal Offender Record Information—

Subsection (a) requires a criminal justice agency contributing criminal offender record information to a system subject to this Act to assure that the information which it contributes is accurate, complete and regularly revised to include dispositional and other subsequent information.

Subsection (b) states that all criminal justice agencies, covered by this Act, must take steps necessary to achieve compliance with subsection (a). Criminal justice agencies include courts and correctional au thorities.

Sec. 8. Dissemination of Arrest Records—

Subsection (a) states the coverage of this section. The section applies to any criminal justice information system subject to this Act and to any agency or person who directly or indirectly obtains criminal offender record information from such a system.

Subsection (b) restricts dissemination of an arrest record that does not include final disposition if a final disposition has been reported by the contributing criminal justice agency. Each use of a record shall require an

inquiry of the system to assure that the information is up-to-date and accurate.

Subsection (c) prohibits dissemination of an arrest record for non-criminal justice purposes if there is an acquittal, dismissal, abandonment of prosecution or an interval of one year has elapsed from date of arrest and no active prosecution is pending. However, if within this one-year period the individual is a fugitive, the time period during which he is a fugitive is excluded. Or, if a person is tried on only one of several charges, and when sentenced, the other charges are held open until the completion of the sentence given, this would be interpreted as "active prosecution still pending".

Subsection (d) exempts from the above prohibition (1) cases where the Attorney General determines that for national defense or foreign policy reasons it should not apply, (2) with regard to the appointment of certain officers by the President, (3) use for research purposes under section 5(e)(3), (4) use pursuant to review of a record by an individual, or adjudication of a claim that the information is inaccurate or incomplete, (5) where a court order specifically provides otherwise, or (6) where a Federal statute expressly provides otherwise.

Sec. 9. Sealing of Criminal Offender Record Information—

Subsection (a) requires that criminal offender record information be sealed under specified circumstances.

Subsection (b) requires that regulations provide at a minimum the sealing of criminal offender record information when specified periods of time have elapsed and an individual has been free from the jurisdiction or supervision of any criminal justice agency. The regulations will establish standard procedures whereby the State will provide information as to the maximum penalty for the particular offense when notation of the sentence is entered into the system.

Subsection (c) allows the regulations to exempt particular systems from full compliance with the sealing requirements where because of the manual nature of such systems, such full compliance would not be feasible. In particular, it is anticipated that records predating the effective date of this Act will be considered for sealing on a one-by-one basis as they are requested for use or as they are coded for conversion to automated systems.

The regulations must also set forth procedures for access. Where access to a sealed record is allowed in connection with review by the individual, on the basis of a court order, or a specific determination of the Attorney General, regulations must set forth procedures to be followed.

Sec. 10. Precedence of State Laws—

This section specifies that where a particular State has a law or regulation which affords an individual rights of privacy which are designed to protect the interests of individuals who are the subject of information in the State's criminal justice information system, that such a law or regulation would not be in conflict with this Act. A State may provide rights of privacy or protection for information in its system greater than those set forth in this Act and such provisions would govern in that State's criminal justice information systems.

SEC. 11. Security of Criminal Justice Information Systems—

This section is designed to minimize the possibility of unauthorized disclosure by setting forth the means by which such systems shall be operated. The security of information in a system subject to this Act must be assured by management control by a criminal justice agency. Also, such systems must meet security standards promulgated by the Attorney General to guard against unauthorized access to data within them.

In addition, the Attorney General is directed to provide for a continuous review and periodic audits of the operations of these systems to assure full compliance with the standards issued pursuant to this section.

SEC. 12. Operating Procedures—

Subsection (a) requires that all criminal justice information systems subject to this legislation must include specified minimum operating procedures which are consistent with the regulations established and promulgated by the Attorney General.

Subsection (b) requires an agency which operates an automated criminal justice information system subject to this Act to publish once a year notice of the existence, nature, and procedures governing the system. If such a system is operated by the Federal Government this notice shall be published in the Federal Register.

Subsection (c) allows the Attorney General to require any agency participating in a criminal justice information system subject to this legislation to provide periodic reports.

SEC. 13. Administrative Sanctions—

Subsection (a) provides that a criminal justice agency may be denied access to criminal justice information systems which are subject to this Act if such an agency (1) obtains information from such a system, and uses or disseminates that information in violation of this Act or the regulations issued pursuant to it, or (2) such agency fails to provide dispositional information required by the Act.

Subsection (b) provides that any person or agency, other than a criminal justice agency, may be denied the use of criminal offender record information if such person or agency uses such information in violation of this Act or regulations issued pursuant to it by the Attorney General.

Subsection (c) states that procedures regarding use of administrative sanctions are to be set forth in regulations of the Attorney General.

SEC. 14. Civil and Criminal Remedies—

Subsection (a)(1) permits an individual who is dissatisfied with the final administrative decision regarding his request for correction and revision of criminal offender record information which pertains to him, to bring a civil action against the responsible agency.

Subsection (a)(2) permits an individual with respect to whom criminal justice information has been maintained disseminated or used in violation of the Act or regulations issued pursuant to it, to bring a civil action against the responsible person or agency.

Subsection (b)(1) requires that such civil actions must be brought in the appropriate United States District Court if a defendant is an officer, employee, or agency of the United States.

Subsection (b)(2) provides that if the defendants in such civil actions are private persons, or officers, employees or agencies of a state or local government, such actions may be brought in an appropriate United States District Court or any other court of competent jurisdiction.

Subsection (c) provides that the district courts of the United States have jurisdiction over such civil suits without regard to the amount in controversy.

Subsection (d) provides that a prevailing plaintiff in such civil actions may be granted equitable relief, damages, costs, and reasonable attorney fees. Exemplary damages may also be awarded when appropriate.

Subsection (e) provides criminal penalties for dissemination and use of criminal justice information which is in violation of the Act and any applicable regulations issued pursuant to it. It is assumed that forgeries or other unauthorized alterations of records subject to this Act are punishable under 18 U.S.C. § 1001 et. seq., and similar provisions of law.

Subsection (f) provides an individual or agency with a complete defense against any civil or criminal action (except an action for equitable relief) when such an individual or agency acts in good faith relying upon the provisions of the Act or on applicable law governing the maintenance, dissemination, or use of criminal justice information, or upon rules, regulations, or procedures prescribed or approved by the Attorney General.

The defense of "good faith" is intended to apply only where one innocently followed the rules without notice that there was a claim of error or invalidity. The test is an objective one and not the actual state of mind of the individual. Good faith requires the exercise of reasonable diligence to learn the truth when one is put on inquiry.

It is anticipated that the remedies contained in this section will be applied consistent with the provisions of the First Amendment to the Constitution.

Sec. 15. Compliance with Act—

This section would require any state or local agency which operates or participates in a criminal justice information system which is subject to the Act to comply with the Act and with the regulations issued pursuant to it by the Attorney General. Also, any such agency would be deemed to have consented to the bringing of such civil actions as authorized by the Act.

Sec. 16. Regulations of the Attorney General—

The Attorney General is required to issue regulations implementing this Act after appropriate consultation with Federal and state agencies operating or using criminal justice information systems.

Sec. 17. Authorization—

Authorizes funds for the Attorney General to implement the Act.

Sec. 18. Effective Date—

Sets the effective date of the Act to be one year after the date of enactment, except for the authorization of funds section, which would become effective the date of enactment.

OFFICE OF THE ATTORNEY GENERAL,
Washington, D.C., February 5, 1974.

The VICE PRESIDENT
U.S. Senate
Washington, D.C.

DEAR MR. VICE PRESIDENT: Enclosed for your consideration and appropriate reference is a legislative proposal entitled the "Criminal Justice Information Systems Act of 1974."

This is a legislative proposal to facilitate and regulate the exchange of criminal justice information.

The proposal, I believe, has achieved an appropriate balance between the information needs of governments and the constitutional rights of persons affected by the collection and dissemination of criminal justice information. This bill is more comprehensive than the proposal originally submitted during the 92nd Congress, 1st Session, and introduced as S. 2546. This bill is applicable to any criminal justice information system which is operated by the Federal Government or is funded in whole or in part by the Federal Government. Also covered is any interstate system and any system which is engaged in the exchange of information with a Federally operated, Federally funded, or interstate system. Both automated and manual systems are covered.

Direct access to criminal justice information systems is limited to criminal justice agencies. Criminal offender record information in a system may only be used for crimi-

nal justice purposes unless there is a Federal statute, Executive order or State statute which expressly provides for a non-criminal justice use. This would mean that criminal offender record information would be unavailable for employment or credit checks unless a statute specifically required such use.

The draft bill provides the individual with the right of review of his record for the purposes of correction. Stringent restrictions on dissemination are provided. Criminal offender record information is required to be accurate and complete and provision is made for the sealing of criminal offender record information after the passage of a stated period of years during which the individual is free from the supervision of a criminal justice system. Provision is made for administrative, civil and criminal sanctions against those who use or disseminate information in violation of the Act.

Several provisions of the bill would require changes in the current practices of some government agencies, particularly non-criminal justice agencies that have traditionally made use of criminal justice data for various purposes. The debate and action taken on this proposal should serve to clarify national policy in this area and to provide a framework for subsequent efforts which will, hopefully, bring some order and consistency to the array of statutes and regulations that are relied on for access and use to criminal justice information.

The proposed legislation reflects a strong concern for the security and privacy of data in criminal justice information systems and deals effectively with the fundamental issues involved. Its early and favorable consideration is urged.

The Office of Management and Budget has advised that there is no objection to the submission of this proposal from the standpoint of the Administration's program.

Sincerely,

———— ————,

Attorney General.

COMPUTERIZED CRIMINAL HISTORY DATA BANKS

Mr. ROBERT C. BYRD. Mr. President, I applaud the President's statement in the state of the Union address that individual liberties must be protected from the unwarranted invasion of computerized criminal history data banks. The Justice Department is supporting legislation that, for the first time, would place legal restrictions on local, State, and Federal crime data banks. This is a significant recognition on the part of the administration of the growing concern of the possible abuses inherent in a large computerized criminal data bank, such as the FBI's National Crime Information Center—NCIC.

According to statistics I received yesterday from the FBI, the NCIC telecommunications network had 89 control terminals at criminal justice agencies, 56 of which are computerized. In addition, all 59 FBI field offices are linked to the central computer at FBI headquarters. Through this system, information from more than 4.8 million records stored in the FBI's computer is almost immediately available to more than 6,000 police agencies. The NCIC handles more than 121,000 transactions daily.

There are over 440,000 computerized criminal histories—CCH—in the NCIC.

These statistics are increasing at an accelerated rate—during the hearings on the confirmation of L. Patrick Gray to be FBI Director, the Bureau estimated the following growth for the NCIC in the coming years: The number of records that will be contained in NCIC in 5 years will be 10.1 million and 10 years hence will be 21.7 million; the number of computerized criminal histories contained in the NCIC computer in 5 years will be 3 million and 10 years hence will be 8 million.

The anticipated growth of the NCIC adds greater urgency to the necessity for congressional action to assure strict and yet workable procedural safeguards for the system.

Both the bill introduced by Senator ERVIN and the bill introduced by Senator HRUSKA are intended to be starting points for intensive hearings to determine what safeguards are necessary to protect individual liberties and, at the same time, to allow the most effective use of the system in aiding the criminal justice system. For this reason, I have joined as a cosponsor of both bills.

I appreciate the courtesy of the Senator from North Carolina (Mr. ERVIN) and the courtesy of the Senator from Nebraska (Mr. HRUSKA) in allowing me to join as a cosponsor of both bills.

As a member of the Constitutional Rights Subcommittee of the Judiciary Committee, this has been an area of concern to me for some time. This is a difficult field in which to legislate, but it is one in which we must legislate to carefully delineate the lines beyond which such computer systems may not go. Everyone recognizes the blessings such a system may bring for our law enforcement agencies, but at the same time, we must be alert to the dangers that are inherent to such a system.

I think we in the Congress must carefully weigh the interests involved in this legislation and come forward with guidelines to be followed in the future.

Mr. MATHIAS. Mr. President, it is with a rare sense of satisfaction that we come together for introduction today of the "Criminal Justice Information Control and Protection of Privacy Act of 1974." I am pleased to join Senators ERVIN and HRUSKA and other Members of the Senate, in introducing this bill, and to also cosponsor the administration's bill on the same subject.

My satisfaction stems from finally seeing progress and sensing victory on an issue of vital importance to the survival of constitutional government in the United States. About 4 years ago, on my motion, the Senate directed the Department of Justice to prepare guidelines on the use of personal information held in data banks. This is the action just described by the distinguished Senator from Nebraska (Mr. HRUSKA.) Unhappily, the Department ignored this request and the Senate condoned the lapse. Thus, both the legislative and executive branches demonstrated shocking insensitivity to a highly sensitive subject.

Today, that unfortunate chapter is being excised from our record and we are returning to the spirit in which the Senate adopted my original proposal.

The administration merits support for its stated policy and for the attention it is drawing to the problems of privacy in our society. The President's state of the Union message, and the legislation which is being introduced today, have great significance, not only for their symbolic value but because these bills represent a genuine first step in one important facet of the privacy problem. Not to be forgotten are two Attorneys General, Elliot Richardson and William Saxbe, who are men sensitive to this issue and who deserve credit for helping to bring the Department of Justice to its present posture.

Ours has indeed become "an information-rich world" and the availability of the computer is both cause and effect of this characteristic of modern society. But the increasing sophistication of the computer means that information concerning individuals can, for the first time, be collected and stored, shared, analyzed, and brought to bear for good or ill. Alexander Solzhenitsyn saw it when he said in "Cancer Ward":

> As every man goes through life he fills in a number of forms for the record, each containing a number of questions . . . There are thus hundreds of little threads radiating from every man, millions of threads in all. If these threads were suddenly to become visible, the whole sky would look like a spider's web, and if they materialized as rubber bands, buses, trams, then even people would loose all the ability to move, and the wind would be unable to carry torn-up newspapers or autumn leaves along the streets of the city. They are not visible, they are not material, but every man is constantly aware of their existence . . . Each man constantly aware of his own invisible threads, naturally develops a respect for the people who manipulate the threads.

The legislation introduced today recognizes the reality of these "threads" and attempts to reconcile the uses to which our new technology can be put with the rights of individuals. It attempts to draw the line which says how and when the individual can be fettered and how and when he shall be free. These bills do not, it should be added, deal with all problems of privacy. Many other privacy issues remain, such as the protection of fourth amendment freedoms and the problem of vast amounts of information concerning individuals presently collected and held by private entities. They do address one important facet of the problem, criminal records information shared between law enforcement agencies.

This is an issue with which I have long been concerned. I began work on this issue when I was in the House of Representatives. In the 92d Congress, I sponsored an Omnibus Criminal Justice Reform Act which, in its concern for the successful rehabilitation of the individual, acquainted me with the problems of such information. When Patrick Gray came before the Senate Judiciary Committee for confirmation, I prepared an extensive list of questions concerning the FBI's

NCIC system and its relationship to State agencies. The information elicited in those questions and in similar questions propounded to FBI Director Clarence Kelley, during the course of his confirmation hearings will, I am sure, be useful to the work of the Senate.

In November, I joined Senator ERVIN in introducing legislation which would have clarified what is, in my view the currently ambiguous authority of the FBI to disseminate information in its files.

The NCIC and participating State systems constitute a vast network for the exchange of information between the law enforcement agencies of the States and the Federal Government and among the States. This system has enormous potential for increasing the capability of law enforcement. When the system is fully operational, each individual police officer could instantaneously have information from all over the Nation concerning suspects at his finger-tips simply by contacting his local computer terminal. Such contact might even be made from a patrol car. This tool can be extremely valuable to police and other law enforcement officials faced with problems which do not respect jurisdictional lines or, in our modern society, distance.

But as with so many technological wonders of our age, this miracle for communicating information raises new problems which must be addressed. In this case, the problems concerning using this system in a way that protects constitutional liberties and civil rights, including the right of privacy.

With the introduction of this legislation today, the Senate is undertaking to resolve a number of issues with respect to criminal history information. These important issues are the classification of types of information which can be collected, the uses to which it can be put, the persons to whom it can be disseminated, the right of inspection and expungement by citizens who might be affected by such information, and penalties for those who misuse such information. This legislation will be the subject of hearings and much study within the Judiciary Committee and I am confident that differences between the two bills which are today being introduced will be reconciled. I look forward to continuing my participation in this process.

SUBMISSION OF SENATE RESOLUTION 276—DISAPPROVAL OF PRESIDENT'S PAY RECOMMENDATIONS

Mr. DOMINICK. Mr. President, last April, I joined with Senators COTTON, YOUNG, MCCLURE, HANSEN, HRUSKA, GURNEY, PERCY, BARTLETT, THURMOND, TAFT, CURTIS, BELLMON, BENNETT, FANNIN, AIKEN, ROTH, and TOWER in petitioning the President to hold in abeyance any salary increases recommended by the Commission on Executive, Legislative and Judicial Salaries through the remainder of calendar year 1973, and until the inflationary spiral was sufficiently under control to justify increases throughout the economy.

I was gratified that salary increases were not proposed last year. The budget submitted to the Congress yesterday by the President, however, included a pay raise for some 2,800 top officials in the executive, legislative, and judicial branches presently earning $36,000 to $60,000. This would also increase the salaries of nearly 10,000 career Federal employees who are now at the $36,000-a-year level. This raise will automatically go into effect within 30 days unless Congress votes it down.

Since I am still of the opinion that it would be counterproductive to seek any increases in salaries while the Nation is seeking to stabilize its economic position both domestically and in the international community, I am today submitting a Senate resolution on behalf of myself and Senators MCCLURE, HANSEN, GURNEY, BARTLETT, THURMOND, CURTIS, ROTH, TAFT, TOWER, and HELMS, to disapprove the recommendations of the President for a pay raise.

Mr. President, with the prevailing energy crisis, rising unemployment, inflation, and the threat of a recession combining to force our Nation's citizens to tighten their belts, it seems inconsistent to grant raises of $9,000 or $10,000 over the next 3 years to top officials of the Federal Government whose present salaries individually are from three to five times what the average American family earns per year.

I am confident that my colleagues will take these facts into consideration and am hopeful that they disapprove these salary increases before expiration of the 30-day deadline.

After all, one of the inflationary pushes we have in this country is deficit spending which has been OK by Congress. To have us, as Members of Congress, go ahead from there, and then we take care of ourselves while we continue deficit spending, seems to me to be totally out of line.

Mr. ERVIN. Mr. President, will the Senator from Colorado yield?

Mr. DOMINICK. I am happy to yield to the Senator from North Carolina.

Mr. ERVIN. Mr. President, I would like to ask the Senator if he would add my name as a cosponsor of his resolution.

Mr. DOMINICK. I would be delighted to do so. Mr. President, I ask unanimous consent that the name of the Senator from North Carolina (Mr. ERVIN) be added as a cosponsor of the resolution.

The PRESIDING OFFICER (Mr. DOMENICI). Without objection, it is so ordered.

Mr. DOMINICK. Mr. President, because of the urgency of this matter, I send the resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The assistant legislative clerk read as follows:

S. RES. 276

Resolution to disapprove pay recommendations of the President

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during February, 1974, pursuant to section 225(h) of the Federal Salary Act of 1967.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. HUGH SCOTT. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The resolution will go over under the rule.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

THE TRUCKERS' STRIKE

Mr. McCLELLAN. Mr. President, I want to make a few comments about an intolerable situation that is developing across this Nation. As all will remember, during the second week in December 1973, independent truck drivers by the thousands engaged in a general strike to bring the commercial life of the country to a halt. Shots were fired. Windshields smashed. Commercial terminals and truck stops were systematically obstructed. Wholesale blocking of highways inconvenienced thousands of travelers. By all appearances, the strike was coordinated and organized.

At that time I was stunned that my own State of Arkansas had acquired the dubious distinction of hosting the most violent incident in the strike—the explosive destruction of a tractor-trailer in Widener, Ark. That incident was vividly reported in the Washington Star-News on Friday, December 14, 1973. I ask unanimous consent that this article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, it is now February and the whole pattern is starting again, including the gunfire, malicious violence and wholesale obstruction. I ask unanimous consent that two articles from the Washington Post of February 2, 1974, describing these events to date be printed in the RECORD, following these remarks.

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

(See exhibits 2 and 3.)

Mr. McCLELLAN. This obstruction and violence, which has adready resulted in the death of at least one person, cannot be permitted to continue any longer or tolerated in the future.

Mr. President, is the Federal Government without the tools to deal with this situation? The answer is "No." The civil rights provisions ir title 18 of the United States Code give more thar ample power to the Department of Justice to act. Citizens of the United States have a constitutional right to travel safely from one

State to another in pursuit of their pleasure and private or commercial interests. This right has been affirmed and reaffirmed time and again by the courts of this land. The Supreme Court has held that the right to travel freely upon the highways of the Nation is fundamental. *United States* v. *Guest*, 383 U.S. 745. It may not be abridged by governments or by private individuals. To conspire to do so, the Court held, is punishable under section 241 of title 18 of the United States Code. I ask unanimous consent that the relevant parts of the Guest decision be printed in the RECORD.

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

[383 U.S. 745]

UNITED STATES *v.* GUEST ET AL., APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA

(No. 65. Argued November 9, 1965.—Decided March 28, 1966)

* * * * *

III

The fourth numbered paragraph of the indictment alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

"The right to travel freely to and from the State of Georgia and to use highway facilities and other instrumentalities of interstate commerce within the State of Georgia." [13]

The District Court was in error in dismissing the indictment as to this paragraph. The constitutional right to travel from one State to another and necessarily to use the highways and other instrumentalities of interstate commerce in doing so, occupies a position fundamental to the concept of our Federal Union. It is a right that has been firmly established and repeatedly recognized. In *Crandall* v. *Nevada*, 6 Wall. 35, invalidating a Nevada tax on every person leaving the State by common carrier, the Court took as its guide the statement of Chief Justice Taney in the *Passenger Cases*, 7 How. 283, 492:

"For all the great purposes for which the Federal government was formed, we are one people, with one common country. We are all citizens of the United States; and, as members of the same community, must have the right to pass and repass through every part of it without interruption, as freely as in our own States."

See 6 Wall., at 48–49.

Although the Articles of Confederation provided that "the people of each State shall have free ingress and regress to and from any other State," [14] that right finds no explicit mention in the Constitution. The reason, it has been suggested, is that a right so elementary was conceived from the beginning to be a necessary concomitant of the stronger Union the Constitution created.[15] In any event, freedom to travel throughout the United States has long been recognized as a basic right under the Constitution. See *Williams* v. *Fears*, 179 U.S. 270, 274; *Twining* v. *New Jersey*, 211 U. S. 78, 97; *Edwards* v. *California*, 314 U. S. 160, 177 (concurring opinion), 181 (concurring opinion); *New York* v. *O'Neill*, 359 U. S. 1, 6–8; 12–16 (dissenting opinion).

In *Edwards* v. *California*, 314 U. S. 160, invalidating a California law which impeded the free interstate passage of the indigent, the Court based its reaffirmation of the federal right of interstate travel upon the Commerce Clause. This ground of decision was consistent with precedents firmly establishing that the federal commerce power surely encompasses the movement in interstate commerce of persons as well as commodities. *Gloucester Ferry Co.* v. *Pennsylvania*, 114 U.S. 196, 203; *Covington & Cincinnati Bridge Co.* v. *Kentucky*, 154 U. S. 204, 218–219; *Hoke* v. *United States*, 227 U. S. 308, 320; *United States* v. *Hill*, 248 U. S. 420, 423. It is also well settled in our decisions that the federal commerce power authorizes Congress to legislate for the protection of individuals from violations of civil rights that impinge on their free movement in interstate commerce. *Mitchell* v. *United States*, 313 U. S. 80; *Henderson* v. *United States*, 339 U. S. 816; *Boynton* v. *Virginia*, 364 U. S. 454; *Atlanta Motel* v. *United States*, 379 U. S. 241; *Katzenbach* v. *McClung*, 379 U. S. 294.

Although there have been recurring differences in emphasis within the Court as to the source of the constitutional right of interstate travel, there is no need here to canvass those differences further.[16] All have agreed that the right exists. Its explicit recognition as one of the federal rights protected by what is now 18 U. S. C. § 241 goes back at least as far as 1904. *United States* v. *Moore*, 129 F. 630, 633. We reaffirm it now.[17]

This does not mean, of course, that every criminal conspiracy affecting an individual's right of free interstate passage is within the sanction of 18 U.S.C. § 241. A specific intent to interfere with the federal right must be proved, and at a trial the defendants are entitled to a jury instruction phrased in those terms. *Screws* v. *United States*, 325 U.S. 91, 106–107. Thus, for example, a conspiracy to rob an interstate traveler would not, of itself, violate § 241. But if the predominant purpose of the conspiracy is to impede or prevent the exercise of the right of interstate travel, or to oppress a person because of his exercise of that right, then, whether or not motivated by racial discrimination, the conspiracy becomes a proper object of the federal law under which the indictment in this case was brought. Accordingly, it was error to grant the motion to dismiss on this branch of the indictment.

For these reasons, the judgment of the District Court is reversed and the case is remanded to that court for further proceedings consistent with this opinion.

It is so ordered.

FOOTNOTES

[13] The third numbered paragraph alleged that the defendants conspired to injure, oppress, threaten, and intimidate Negro citizens of the United States in the free exercise and enjoyment of:

"The right to the full and equal use on the same terms as white citizens of the public streets and highways in the vicinity of Athens, Georgia."

Insofar as the third paragraph refers to the use of local public facilities, it is covered by the discussion of the second numbered paragraph of the indictment in Part II of this opinion. Insofar as the third paragraph refers to the use of streets or highways in interstate commerce, it is covered by the present discussion of the fourth numbered paragraph of the indictment.

[14] Art. IV, Articles of Confederation.

[15] See Chafee, Three Human Rights in the Constitution of 1787, at 185 (1956).

[16] The District Court relied heavily on *United States* v. *Wheeler*, 254 U.S. 281, in dismissing this branch of the indictment. That case involved an alleged conspiracy to compel residents of Arizona to move out of that State. The right of interstate travel was, therefore, not directly involved. Whatever continuing validity *Wheeler* may have as restricted to its own facts, the dicta in the *Wheeler* opinion relied on by the District Court in the present case have been discredited in subsequent decisions. Cf. *Edwards* v. *California*, 314 U.S. 160, 177, 180 (DOUGLAS, J., concurring); *United States* v. *Williams*, 341 U.S. 70, 80.

[17] As emphasized in MR. JUSTICE HARLAN'S separate opinion, § 241 protects only against interference with rights secured by other federal laws or by the Constitution itself. The right to interstate travel is a right that the Constitution itself guarantees, as the cases cited in the text make clear. Although these cases in fact involved governmental interference with the right of free interstate travel, their reasoning fully supports the conclusion that the constitutional right of interstate travel is a right secured against interference from any source whatever, whether governmental or private. In this connection, it is important to reiterate that the right to travel freely from State to State finds constitutional protection that is quite independent of the Fourteenth Amendment.

We are not concerned here with the extent to which interstate travel may be regulated or controlled by the exercise of a State's police power acting within the confines of the Fourteenth Amendment. See *Edwards* v. *California*, 314 U.S. 160, 184 (concurring opinion); *New York* v. *O'Neill*, 359 U.S. 1, 6–8. Nor is there any issue here as to the permissible extent of federal interference with the right within the confines of the Due Process Clause of the Fifth Amendment. Cf. *Zemel* v. *Rusk*, 391 U.S. 1; *Aptheker* v. *Secretary of State*, 378 U.S. 500; *Kent* v. *Dulles*, 357 U.S. 116.

Mr. McCLELLAN. Mr. President, in addition to section 241, section 245 of title 18 provides a basis for punishing those who use force and fear to prevent citizens from enjoying the benefits of projects financed in whole or in part by the Federal Government. Surely this includes the Interstate Highway System and other federally financed transportation systems.

It is clear that Congress has provided the executive branch with the tools needed to protect all our citizens' civil rights. The Department of Justice should use these tools to enforce these rights. Is our Government—is this administration—impotent to use and enforce the laws equitably and effectively for the protection of all citizens? Race issues and pseudo-revolution should not be the only reason or motivation for vigorous enforcement of the civil rights statutes and other protective laws. There are also other times when the Federal power should be brought to bear.

Mr. President, I submit that a relatively small minority of truck drivers cannot be permitted to cause widespread disruption of the right of citizens to travel in peaceful pursuit of pleasure or to further their private and commercial affairs. This is certainly one of those times to enforce the civil rights statutes that Congress has seen fit to enact.

I welcomed the statement of Attorney General Saxbe this past weekend calling upon the Nation's Governors to "use every resource at their command to see that we do not descend into anarchy." But I would also suggest to the Attorney General that it is time for the Department of Justice to act as well—to vigorously use the tools that Congress has provided to protect and make secure the constitutional rights of all the citizens of the United States.

Mr. President, I do not intend my remarks to suggest a lack of sympathy for legitimate grievances of the independent

truck driver. I recognize that the vast majority of truck drivers have not engaged in violence or unlawful obstruction. Everything possible must be done to insure that hardships incident to the fuel shortage do not fall disproportionately upon the truck driver's shoulders.

I fully support these efforts to the extent that they eschew force, violence, obstruction, and intimidation to rob us of our fundamental right to travel freely in pursuit of lawful interests. I cannot condone in any degree the violence—the unlawful tactics—now being engaged in by a few to the detriment and injury of the many—yes, to the injury of the whole Nation. I condemn without reservation the outlawry now being pursued and imposed by these truck drivers, and I call upon the law enforcement agencies of government to take swift and decisive action to end this malady.

EXHIBIT 1

[From the Washington Star-News, Dec. 14, 1973]

TRUCK BLOWN UP AS VIOLENCE MOUNTS

A tractor-trailer was blown up at a truck stop in Arkansas today, scattering wreckage for 50 yards in the most violent incident reported since independent truckers mounted their two-day protest against rising fuel costs and lower speed limits.

No one was injured in the blast, state police said.

More than 30 incidents of gunfire late yesterday and early today in at least seven states marked a so-called "park-in." John Sassi, 29, one of the leaders of the demonstration also was arrested on charges of carrying a concealed pistol.

The incident involving the blown-up rig occurred at Widener, Ark. It was parked at Andy's truck stop on an access road between Interstate 40 and U.S. 70 when the explosion occured. The blast tore the cab from the trailer and shattered glass in a second truck parked nearby, according to truck stop operator Andy Jones Jr.

Sassi and three companions were taken into custody near Glasgow, Del., this morning following a search of their station wagon. Police said a pistol was in the car.

Sassi, an independent driver who helped organize the two-day "park-in" protest, testified before a Senate committee hearing on the truckers' plight earlier this week. Sassi accused the Senate of not acting quickly enough to redress truckers' grievances.

Sassi was arrested while parked at a gas station six miles south of Wilmington after several truckers told police four men driving a station wagon matching the description of Sassi's vehicle warned them not to go out on the road, police said.

The two-day shutdown by some independent truckers has had little apparent effect on the nation's trucking industry, the Department of Transportation said today.

The department released the report as Transportation Secretary Claude Brinegar met with a newly formed advisory council composed of truck operators and truck stop owners.

It said that checks showed lighter-than-usual truck traffic in only five states: Pennsylvania, South Carolina, Florida, New York and Ohio.

After the meeting, Brinegar predicted dissident truckers would end a work stoppage and be back on the road this weekend. "They have got our attention and we are working on their problems," he said.

"The governors must enforce the law and we cannot put up with violence and lawbreaking."

Brinegar indicated, however, that the government is not going to relax its plan to put a speed limit of 55 miles an hour on the big cross-country rigs. The truckers are demanding a 65 m.p.h. limit, claiming that a lower speed consumes more fuel and delays their deliveries.

Brinegar predicted that a shortage of truck fuel would be eased shortly by the government's new fuel allocation program. He said it will allow truckers 110 percent of the fuel they used last year, but conceded that that allocation still would leave them much as 10 percent of what they want.

An Ohio police spokesman said shootings in that state "are obviously connected with the complement who don't want truckers on the road. Whoever they are, they know the right spots. They know where the truckers are and just the right height to hang those bricks." Some truckers have reported their windshields being smashed by bricks suspended from overpasses.

In Bear, Del., a trucker had his windshield shot out last night. Similar incidents were reported on two other Delaware highways as the angry independents attempted to get other truckers to join their protest shutdown.

There also were reports of violence in Maryland at a Whitemarsh truck stop when two trucks were fired on while waiting to be fueled.

One blast hit a truck radiator while shotgun pellets shattered the windshields of other rigs. No injuries were reported.

At least 25 trucks rolling in Ohio highways were hit by bullets last night and early today, the Associated Press said. And more than 30 rigs were chased off Interstate 70 near Dayton and corralled into a truckstop.

The damaged trucks were being operated by drivers who chose not to abide by a nationwide shutdown called to protest high fuel costs and low speed limits.

The independents had encouraged all truckers to honor a two-day shutdown which began yesterday to dramatize their plight, but the Teamsters union refused to sanction the move.

In some areas a significant number of truckers were honoring the stoppage. However, there were also a large number of trucks still rolling, and some were traveling in groups of three and four to avoid trouble.

One driver in Colorado was wounded in the hand yesterday by a shot fired into his truck as he traveled on Interstate 70. Authorities said there was no immediate indication that the wounding was related to the truckers' protest.

Arkansas and Tennessee officials had reported bomb threats at a truck stop and a bridge between their states at Memphis last night.

Pennsylvania state police said a bullet passed through the cab of one truck, and a bullet hit the body of another truck in incidents near the Ohio border. One driver received minor cuts when a rock broke his windshield near Bedford.

A Pennsylvania trucking firm had 66 tires slashed.

The biggest effect of the protest, however, was a reduction of truck traffic in some areas. Some truck stops were shut down as parked trucks blocked fuel pumps.

Arch Booth of the U.S. Chamber of Commerce said he believed the complaints of the truckers were justified, but he called on them to reject shutdowns and similar tactics.

However, J. W. (River Rat) Edwards, who made a second trip to Washington yesterday to voice truckers' concerns, threatened a two-month shutdown if help isn't forthcoming from the government.

Edwards, a self-proclaimed spokesman for the protesters, said truckers want a 65 mile per hour speed limit, an increase in gross weight limits and a ceiling on rapidly rising diesel fuel prices.

EXHIBIT 2

[From the Washington Post, Feb. 2, 1974]

TRUCK STRIKE SPREADS ACROSS 20 STATES—GASOLINE, STEEL, MEAT AFFECTED

Independent truckers spread their strike against high diesel fuel prices across at least 20 states yesterday. Gasoline supplies in four states were cut off or restricted, and thousands of workers faced layoffs in the automobile and livestock industry.

Pennsylvania Gov. Milton J. Shapp called out the National Guard "for the duration of the emergency."

The strike forced the closure of a steel plant in Ohio and two slaughterhouses in Philadelphia. Gasoline deliveries were cut off in New Jersey and parts of New York, Florida and West Virginia.

General Motors said as many as 75,000 workers could be without jobs in its 21 Ohio auto plants if drivers don't start trucking in essential supplies to keep assembly lines running.

The effect on industry will not be fully felt until factories and warehouses open after the weekend, spokesmen said.

Shapp called out the National Guard in Pennsylvania to patrol highways and guard overpasses. The Governor did not say how many troops were called out, but the state adjutant general's office said more than 20,000 guardsmen could be committed if necessary.

Violence that has already caused one death was reported widespread, but there were few injuries. A truck carrying mail for the U.S. Postal Service was fired on in West Virginia.

Drivers in Texas, North Carolina, Mississippi, Alabama, California, Connecticut, Florida and Illinois reported incidents including gunfire, beatings, stonings, roofing tacks spread on highways, air hoses cut, tires slashed and boulders dropped from overpasses.

Some trucks were traveling in convoys for safety, occasionally with police escorts. Some trucking firms warned drivers to stay off Pennsylvania and Ohio roads, where violence was reported the worst.

Motorists in some gas-parched regions felt the effect of the strike as they searched for service stations to fill up. Many stations ran out of gas several days ago and have been waiting for February allocations.

Spokesmen for Shell, Chevron, American and Hess said they were unable to make deliveries to gas stations in many parts of New Jersey and New York because drivers feared threats from strikers.

"We don't know what we're going to do as far as delivering our product is concerned," a Shell spokesman said.

Some West Virginia service stations reported they were out of gas because tanker truck drivers refused to deliver fuel.

The gasoline shortage was severe in South Florida, where unofficial estimates showed that fewer than 20 per cent of service stations had any gasoline left and no respite in sight because of the strike.

In Florida, Gov. Reubin Askew ordered the National Guard to deliver emergency fuel supplies to fire and police departments which might run out of gasoline because of the strike. The guard was not activated, simply told to do the job.

Livestock shipments and produce dealers in Chicago complained that commitments could not be met because drivers were afraid to go to work. Livestock shipments in major markets, confined normally on Fridays to hogs, were down about 30 percent from normal

In Arizona, Armour Food Co., one of America's biggest food packers, said it was laying off 1,000 workers because the strike meant it could not transport all its products.

Steel movement at the southern tip of Lake Michigan, where there is a heavy con-

centration of mills, ground slowly toward a halt.

EXHIBIT 3

[From the Washington Post, Feb. 2, 1974]

TRUCKER VIOLENCE HITS AREA

(By Bill Richards)

Trucker violence broke out across Maryland early yesterday with a wave of stonings and four reports of gunfire directed against truck drivers defying the call for a nationwide shutdown.

Police reported 15 incidents of stoning and shooting directed against truckers during yesterday's early-morning hours. The majority of them were in the northeast portion of the state.

"There is no question about it," said William Clark, a state police spokesman, "the violence has moved east from Ohio and Pennsylvania into Maryland."

State police were placed on alert throughout the weekend and special air and ground patrols were designated for potential trouble spots along major trucking arteries.

Four men, who gave their occupations as truck drivers, were arrested in Elkton early yesterday after police said they halted and harassed a trucker and then cut the air hose leading from the truck cab to the rear brakes.

The four were listed by Elkton police as Cecil D. Kirk Jr., 25, of Rising Sun, Md.; Daniel L. Pugh, 26, of Conowingo, Md. William R. Hilton, 36, of Street, Md. and Berlin O. Wright Jr., 34, also of Street. All four were charged with tampering with a motor vehicle.

Virginia state police said they had received no reports of violence directed against truckers in their state and planned no special surveillance of trucking routes.

In Maryland all four shooting incidents were reported to have taken place during the early-morning hours in the northeast part of the state. No injuries were reported in any of the shootings.

An unidentified truck driver told police in Elkton that he was fired upon shortly after midnight by a group of men in a pickup truck along Route 40 near the Delaware border. Police declined to release the driver's name.

Police said five shots were fired into the cab of a driver for Herr's Potato Chip Company of Oxford, Pa., while the trucker was driving south at 7:40 a.m. on Route 272 in Calvert. Those shots were also reported to have come from a pickup truck.

A single shotgun blast was fired into the front of a truck driven by Edward Arthur Clark, 49, of Uxbridge, Mass., as Clark was heading north on Route 301 in Bowie at 1:30 a.m. State police said the shot apparently came from a wooded area near the road.

The driver of a tractor trailer told police that he was shot at several times while driving north on Interstate 95 shortly after 1 a.m. Police reported no damage to the truck.

Most of the stonings in Maryland were reported by drivers in the Cecil County area near the Delaware and Pennsylvania borders on either Interstate 95 or Route 40, both heavily traveled truck routes. Police said the driver of a truck stopped for a traffic light in Centreville on the Eastern Shore said he had been pelted by rocks from the occupants of a station wagon parked by the side of the road.

Police said several of the stonings and shootings were committed by the occupants of cars bearing Pennsylvania license plates.

Throughout the early-morning hours police played a cat-and-mouse game with dissident truckers they said they believed to be responsible for most of the violence.

Unmarked patrol cars from the state police automotive safety enforcement and truck weight units patrolled the most heavily used truck routes while three state police helicopters played lights on dark roadside areas and overpasses searching for rock throwers.

Shortly after 2 a.m. a trucker reported ramming a construction barrier that had been placed in the middle of Route 40 near Elkton. State police removed the barrier and 40 minutes later another trucker said he narrowly missed the barrier, which had been hauled out into the roadway again. Police blamed truckers for the incident.

Citizens band radio channels—which have become a primary communications medium for truckers in recent months—crackled throughout the night with reports of police sightings and warnings to stay off the road.

"We've got a well-organized shutdown now. The last one was just a dress rehearsal," said a female broadcaster who identified herself over the air only as "Pattycake."

While police have been seeking information on trucker movements by monitoring the broadcasts closely, truckers have in turn been monitoring police radio transmissions and patrol car movements. Troopers are referred to as "Smokey" on the trucker radio broadcasts because of their broad-brimmed "Smokey the Bear" type hats.

"Everyone is spying on everyone else to find out what the opposition is up to," said a trooper as he climbed out of his unmarked patrol car at 5 a.m. yesterday morning near Interstate 95.

A citizens' band radio nearby came to life only moments later. "Smokey's off the road and out of action," came an unidentified trucker voice. "Anyone who wants to can come on through."

SENATE JOINT RESOLUTION 185, TO ADVANCE THE EFFECTIVE DATE OF THE FINAL ORDER OF THE ICC IN DOCKET NO. MC 43 (SUB. NO. 2)

Mr. MAGNUSON. Mr. President, I introduce a joint resolution on behalf of myself and Senators MANSFIELD, HUGH SCOTT, COTTON, BEALL, DOLE, JAVITS, ROBERT C. BYRD, BAKER, and PASTORE, and I must report that the entire membership of the Commerce Committee unanimously approved it. Their names could be included but because this is an emergency matter, I have not put them down there. But I ask unanimous consent that the names of the members of the Committee on Commerce be added as cosponsors.

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

Mr. MAGNUSON. Mr. President, this joint resolution, reported by the Commerce Committee this morning, would permit the Interstate Commerce Commission to expedite action to relieve the impact of fuel price increases upon independent truck owner-operators.

In recent months, independent owner-operators who lease their equipment and services to regulated motor carriers have been plagued by enormous fuel price increases. These owner-operators currently have no standing before the Interstate Commerce Commission to petition for a rate increase. As the cost of diesel and gasoline has risen, the profits for many independent owner-operators have all but disappeared. As a result of this financial plight, slower speeds, truck stop tie-ups, and nonavailability of fuel, independent owner-operators have significantly curtailed truck service in at least 20 States. I understand that it is spreading to many other States. Such curtailment now threatens to cripple the economy of the Nation.

The ICC is the only Government agency that has taken any action to try to relieve the plight of the independent owner-operator. The Commission has established procedures for quick rate increases by common carriers to pass on fuel costs. However, few carriers took advantage of this surcharge procedure and the owner-operator received little benefit. As a result, the ICC recently announced a proposed rule which would require the common carrier to pay the owner-operator for the increase in fuel costs over the May 15, 1973, price.

I want to repeat that: The ICC recently announced a proposed rule which would require the common carrier to pay the owner-operator for the increase in fuel costs over the May 15, 1973, price. Comments on this proposed rule are due by February 20.

Under the Interstate Commerce Act the Commission cannot make the proposed rule effective until 30 days after final publication—that is, until March, 1974. This delay is unacceptable.

There are serious problems resulting from the independent trucker shutdown. Food shortages are occurring, schools are closing, and unemployment is skyrocketing.

The PRESIDING OFFICER. The time for legislative business has expired.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the time be extended in legislative session for 5 minutes.

Mr. JAVITS. The Senator may have 15 minutes.

Mr. MAGNUSON. All right.

Mr. JAVITS. And under the same conditions which have previously obtained.

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

Mr. MAGNUSON. This resolution would help end the shortage. The joint resolution directs the ICC to issue a final order as soon as possible in a pending proceeding; such order would be effective on or before February 15. It could be before February 15. The resolution does not go to the merits of the order, only to the procedural timetable. Upon issuance of the order, independent truckers would be entitled to be paid for their increased fuel costs by the common carrier. The common carrier would, in turn, be able to pass these cost increases on to the shipping public.

This resolution is supported by the administration. It is supported by several Members of this body, including my colleague, Senator JACKSON, the chairman of the Committee on Interior and Insular Affairs, and the chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH). The Senate should act now to help end the present trucker shutdown, and I urge my colleagues to act favorably upon it.

All members of the Committee on Commerce who were polled, including the distinguished Senator from New Hampshire (Mr. COTTON), who was at the executive session this morning, have agreed unanimously on this procedure.

I ask unanimous consent that the requirement that this resolution be accompanied by a written report be waived.

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

Mr. MAGNUSON. Immediate action on this resolution is necessary to alleviate one of the major causes of the truckers' strike and to indicate the ability and the willingness of Congress to act quickly and effectively in a time of crisis.

I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, I endorse most heartily everything that the chairman has stated. Action is necessary.

This resolution requires the ICC, which is an arm of Congress, to act upon a pending rulemaking proceeding to increase payments to truckers for added fuel costs. Second, in this instance, because it is a crisis, the resolution dispenses with the 30-day waiting period that would have to elapse before any final order could take effect.

It does not set a precedent. But this is an extraordinary situation, with very serious complications.

We do not pass on the merits of the ICC proceeding. Also, we are neither criticizing nor upholding some of the practices that have taken place. But the situation is desperate. I know that the Senator from Maryland and other Senators who were present when we discussed this matter—and the rest of the committee—are unanimous in asking not only that this resolution be passed but also that it be passed now.

Mr. BEALL. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. BEALL. I thank the distinguished chairman for yielding.

I thank and congratulate both the chairman and the ranking minority member of the Committee on Commerce for taking expeditious action on this resolution.

I have had some very interesting phone calls in the last day. Some have been pathetic calls from the western part of our State, where the effects of this crisis have been more immediately felt than perhaps elsewhere in the State. We now have a couple of counties in Maryland where the schools were closed because of lack of fuel, where people have not been able to get food at the food stores because the markets cannot get shipments from their warehouses in order to supply the stores.

As has been pointed out, this is the one instance, this is the one way, in which Congress can be of some assistance in this crisis; because by passing this bill today, we are helping the negotiators reach a solution in this matter that is equitable to all concerned. One of the bones of contention has been the fact that the truckers have not been able to pass on the increased fuel cost to their customers—that is, the common carrier who hires them to haul his goods. Certainly, this is not an equitable situation. They should be allowed to pass these costs on.

In passing this resolution, we will convince the truckers and the public that we are acting in a timely fashion, and the truckers will be able to get the kind of relief that is necessary, in a timely fashion, because the waiting period will be waived in this instance, and in this instance only. Therefore, the negotiators can proceed with their negotiations, knowing that this impediment has been removed by the passage of this resolution.

Mr. MAGNUSON. I would like to emphasize the point made by the Senator from New Hampshire: this is not a precedent. It is necessary only because we have this very serious situation.

Mr. BEALL. Yes, and because the situation is serious and the solution can be reached through implementation of this particular legislation.

Mr. GURNEY. Mr. President, will the Senator from Washington yield?

Mr. MAGNUSON. I yield.

Mr. GURNEY. Mr. President, I commend the distinguished Senator from Washington, chairman of the Committee on Commerce, and the ranking Republican member, the Senator from New Hampshire (Mr. COTTON) for taking this action.

Obviously, all States are seriously affected by this truckers' strike, but the State of Florida is affected more at this time than any other State. This is the time when we are moving our perishables to market, all of our citrus crops and our fresh fruits and vegetables. The State of Florida and its agricultural community are in a state of chaos at this moment. They do not know what to do: The growers, the producers, and the truckers cannot move their products to market.

I commend the Senator from Washington. I request that my name be added as a cosponsor of the measure.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that the name of the Senator from Florida be added as a cosponsor.

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

Mr. GURNEY. Mr. President, there has been one other point I wish to make. I realize this cannot be a part of the joint resolution.

There is another part of this strike that should be considered by Congress. I shall introduce a bill today. I wish it could be acted on as quickly as this measure was.

Under the independent fuel allocations, truckers carrying these perishables are not able to get a full 100 percent of their requirements. There is no way they can move these perishables to market unless they do. When I say a full 100 percent, I mean 100 percent now, and not last year or 110 percent of last year, but right at this moment.

I am going to introduce a bill. I hope it can be expedited. Either the Energy Office or Congress will have to take action to permit the independent truckers to have all the fuel requirements they need. If they do not, the perishables are going to rot and not reach the markets in places where they should.

I hope the Committee on Commerce through its chairman and the ranking Republican member will be able to help us out in this very trying situation, too.

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

Mr. MAGNUSON. Mr. President, this matter came up rather unexpectedly. I commend the majority leader because I am sure he spent, as I did, a weekend during which we heard from nearly everyone about this matter. The result is before the Senate now.

Mr. President, I ask unanimous consent to have added as cosponsors the names of my colleagues from Washington (Mr. JACKSON), the Senator from West Virginia (Mr. RANDOLPH), the chairman of the Public Works Committee, the Senator from Ohio (Mr. METZENBAUM), and the Senator from Alabama (Mr. ALLEN).

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

Mr. MAGNUSON. Mr. President, I am sure that other Senators if they were present in the Chamber would want to be added as cosponsors so that the measure would be practically unanimous.

Mr. President, I believe that action on this joint resolution will be one of the things that we are able to do here today that will show to the people that Congress is aware of the problem, that we can act quickly, and that we have done so here.

Mr. President, I move the adoption of the joint resolution.

The PRESIDING OFFICER. The joint resolution with its preamble will be stated for the information of the Senate.

The joint resolution, with its preamble, reads as follows:

S.J. RES. 185

Joint resolution to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2)

Whereas the Interstate Commerce Commission, through its proposed order issued January 30, 1974, in Docket No. MC 43 (Sub-No. 2), seeks to alleviate a serious and pressing transportation problem by requiring carriers to reimburse their owner-operators for all increases in the price of fuel over the base period May 15, 1973; and

Whereas section 221(b) of the Interstate Commerce Act, 49 U.S.C. 321(b) appears to preclude the Commission from making its final order in MC 43 (Sub-No. 2) effective in less than 30 days; and

Whereas the inability to effectuate the final order in MC 43 (Sub-No. 2) more promptly will cause substantial hardship to a significant portion of the motor carrier industry and the shipping public; and

Whereas there exists a National transportation crisis which presents a grave risk to the commerce and well-being of the nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commission shall issue a final order in MC 43 (Sub-No. 2) as soon as possible which shall become effective not later than February 15, 1974.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the joint resolution (S.J. Res. 185), was considered, ordered to be engrossed for a third reading, was read the third time, and passed.

The preamble was agreed to.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

EXECUTIVE SESSION—GENOCIDE CONVENTION

The PRESIDING OFFICER. Under the previous order, the Senate will now go into executive session for the purpose of considering Executive O, 81st Congress, 1st session, which will be stated.

The legislative clerk read as follows:

Ex. O (81st Con., 1st sess.), the International Convention on the Prevention and Punishment of the Crime of Genocide.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

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

RESUMPTION OF PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a resumption of the period for the transaction of routine morning business.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CHURCH. 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 10:30 a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for the transaction of routine morning business not to extend beyond the hour of 11 a.m., with statements limited therein to 5 minutes.

At the hour of 11 a.m., the Senate will go into executive session and will resume consideration of the Genocide Convention. At 11 a.m. the debate on the motion to invoke cloture will begin to run and an automatic quorum call will occur at the hour of 12 noon. Upon the establishment of a quorum, a mandatory yea-and-nay vote will occur at about 12:15 p.m. on the motion to invoke cloture.

What happens thereafter tomorrow afternoon will depend to some extent at least on the outcome of that cloture vote.

I should also say that it may be possible that the conference report on the National Emergency Energy Act could be called up if, in the meantime, the conferees have completed action thereon.

ADJOURNMENT TO 10:30 A.M.

Mr. GRIFFIN. Mr. President, if there be no further business to come before the Senate, with the authority of the distinguished majority whip, I move that the Senate stand in adjournment in accordance with the previous order until 10:30 a.m. tomorrow.

The motion was agreed to; and at 4:48 p.m. the Senate adjourned until tomorrow, Wednesday, February 6, 1974, at 10:30 a.m.

EXTENSIONS OF REMARKS

MOTHER JONES—BEFORE WL—WOMEN'S LIBERATION

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 5, 1974

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, no list of outstanding labor leaders is complete without the name of Mary "Mother" Jones, or, as she was called by the antiunion forces of the late 19th century, the "Chicago agitator."

"Mother" Jones entered the coalfields around Pittsburgh in the late 1890's and urged miners to protest their long hours and low pay.

Once the miners struck, she helped garner foodstuffs for their families and stiffen the resistance of the newly organized miners.

A recent article in the Pittsburgh Press Sunday magazine section tells the story of "Mother" Jones.

I would like to share that article with my colleagues:

MOTHER JONES—THE MINERS' STRIKING SPIRIT

(By Lois C. McLean)

Mary Jones stood on a speakers' platform at Turtle Creek and exhorted a crowd of 10,000 to fight for their rights.

Of medium height, hair tinged with gray and robust appearance, she spoke in a clear, distinct voice, calling the strikers "fellow slaves" and warning them against politicians who "hugged them closer than their wives" before election and then ignored them until the next time for voting. She derided the miners, telling them if they possessed true manhood, their wives and children would not be wearing rags.

The time was not 1974, but 1897, and Mrs. Mary Jones—"the Chicago agitator"—was taking on the Pittsburgh district coal miners' cause as her own. In the process, she became nationally known as "Mother Jones, the friend of the miners."

PROBLEM OF FOOD

When 20,000 Pittsburgh area miners went on strike against a 10-12-hour day in which they dug coal at the rate of about 50 cents a ton, the immediate problem was how to provide food and supplies for them and their families.

Mother Jones approached farmers in the region and asked them to share their produce. She escorted them and their loaded-down wagons in a parade to "Camp Determination," strikers' headquarters near Turtle Creek, where the food was distributed.

Neighborhood women were invited to a "pound party" and asked to bring a pound of food or other supplies. Factory workers were invited by Mother Jones to come to camp meetings and donate to the cause.

DAILY SPEECHES

Working with strike leaders, she made almost daily speeches, encouraging the miners to keep up the fight. She visited their wives, and invited them to special meetings where she convinced them of their responsibility to back their husbands. She even enlisted their children to gain sympathy for the strike. One parade was led by a group of 50 little girls carrying homemade banners—one read, "Our Papas Aren't Scared."

The dramatic highlight of another rally came when Mother Jones crowned a young crippled girl with a wreath of daisies and proclaimed her the "Joan of Arc of the strikers."

Through marches, meetings and personal contacts, Mother Jones was able to arouse and maintain in the miners an enthusiasm and determination to win. To their dull, harsh lives, she brought excitement, action and purpose.

Finally, in January, 1898, agreement was reached by coal operators and union representatives, establishing uniform wages and price scales, an eight-hour workday and the Central Competitive Field covering Western Pennsylvania, Ohio, Indiana and Illinois.

Mother Jones went on to further identify herself with miners by appearing in camps throughout the nation and some in Canada and Mexico. She was known as "the angel of the miners" until her death in 1930.

At her request she was buried with "her boys" in the Union Miners' Cemetery at Mount Olive, Ill. In 1972, the cemetery was declared a national historic site.

From the National Labor Tribune, Aug. 26, 1897: "Of the subjects that have been discussed, the 'new woman' has received more severe raps than any that have been discussed in newspapers for many a day. While we do not approve of the 'new woman' that makes a show of herself cycling up and down the principal thoroughfares of a city in bloomers, we do approve of the 'new women' in affairs in which they, more than anyone else, are directly interested. The latest in this line are women as labor agitators . . . but the woman that we wish to speak of in this article is Mrs. Mary Jones of Chicago. She has done more missionary work for miners of the Pittsburgh district than any two of the officials and done it better. She seems to have the gift of talking in that forcible manner that interests you the moment she enters into a conversation with you. To her, more than any one else, the miners owe much of their success in this unpleasantness. She has 'roughed' it in this district for the last four weeks, and in all kinds of weather she is ready to take the field and use her persuasive powers on the men. Too much credit cannot be given to this 'new woman,' and her name will go down in history as one of the martyrs to the cause of humanity."