

By Mr. RANDALL:

H. Res. 851. 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. REGULA:

H. Res. 852. A resolution disapproving the recommendation 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. SPENCE:

H. Res. 853. A 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. SYMMS:

H. Res. 854. A 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. THOMPSON of New Jersey:

H. Res. 855. A resolution to provide funds for further expenses of the investigations and studies authorized by House Resolution 175; to the Committee on House Administration.

By Mr. YATES (for himself, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. MOSS, Mrs. CHISHOLM, and Mr. TIERNAN):

H. Res. 856. A resolution providing for television and radio coverage of proceedings in the Chamber of the House of Representatives on any resolution to impeach the President of the United States; to the Committee on Rules.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BROYHILL of Virginia:

H.R. 12764. A bill for the relief of Howard L. Rathman; to the Committee on the Judiciary.

By Mr. BUTLER:

H.R. 12765. A bill for the relief of Robert Alexander; to the Committee on the Judiciary.

By Mr. GINN:

H.R. 12766. A bill for the relief of Bak Hon Woo; to the Committee on the Judiciary.

By Mr. HARRINGTON:

H.R. 12767. A bill for the relief of Adrian Bejan; to the Committee on the Judiciary.

By Mr. McCLODY:

H.R. 12768. A bill for the relief of Bruna Molinari Balocchi; to the Committee on the Judiciary.

By Mr. ROY:

H.R. 12769. A bill for the relief of Ms. Ziba Azar; to the Committee on the Judiciary.

SENATE—Thursday, February 7, 1974

The Senate met at 10 a.m. and was called to order by Hon. WALTER D. HUDBLESTON, a Senator from the State of Kentucky.

PRAYER

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

Show me Thy ways, O Lord; teach me Thy paths. Lead me in Thy truth and teach me: for Thou art the God of my salvation; on Thee do I wait all the day.—Psalms 25: 4-5.

Let the words of my mouth, and the meditation of my heart, be acceptable in Thy sight, O Lord, my strength, and my redeemer.—Psalms 19: 14.

As our fathers found wisdom and courage by their faith in Thee, so will Thou help us, O Lord, to create such programs, proclaim such policies, and inspire such efforts as will lead this Nation through the anxieties of these troubled times to a new and better day of justice and peace for all mankind.

We pray in the name of the Lord of Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., February 7, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDBLESTON, a Senator from the State of Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

REPORT OF A COMMITTEE SUBMITTED DURING ADJOURNMENT—CONFERENCE REPORT (S. REPT. NO. 93-681)

Under authority of the order of the Senate of February 6, 1974, Mr. JACKSON, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, on February 6, 1974, submitted a report thereon, which was printed.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Wednesday, February 6, 1974, be dispensed with.

The ACTING PRESIDENT pro tempore. 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 provisions of title 46, United States Code, section 1126c, the Speaker had appointed Mr. WOLFF and Mr. WYDLER, as members of the Board of Visitors to the U.S. Merchant Marine Academy, on the part of the House.

The message also informed the Senate that, pursuant to the provisions of title 14 United States Code section 194(a), the Speaker had appointed Mr. TIERNAN and Mr. STEELE as members of the Board of Visitors to the U.S. Coast Guard Academy, on the part of the House.

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.

SENATOR MANSFIELD'S INTERVIEW ON THE STATE OF THE CONGRESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that a speech which I made on Friday evening, February 1, on the state of the Congress, along with the interrogation conducted by six reporters and the analyses and commentary by CBS at the end of the interview, be printed in the RECORD.

I would like to say that I also afforded, ABC, NBC, and PBS, all of which carried the statement, the opportunity to furnish the transcription of any analyses which they might have made. However, none of these networks have furnished a transcription of their summary or analysis. It is for this reason that only one summary or analysis is included.

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

STATE OF THE CONGRESS—1974

Wednesday evening President Nixon addressed a joint session of Congress, through the medium of radio and television, he also spoke directly to the nation. His State of the Union Address was welcomed by the Congress. It will receive full and cooperative consideration. Whatever the legal difficulties which confront the Administration, the regular business of the nation must come first. The President put it first. Insofar as the Congress is concerned, it will be first.

Tonight, I offer an assessment of where the nation stands and what lies ahead as we see it in the Legislative Branch. The President, alone, speaks for the Executive Branch. One Senator cannot speak for the 100 Members of the Senate. Nor will all 435 women and men in the House of Representatives agree with everything that I have to say. Nevertheless, my remarks are indicative of the pre-

valling views of the Democratic Majority as reflected in the Leadership of the Congress.

In some respects, of course, these views are on the same wave length as the President's, as for example, when he spoke on Wednesday of his desire to protect the personal liberties of Americans. In others, they differ. It can be no other way. We are a government of separate branches. Our politics remain cast in two major parties.

Twelve months ago the 93d Congress convened after a sweeping victory for a Republican President in the 1972 election. From that same election, however, there also came an increase in the Democratic Majority in the Senate and a continuing Democratic Majority in the House of Representatives. There were those who chose to note the first event but to ignore the second. The facts of the election, nevertheless, were clear. There had been not one but two basic decisions. The people had continued the President in office. At the same time, they had rejected government by one party and government by one branch. And, may I add, subsequent events have underscored the wisdom of this duality of choice.

The Congressional Majority accepted the President's electoral mandate. At the same time, we concluded that there was also a mandate to the Legislative Branch. Therefore, we moved promptly to reinforce the nation's system of checks and balances against an accumulation of power in the Executive Branch. This accumulation did not begin in the present Administration. It had been going on, administration after administration, Democratic and Republican, for decades. Nevertheless, there were, at the outset of the 93d Congress the following evidences of an ominous shift to one-branch government:

- (1) Excessive Executive curtailment of public information in the name of national security;
- (2) Arbitrary Executive impoundment of appropriated funds;
- (3) Unwarranted Executive attacks on the national press;
- (4) Executive pre-emption of sole authority over the Federal budget;
- (5) Multiplying expressions of Executive contempt for Congress and, by extension, for the people who elect the Congress;
- (6) Executive usurpation of sole control over changes in the basic organizational structure of the government; and,
- (7) Illegal invasions of personal privacy by Executive agents.

To the Congress, these were flashpoints of a danger to freedom and we were determined to act on them. In my judgment, we did what we set out to do. The erosion of the system of checks and balances was halted. A greater Congressional impact began to be registered on all of the basic decisions of the Federal government.

A year ago, for example, this nation's principal concern was to get out of Viet Nam. That was a goal set not in 1973 or 1972 by this Administration. It was set by its predecessor in the distant past. It was a goal reiterated year after year for a half-dozen years. For even more years, Members of Congress had spoken out against the involvement.

But at the beginning of the 93d Congress, we were still in Viet Nam. Americans were still dying in Indochina. The urgency, therefore, was to translate pious words into action that would restore fully the nation's peace. In 1973 that was done. An effective settlement was negotiated with the North Vietnamese by Dr. Henry Kissinger, the present Secretary of State. The final withdrawal of our military forces was achieved under what became an absolute legal insistence by the Congress. Thereafter, the gate to re-involvement anywhere in Indochina was shut tight by legislation.

The bitter and tragic experience of Viet Nam led us, moreover, to act against a repetition elsewhere. Now, any military intrusion into another nation—and, hopefully, we have seen the last—is conditioned on the expressed consent of Congress as prescribed in the War Powers Act. Hereafter, what this nation may find necessary to do abroad in a military sense is a question that must be openly considered. It must be decided not alone by the President. It must be decided by the President together with the men and women in the Congress who answer directly to the people. That is a basic Constitutional concept. That is an essential concept for the continued existence of freedom in this nation.

The past year also witnessed major contributions from the Congress over a range of domestic questions. New farm legislation was passed calling for the removal of all limitations on the production of food. Hopefully, this legislation will undo some of the damage done by subsidized sales of grains abroad at bargain-basement prices.

Last year, we sold millions of tons of grain to the Soviet Union. This year, the Soviet Union is offering to sell some of it back to us—at almost three times the price. Who pays for this sort of flim-flam? The people of the nation pay for it in the skyrocketing costs of all foodstuffs.

In the last session, Congress acted twice on its own initiative to try to keep Social Security benefits in line with rising prices. The way was also cleared for building the Alaska pipeline. New emphasis was given to urban mass transportation. Measures were adopted to encourage emergency medical services and health maintenance systems throughout the nation. Legislation of significance to veterans became law after a Presidential veto. To be sure, the achievements were not earth-shaking. Nevertheless, they represented a sustained and sober effort on the part of Republicans and Democrats alike. They were the work of one session of a two session Congress. During the current year, it is my expectation that we will move to consider these additional major measures:

An effective National health insurance system which covers all Americans;

An expansion of Housing assistance so that those of limited means will once again be able to pay for a home;

Reform of private pension systems which will recognize that millions of Americans move from place to place and from job to job and that the accumulation of private retirement credit, in effect, should do the same;

A fair minimum wage that underwrites a modest standard of living in the face of an explosive inflation;

A system of no-fault automobile insurance;

An increase of Congressional control over the budget, to the end that the President's more than \$300 billion in spending requests will be reduced;

A renewed commitment to excellence in education after years of administrative indifference.

There will be time to try, too, to bring about more equity in the tax structure. The system now favors, too much, those who have more, over those who have less. It favors, too much, income from substantial wealth already accumulated as against income derived from pay-check to pay-check and from personal savings that are small or almost non-existent.

That is the way the legislative program for the coming session is beginning to take shape. It is the first order of business. It will be pursued deliberately.

At this point, I wish to speak with the utmost candor on the Congress and Watergate and the related questions of impeachment and resignation. I raise these matters reluctantly. Nevertheless, they must be raised

because they have been widely discussed by the public and, on Wednesday, reference was made to them by the President. The question of a Presidential resignation, as in the case of a Vice-Presidential resignation, is not one for the Congress. The President has stated his intentions bluntly in that regard. Insofar as the Congress is concerned, that closes the matter of resignation.

Impeachment is a responsibility of the Congress. The question is now before the House of Representatives where it belongs at this time under the Constitution. It is being handled properly and deliberately. On the basis of available information, I would anticipate that it will be dealt with fully in this session.

What has been done by the Senate Watergate Committee is also within the Constitutional responsibility of the Congress. That work, too, I would anticipate, will be completed during this session in legislative recommendations.

The question of impeachment and the matters of the Watergate hearings create onerous responsibilities for the Congress. They are also inescapable responsibilities. They have had to be assumed in order to cleanse the political processes of the nation. The members of the Congressional Committees which are pursuing them—members of both parties—deserve every support in these endeavors.

As for the crimes of Watergate—and there were crimes—they cannot be put to rest by Congress. Nor can any words of the President's or from me mitigate them. The disposition of crimes is a function of the Justice Department and the Courts. Insofar as I can see, Mr. Leon Jaworski, the special prosecutor, is doing his job and so, too, are the courts. There the matter must rest for however long may be necessary. Whether it is months or years, there are no judicial shortcuts.

Looking ahead, in ten months the Senate and the House of Representatives will face the people in an election. That event will test the record of the past two years. More important, it will be an affirmation of freedom at a critical moment in our history. The transitory political lives of elected officials are not what will matter most in November. It is the political life of the nation that is involved most deeply.

To excise Watergate and what it implies before it becomes fatal to liberty is a fundamental responsibility of this government. The people have a right to an electoral system free of shenanigans, capable of yielding honest, responsible and responsive government, open to all, and shaped to meet the needs of all.

The people of this nation, in their overwhelming number, do not want government by the whim or the will of the most powerful and influential. That is the nub of the problem. It is incumbent on us to foreclose an excessive intrusion of great wealth, whether corporate, labor, personal or whatever, into the electoral process. That is a solemn and urgent obligation.

We have taken steps in law in the direction of fulfilling that obligation. Citizens, for example, can now indicate on the front page of their income-tax returns whether or not they wish a dollar of their taxes to go to defray election costs at no additional cost to themselves. These funds will be impartially divided to finance future political campaigns. Certainly, I would urge all Americans to use this income tax device to register their concern for the integrity of free elections.

In my judgment, we shall not come finally to grips with the problem except as we are prepared to pay for the public business of elections with public funds. We are moving in that direction, as I have already indicated, with the income tax earmark. There are other measures under consideration in Congress

which will accelerate the process. I would hope and expect that the President will join with the Congressional leadership in supporting these efforts to clean up the campaign-financing mess. If it was in 1972 that Watergate arose, and in 1973 that it was investigated, may it be said that it was in 1974 that the matter was finally ended in a new system of open elections openly paid for. I urge the support of the people of the nation in that resolve.

What Watergate did to public confidence with regard to the nation's politics, the energy crisis has done in the realm of the nation's economy. Grave uncertainties have arisen. It is not merely a question of long lines at the filling stations, and slower speeds on the highways. The implications of the shortage are seen to extend far beyond the gas tank into every aspect of our society. Today, the petroleum situation threatens the jobs, the business and even the basic maintenance of the homes of millions of Americans. We have become aware, suddenly, of an abject dependency on decisions made by governments five thousand miles away and by a handful of executives in petroleum companies scattered around the world.

To be sure, oil shortages had been forecast for years. But, the message was either not received or ignored. The use of ever-increasing amounts of energy and, in particular, of petroleum-derived energy was stimulated in this nation as basic to prosperity. Now, we have shifted gears. The watchword has changed from consumption to curtailment. The people of the nation have been quick to recognize the need. They have displayed, over all, a remarkable degree of self-discipline in meeting the problem. And that has been the single most important element in preventing a national catastrophe.

The recent agreement between Egypt and Israel will also be of significance in this connection. The President and Secretary of State Kissinger have acted with notable astuteness on the interplay of the Middle East conflict and other aspects of the international situation and the energy question. While I am on this subject, I would like to commend the peripatetic Mr. Kissinger. His achievements extend far beyond the Middle East as, for example, in the improvement of relationships with China and the Soviet Union.

In the year ahead, I would hope that the President and the Secretary of State will turn to such questions as the reduction—not just the limitation—but the reduction of arms on a mutual basis. Hopefully, this wasteful financial burden and the drain on the resources of the nation which it entails may be reduced, and military spending can be cut, not increased, as the President has already requested in his State of the Union message.

There is also the need for a new look, south, at our relations with a Latin America that is changing rapidly. It may well be that in the excellent ties which we have maintained with Mexico—ties in which regular meetings of the Congresses of the two countries play a major role—there will be found a prototype for a new cooperation with the other American republics.

Under the stress of the energy shortage and other economic difficulties, there is the danger of a crumbling of international cooperation, notably, as it involves our relations with Western Europe and Japan. That, indeed, would be the final straw. The consequences of devil-take-the-hindmost economic policies among free nations would be disastrous to all concerned and might well initiate the general erosion of world peace. In that connection, the President is to be commended for convening a meeting this month to consider our common plight with the representatives of several European nations and Japan.

As for the energy crisis at home, the immediate responsibility of government is to make certain that the shortage does not devastate the economy and that the price of past neglect is borne equitably by all Americans. If that means rationing, then let us not hesitate to use this device. Surely a price roll back will also be considered by the Congress. Surely the tax benefits accorded the major oil concerns on investments outside the United States by this Government, as well as excessive oil profits, will be scrutinized by the Congress.

Critical information on the production and distribution of energy must no longer be cloistered in the executive offices of private corporations. It is essential that the facts be uncovered and laid before the nation. Wherever they may operate, if corporations are chartered in this country or receive the benefits and protection extended by the government of the United States, they have an obligation to answer, through the Congress, to the people of the United States.

Let me say that we do not need scapegoats in this situation. But we must have a foundation of fact on which to build a national policy on energy. We have got to know far more than we know now if we are to meet the threat to the nation's well-being. I speak of the threat of widespread business shutdowns, transportation paralysis and a run-away inflation which can only culminate in a severe recession with extensive unemployment and appalling human hardship. That, the people of this nation will not tolerate. That, the Congress of the United States will do all in its power to prevent.

The energy crisis has shocked this nation. In so doing, it has also shown us in a sudden flash the precarious manner in which our national economic life has come to be organized. It is all well and good to be concerned at this time with the exhaustibility of petroleum. But what of the exhaustibility of pure air and water? What of bauxite, nickel, tin, iron and copper, and many other materials? Where will the supplies of these and other essentials come from in the years ahead? Indeed, what of food, with the kind of disjointed policies in which exports of wheat are stimulated one year only to compel high-priced imports the next?

To say that we have been extravagant with our resources is to put it mildly. We spend nearly \$3 billion a year on air-conditioning and less than \$150 million on air pollution control. We throw away 60 billion beverage containers a year, yet spend only \$5 million to research recycling techniques. Pollution is building dead seas off the coast of New York, New Jersey, the Great Lakes states and elsewhere. Yet, during the recent recess the President chose to impound \$3 billion that had been appropriated for the treatment of waste.

It would be my hope that the concern of the Government will not stop with the energy shortage. The need is to take a careful look not only at the flashing of this single danger signal but at the whole integrated switchboard of our national existence. It is not enough, for example, for the federal government to spend tens of millions of dollars in a rescue operation to keep the bankrupt Penn Central on the tracks. We need to know where an action of this kind fits into a national rail policy; where that policy, in turn, fits into a total transportation pattern; where that pattern, in turn, fits into the over-all requirements of the nation, today, and for the next decade or more. In short, we need to think ahead and begin to make the hard political choices between what is more important to the nation and what is less, between what is enduring and what is transitory. That is the full scale by which government intervention in the nation's economy, when it must take place, should be measured. Unless we begin soon to de-

velop that scale, the right hand of government will tend more and more to undo or do over what the left hand has just done.

It seems to me that it would be helpful in this connection to bring together on a regular basis representatives of the Executive Branch and the Legislative Branch with those of industry, labor and other areas of our national life. The fusion of ideas and interests from these sources should help us to establish useful economic yardsticks. In turn, we may begin to curb in some orderly way the ingrained tendencies of government to spend vast sums out of force of habit or for exotic and wasteful endeavors—whether military or civilian. Perhaps the resources of the federal government can then be used more effectively and efficiently to promote the national welfare. Perhaps, then, the President's budget—which has now broken the \$300 billion barrier—can be reduced and better framed to meet the over-all requirements of the nation for today and tomorrow.

There is a great deal that is right in this nation. There is a strong, decent, industrious and compassionate people. There is a bountiful land. There is intelligence, inventiveness and vitality. If, working together, today, we will put these attributes to use for the benefit of all, there need be no fear for the nation's tomorrow. That is the responsibility of this government. It is the responsibility of the President, the elected members of Congress, the appointed officials of government and the civil service. Nor is it a responsibility confined to the now. We owe this nation more than a decent present. We owe this nation leadership in the reach for a decent future. In 1974 this Congress—your Congress—will do its part fully in meeting that responsibility.

Senator MANSFIELD. . . . That concludes my statement. The radio and TV broadcasters who offered the Congress the opportunity to reply to President Nixon's State of the Union each have been afforded the opportunity to have one of their correspondents come here this evening and question me on this Congressional view of the State of the Union, or on any other matters of their choosing. Ladies and gentlemen, do you have any questions?

QUESTION. Yes, Senator. You said that you anticipated that the Watergate Committee would complete its work and make legislative recommendations during this session of Congress. Do you foresee the Committee meeting the February 28 deadline for that report, or do you expect in view of new developments they may continue beyond that?

Senator MANSFIELD. I think it's possible at this time. Yesterday, I understand, Mr. Leon Jaworski met with the chairman and the vice chairman of the Watergate Committee, and asked them not to release their findings on February 28, which under the statute would mark the end of their term. However, if there is any further pertinent information which is forthcoming, which would be of value to the Congress and to the courts and to Mr. Jaworski, I would anticipate that that committee would be continued.

QUESTION. And that the Senate committee would continue its investigation rather than turning its investigation over to the House Judiciary Committee, which is considering impeachment?

Senator MANSFIELD. I think that what the Senate Committee finds out should be turned over to the House Judiciary Committee, because it is the one with the most important and pressing matters at this time.

QUESTION. Senator, the President said that one year of Watergate is enough. He implied that the investigation should be turned off, and we should turn our attention to other matters. Do you think he was right in that, in recommending it?

Senator MANSFIELD. Oh, we have not fore-

closed our attention to other matters. I think the Congress has acted responsibly and constructively. The Watergate Committee is a creature of the Senate; it was voted into existence unanimously by the Senate. As long as it has a job to do, it must do it, because it has responsibility which has been delegated to it.

QUESTION. Do you feel, Senator, that Watergate and the threat of impeachment have seriously crippled the President's ability to govern the country?

Senator MANSFIELD. I do not.

QUESTION. Do you feel that Democrats, during this critical period that is has extended now over this past year, should step into anything that might resemble a power vacuum, should do more to assert themselves and present their own program to govern the country?

Senator MANSFIELD. Not necessarily, although we've done that in part, because under the Constitution there is equality between the executive and the legislative branches. We don't want to take away any of the powers of the presidency; we're not against a strong president, but we want to restore some powers which we gave to presidents for the past 40 years, both Democratic and Republican, either voluntarily, involuntarily or unknowingly. The fault is ours for giving it away; it is up to us to get it back.

QUESTION. Senator, the proposal's been made in the House that the Judiciary Committee hearings be televised. Would you favor televising those hearings, and then later, if there are impeachment proceedings in both the House and the Senate, would you—

Senator MANSFIELD. If I were a member of the House, I would be in favor of it. I'm not a member of the House, so I'll withhold judgment.

QUESTION. If the proceedings get to the Senate, would you be in favor of televising the impeachment proceedings?

Senator MANSFIELD. I would.

QUESTION. Along that line, Senator, since the House Judiciary Committee is moving toward a decision in its impeachment inquiry, what preparations are the senators—senate leadership—making at this point in the event of an impeachment trial?

Senator MANSFIELD. We are watching with great interest what happens in the House, but we have not undertaken any studies under the law or precedents up to this time.

QUESTION. Do you think senators who have spoken out in favor of impeachment should disqualify themselves if this came up in the Senate?

Senator MANSFIELD. I would never comment on any action taken by another senator.

QUESTION. Senator, there does seem to be some discrepancy where on page nine you say that you think that impeachment will be dealt with fully in this session of Congress, and then, although you do mention Leon Jaworski, you say that the matter may go on for how long—for however long as is necessary, whether it be months or years—there are no judicial shortcuts. Well, what is it to be, then? Is Watergate to be finally resolved in this session of Congress, or is the whole thing going to go on for years?

Senator MANSFIELD. Well, when the Watergate Committee concludes its tenure, it will make legislative recommendations to the Senate first because it is a Senate committee. It will also turn over what evidence it has and make its recommendations to Mr. Jaworski, because this matter—the President's right when he says it should be taken to the courts, and it will—will end in the courts. This matter is going to go there, because Jaworski is carrying on an investigation of his own; what he's doing is bringing his evidence before the grand jury, and out of it has come some indictments already, and according to Mr. Jaworski, there will come others.

QUESTION. On the matter of impeachment, if I could follow up on that—the matter of impeachment, you say you would anticipate it will be dealt with fully in this session of Congress—

Senator MANSFIELD. That's right.

QUESTION. This is—there are only a matter of months left, so you think that the Senate—both the House and the Senate will finally act on this one way or another?

Senator MANSFIELD. Yes, that's my impression, and as far as the courts are concerned, you can't shortcut them. They're going to have to move deliberately, and that could take years.

QUESTION. You say, Senator, that the question of resignation is closed because the President has said that he will not resign. When you say that, are you speaking for such Democratic leaders as Tip O'Neill and Wilbur Mills, who have said the President should resign?

Senator MANSFIELD. Basically, I'm speaking for myself, but I think I'm speaking for the majority of the leadership.

QUESTION. How can you say that the question is closed when other leading Democrats are calling for resignation?

Senator MANSFIELD. Well, the question is closed because the decision can be made by the President—the President only.

QUESTION. Senator, but Spiro Agnew said repeatedly that he was not going to resign and then he did. Now, we have the President doing the same thing. How can we believe the President any more than we could believe the Vice President?

Senator MANSFIELD. Well, Agnew did resign.

QUESTION. Senator, do you see any point at which the President, in your opinion, might—should—seriously consider resignation?

Senator MANSFIELD. No, that's a question for him to decide.

QUESTION. Senator, did I understand you correctly that you thought the impeachment matter would be dealt with by this session of Congress, in both houses?

Senator MANSFIELD. No, I—I mean—yes, I'll say both houses, but I was thinking primarily of the House of Representatives. If it takes too long there, of course, it could go beyond this year over here. We haven't reached that point.

QUESTION. Senator Mansfield, I'd like to turn to another part of your statement tonight, and that is the problem of energy in this country. Today, the Labor Department announced that the unemployment rate had increased from 4.9 percent to 5.2 percent, meaning another 368,000 people—

Senator MANSFIELD. That's right.

QUESTION.—were unemployed last month. A large part of those—or part of those were due to the energy crisis. We have truck drivers stoning each other in Pennsylvania and truck drivers shooting at each other in Ohio. Senator Jackson says we could face the prospects of riots in this country. In your statement, you suggest that we start now to have meetings on a regular basis with representatives of the executive branch, the legislative branch, those of industry, labor and other areas of our national life. Aren't we a little late for that? Doesn't this deserve something a little more important and stringent? Doesn't this deserve perhaps a declaration of national emergency now?

Senator MANSFIELD. Not yet. We are a little late, but if you'll recall what I said, we ought to do it now, but do it—not only to face up to present day problems, but problems to come up in the future, because the energy problem is the precursor, the forerunner of other difficulties of a similar nature which will occur. There are these elements of outlawry, the way some truckers are acting; I think they have a beef about the price of gasoline, just as the rest of us have, but I do not think they have a beef about the speed limit, because I think that

we all should be treated the same. I would hope that the appropriate committees under Senator Magnuson in Commerce and Senator Jackson in Government Operations and Interior would look into this to see what they could do, in conjunction, in partnership with Mr. Simon, Mr. Sawhill and others.

QUESTION. Could I suggest here another question, along the lines you just mentioned, with the committees. I think you mentioned three committees that will deal with this problem, with the problem of energy. Isn't there some thought about reorganizing Congress, so that there could be one major committee that could tackle this serious problem so it wouldn't have to go through three committees?

Senator MANSFIELD. As a matter of fact, at the Democratic Conference a week ago Thursday, I did appoint a committee under the chairmanship of Senator Inouye to look into that question, and I anticipate that they will come up at a meeting to be held this coming week by the Democrats in the Senate, with a possible solution.

QUESTION. Senator, how are you going to get any of these things done when you have a crisis of confidence in the government? You've laid out quite an interesting program tonight; the President laid out his program on Wednesday night, and yet people really don't have any faith that their government can really act and move. Now, how are you going to restore that confidence?

Senator MANSFIELD. By acting and moving. There is that cynicism, that pessimism, that questioning, and we just can't help it. I certainly don't blame the people for feeling that way, but as I tried to indicate, we're going to continue to act constructively and responsibly to carry out the duties which are ours under the Constitution, and hopefully, by what we do up here, at least, will restore some degree of that confidence which has been lacking.

QUESTION. Senator, I think we might also ask, how are you going to get any of these things done when you have so many Democrats going off in so many different ways? I think in many eyes, the greatest failure of this Democratic controlled Congress has been its failure to get together on constructive alternative programs.

Senator MANSFIELD. No, I would disagree with you completely, because our strength lies in our diversity, and it's remarkable how the Democrats, in spite of their differences, can come up and put through and pass sound, constructive legislation.

QUESTION. It's better to be divisive than to have a Democratic-backed program on the energy crisis or inflation or unemployment or any of these other programs?

Senator MANSFIELD. Oh, we don't want a bunch of yes men in the Democratic Party. We want diversity of opinion, because out of that, I think, comes our strength.

QUESTION. Senator, you say also you want to solve the energy problem.

Senator MANSFIELD. That's right.

QUESTION. By my count, there are now 16 House or Senate Committees studying it, and you say that you're going to create a committee to consider creation of another committee.

Senator MANSFIELD. No, no, no, that won't be the solution—

QUESTION. You said you have a panel on the policy council—

Senator MANSFIELD. That's right, but we'll get some way to bring people from these committees together so that there won't be this constant overlapping.

QUESTION. How long is it going to take, though, Senator?

Senator MANSFIELD. Not too long.

QUESTION. Will the crisis be over?

Senator MANSFIELD. No, this crisis won't be over. There'll be others coming along, and I think it's a good procedure to follow.

QUESTION. Senator, President Nixon says that America can be self-sufficient in energy by 1980. Do you agree that we can be independent in six years?

Senator MANSFIELD. It's possible, but it will be nip and tuck. If you take into consideration the undeveloped reserves in the Alaskan area; if you consider our offshore deposits, and if you will recognize the possibility that some of our companies, instead of going abroad where the easy oil is, might spend more of their time and energies in this country developing what we have. It would be nip and tuck.

QUESTION. Senator, in the State of the Union the other night, the President made as one of his goals—mentioned that he would like a historic beginning on the task of defining and protecting the right of personal privacy, and this evening you talked about illegal invasions of personal privacy by executive agents. What is going to be done about the bugging and the tapping and so forth that's been going on?

Senator MANSFIELD. Well, I think that out of the Watergate hearings, out of what Mr. Jaworski does will come recommendations which will be considered by the appropriate committees, either in the form of bills, or as amendments to bills to which they are germane.

QUESTION. Along those lines, one of your Senate committees, an ad hoc committee on secrecy or some such name, last October came up with the name of a new security or intelligence agency called the National Reconnaissance Office. Do you know what that is, or what they do? Have you been able to find out?

Senator MANSFIELD. No, I'm a member of that committee; we're looking into it and we're going to find out.

QUESTION. Do you know how much money they're getting?

Senator MANSFIELD. Not yet.

QUESTION. Senator, you say in your speech tonight that the price of the fuel crisis should be borne equitably by all Americans, and yet you stop short of calling for rationing. Does that mean you—

Senator MANSFIELD. I didn't stop short. I said if it's necessary, let's do it.

QUESTION. If it—well, I would—that doesn't go quite all the way. Are you saying—are you calling for rationing tonight?

Senator MANSFIELD. I've called for rationing for the past two months, because I think the American people ought to be considered on an equitable basis—

QUESTION. You're saying it is necessary and the President should go to rationing immediately?

Senator MANSFIELD. That's right, and I'm saying that if he thinks it's necessary, he ought to act upon it.

QUESTION. You think it is necessary?

Senator MANSFIELD. I do.

QUESTION. Senator, let's—

Senator MANSFIELD. Do you like standing in line, buying \$2 worth of gasoline? Do you like paying 50, 55 cents a gallon for gas? Just today one oil company increased the price 5.4 cents per gallon. Others followed suit. One company, Texaco, I think, did not.

QUESTION. Given that situation, Senator, why doesn't Congress act on the Emergency Energy Bill? Why didn't it pass it? Why doesn't, instead of giving the President authority for gas rationing, why doesn't it just order it?

Senator MANSFIELD. Well, I think the President has the authority under the Emergency Defense Production Act of 1950. Perhaps he's loathe to use it as he was about the wages and price powers, which he had, which have been given to him by the Congress. That was not the drawback as far as the Emergency Energy Act was concerned. The drawback there was the question of excess profits.

QUESTION. Senator, the President, in his speech said that there would be no recession, and yet, many signs point toward just such a thing happening because of the energy crisis.

Senator MANSFIELD. Yes.

QUESTION. Now, if there is a possibility of getting windfall taxes or some such thing from the oil companies, would there be any thought given to easing personal income taxes, particularly in low income groups, to head off a recession?

Senator MANSFIELD. I think that's one way to face up to part of the problem. It's been advocated by Dr. Walter Heller, as you perhaps know. I'm not certain that excess profits is the answer, because it's going to be a difficult operation to undertake. I would vote for it, incidentally, but perhaps the answer is a rollback in prices. In that way, I think the American people would all be given the consideration which is their due, the truckers would be given the same kind of consideration. Those are factors which are under consideration.

QUESTION. Senator, you talked about the campaign financing. I think we ought to touch on that—that was one of your major projects tonight. How are you going to get incumbent Senators and Congressmen to vote a bill which is going to give equal opportunity to their challengers? This seems to be the crunch that you get every time you bring this up.

Senator MANSFIELD. Well, we ought to, Miss Lewis, because after all, the incumbents have all the advantages, and I don't know how we can equalize it. This might help in some way, but you just can't gainsay the fact, no matter what we do, we still have the upper hand, and what we ought to do is to try to equalize the procedure so that new faces, new people can have a fair shake.

QUESTION. But being honest about the political realities, how are you going to get people who want to hang onto their seats to vote that kind of legislation?

Senator MANSFIELD. Well, we have in the Senate, you may recall that in the first session last year, four or five months ago, we did pass a good finance bill, which is in the House, and I think action is anticipated there sometime this month.

QUESTION. But Senator, it has been held up for several months in the House by a Democratic chairman, and the public financing bill that you were talking about in the Senate was filibustered to death, an amendment that would provide public financing was filibustered to death by—in a filibuster led by a Democrat just before Christmas.

Senator MANSFIELD. Well, we have those things happening, but we'll correct them. Just give us a little time.

QUESTION. Senator, you indicate that you're going to try to reduce the President's \$304 billion budget. Do you have some areas now you'd like to tell us where you think it could be cut?

Senator MANSFIELD. Oh, yes, I think the military, which is getting, I believe, \$8 billion more this year than—this coming fiscal year than this fiscal year—ought to be cut. I think that we've spent too much on exotic weapons which haven't proved out. I believe we've wasted about \$40 billion in that respect over the years. I would also like to see a gradual reduction of U.S. troops in Europe; I'd like to see us get completely out of Southeast Asia, and that would include the 35,000 men and the 250 planes, 50 of them B-52s which we have in Thailand. There are other places we can cut; NASA I think has had too big a budget, and maybe in the AEC we can do some cutting there, too.

QUESTION. One further point, Senator, if I can pursue it. One part of that budget is a Congressional pay increase. In the next 30

days, Congress is going to get about a 7½ percent increase, followed by two more 7½ percent increases over the next two years. Due to the economic crunch we're in this year, would it not be interesting or patriotic for Congressmen to vote it down and not accept it?

Senator MANSFIELD. Oh, it would, and—

QUESTION. It's well above the guidelines of 5.5 percent for pay raises.

Senator MANSFIELD. And when the White House contacted me about it, I said that they should make no recommendation for any increase.

QUESTION. Senator, for the last almost 20 years, since January, '55, Democrats have been in control of the Congress, of the House and the Senate. Regardless of what problem it is in the country, whether it's the energy crisis or trying to get campaign reform, whatever it is, ending the Viet Nam War, doesn't the Democratic Party have to take an awful lot of responsibility for what's not being done in the country?

Senator MANSFIELD. Oh, yes. We've made mistakes, and I think we should admit them, but if you can show me a perfect political party or a perfect person, then I would say that we could be blamed more for the mistakes which we've made—and I admit them—than we have.

QUESTION. Senator, when the administration's health bill comes up to Congress, it'll be the eighth such bill—the Health Insurance Bill. With all that interest, do you think the Health Bill will finally come out of Congress this time?

Senator MANSFIELD. I'm very hopeful, and I think so, and I think that the extremes in legislation proposed by Senator Kennedy on the one hand, which is all-encompassing, and President Nixon on the other, which I think is too skimpy, I think they're coming closer together.

QUESTION. Would you call President Nixon's bill extreme on the other hand, considering the AMA and some of the other bills out beyond that?

Senator MANSFIELD. Yes, I would, because those are the only two factors you should consider; it's the administration downtown and you might say the Democrats up here, and if we can find a middle ground, I think we can do something. I think we can.

QUESTION. Senator, are price controls going to be ended in April?

Senator MANSFIELD. Well, the way this administration's going, yes, but I don't think that this phase in the economic program of the administration's been very good. I think they made a very serious mistake when in January of last year they turned out Phase 2, which was operating well in the field of wages and prices.

QUESTION. But are the controls going to come off? Are they going to end when the Economic Stabilization Act comes up at the end of April?

Senator MANSFIELD. I think that's the intention of the administration, though I'm going out on a limb—I can't speak for them—but from what I read and hear—

QUESTION. Only today, Senator Proxmire, who is one of the ranking economic experts on your side of the aisle in the Senate said he thought price and wage controls should be continued.

Senator MANSFIELD. I know. I was talking about—in answer to Miss Mackin, what I thought the administration would do.

QUESTION. Well, what is your personal view? Do you think they should be continued?

Senator MANSFIELD. Well, they're not much use, I don't think, but if Senator Proxmire wants to continue them, I certainly will study them very carefully.

QUESTION. Do you think maybe they ought to be ended? You sound like you do.

Senator MANSFIELD. No, I don't have any feelings on it, because once Phase 2 was done

away with, I think that the real strength of the economic program was disposed of.

REPORTERS. Thank you, Senator. Thank you very much.

ROGER MUDD. This is Roger Mudd in the Washington bureau of CBS. You've been listening to Democratic Senator Mansfield, the Majority Leader of the United States Senate, giving the opposition's view of the State of the Union. I suppose this was a relatively honest appraisal of what the Congress had done in the first session, simply because the Senator said that the achievements of that first session were not earth-shaking.

The Senator credits both the Republicans and the Democrats, and he gives the blame to both the Democrats and the Republicans. The Senator is not a bitter partisan. His credibility on Capitol Hill is high, and probably he is the best spokesman that the Democrats could have in this period of contempt for politicians. Obviously, the Senator is looking forward to the elections in November, and his message tonight seemed to be that the Congress, particularly a Democratic one, is the country's best hope. He was critical, but he was not carping, and his message was that the people are entitled to an electoral system free of shennigans, capable, he said, of yielding an honest, responsive government, and he said we owe, he said, the people of the country, not just a decent present, but a decent future.

Incidentally, we got texts of the Senator's speech about 3:00 o'clock this afternoon, unlike Mr. Nixon's speech on Wednesday, we were furnished an advanced look at the text, and it is, I must report, very similar to the one that the Senator delivered to the Democratic caucus, eight days ago, behind closed doors; many of the phrases are the same, so this is not breaking much new ground.

Now, to the substance of the speech tonight, I'd like to turn to two CBS reporters in the bureau, Dan Rather and Bruce Morton. Dan, if you could take the White House view and just report on what you think the administration people think of what they saw and heard tonight.

RATHER. Well, I have not talked with any of them, obviously.

MUDD. But you know them well enough to make a—

RATHER. I don't think they think very much of it. The admiration for Mike Mansfield that you expressed a few moments ago, which I think is a fair reflection of how he's considered on Capitol Hill by both Republicans and Democrats, has never been shared at the White House by Mr. Nixon or his top aides. One of his top aides once said—it's been 18 months—two years ago, when I said, well, Mike Mansfield tries to be fair to you, and he said, oh, don't be taken in by Mike Mansfield's appearances. Now, certainly tonight, in the speech portion of what he performed here, it was a thoughtful speech, dreadfully delivered, but in the question and answer session, it was, I think, probably would strike most people as refreshing as a drink of spring water to see a man at least give the appearance of taking on questions—straight questions—and give the appearance of straight answers.

Now, the White House won't particularly like that, because I think they will be pointing out two things. First of all, that this should in no way be compared to President Nixon's State of the Union Message. For one thing, Mike Mansfield had nothing to lose here; he could afford to be relaxed, and President Nixon was in many ways stepping into a bully pit the other evening.

The second thing is that the President, although he handles news conferences well, as seen through his eyes and the eyes of his aides, that he does tend to give longer answers than Mike Mansfield, and particularly for television, the short answer frequently comes across on television much better than a long answer.

MUDD. But do you think the White House would regard this as a plus or a minus?

RATHER. A minus—that they will suffer by comparison.

MUDD. A minus. Because of the low-keyed appearance of straight answers.

RATHER. Now, they'll argue hard that it was only appearance of straight answers, and not actually straight answers. In candor, I think they would say that it's a minus for them.

MUDD. Let me ask Bruce Morton what he thinks about that comparison, and also, Bruce, just substantially on the program that Mansfield laid out tonight. He says we will have action on the health program, we will get control over the budget, we will provide low cost housing. How much of that is possible, given an election year.

MORTON. Well, I think it was Will Rogers who said, I'm a member of no organized political party, I'm a Democrat, and you could see some of that coming through during the questioning. One of the things that Mansfield came out most strongly for, one of the relatively few specifics in this speech was publicly financed election campaigns, and yet of course, it was a Democrat, James Allen, of Alabama, who filibustered against that in the last session of Congress and killed it off. Mr. Mansfield talked a lot about energy, but the Congress was unable to deal with energy in the last session, unable to pass its emergency bill, and that is still stuck. The only specific recommendation that Senator Mansfield made in that section of his speech was for disclosure. That's the one thing that most Democrats and most Republicans in the Congress seem agreed on, but as you know, they're in a terrible snarl over, shall we have windfall profits tax or roll back prices, or what in the world should we do. All of those are going to be very difficult.

And then, if you get into areas like tax reform or health insurance, you know as well as I what a legislative shambles that kind of a bill can be when it gets to the Senate floor, where everybody can amend it, everybody can try to do favors for his own particular constituency. If you add that to the fact that this is an election year and a Watergate year, it seems to me that it's going to be very hard to get final passage on very many of those bills.

MUDD. Well, Dan Rather, just looking at the President's view of the State of the Union, would you think that it would suffer by comparison with the Mansfield view? Now, Mansfield tonight said he was on the same track on several things, for instance, on invasion of privacy. How much cooperation can there be, do you think between the White House and a Democratic Congress?

RATHER. Well, I think there can be a great deal, and part of what we've seen this week, on both sides, Republican and Democrat, the President's State of the Union speech and Mike Mansfield's address here tonight, and again, a very refreshing thing is a reaffirmation of the country and a reaffirmation of the system. You've had the President lay out a quite detailed legislative program; you've had Mike Mansfield lay out what he sees to be the differences. Now, in direct answer to your question, I think there are wide areas of cooperation here, and I think we'll see some cooperation. I think we may see in some areas, the President bending over backwards to cooperate with Congress. Election reform, campaign finance reform might be one of those. I think we'll see some areas where the Congress will bend over backwards to help the President, but on the Watergate thing, that and how to handle the energy crisis, on these two very important matters, I don't see much bending over backwards in terms of cooperation either way, but in effect, what I think Mike Mansfield was saying tonight was that if the President is telling the truth and has nothing to hide, then why he is in

such a hurry to have the whole Watergate thing put behind us.

MUDD. Bruce, did you think that Mansfield brought up Watergate reluctantly? He spent about four pages of 18 talking about it.

MORTON. Not reluctantly, really. Very gently. All of the jabs at the President are subtle, almost concealed in the speech—you know, he doesn't come out and try to hit him over the head with it, but no, I think he wanted to talk about it. He's not a rabid partisan, but he's a partisan, and it's an election year.

MUDD. Do you think, Dan, that Mansfield's prediction will come to pass, that the Congress will conclude one way or the other with impeachment in this session?

RATHER. Frankly, I doubt that, but Mike Mansfield's—he has a great deal more experience than I do. It's very difficult for me to see how that can and will happen, but, you know, who knows? As you know, Roger, overnight's a long time in politics, and a week is forever, and here we are talking about what, another two or three months. What do you think?

MUDD. Well, I would think that given the schedule that the House has laid out, which is I suppose by late spring, that you will have some resolution of it by the end of the year, certainly by election time. That's all the time we've got. Thank you, Bruce and Dan. This concludes our analysis—Instant analysis—not in this case, because we had seven hours notice. It concludes our analysis of the Democratic view of the State of the Union, and if everything goes according to plan, there will now be a Republican demand for an answer to Mike Mansfield's answer to President Nixon. This is Roger Mudd, CBS News, Washington.

SENATOR MCGEE'S ATTENDANCE AT THE PANAMA CONFERENCE

Mr. MANSFIELD. Mr. President, the senior Senator from Wyoming (Mr. MCGEE) has asked me to announce that he will be absent today and tomorrow on official business, accompanying Secretary of State Kissinger to Panama in order to witness the signing of an agreement on matters of principle between the governments of Panama and the United States. This joint statement of principles, initiated by representatives of both governments, will serve as a guide for negotiators in drawing up a new Panama Canal treaty. Senator MCGEE is attending in his capacity as chairman of the Subcommittee on Western Hemisphere Affairs of the Senate Foreign Relations Committee.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 653, 654, 655, and 657.

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

REDUCTION OF SECURITIES PAPERWORK

The Senate proceeded to consider the resolution (S. Res. 173) 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 U.S. securities markets,

which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out the entire text and insert the following as a substitute:

Whereas pursuant to the Securities Exchange Act of 1934, as amended, the Congress of the United States vested in the Securities and Exchange Commission and self-regulatory organizations authority to regulate broker-dealers in the public interest, including small broker-dealers; and

Whereas certain rules and regulations of said Commission and the self-regulatory organizations may impose duplicative paperwork burdens upon the broker-dealer community without a commensurate benefit to the public interest; and

Whereas certain paperwork burdens imposed on broker-dealers by rules and regulations designed to eliminate abuses may create a disproportionate burden when applied to small broker-dealers due to the basic disparity in financial and management capability between large and small brokerage firms; and

Whereas the Commission had submitted to it in December 1972 an SEC Advisory Committee Study which urged the elimination of all redundant and unnecessary paperwork and recommended the establishment of uniform reporting forms and registration requirements; Now, therefore, be it

Resolved, That the Securities and Exchange Commission be directed to examine its rules and regulations and make such amendments as may be appropriate and consistent with the Commission's statutory responsibilities to protect investors 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.

Resolved, further, That the Securities and Exchange Commission be directed to review and, if necessary, amend its rules and regulations to assure that such rules and regulations take cognizance of the role of small broker-dealers in the United States securities markets and permit such broker-dealers to effectively comply with the rules and regulations in the public interest without unnecessary administrative burdens; that it continue active consideration and implementation of the recommendations of the SEC Advisory Committee Study; that it continue to review the position of the small broker-dealer to insure the continued participation of such firms in the securities markets of the United States within the context of competitive policy and the protection of investors; and that it immediately proceed to examine and modify its rules and regulations to the extent it is found that the public interest is not commensurate with the burden imposed on small broker dealers, and that the Commission in its annual report shall report its progress to the Congress.

Mr. MCINTYRE. Mr. President, the resolution now before the Senate which would direct the Securities and Exchange Commission to continue an examination of its rules and regulations and make such amendments as may be appropriate in order to reduce the unnecessary and duplicative paperwork burden on small broker-dealers is of vital importance to thousands of small, independent security brokers over the Nation. This resolution also directs the Securities and Exchange Commission and the various securities industry self-regulatory bodies to continue a review of the position of small broker-dealers to insure their continued participation in the securities markets of the United States.

The Subcommittee on Government
CXX—163—Part 2

Regulation of the Senate Select Committee on Small Business held hearings relative to the Federal paperwork burden imposed upon smaller broker-dealers on July 12 and 23, 1973, and compiled a sizable record. It shows that smaller broker-dealers are suffering hardships as a result of the paperwork and reporting requirements of the various regulatory organizations within the securities industry. Our committee's efforts were directed toward a review of certain overlapping and duplicative reporting requirements that had come into existence within the regulatory framework of the securities industry. In short, the purpose of our hearings was to determine the extent of this hardship and explore ways by which it may be relieved.

During the course of our hearings, we asked certain regulatory organizations within the securities industry for an explanation of how the industry's paperwork and reporting problems began, and their prospective view of what steps might be taken to remedy these problems. Mr. President, as a result of our hearings and the spirit of cooperation tangibly evidenced by the industry's regulators, through their ongoing constructive review of the paperwork requirements imposed by them upon the securities industry, I am pleased to report that continuing progress has been made toward the goal of a substantial easing of the paperwork reporting requirements imposed upon broker-dealers while simultaneously assuring public investors with adequate protection commensurate with the public interest.

In this regard, certain constructive steps have been taken by the various regulatory organizations of the securities industry which I feel should be specifically noted at this time, and which reflect an agreement by these organizations with our subcommittee's goal of eliminating all of those regulatory paperwork requirements imposed upon the securities industry which are unnecessary and duplicative.

The Securities and Exchange Commission in September 1972, appointed an Advisory Committee on Broker-Dealer Reports and Registration Requirements to study the problems of duplicative and excessive paperwork imposed upon broker-dealers. The Commission and the self-regulatory bodies of the securities industry are now cooperatively involved in the implementation of many of the recommendations of this advisory committee report. More specifically, as a result of our hearings, added emphasis has been given to the development of a "key regulatory report" for use by the entire industry. This report, which will be layered and structured so that greater increments of detail are required as the scope and complexity of a broker-dealer's operations increase, is expected to replace many of the reports currently required to be filed by firms within the industry. The primary goal of this effort is to simplify, standardize, and eliminate duplicate reports of broker-dealers. The Commission and the various self-regulatory organizations within the industry have, in a spirit of cooperative regulation, expended considerable effort in coordinating and reconciling their vari-

ous views and needs in an effort to expedite adoption of this regulatory report and incorporate into the report uniform definitions and reporting periods.

The Securities and Exchange Commission has also taken steps to establish on a continuing basis a report coordinating group, which will function under the Federal Advisory Committee Act. The group will be composed of knowledgeable persons in the securities industry, the accounting and legal professions, and elsewhere. The report coordinating group will:

First, advise the Commission regarding ways of providing for long-term simplification and standardization in reporting by broker-dealers; second, advise the Commission on proposed new reports and forms; and third, advise and assist the Commission in the development of the "key regulatory report."

Members of this group will be appointed by the Commission in the near future.

In a related step, the State securities administrators, in conjunction with the Securities Exchange Commission and the various self-regulatory organizations of the securities industry, have cooperatively undertaken an effort to develop a uniform form for the registration of brokers and dealers for use by the States, the Commission, and the self-regulatory organizations, and are working toward the completion of a joint securities industry effort to develop a uniform form for the registration of principals and agents of the broker-dealers.

Further, the National Association of Securities Dealers, a national securities association registered with the Securities and Exchange Commission pursuant to the Maloney Act Amendment to the Securities Exchange Act of 1934 and charged with the responsibility of regulating the activities of its members in the over-the-counter securities market, has also pressed forward with various constructive steps in its continuing effort to reduce the paperwork burdens imposed upon its membership, and to continue its efforts to assure smaller broker-dealer representation on many of its national standing committees.

I feel it is necessary for the Senate to go on record to actively encourage continuing cooperation between the Securities and Exchange Commission and the various self-regulatory organizations within the securities industry toward taking whatever steps might be necessary to remove the paperwork and reporting impediments that impinge upon the ability of the smaller securities broker-dealers to effectively function in the industry, and to simultaneously assure thorough and adequate protection of the interests of the investing public. The importance of this group of the Nation's small businessmen, who contribute to the health of the economy by serving the needs of small investors and small businesses by raising capital to finance new ventures, is obvious to all.

Mr. President, I urge the Senate to unanimously pass this resolution. I believe that it will represent further tangible evidence of a concern shared by us and the regulators of the securities industry for insuring that the smaller

broker-dealer continue to participate in the competitive securities market and economic health of our Nation, and for assuring his continued survival in the marketplace.

The amendment was agreed to.

The resolution, as amended, was agreed to.

The preamble was agreed to.

SALE OF CERTAIN LANDS IN ALASKA TO GOSPEL MISSIONARY UNION

The bill (S. 184) 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 was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior shall, subject to the provisions of section 2 of this Act, release and convey to the Gospel Missionary Union all right, title, and interest of the United States in and to the following described property:

Lot 14 of Lena Point No. 1, Small Tract Group, in United States Survey 3053, on the southerly side of the Lena Point Highway, approximately 17½ miles northwest of Juneau, Alaska, comprising approximately 22 acres.

Sec. 2. The conveyance authorized by the first section of this Act shall be made upon payment by the Gospel Missionary Union to the Secretary of the Interior of an amount equal to the fair market value of such land (excluding any improvements), as determined by the Secretary after appraisal.

CONVEYANCE OF CERTAIN LAND TO ANCHORAGE, ALASKA

The Senate proceeded to consider the bill (S. 194) to authorize the Secretary of the Interior to convey to the city of Anchorage, Alaska, interests of the United States in certain lands, which had been reported from the Committee on Interior and Insular Affairs with amendments, on page 1, line 3, after the word "authorized", strike out "and directed"; at the beginning of line 5, strike out "without consideration."; and, on page 2, after line 5, insert a new section, as follows:

Sec. 2. No conveyance may be made under this Act unless the city of Anchorage has shown to the satisfaction of the Secretary that—

(1) the city of Anchorage will sell blocks 42, 52, and lots 2, 3, and 4 of block 81 in Anchorage townsite (proper) at not less than fair market value;

(2) the proceeds from the sale thereof will be spent to acquire property located in the central business district of Anchorage townsite (proper);

(3) any property acquired with such proceeds is of a similar nature as blocks 42, 52, and lots 2, 3, and 4 of block 81;

(4) any property acquired with such proceeds is more suitable for municipal purposes than blocks 42, 52, and lots 2, 3, and 4 of block 81; and

(5) any amount by which the proceeds from the sale of blocks 42, 52, and lots 2, 3, and 4 of block 81 exceed the purchase price of property purchased under clause (2) shall be paid to the United States.

Sec. 3. If the requirements of section 2 are satisfied, the Secretary of the Interior is authorized to enter into an agreement or agreements with the city of Anchorage, Alaska, whereby, in consideration of a quitclaim deed to the city of Anchorage of all right, title, and interest remaining in the United States in and to those portions of block 42 and block 52 and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which have been conveyed to the city of Anchorage, the city of Anchorage agrees that—

(1) title to any property acquired with the proceeds of the sale of any portion of either block 42, block 52, or lots 2, 3, and 4 of block 81 as described in section 1 will vest in the United States if such property ever ceases to be used for municipal purposes; and

(2) that the city of Anchorage will, within ninety days after acquiring such lands, execute a deed to this effect and deliver said deed to the Secretary of the Interior.

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is authorized to transfer by quitclaim deed or other appropriate means, to the city of Anchorage, Alaska, all right, title, and interest remaining in the United States in and to block 42 of Anchorage townsite (proper) which was conveyed to the city of Anchorage by patent numbered 873718 (dated July 27, 1922), and patent numbered 1117601 (dated December 8, 1943), block 52 of Anchorage townsite (proper) which was so conveyed by patent numbered 873718 (dated July 27, 1922), and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which were conveyed by patent numbered 873718 (dated July 27, 1922).

Sec. 2. No conveyance may be made under this Act unless the city of Anchorage has shown to the satisfaction of the Secretary that—

(1) the city of Anchorage will sell blocks 42, 52, and lots 2, 3, and 4 of block 81 in Anchorage townsite (proper) at not less than fair market value;

(2) the proceeds from the sale thereof will be spent to acquire property located in the central business district of Anchorage townsite (proper);

(3) any property acquired with such proceeds is of a similar nature as blocks 42, 52, and lots 2, 3, and 4 of block 81;

(4) any property acquired with such proceeds is more suitable for municipal purposes than blocks 42, 52, and lots 2, 3, and 4 of block 81; and

(5) any amount by which the proceeds from the sale of blocks 42, 52, and lots 2, 3, and 4 of block 81 exceed the purchase price of property purchased under clause (2) shall be paid to the United States.

Sec. 3. If the requirements of section 2 are satisfied, the Secretary of the Interior is authorized to enter into an agreement or agreements with the city of Anchorage, Alaska whereby, in consideration of a quitclaim deed to the city of Anchorage of all right, title, and interest remaining in the United States in and to those portions of block 42 and block 52 and lots 2, 3, and 4 of block 81 of Anchorage townsite (proper) which have been conveyed to the city of Anchorage, the city of Anchorage agrees that—

(1) title to any property acquired with the proceeds of the sale of any portion of either block 42, block 52, or lots 2, 3, and 4 of block 81 as described in section 1 will vest in the United States if such property ever ceases to be used for municipal purposes; and

(2) that the city of Anchorage will, within ninety days after acquiring such lands, execute a deed to this effect and deliver said deed to the Secretary of the Interior.

The amendments were agreed to.

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

WEMINUCHE WILDERNESS, RIO GRANDE AND SAN JUAN NATIONAL FORESTS, COLO.

The Senate proceeded to consider the bill (S. 1863) to designate the Weminuche Wilderness, Rio Grande and San Juan National Forests, in the State of Colorado, which had been reported from the Committee on Interior and Insular Affairs, with amendments, on page 1, line 4, after "(78 Stat.", strike out "891; 16 U.S.C. 1132 (b)" and insert "890"; in line 8, after the word "dated", strike out "May 1973" and insert "February 1974"; in line 11, after the word "the", strike out "Weminuche" and insert "Weminuche"; and, on page 2, line 3, after the word "and", strike out "twenty-two thousand eight hundred and forty-two" and insert "thirty-three thousand seven hundred and forty-five"; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act (78 Stat. 890), the area classified as the San Juan and Upper Rio Grande Primitive Areas, with the proposed additions thereto and deletions therefrom, as generally depicted on a map entitled "Weminuche Wilderness—Proposed", dated February 1974, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated as the Weminuche Wilderness within and as part of the Rio Grande and San Juan National Forests comprising an area of approximately four hundred and thirty-three thousand seven hundred and forty-five acres.

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

Sec. 3. The Weminuche Wilderness shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

Sec. 4. The previous classification of the San Juan and Upper Rio Grande Primitive Areas is hereby abolished.

The amendments were agreed to.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TODAY

Mr. MANSFIELD. Mr. President, I ask unanimous consent that, at the conclusion of the remarks of the distinguished Senator from Illinois (Mr. PERCY), there be a period for the transaction of routine morning business not to extend be-

yond 15 minutes, with a time limitation of 5 minutes therein.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Does the distinguished minority leader desire to be recognized at this time?

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

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Illinois (Mr. PERCY) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD, Mr. President, I ask unanimous consent that the period for morning business now ensue, without prejudice to the distinguished Senator from Illinois (Mr. PERCY).

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

THE WASHINGTON ENERGY CONFERENCE

Mr. JAVITS, Mr. President, I wish to address myself to one of the most critical issues of the energy crisis, and one that has been the subject of far too little discussion in Congress. The world faces a catastrophic economic situation in 1974 as a result of the increase in the price of crude oil demanded by the OPEC countries. It is not too much to say that we stand at a critical junction in our economic life, with one road leading toward continued economic prosperity through close cooperation among oil consuming states, and the other leading to worldwide economic depression, ranging in effect from widespread unemployment and economic dislocation in the developed countries to starvation and upheaval in the less developed countries. The policies we choose now, and the sacrifices we are prepared to make in order to forge a common unity, will lead us down one road or the other.

The year 1973 should have taught us clearly the consequences of economic interdependence, that actions by other nations will have a major impact on our economy, and that the behavior of the United States can set the pattern for other nations to follow. I would like to point out several important examples. The first was the second devaluation of the dollar, in February 1973, which contributed markedly to inflation in the United States, by raising the cost of competing foreign goods and making U.S. goods comparatively cheap for foreigners. Although the result has been a positive balance of trade for the United States, it has been achieved at the price of shortages in certain critical domestic industries, and food prices driven up by excessive foreign purchasing.

The second example was the sale of fully one-fourth of the American wheat crop to the Soviet Union, at the cost of higher prices for American consumers, and now we find, no carryover stocks for ourselves. We are in the absurd position of having Soviet trade officials allegedly offering to sell us wheat, not at the price

at which they bought, but the going market price based upon our present extremely tight supplies. I should point out that I recognized what was happening last September and offered the Export Priorities Act, which would have licensed the sale of U.S. raw agricultural commodities and would have prevented the ridiculous situation we now find ourselves in. This should be an important legislative priority in 1974.

The third example is the present energy crisis, and the effect of the Arab oil embargo on our consumption of oil. We have seen the effect of reduced supplies on jobs in the automotive, airline, and travel industries, where thousands have been laid off. Although the United States is the most nearly self-sufficient in energy of the major industrial powers, and the Arab oil embargo has only really begun to be translated in reduced supplies, we have seen the economic dislocation that can be caused by the action of a limited numbers of nations which band together in a common purpose.

Although the American people are greatly worried over the insufficient supplies of gasoline and heating oil, and the sudden and substantial increase in the prices of these commodities, we have not yet addressed ourselves properly to the more crucial problem of the increase in crude oil prices demanded by the OPEC nations, and the effect of these price increases on the world economy.

This is a global problem which promises to shift between \$40 and \$60 billion dollars from the oil consuming to the oil producing nations, and in the process threatens to add between 1 and 3 percent to rates of inflation already raging at extremely high levels throughout the world. This has been accomplished without substantial resistance by the oil consuming nations, and in fact has resulted in the developed countries knocking each other down racing to make deals with the very Middle Eastern countries which have acted in open economic aggression against the rest of the world. Western unity is severely strained, and bilateral trade arrangements may undermine the delicate links which produce our mutual welfare. For it must be made absolutely clear that the Europeans and the Japanese cannot continue to survive as prosperous nations without American cooperation, and those Americans who think we can ignore the rest of the world and proceed to construct a narrow isolationist nation on our own resources without regard to the rest of the world are terribly heedless of our dependence of the rest of the world.

The Washington Energy Conference, to be held in Washington at the invitation of the President, is an essential initiative in creating a common policy among oil consuming nations, and at a later date among all nations. The foreign reaction has not been particularly encouraging, but it is especially important that all countries invited attend the conference, in spite of the outrageous Arab interference to the contrary. For example, neither France nor Japan can get along as industrialized economic nations without cooperation from the United States and Western Europe. It

would be entirely inappropriate for Japan to act as the spokesman for the Arabs, since they will have the opportunity to speak for themselves at a later conference. I cannot urge too strongly the necessity for this conference, and willing participation and cooperation by all nations invited to attend. The alternative is a world of nationalistic economic policies that will be destructive of all the values we have worked for so hard since 1945.

One must also point out that some of the economic arrangements already undertaken by European countries and Japan are ill advised and could be the first steps on the road to economic isolationism and protectionism. The French have just concluded a 3-year contract with Saudi Arabia to acquire 27,000,000 tons of crude oil in exchange for French weapons and machinery. The New York Times has estimated that deals worth up to \$6 billion have already been concluded in the past few months, and that an additional \$5 billion of such deals are either under study by the Middle Eastern governments or are being negotiated. Many of these deals call for huge arms shipments to the Middle East which can only make war more likely there. This is an extremely serious development, and one guaranteed to lead to further instability in the Middle East at the very time that our Secretary of State has undertaken by herculean efforts to try to bring peace to the area.

Let me turn to some of the financial implications of the increases in crude oil prices extorted by the OPEC countries. The posted price of Persian Gulf crude oil was raised from \$5.11 a barrel to \$11.65 on December 23, 1973, an increase of 128%. This is just the latest and most outrageous of a series of price increases that has lifted the posted price from \$1.80 a barrel as recently as January 1, 1971.

The World Bank has translated these posted price figures into an average f.o.b. market price for all major oil producers rising from about \$3.80 a barrel in late 1973 to \$8.18 in the first quarter of 1974. Other calculations produce a c.i.f. price in Western Europe of about \$9 a barrel.

These enormous price increases will produce serious balance of payments deficits for virtually all countries dependent on imported oil, and huge surpluses for the oil producing countries. The order of magnitude is very roughly along these lines: OPEC oil revenues in 1973: \$25 billion; OPEC estimated 1974 revenues: 85 billion—\$60 billion: increase in 1974 over 1973.

In fact, it is unlikely that receipts will increase almost fourfold as these estimates suggest for two reasons: demand will be reduced by this enormous price rise, and the drop in demand is likely to force some price rollback in the latter part of the year. Thus First National City Bank calculates that these two factors will reduce the figures to a net increase of about \$40 billion. FNCEB also calculates that about a fourth of this can be absorbed by additional purchases by the OPEC nations, leaving \$30 billion available for investment.

Even if the final figure for net increase

in OPEC revenues is \$40 billion, this must come out of the hides of the importing countries. Current account deficits are being predicted for every developed country, with even a possible deficit on the current account of \$1 to \$2 billion for the United States. For the developing countries, the figures produced by the World Bank show an increase in deficits of \$9.7 billion in 1974 because of higher oil costs, added to a current account deficit of the oil-importing developing countries of about \$13 to \$14 billion in 1973. Increased costs of oil imports increase the capital requirements of the developing countries by about 70 percent. Grants and net public capital flows to these countries in 1973 amounted to some \$8 to \$8.5 billion; the 1974 rise in the costs of imported oil therefore exceeds the total flow of development funds. To add to this burden, the House has voted down the United States portion of the IDA replenishment of \$1.5 billion, thereby endangering the whole IDA structure.

It seems to me that American public opinion is not yet awakened to the really big oil crunch—the financial problem. For the American public is concentrating its attention almost exclusively on the local gasoline station, and one can understand why that is so. But it is wrong to blame the whole developing world for Arab oil policies, and then attempt to punish them collectively by such actions as turning down funds for IDA. Although the United States may be comparatively better off than other developed countries, we would be seriously affected by a world recession and wrong-headed policies by other nations. Only the United States has the strength to push for correct policies, but there must be political support at home for these. It is harder to criticize the French when we retreat from our world responsibilities.

Over the long term we are likely to see some price reductions for Arab oil, perhaps a reduction of as much as \$2 per barrel by mid-year. The London Economist has predicted a coming glut of energy in the world within 5 to 10 years. For the present, however, a major objective of the Washington Energy Conference should be to force price reductions for oil. The present levels are simply impossible, especially for the poor. In fact, it needs to be pointed out clearly that this does not represent transfers of funds from the rich to the poor, but from all nations to a handful of relatively underpopulated states, whose rulers are extremely rich and who are seemingly unable to use these resources effectively in their own societies. It should be known that the developing nations will suffer the most. The price increases will lead to inflation and recession that will harm, and could even destroy, the world economy, which would certainly not benefit the OPEC countries who want access to Western technology.

Thus, the United States must be prepared to offer support to those countries prepared to act in concert, and refuse help to those pursuing "beggar-thy-neighbor" policies.

In order to express our support for the

Washington Energy Conference, my colleagues and I yesterday introduced a Senate resolution to call attention to the urgent nature of the conference and the specific issues which should be considered by the conference. It is not our intention to state the sorts of specific policies which ought to be followed, as that is a matter for the participants in the conference, but to pinpoint the critical issues which need discussion. I would list these critical issues as follows:

First. Conservation measures in major oil consuming countries which are necessary to reduce demand, and should be a major part of the policy adopted in concert by the oil consuming nations;

Second. An effective plan for the emergency sharing of oil resources, which could be acted on subject to the constitutional processes of each country;

Third. Guidelines for bilateral agreements between individual oil consuming and oil producing countries, which in the present situation of embargo and skyrocketing prices could prove very harmful to the interests of the major oil consuming nations, and could incur the danger of introducing excessive and sophisticated arms into the oil producing nations beyond their legitimate needs for their own security;

Fourth. Coordination of research efforts in developing conservation practices and alternative sources of energy;

Fifth. The responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and

Sixth. Closer coordination of fiscal and monetary policies to prevent excessive strain on the international monetary system and the currencies of oil importing countries.

ORDER OF BUSINESS

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STAFFORD. How much time remains for morning business?

The ACTING PRESIDENT pro tempore. Seven minutes remain.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

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

Under the previous order, the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

RE-REFERRAL OF SENATE RESOLUTION 260

Mr. PERCY. Mr. President, Senator McGOVERN, on behalf of the Select Committee on Nutrition and Human Needs, recently submitted Senate Resolution 260 extending the Select Committee and authorizing funding for the committee's operations. This resolution was referred to the Committee on Labor and Public Welfare which has jurisdiction over the extension of the committee and would subsequently be referred to the Committee on Rules and Administration which has jurisdiction over the funding of the committee. With the approval of Senator McGOVERN and the chairman and ranking member of the Committee on Labor and Public Welfare, I ask unanimous consent that the Committee on Labor and Public Welfare be discharged from further consideration of Senate Resolution 260, by unanimous consent of the Senate, and that the measure be referred directly to the Committee on Rules and Administration, which will be taking up committee budgets shortly after the recess.

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

CURTAILING SENSELESS HIGHWAY SLAUGHTER—PART III

Mr. PERCY. Mr. President, as I have mentioned previously, a contributing factor to the carnage and material destruction on our Nation's highways is dangerously high speedometer calibrations on automobiles. Maximum indications of 120, 140, and 160 miles per hour defy drivers to accelerate beyond safe and lawful speeds.

Several months ago, I proposed that maximum speedometer calibrations be restricted to 85 miles per hour with a red-lettered "Extreme hazard" zone above that.

In correspondence to the Federal Trade Commission, the National Highway Traffic Safety Administration, and the four major automobile companies, I urged the prompt implementation of this measure. More than a few lives would be saved.

Just this week, I received an encouraging letter from S. L. Terry, vice president of environmental and safety regulations at the Chrysler Corp. Mr. Terry informed me:

As a direct result of your letter, which you sent to our President, Mr. John Ricardo, last October, we have been reevaluating our speedometer designs.

Accordingly, we have decided to limit all of next year's speedometers to a maximum indicated speed of 100 miles per hour with 50 miles per hour indicated at the top, dead center position of the speedometer instead of 55, 60, 70, or more.

The Chrysler Corp. is to be commended on its responsible concern for the safety of the consumer.

The action it proposes is a step in the right direction—just not far enough.

With speed limits on the Nation's highways being reduced to 55 miles per hour to promote fuel economy, the absurdity of speedometers calibrated to dangerous

and inordinate speeds has become even more apparent.

For reasons of both safety and energy conservation, it is my hope that the top speedometer calibration will be further reduced to 85 miles per hour for the 1976 passenger models of the Chrysler Corp. and all other automobile manufacturers.

Mr. President, because I believe that Chrysler's initiative toward curtailing excessive speeding is significant, I ask unanimous consent that Mr. Terry's letter be printed in the RECORD.

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

CHRYSLER CORP.,
January 23, 1974.

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

DEAR SENATOR PERCY: As a direct result of your letter, which you sent to our president, Mr. John Riccardo, last October, we have been reevaluating our speedometer designs. We agree with you that 140 and 160 miles per hour speedometer calibrations are incongruous today with the emphasis on fuel economy and safety and a 55 miles per hour speed limit being urged nationwide.

Accordingly, we have decided to limit all of next year's speedometers to a maximum indicated speed of 100 miles per hour with 50 miles per hour indicated at the top, dead center position of the speedometer instead of 55, 60, 70, or more.

We believe that these speedometer changes will accomplish our mutual objectives and we appreciate your taking the time to write us your feelings on this important matter.

Sincerely yours,

S. L. TERRY.

LITHUANIAN INDEPENDENCE DAY

Mr. PERCY. Mr. President, today in the Senate we commemorate the 56th anniversary of Lithuanian independence. As we mark this occasion in Congress, our own Nation's most visible organ of freedom and self-government, let us remember the brave people of Lithuania who, in the cause of national independence, established a republic in 1918 and adopted a constitution in 1922 which guaranteed freedom of speech, assembly, religion, and communication for all citizens. Land reforms, social legislation, and industrialization were executed with great success.

In 1940 this era of Lithuanian progress was ended when Soviet troops seized the nation and established an unwanted foreign rule. The suffering of the Lithuanian people as they were driven from their homes and deported from their country, as they were stripped of their freedom and annexed to a hostile state, must never be forgotten.

Nor can we forget the present struggle of the Lithuanian people to retain their religion, life style, and culture. Their unbending spirit is an example of their steadfastness against heavy odds.

For the past 3 years, I have repeatedly called the attention of the Senate to the tragedy of Simas Kudirka, a Lithuanian seaman who jumped from his vessel in an impassioned flight to freedom but was later surrendered to Soviet authorities. On February 1, I introduced a resolution asking the President to direct the Secretary of State to request of the Soviet

Government the release of Simas Kudirka from prison, and to have the U.S. Ambassador to the United Nations raise the issue with the U.N. Commission on Human Rights.

The plight of Simas Kudirka, whose only offense was his desire for freedom, poignantly illustrates why we must keep the faith with the peoples of Lithuania, Latvia, and Estonia. In this regard, I continue to press for the initiation of broadcasts in the Baltic languages on Radio Liberty.

On this occasion I wish to extend my greetings to all Americans of Lithuanian heritage. Their fidelity to the legitimate aspirations of the people of Lithuania is an inspiration to us all.

Mr. President, we know the tremendous contribution that the people of the Baltic States who have emigrated to the United States of America have made to this great country. They have quickly integrated themselves into the mainstream of American life. They are skilled craftsmen; they are competent executives; they contribute significantly to all the arts and professions.

They are outstanding citizens in their communities. They have built their communities; they have built their cities; they have contributed to their States; and they have contributed immensely to the greatness of this country. We are proud of their contribution.

But I think we also must recall that nearly all of us in this country have a heritage and a parentage that goes back to some other nation; and the great virtue of America is that we can love this great country of ours and still remain loyal to the traditions, the heritage, and the background that each of us has brought to this country.

On our American coins are imprinted the words "E Pluribus Unum," meaning "Out of Many, One." Of many peoples we have made a nation. We speak with a common voice on behalf of freedom: Freedom of religion, freedom of assembly, freedom of speech. We have the right and the obligation to help carry the torch of freedom on behalf of mankind and certainly on behalf of the peoples of the Baltic States who have a heritage of freedom that was constitutionally provided to them when they were free and independent.

I respect those who have freedom in this country, but who continue to devote their time, energy, and efforts to carrying high the torch of freedom for those who are not as fortunate as we are in the United States of America.

NONCOMMISSIONED OFFICERS ASSOCIATION AWARD TO SENATOR TOWER

Mr. THURMOND. Mr. President, as the first recipient of the Noncommissioned Officer Association's "L. Mendel Rivers Award for Legislative Action," I am pleased to announce that the 160,000-plus members of the world's largest enlisted military association have selected our colleague, the Honorable JOHN TOWER, as the recipient of their 1973 award. The award will be presented to the senior Senator from the great

State of Texas at the NCO Association's 13th annual international convention, April 15 to 19, 1974, in San Antonio, Tex.

The award is more than significant of its namesake—the great and able statesman from South Carolina, the late L. Mendel Rivers, past chairman of the House Armed Services Committee. It not only recognizes the work contributed by a legislator for and in behalf of the noncommissioned and petty officers corps of the United States Armed Forces, and for the military community, but also the outstanding contributions made toward the defense of our beloved Nation, and for the well-being of its citizens.

Mr. President, the Senator from Texas is certainly deserving of the prestigious award. His dedication to his duty to this Nation and its citizens is a paradigm to all who hold this high office.

Mr. President, I know of no Senator in this body who has worked harder for national defense or served the country with greater dedication than the distinguished Senator from Texas, Senator JOHN TOWER.

It is a pleasure for me to join my fellow NCOA members in saluting one of their own, the Senator from Texas. I know my colleagues want to join me in extending our sincere congratulations to our distinguished colleague for being selected to receive this high honor.

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

Mr. THURMOND. I am pleased to yield to the Senator from Texas.

Mr. TOWER. I want to thank my distinguished friend for his very kind and generous words. I appreciate very much what he has said.

I am, of course, very honored to be the recipient of this award. I think really a man should not be rewarded for pursuing the objective of keeping the United States of America strong and free. I think that is the duty of us all, and I hope the day will come when everyone is of like mind—that the United States must never allow itself to fall into a position of military inferiority to the other great superpower of this world.

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

Mr. THURMOND. Mr. President, I would be very pleased to yield to the distinguished Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. HANSEN. Mr. President, I want to join with the distinguished Senator from South Carolina in congratulating our mutual friend, the distinguished senior Senator from Texas.

Yesterday it was my privilege to hear the Vice President of the United States address the William Randolph Hearst scholarship winners. The major thrust of his remarks was to underscore the accomplishment in this decade of those things achieved by the United States.

He spoke directly of Dr. Kissinger's worldwide tours and the visits that have been held with the mainland Chinese and with the Russians. Then he spoke specifically about Dr. Kissinger's unique contribution in the annals of world

peacemaking and being able to bring about that which hopefully will be expanded into an understanding between two peoples who have been at war for thousands of years. He, of course, spoke of the Arabs and the Israelis.

Then he gave his punch line. He said that he believed that the only reason that Dr. Kissinger was able to achieve what he did achieve was because of the worldwide respect that had been earned by the United States of America and the recognition of people everywhere that only America, only the United States, would be able to command the attention and to have the power and the thrust and the determination to back up its initiative. That could not be mistaken by people anywhere throughout the world. He also said that we were able to do what had been accomplished through the good offices of Dr. Kissinger.

I mention those things now because it seems most appropriate, as we will shortly be discussing the budget. It is a big budget. It is the first budget in the history of the United States to exceed \$300 billion. And there will be those voices who will say, "Why should we spend that much money for the military when we are no longer at war anywhere around the world? Why should we do it?"

All I can say in response to that rhetorical question is to observe, as the Vice President did on yesterday, that I know of no family in America who would not choose, were it given the opportunity to do so, to spend \$2 for armaments that would never be used than to spend \$1 with the likelihood that America and the rest of the world could yet be involved in one more war, perhaps the final war.

So, I hope that as we pay homage this afternoon to our distinguished colleague, the senior Senator from Texas, a man who has contributed so much to the pre-eminence of the United States of America in these times, we will keep in mind the important role that we have taken and will appreciate the farsighted concern for the strengths that give America the ability to steer it toward a more peaceful tomorrow.

I agree completely with him and with the Vice President that when we speak we command attention in direct relationship to the amount of strength and respect we earn and deserve throughout the world.

That, of course, has been the concern of the distinguished Senator from Texas. It has been one of the very important contributions he has made. And I am not at all unconscious or unmindful of the many important contributions he has made to our country. However, I suspect that as time goes on we will look back on these years as years of accomplishment, as years when America led the rest of the world in moving nearer toward peace.

That, of course, has been possible because America had the commitment, had the strength, and had the determination to back up whatever it felt was necessary.

I thank the distinguished Senator from South Carolina for yielding.

Mr. FANNIN. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield

to the distinguished and able Senator from Arizona.

Mr. FANNIN. Mr. President, I thank the Senator from South Carolina. I join him and the distinguished Senator from Wyoming (Mr. HANSEN) in paying tribute to a great American.

Over the years, the distinguished senior Senator from Texas has received many awards, and I have had the pleasure of observing him when he has been the recipient of some very important ones. I feel that this is the culmination of a tremendous amount of work and is a tribute to his dedication to his country.

There are many who have worked diligently in the Committee on Armed Services on the subject of defense, but no man has exceeded the achievements of the Senator from Texas. Some may have equaled him, but none have excelled what the distinguished Senator from Texas has done. We are very proud of him for having received this award.

When we consider what is happening in the world today, we realize the need for leadership, for a determination that our country shall remain strong militarily. This is not an easy program to follow, because when we remain strong militarily, we must make sacrifices economically, and so we know there are many things that may have to be suspended for a time.

At the same time, we realize that we must have a priority for the defense of the country; that the needs of the country must take top priority. The Senator from Texas has always maintained that position, and I compliment him on his accomplishments in that regard. I join my colleagues in making this statement concerning the activities of the senior Senator from Texas.

Mr. THURMOND. Mr. President, I wish to express my appreciation to the able Senator from Wyoming (Mr. HANSEN) and the able Senator from Arizona (Mr. FANNIN) for their fine remarks regarding the distinguished Senator from Texas (Mr. TOWER).

Mr. President, I ask unanimous consent that Mr. Stanley Hackett, of my staff, be granted the privilege of the floor during the discussion of the subject I am about to begin.

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

AGREEMENT ON NEGOTIATING PRINCIPLES FOR THE PANAMA CANAL

Mr. THURMOND. Mr. President, it has been announced that Secretary of State Henry Kissinger is going to Panama to initial a "joint statement of principles" regarding the negotiation of a new treaty abrogating United States sovereignty in the Canal Zone and providing for the transfer of jurisdiction to the Republic of Panama.

To my knowledge, no copy of this "joint statement of principles" has been transmitted to the Senate. It certainly has not been transmitted to the Senate Armed Services Committee, which is charged under the Senate rules with jurisdiction over the maintenance, operation, and defense of the canal. We have not been favored with a copy in advance.

Not long ago, however, I received a letter from Ambassador at Large Ellsworth Bunker, who is in charge of the canal negotiations, in which he summarized the direction of his thinking on this topic. The so-called principles were shaping up as follows:

The first of them would incorporate what has been the United States' position since 1964, namely, that the two countries would devise a new treaty to replace the 1903 Convention and the amendments to it. Another would provide that a new treaty relating to the present Canal would have a fixed termination date. Others would provide that such a new treaty will return general jurisdiction over the Canal Zone to Panama to operate, maintain, and defend the Canal for the new treaty's lifetime. Another would recognize that the Canal operates in Panama's territory and that Panama should have a measure of participation in its operation and defense, as well as an equitable share of the economic benefits deriving from the Canal's operation. A final principle would embrace a recognition by both parties that the existing Canal might in the future become inadequate for international maritime traffic and require some form of expansion. Provisions for any new expansion projects would be negotiated and agreed upon in the treaty.

These so-called principles are self-contradictory and invite disaster. They deny the minimum necessary conditions under which the United States can operate, maintain, and defend the canal. There is no way in which defense can be based on split jurisdiction, when the ultimate authority rests with the weaker party, and the primary interests rest with the stronger. Either we would lose the canal completely in a crisis, or we would be driven to take armed action that would flout the principles of international law and bring down upon us the censure of the civilized world. Neither course is acceptable.

The withdrawal of U.S. authority from the Canal Zone will have a dangerous impact upon the stability of the Western Hemisphere and, indeed, the peace of the world. We have exercised every right of sovereignty in the Canal Zone for 50 years, both de jure under the specific treaties with Panama, and de facto under the general principles of international law. By every test, the Canal Zone is U.S. territory; the only right retained by Panama is that of a residuary legatee in the event that we cease to operate, maintain, and defend the canal. The United States is a nation with two sea coasts, and the canal is the vital strategic link between them. The surrender of this U.S. territory to a nondemocratic, weak, and restless government would mark an historic turning point in our Nation's history, and the decline of the United States as a world power.

I do not think that our sovereignty should be negotiable. I do think, however, that there are major items of common concern with Panama that can be negotiated, including increased territorial compensation for a larger portion of the Chagres River watershed, the economic development that would be spurred by the implementation of the Terminal Lake-Third Locks plan of modernizing the canal, and increased participation in the revenues of the canal.

Last year, just before special meeting of the U.N. Security Council at Panama

City, a majority of the members of the Armed Services Committee wrote to the President a letter in which we made our position clear. We stated at that time:

In particular, it is our view that U.S. policy should be ordered towards two ends. In the short range, we should use our diplomatic channels to make it absolutely clear to Panama and to the other nations represented at the special U.N. session that we will not brook any encroachment upon our present operational and jurisdictional rights in the Zone, and that we stand ready to protect the American lives, property, and obligations. In the long range, we must reverse the current trend and work with Panama to help her understand that the best guarantee of her sovereignty, security, prosperity, and nationhood lies in maintaining the historic grant of sovereignty to the U.S. in the Canal Zone.

This letter was signed by Senators SYMINGTON, TOWER, HARRY BYRD, ERVIN, DOMINICK, NUNN, MCINTYRE, WILLIAM SCOTT, and myself.

The announced action of Secretary Kissinger runs directly counter to such ends. The unprecedented action of "initialing" a "statement of principles" leading to treaty negotiations creates a situation in which the Senate is presented with an accomplished fact in which the essential points have been conceded before the negotiations begin. There is, indeed, nothing of consequence left to negotiate once we surrender our rights, even if only in principle. The statement of principles is a pseudo-treaty which will cause grave harm to U.S. interests not only in Latin America, but also in the world. As far as the Caribbean is concerned, we will be a "lame-duck" world power.

QUORUM CALL

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION

A communication from the President of the United States, transmitting a draft of proposed legislation to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations, and for other purposes (with an accompanying paper). Referred to the Committee on Foreign Relations.

REPORT OF SECRETARY OF NAVY

A letter from the Acting Secretary of the Navy, transmitting, pursuant to law, a report on Naval and Marine aviators and flight officers receiving flight incentive pay as of 31 October 1973 (with an accompanying report). Referred to the Committee on Armed Services.

REPORT OF SECRETARY OF AIR FORCE

A letter from the Secretary of the Air Force, transmitting, pursuant to law, a report on progress of Reserve Officer Training Corps Flight Training Program for calendar year 1973 (with an accompanying report). Referred to Committee on Armed Services.

REPORT OF DEPARTMENT OF JUSTICE

A letter from the Attorney General, transmitting, pursuant to law, a report on extortionate credit transactions, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Banking, Housing and Urban Affairs.

REPORT OF FEDERAL-STATE LAND USE PLANNING COMMISSION FOR ALASKA

A letter from the Federal-State Land Use Planning Commission for Alaska, transmitting, pursuant to law, a report of the Commission for calendar year 1973 (with an accompanying report). Referred to Committee on Interior and Insular Affairs.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

Two letters from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

PROPOSED LEGISLATION BY ATTORNEY GENERAL

A letter from the Attorney General, transmitting a draft of proposed legislation to facilitate and regulate the exchange of criminal justice information (with an accompanying paper). Referred to the Committee on the Judiciary.

A letter from the Attorney General, transmitting a draft of proposed legislation to amend the Civil Rights Act of 1964 to preserve the authority of the Attorney General (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

REPORT OF ENVIRONMENTAL PROTECTION AGENCY

A letter from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Evaluation of Techniques for Cost-Benefit Analysis of Water Pollution Control Programs and Policies," dated January 1974 (with an accompanying report). Referred to the Committee on Public Works.

REPORT OF SMITHSONIAN INSTITUTION

A letter from the Secretary, Smithsonian Institution, transmitting, pursuant to law, a report of the Institution for fiscal year 1973 (with an accompanying report). Referred to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1017. A bill to promote maximum Indian participation in the government and education of the Indian people; to promote for the full participation of Indian tribes in certain programs and services conducted by the Federal Government for Indians and to encourage the development of the human resources of the Indian people; to establish and carry out a national Indian education program; to encourage the establishment of local Indian school control; to train professionals in Indian education; to establish an Indian youth intern program; and for other purposes (together with additional views) (Rept. No. 93-682).

By Mr. MCCLURE, from the Committee on Interior and Insular Affairs, with an amendment:

S. 2343. A bill to authorize the Secretary of the Interior to convey, by quitclaim deed, all right, title, and interest of the United States in and to certain lands in Coeur d'Alene, Idaho, in order to eliminate a cloud on the title to such lands (Rept. No. 93-684).

PRINTING OF REPORT OF JOINT COMMITTEE ON DEFENSE PRODUCTION (S. REPT. NO. 93-683)

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the report of the Joint Committee on Defense Production, which is at the desk, be printed.

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

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. FULBRIGHT, from the Committee on Foreign Relations:

Joseph John Sisco, of Maryland, a Foreign Service officer of the class of career minister, to be Under Secretary of State for Political Affairs;

James F. Campbell, of Maryland, to be Ambassador Extraordinary and Plenipotentiary to El Salvador;

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Lebanon;

William J. Jorden, of Texas, to be Ambassador Extraordinary and Plenipotentiary to Panama;

William J. Porter, of Massachusetts, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Canada;

Robert S. Smith, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Ivory Coast;

Thomas W. McElhenny, of the District of Columbia, a Foreign Service officer of the class of career minister, to be Ambassador Extraordinary and Plenipotentiary to Ethiopia; and

Nancy V. Rawls, of Georgia, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Togo.

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

By Mr. SPARKMAN, from the Committee on Banking, Housing and Urban Affairs:

Irving M. Pollack, of Maryland, to be a member of the Securities and Exchange Commission;

Henry C. Wallich, of Connecticut, to be a member of the Board of Governors of the Federal Reserve System; and

Jerome W. Van Gorkom, of Illinois, to be a Director of the Securities Investor Protection Corporation.

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

By Mr. STENNIS, from the Committee on Armed Services:

Leonard Sullivan, Jr., of the District of

Columbia, to be an Assistant Secretary of Defense; and

James R. Cowan, of New Jersey, to be an Assistant Secretary of Defense.

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

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nomination of Maj. Gen. Daniel O. Graham, U.S. Army, to be lieutenant general, Maj. Gen. Herron Nichols Maples, U.S. Army, to be lieutenant general, Col. Thaddeus F. Malanowski, U.S. Army, to be brigadier general and in the Army Reserve and Army National Guard a total of 20 to be major general and brigadier general. I ask that these names be placed on the Executive Calendar.

In addition, there are 261 in the Army for promotion to the grade of major and below; in the Navy, 843 for promotion to the grade of commander and below; and in the Marine Corps 90 for promotion to the grade of lieutenant colonel and below; and for the Air Force 1,602 for promotion to the grade of colonel and below. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the Executive Calendar, I ask unanimous consent that these nominations be placed on the Secretary's Desk for the information of any Senator.

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

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD at the end of the Senate proceedings on January 22, January 28, and January 29, 1974.)

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

Curtis Marshall Dann, of Delaware, to be Commissioner of Patents.

(The above nomination was reported with the recommendation that the nomination be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. GRIFFIN (for Mr. McClure) (for himself and Mr. Packwood):

S. 2971. A bill to suspend for a temporary period of time the provisions of section 27 of the Merchant Marine Act, 1920 in order to permit, under certain circumstances, vessels of foreign registry to transport fertilizer necessary to the production of agricultural commodities from Alaska to the west coast of the United States. Referred to the Committee on Commerce.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2972. A bill to designate certain lands as part of the National Wilderness Preservation System; and

S. 2973. A bill to designate certain lands as part of the National Wilderness Preservation System. Referred to the Committee on Interior and Insular Affairs.

By Mr. BIBLE:

S. 2975. A bill to provide a comprehensive program to improve cargo security in commerce. Referred to the Committee on Commerce.

By Mr. HATHAWAY:

S. 2975. A bill to terminate percentage depletion for oil and gas well and oil shale;

S. 2976. A bill to deny the foreign tax credit for taxes paid with respect to income derived from oil and gas operations; and

S. 2977. A bill to repeal the deduction of intangible drilling and development costs of oil and gas wells. Referred to the Committee on Finance.

By Mr. CRANSTON:

S. 2978. A bill to establish a special commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of official misconduct and other offenses committed by high government officials. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 2979. A bill to amend the Commodity Credit Corporation Charter Act to provide additional service and protection to producers of agricultural commodities and to the purchasers of such commodities. Referred to the Committee on Agriculture and Forestry.

By Mr. TOWER:

S. 2980. A bill for the relief of Elizabeth Blanton. Referred to the Committee on the Judiciary.

By Mr. BELLMON:

S. 2981. A bill to postpone certain regulations relating to utilization review requirements under titles XVIII and XIX of the Social Security Act. Referred to the Committee on Finance.

By Mr. DOMENICI:

S. 2982. A bill to designate certain lands in the Bandelier National Monument, New Mexico, as wilderness. Referred to the Committee on Interior and Insular Affairs.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. WILLIAMS):

S. 2983. A bill to amend the Public Health Service Act to provide for emergency assistance to urban hospitals. Referred to the Committee on Labor and Public Welfare.

By Mr. THURMOND:

S. 2984. A bill to amend section 1 of title IX of the act of June 15, 1917, as amended (22 U.S.C. 213), by adding a requirement that passport applicants shall subscribe to an oath or affirmation of allegiance to the United States; and

S. 2985. A bill to require the execution of an oath or affirmation of declaration of allegiance before a passport is granted or issued. Referred to the Committee on Foreign Relations.

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

S. 2986. A bill to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. GURNEY:

S. 2987. A bill to amend the Economic Stabilization Act of 1970 to stabilize the prices of propane and butane. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BURDICK (for himself, Mr. GURNEY, Mr. HRUSKA, and Mr. McCLELLAN) (by request):

S. 2988. A bill to improve judicial machinery by designating Alabama, Florida, and Georgia as the 5th Judicial Circuit; by designating Louisiana, Mississippi, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes;

S. 2989. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th Judicial Circuit;

by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota as the 8th Judicial Circuit; by designating Arkansas, Louisiana, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes;

S. 2990. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th Judicial Circuit; by designating Louisiana, Texas, and the Canal Zone as the 11th Judicial Circuit; by dividing the 9th Judicial Circuit, and creating a 12th Judicial Circuit, and for other purposes; and

S. 2991. A bill to authorize additional judgeships for the U.S. courts of appeals. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 2992. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. Referred to the Committee on Rules and Administration, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRIFFIN (for Mr. McClure) (for himself and Mr. Packwood):

S. 2971. A bill to suspend for a temporary period of time the provisions of section 27 of the Merchant Marine Act, 1920 in order to permit, under certain circumstances, vessels of foreign registry to transport fertilizer necessary to the production of agricultural commodities from Alaska to the west coast of the United States. Referred to the Committee on Commerce.

Mr. GRIFFIN. Mr. President, on behalf of the Senator from Idaho (Mr. McClure), for himself and the Senator from Oregon (Mr. Packwood), I introduce a bill, and ask unanimous consent that a statement by the Senator from Idaho, and the bill itself, be printed in the RECORD.

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

UNSHACKLING THE FARMER

(Statement of Senator McClure)

Mr. President, I am sure that all my colleagues here in the Senate are aware of the problems plaguing our American farmers today. Upon their shoulders rests the burden of providing food both for domestic consumption and for export as a major factor in our world economic position. Yet, in meeting this responsibility, they are also facing shortages of fuel, machinery, transportation, and supplies, including fertilizer. I have spoken on this floor before about the inconsistencies in calling on our farmers to increase production without taking corresponding action to make it possible. The legislation I am introducing today seeks to alleviate one of the obstacles to increased production.

One of the items in short supply, especially in the Pacific Northwest, is agricultural nitrogen. Information coming into my office indicates that our farmers are trying desperately to "stretch" their supplies in every way possible, and, with their usual ingenuity, are doing a good job of it. Despite their efforts, however, there is a severe shortage—one estimate is that the shortage will reach 50 thousand to 100 thousand tons, in the Pacific Northwest region alone.

The shortage has been caused by a combination of factors, including uncertainties as to supplies of natural gas needed to pro-

duce the ammonia, increased demand caused by increased acreage, withdrawal of some Midwest suppliers from the Pacific Northwest region because of increased Midwest demand for ammonia, increased exports, and lack of transportation.

Anhydrous ammonia produced in Alaska is available to the American market, but because of a shortage of American equipment, it cannot be moved from Alaska to the continental U.S. a new barge is currently under construction and will be ready in mid-1975, but until then, unless some action is taken, the supplies will go to the foreign market, simply because of the transportation barrier. A waiver of the Merchant Marine Act to permit use of foreign vessels on a temporary basis would resolve this problem, and it is such legislation that I am introducing today.

I want to emphasize the temporary nature of the waiver I am proposing. It would apply only until Nov. 1, 1975, or until a domestic vessel became available, whichever comes first. In addition, this temporary waiver would apply only for the transportation of anhydrous ammonia, from Alaska to the West Coast.

Mr. President, I believe that this is one action that we can take that will make a significant difference to our farmers, at least giving them a chance to answer our call for increased production. And this, in the long run, is important to all of us, particularly to the housewife concerned about rising food costs and threatened shortages.

S. 2971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That until November 1, 1975, the provisions of section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) shall be suspended with respect to the transportation of anhydrous ammonia to the west coast of the United States from any port or terminal area in the State of Alaska whenever the Secretary of the Treasury, after notice and opportunity for hearing, determines that there is no domestic vessel reasonably available to serve between the west coast of the United States and any such port or terminal area for the transportation of anhydrous ammonia. Such determination shall be made within 45 days after application for suspension and shall be final and conclusive and no other official or any court of the United States shall have power or jurisdiction to review any such determination. Upon making the determination provided for in this section, the Secretary of the Treasury shall establish such terms, conditions, and regulations with respect to operations under such suspension as he determines to be in the national interest.

Sec. 2. Any suspension under the provisions of this Act shall terminate whenever the Secretary of the Treasury determines that conditions required in the first section of this Act for such suspension no longer exist, or on October 31, 1975, whichever first occurs.

Sec. 3. No Federal law shall apply to any water carrier because of operations under a suspension provided for in this Act if such law did not apply to such carrier prior to such suspension.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 2972. A bill to designate certain lands as part of the national wilderness preservation system; and

S. 2973. A bill to designate certain lands as part of the national wilderness preservation system. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by re-

CXX—164—Part 2

quest, I send to the desk on behalf of myself and the ranking minority member of the Committee on Interior and Insular Affairs (Mr. FANNIN), two bills to designate certain lands as wilderness pursuant to the Wilderness Act.

Mr. President, these two bills would add 12 new areas to the system and were recommended to the Congress by the President in his message of November 28, 1973, and one previously recommended area.

The first bill comprises six areas determined to be suitable for wilderness designation which are presently administered by the Bureau of Sport Fisheries and Wildlife; these are: Imperial National Wildlife Refuge, Ariz.; Mingo National Wildlife Refuge, Mo.; Oregon Islands National Wildlife Refuge, Oreg.; White River National Wildlife Refuge, Ark.; Valentine National Wildlife Refuge, Nebr.; and Crescent Lake National Wildlife Refuge, Nebr.

The second bill includes seven areas recommended for wilderness designation within the national park system; these are: Joshua Tree National Monument, Calif.; Point Reyes National Seashore, Calif.; Big Bend National Park, Tex.; Mesa Verde National Park, Colo.; Saguaro National Monument, Ariz.; and Bandelier National Monument, N. Mex.; and Cedar Breaks, Utah.

Mr. President, I ask unanimous consent that at this point in my remarks the message from the President be printed in the RECORD.

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

THE WHITE HOUSE,

Washington, D.C., November 28, 1973.

HON. JAMES O. EASTLAND,
President Pro Tempore,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to the Wilderness Act of September 3, 1964, I am pleased to transmit herewith proposals for twelve additions to the National Wilderness Preservation System.

As described in the Wilderness Message that I am sending to the Congress today, the proposed new wilderness areas cover a total of over 1 million primeval acres.

Two other possibilities considered by the Secretary of the Interior in his review of roadless areas of 5,000 acres or more—Salt Plains National Wildlife Refuge, Oklahoma, and Klamath Forest National Wildlife Refuge, Oregon—were found to be unsuitable for inclusion in the Wilderness System. I concur in this finding and in the twelve favorable recommendations of the Secretary of the Interior, all of which are transmitted herewith.

Wilderness designation of these twelve areas would represent a significant step forward in the preservation of America's irreplaceable heritage, and I urge that the Congress act promptly in this regard.

Concurrent with the wilderness proposals, I am also transmitting the Ninth Annual Report on the Status of the National Wilderness Preservation System which covers calendar year 1972.

Sincerely,

RICHARD NIXON.

By Mr. BIBLE:

S. 2974. A bill to provide a comprehensive program to improve cargo security in commerce. Referred to the Committee on Commerce.

PERFORMANCE FOR AIR, TRUCK, RAIL, AND MARITIME CARRIERS BEFORE REGULATORY BODIES

Mr. BIBLE. Mr. President, I introduce for appropriate reference a bill which seeks to improve the safety and security of cargo in transit by providing authority for the Federal transportation regulatory agencies to establish minimum security performance standards for truck, air, rail, and maritime public carriers engaged in interstate and international commerce.

Our goal is to bring under better control the \$1.5 to \$2.8 billion it costs American transport companies and other businesses every year for the thievery, pilferage, hijacking, and unexplained loss of cargo moving in the commerce chain. Obviously, such major losses adversely affect our entire society and provide a substantial contribution to the inflation spiral paid for by every consumer.

As chairman of the Senate Small Business Committee, may I say it was our committee's role first to focus national attention on this growing criminal problem in 1969. Since that time, we have sought to persuade both governmental bodies and private carriers to pursue more aggressively improved security and other anticrime efforts in the public transport field.

Congressional impetus in the cargo security area has taken varied approaches such as: First, legislation calling attention to various problems and serving as an action motivator for executive departments and transportation regulatory agencies; second, formal recommendations growing out of our committee hearings about air, maritime, truck, and rail carriers' security problems; third, direct appeals to executive departments and regulatory commissions; and fourth, various legislative proposals to require the Department of Transportation to establish security standards and regulations and impose penalties on carriers and/or an in-depth examination of the problem by governmental, carrier, and labor officials.

The theft or unexplainable loss problem has been called the cargo crime crisis. Whether or not that is excessive rhetoric depends on whether you are a victim and let me assure you that everyone is. Few knowledgeable parties believe that the gap has narrowed the past year or so between criminally induced losses on the one hand and the ability of carriers and law enforcement bodies to deal with it on any remotely acceptable level. An effective response to the criminal has not been mounted even though security activities have been instituted in many areas. Like the energy crisis, we do not have enough hard facts or statistics to prove whether it is getting better or worse.

Exact dollar losses are almost impossible to pinpoint. Our committee's efforts several years ago helped to persuade the Interstate Commerce Commission and the Civil Aeronautics Board to begin collecting the first real loss data for class I truckers and direct and indirect losses by air carriers. No accurate data are available for class II and III interstate trucks, railroads, and maritime carriers.

Assistant Secretary of Transportation Benjamin O. Davis said recently:

We believe that the cost of theft in the [transportation] industry probably exceeds the billion dollar sum we have been able to document. Theft may, in fact, be a sizable share of the \$2.8 billion in losses from all causes for all modes. That total represents 4.5 percent of the industry's revenue, a high price to pay for the attrition of merchandise, for whatever reasons.

Indirect costs are even harder to assess. The American Trucking Associations told our committee that for every \$1 of direct loss, it costs motor freight carriers from \$2 to \$5 in indirect costs for processing claims, paperwork, and manpower. Shippers say their indirect losses are even greater—or \$5 to \$7 for each \$1 in direct losses in not having goods for sale, loss of profit dollars, disruption of production lines, loss of customer goodwill, and the tieup of moneys due and delayed in the claims reimbursement pipeline. By adding the direct dollar theft loss, plus the carriers' and shippers' indirect costs, we may be talking about costs to the national economy approaching \$8 to \$10 billion annually.

In the railroad transportation area, our committee was advised that cargo theft increased almost 100 percent between 1970 and 1971, while 1972 figures showed a continuing upward trend. We can only conclude that cargo theft and pilferage are at the heart of what may be the biggest multibillion dollar racket today—stealing from transport carriers.

Its worst victims are the small businessman who can least afford it, and the consumer who sees prices of commodities of every type driven higher by this criminally induced inflationary spiral. The fact is that, as the problem accelerates, there is no broad based, coordinated effort on the part of governmental bodies or the carrier industries to arrive at hard solutions.

Thus, the conclusion is inescapable that this problem must be approached in many ways by many parties, private, and governmental, on many fronts.

The legislation I am proposing today would attack this problem within the entire transport chain—truck, air, rail, and water. It is essential that appropriate security arrangements be developed for each transport mode, since they are mutually dependent on one another, for the most part.

It may sound simple to suggest:

Well, why doesn't the Federal Government order carriers to put up fences, add additional guards, locks on doors, and so forth, such as is now the case with the Department of Transportation's Federal Aviation Administration or its Bureau of Motor Carrier Safety.

I submit that any uniform security standards or hardware-type regulations would be next to impossible and impractical to enforce. For example, if standards and regulations were written to meet problems in the Greater New York City area, they would largely be impractical, inordinately expensive, and probably excessive for Omaha, Nebr., or Tacoma, Wash. Certainly, there are many aspects of cargo security that transcend the mere application of hardware. Therefore, I believe it is inappropriate for any Federal

agency to draw up and enforce meaningfully any standardized regulations to solve the problem.

In the 92d Congress, the House and Senate had differing approaches about how the cargo theft problem should be approached. These differences were not reconciled by a conference. I agree wholeheartedly with my colleagues in the House that it is time for an affirmative and hard-hitting approach by the Federal Government to help stem cargo theft.

But I do not believe it can be done by specific policeman-like regulations or security hardware. Even if such regulations could be developed, there are over 25,000 federally regulated common carriers in the four modes of transport today. Enforcement of precise regulations would be an administrative nightmare. It has been estimated that an inspection force of some 2,000 persons would be required so assure effective enforcement. In view of the present-day needs for budgetary reductions, it is obvious that the Federal Government cannot maintain any such enforcement and inspection team.

Although formerly favoring Federal mandatory cargo security regulations that it would promulgate and enforce, the Department of Transportation has shifted its position in support of advisory standards. It is seeking a high level of voluntary compliance by carriers with such regulations. In fact, it has suggested to the three governmental agencies using common carriers the most—the Department of Defense, the Postal Service, and the General Services Administration—that a carrier's record of compliance with the Transportation Department's advisory standards be used as a precondition for future Government contracts with public carriers. Presently there is being officially circulated through Executive agencies and unofficially through the private transportation sector a proposed White House Executive order to implement this approach, and the "voluntaryism" of it may depend on where you sit in the "pecking" order. In my judgment, this halfway effort would be neither effective nor practical because it would deal with only one segment of carriers and only those carrying goods bound to or from Government installations. They would be discriminated against and the major problem would only be chipped at, not faced squarely by all public carriers engaged in interstate and international commerce.

Therefore, Mr. President, the bill I am proposing today would not require a massive new Federal program of any type nor federally drawn standards. Instead, this approach would be based on the need for establishing individual minimum security performance standards for all carriers by the transportation regulatory commissions. Security would be added to the present regulatory role of ratemaking, commodity categorization, and route, and operational authority. Carriers would be on their own initiative rather than the governmentally imposed type. Carrier performance has long been regulated by the CAB and the ICC. This bill merely adds security as another dimension of this regulatory function.

Basically, my bill would:

First. Require the Interstate Commerce Commission and the Civil Aeronautics Board to establish broad performance standards based on carrier size and type of commodity transported, with the carriers themselves providing whatever security they believe necessary to achieve these performance standards. Exceptions for losses beyond the carrier's control are provided. Security from theft would merely be one aspect of the safe and secure movement of any commodity shipped. The broad performance standards would be established by former rulemaking procedures permitting all interested parties to be heard. Criteria for performance standards would be set by the ICC and CAB through normal procedures.

Second. Permit the U.S. Customs Bureau, by rulemaking, to establish security measures and procedures for all maritime ports, because its agents are presently stationed at all international ports of entry. This is comparable to H.R. 9463, the Customs Port Security Act, which passed both the Senate and House easily and was lost, because of a procedural and parliamentary situation in the last days of the 92d Congress. This approach was actively pushed by the Treasury Department.

Third. Establish an Interagency Council within the executive branch to coordinate all cargo security activities of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Departments of Treasury, Transportation, and Justice and review Federal cargo security programs to insure integration of efforts and coordinate Federal, State, and local cargo security activities.

Fourth. Require the Department of Transportation to establish pilot programs to demonstrate the effectiveness of different cargo security systems and to promote the use of new security techniques.

In further explanation, general performance standards would be monitored by loss reporting systems established by the regulatory agencies comparable to those now in effect for class I trucks and air carriers. Should a carrier not achieve a performance standard, it would be subject to a fine. For subsequent violations, the carrier could face possible suspension or a loss of operating-rights certificates.

Since results are the goal in this cargo security effort, is there a better measure than for a regulatory agency to review carrier performance. Certainly, we cannot and should not afford a Federal "police force" to regulate, inspect and enforce the myriad physical security measures, informational security measures, and management techniques which would be required if precise security regulations were standardized.

Instead, in the legislation which I am proposing, this function would be left up to the individual carrier management. Conferring power on the regulatory agencies to set performance standards on theft-related or unexplained losses for regulated carriers is consistent with authority presently resident in and used by these agencies. As an example, the ICC's

Bureau of Enforcement exercises its authority to permit a carrier to embargo certain commodities under extreme circumstances. Similarly, it requires carrier to discontinue illegal embargoes as a protection extended to our great manufacturing and distribution industries. This Bureau exercises regulatory authority in assessing fines against carriers who go beyond their assigned operating authority in either territories served or types of commodities carried.

In short, what this legislation proposes is not the creation of a new, federally funded body, nor in fact any new or novel Federal power. More aptly, it would provide a congressional mandate to the regulatory agencies, to add to their present functions an additional facet—security from theft or unexplained loss to their economic regulation of certificated carriers of goods in foreign and interstate commerce. Shippers and the consumer public deserve better than they are getting today from certificated carriers in this area.

Title III of this bill provides needed assistance for the Secretary of Transportation to study, conduct research, and fund the development of security programs, devices, hardware, and techniques. That Department would specify the various methods which a carrier might utilize to achieve the performance standards which would be set by ICC and CAB.

Also, the bill calls for a coordination of all Federal cargo security activities through a permanent interagency council. This council, through the Department of Transportation, would also actively coordinate with the private sector such as individual carriers, shippers, and carrier organizations and others interested in cargo security. The interagency council would work with State and local governments to achieve effective cargo security programs.

For the maritime industry, title II of my bill would broaden the U.S. Customs Bureau's role in assisting carriers to provide for their security at all U.S. maritime ports of entry. Legislation similar to this title passed the Senate in 1972 as an amendment to H.R. 9463, a bill to prohibit the importation of pre-Columbian sculpture and murals and for other purposes. This legislation was reported out on September 25, 1972, by the Senate Finance Committee and passed the Senate on September 27, 1972. The House Ways and Means Committee accepted the Senate amendment in conference. Again, due to the pending congressional adjournment and a procedural technicality on the artifacts imports provisions of the bill, no final action was taken.

Title II of the bill also provides the Secretary of the Treasury with the authority to establish security measures and procedures at any maritime terminal where cargo is handled and stored, and also establishes criminal penalties for the illegal removal of cargo from areas under customs control. The Secretary is given the authority to prohibit the loading or unloading of cargo at any maritime terminal that does not conform to the standards prescribed. In its report

approving this measure, the Senate Finance Committee stated:

(It) believes, by the implementation of these security measures, there will be increased protection, not only against the theft of cargo, but also against the smuggling of narcotics, dangerous drugs, and other contraband.

That committee went on to say:

Cargo security is, of course, a responsibility of the carrier or terminal operator, but the dimensions of the problem are such as to constitute a burden upon interstate and foreign commerce, making it necessary for the Federal Government to mount a broad-scale campaign to eradicate it . . .

I fully concur in the findings of the Senate Finance Committee and it is for this reason that I have included this maritime cargo security provision as title II of this bill.

Mr. President, this legislation addresses itself to the entire transport system—all four modes—engaged in both interstate and international commerce. Its enactment would provide Federal involvement in establishing cargo security, yet it would not be an onerous set of specific regulations imposed by the Federal Government. The bill would give the private sector broad leeway in devising their own necessary security standards and procedures to meet each individual situation and assist the shipping public at the same time. It would establish broad parameters for overall performance. Those carriers which refuse to recognize responsibility in providing for the safe and secure movement of cargoes would be severely penalized. Those carriers who suffer losses beyond their control would not be jeopardized.

Our goal is to reach those who manifest a lack of concern for the goods they carry and thereby permit this criminal activity, expecting insurance or the shipper to cover such losses. Cargo security for the 1970's and probably beyond must be recognized as an essential ingredient for all carrier operations. We believe this legislation can achieve this end.

Mr. President, I ask unanimous consent that a section-by-section analysis and the full text of the bill be printed in the RECORD at the conclusion of my remarks, in addition to a draft of a proposed Executive order to which I referred earlier.

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

S. 2974

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 "Cargo Security Act of 1974."

FINDINGS OF FACT AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that one of the fundamental bases for the development and growth of commerce and trade on an interstate and international basis is the security and safety of movement of cargo. The Congress has become aware that there is an alarming growth of criminal activity which results in loss of goods moving in interstate and international commerce. Such loss and theft are increasing to the degree that it represents a clear and present danger to the national economy, especially American busi-

ness and particularly the small business community, which bears the greatest portion of such losses. The Congress further finds that the Constitution places the control, regulation, and stimulation of interstate and international commerce and trade within the purview of the Federal Government. Prevention of larcenies and malfeasances in connection with goods in interstate and international transit is an inherently difficult phase of crime control; goods in motion or in large-scale storage are hard to watch closely; the multijurisdictional nature of thefts facilitates criminal evasion; and protection arrangements impose unwelcome and often disastrous expenses in terms of operational delays, added paperwork, and increased costs for insurance and protection. The Congress finds that common carriers in cargo transportation by air, truck, rail, and water manifest a serious deficiency in the level of coordination and effort needed to establish deterrents and preventive measures and utilize resources to combat criminal activity. These criminal activities and attendant losses pose an especially serious threat to the economic stability of small business.

(b) The Congress further finds that State and local governments, through exercise of their regulatory powers, have an equal responsibility in stimulating measures to enhance the safety and security of cargo storage and transport. Accordingly, attempts by the Federal Government to deter and curb such losses, thefts, and pilferages should be coordinated at all levels of government.

(c) It is therefore the purpose of this Act to provide a comprehensive program to correct this problem.

TITLE I—AMENDMENTS TO INTERSTATE COMMERCE ACT AND FEDERAL AVIATION ACT OF 1958

INTERSTATE COMMERCE ACT

SEC. 101. (a) The Interstate Commerce Act is amended by redesignating section 27 as section 28 and by inserting before such section a new section as follows:

"MISSING AND STOLEN CARGO REQUIREMENTS

"SEC. 27. (a) The Commission, by regulation, shall, on the basis of appropriate information, including reports filed with it by each common carrier, subject to Part I, II, or III, and each freight forwarder, subject to Part IV of this Act, prescribe reasonable limits on the amount of cargo lost, missing, stolen, presumed stolen, or otherwise unaccounted for, from such carriers during such period or periods as may be specified by the Commission.

"The Commission may (1) prescribe different limits for different classes of carriers and different types of cargo and (2) by rule or otherwise, provide for appropriate exceptions, including losses resulting from acts of God or other occurrences beyond the control of the carrier.

"(b) In addition to the criminal penalties provided for by this Act, any carrier that violates the limits prescribed pursuant to subsection (a) of this section shall be subject to a civil penalty not exceeding \$5,000 for each such violation, which may be compromised by the Commission. A violation during a succeeding period shall subject the certificate or permit of such common carrier or freight forwarder to suspension or revocation by the Commission. Suspension or revocation of a common carrier's certificate or a freight forwarder's permit shall be in accordance with the provisions of sections 212, 312(a), and 410(f) of the Act, respectively.

"(c) There are hereby authorized to be appropriated \$1,000,000 for each fiscal year to effect the purposes of this Section."

SEC. 102. Title IV of the Federal Aviation Act of 1958 (49 U.S.C. 1371 *et seq.*) is amended by adding after section 417 the following new section:

"MISSING AND STOLEN CARGO REQUIREMENTS"

"SEC. 418. (a) The Board by regulation shall, on the basis of appropriate information including reports filed with it by direct or indirect air carriers and foreign air carriers, including air freight forwarders and foreign air freight forwarders, prescribe reasonable limits on the amount of cargo lost, missing, stolen, presumed stolen, or otherwise unaccounted for, from such carriers during such period or periods as may be specified by the Board. The Board may (1) prescribe different limits for different classes of carriers and different types of cargo, and (2) by rule or otherwise provide for appropriate exceptions including losses resulting from acts of God or other occurrences beyond the control of the carrier.

"(b) In addition to the criminal penalties provided for by this Act, any carrier that violates the limits prescribed pursuant to subsection (a) of this section shall be subject to a civil penalty not exceeding \$5,000 for each such violation, which may be compromised by the Board. A violation during a succeeding period shall subject the certificate of an air carrier, the permit of a foreign air carrier, or the operating authorization of any other carrier, to suspension or revocation by the Board. Suspension or revocation of an air carrier's certificate or foreign air carrier's permit shall be in accordance with the provisions of section 401(g) and section 402(f) of the Act, respectively."

TITLE II—CUSTOMS PORT SECURITY

SHORT TITLE

SEC. 201. This title may be cited as the "Customs Port Security Act of 1974."

DECLARATION OF PURPOSE

SEC. 202. It is the purpose of this title to establish a security program for international maritime cargo, which takes into consideration differences in port topography, terminal configuration, size, and location, and the type and volume of cargo handled.

DEFINITIONS

SEC. 203. As used in this title—

(1) the term "Secretary" means the Secretary of the Treasury;

(2) the term "United States," when used in a geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States;

(3) the term "person" means only an individual;

(4) the term "terminal" means a place within a port of entry at which imported cargo is unladen from, or cargo for export is laden on, a marine carrier engaged in foreign commerce, and any place adjacent thereto which is used for the receiving, storage, or other handling of or dealing with respect to such cargo; and

(5) the term "terminal operator" means any individual, association, partnership, corporation, public body or agency who owns, operates, or otherwise manages a terminal.

CARGO SECURITY MEASURES AND PROCEDURES

SEC. 204. (a) The Secretary of the Treasury by regulation shall, on the basis of appropriate information including such reports of losses as the Secretary may require to be filed with the Bureau of Customs by vessels engaged in foreign and coastwise trade, and such other relevant reports of losses as may be required by other Federal, State, and local governments, establish such cargo security measures as he may find necessary to protect and safeguard cargo at terminals at a port of entry.

(b) (1) Any cargo security measures or procedures which are required pursuant to this section shall become effective 6 months after the date of publication in the Federal Register. The Secretary may grant additional

time to comply with the measures and procedures in accordance with such regulations as he may prescribe.

(2) The Secretary may at any time upon his own initiative, or upon petition filed by a terminal operator or other affected party in accordance with regulations prescribed by the Secretary, withdraw any or all cargo security measures or procedures required pursuant to subsection (a) of this section at terminals.

(3) If the Secretary denies a petition for withdrawal of cargo security measures or procedures, he shall, upon request of the aggrieved party, promptly hold a hearing to review his denial.

(4) The Secretary shall within a reasonable time after the close of the hearing notify the applicant in writing of his decision.

CIVIL PENALTIES

SEC. 205. (a) Any carrier or terminal operator who fails to comply with any regulation issued pursuant to section 204 of this title shall be assessed a civil penalty by the Secretary not to exceed \$5,000 for each such violation or series of violations.

(b) The Secretary is authorized to remit or mitigate any penalty imposed pursuant to subsection (a) upon such terms and conditions as he deems reasonable and just.

(c) The amount of the penalty, when finally determined, may be recovered in a civil action in a United States district court.

LOADING OR UNLOADING PROHIBITED

SEC. 206. If the Secretary determines that, because of repetitive violations or otherwise, the imposition of civil penalties or other sanctions against a terminal operator are unavailing to secure its compliance with cargo security measures and procedures made applicable to such terminal pursuant to this title, he may prohibit the unloading of imported cargo or the lading of cargo for export at such terminal until compliance is achieved, except that, in the case of cargo transiting the United States destined for another country, it may be unloaded and laded at such terminal for purposes of immediate transfer from one carrier to another carrier.

CRIMINAL PENALTIES

SEC. 207. Section 549 of title 18, United States Code, is amended to read as follows:

"§ 549. Unlawful removal of goods; breaking seals.

"(a) Whoever, without authority, affixes or attaches a customs seal, fastening, or mark, or any seal, fastening or mark purporting to be a customs seal, fastening, or mark to any vessel, vehicle, warehouse, or package; or

"Whoever, without authority, willfully removes, breaks, injures, or defaces any customs seal or other fastening or mark placed upon any vessel, vehicle, warehouse, or package containing merchandise or baggage in bond or in customs custody; or

"Whoever maliciously enters any bonded warehouse or any vessel or vehicle laden with or containing bonded merchandise or baggage with intent unlawfully to remove therefrom any merchandise or baggage therein—

"Shall be fined not more than \$1,000 or imprisoned not more than one year, or both.

"(b) Whoever unlawfully removes any merchandise or baggage from any vessel, vehicle or bonded warehouse laden with or containing bonded merchandise or baggage, or removes any merchandise or baggage otherwise in customs custody or control, or receives or transports such merchandise or baggage, knowing the same to have been unlawfully removed, shall be fined not more than \$5,000 or imprisoned not more than ten years, or both, if the amount of value of the merchandise or baggage unlawfully removed, received, or transported exceeds \$250; or shall be fined not more than \$1,000 or imprisoned not more than one year, or both, if the amount or value of the merchandise or

baggage unlawfully removed, received, or transported does not exceed \$250."

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. There are hereby authorized to be appropriated \$500,000 for each fiscal year to effect the purposes of this title.

TITLE III—STUDIES AND OTHER PROVISIONS

INTERSTATE COMMERCE COMMISSION, CIVIL AERONAUTICS BOARD, AND THE DEPARTMENT OF TRANSPORTATION

SEC. 301. (a) The Interstate Commerce Commission, the Civil Aeronautics Board, and the Department of Transportation shall jointly or severally conduct continuing investigations and studies in order to determine and evaluate for the purpose of improving cargo security—

- (1) methods to deter cargo theft, including analysis of labor-management practices;
- (2) packaging and labeling of cargo;
- (3) containerization;
- (4) claims rules and practices;
- (5) documentation and waybill practices;
- (6) carrier insurance and liability standards;
- (7) such other matters as may be appropriate.

(b) Such studies shall be initiated after consultation with the Interagency Council established pursuant to § 303 of this Act.

(c) There are authorized to be appropriated such amounts as may be necessary for the purpose of this section.

DEPARTMENT OF TRANSPORTATION

SEC. 302. (a) The Secretary of Transportation shall carry out programs to provide for—

(1) the design, implementation, and analysis of pilot experimental programs to demonstrate the effectiveness of different cargo security systems;

(2) the establishment and maintenance of liaison with various modes of transportation shippers, insurers, and any other persons affected in order to exchange and disseminate data to promote cargo security; and

(3) encouragement in, and promotion of the use of existing preventive technology and the development of new techniques, procedures, and methods to improve the security of cargo in storage and in transportation.

(b) The Secretary of Transportation shall also formulate and publicize advisory security guidelines to assist the various carriers in complying with Sections 101 and 102 of this Act. Such advisory guidelines as may be formulated will be consistent with those regulations published pursuant to Section 205 of this Act.

(c) There are authorized to be appropriated such amounts as may be necessary for the purpose of this section.

INTERAGENCY COUNCIL ON TRANSPORTATION SECURITY

SEC. 303. (a) There is established an Interagency Council on Transportation Security which shall consist of six members as follows: one to represent each of the Department of Treasury, Justice, and Transportation, appointed by the head of such department and one to represent each of the Interstate Commerce Commission, the Federal Maritime Commission, and the Civil Aeronautics Board, appointed by such Commission or Board. Vacancies in the Council shall be filled in the same manner as initial appointments. The position of Chairman of the Council shall be filled by the Department of Transportation.

(b) The functions of the Council shall be to—

- (1) identify Federal department and agency responsibilities in improving cargo security;
- (2) facilitate interagency communication for such purpose;
- (3) obtain and exchange the views and advice of member departments and agencies

having statutory responsibilities or a substantial interest in cargo security;

(4) propose and review plans, activities, and programs within the Federal Government dealing with cargo security in order to insure effective integration of effort;

(5) coordinate the activities of Federal departments and agencies in carrying out the provisions of this Act; and

(6) coordinate with State and local government agencies to establish compatible security protection, and enforcement programs, and provide for Federal, State, and local coordination of security efforts where practicable and feasible.

SAVINGS AND SEVERABILITY CLAUSE

SEC. 304. If any part or provision of this Act or the application thereof to any person, or circumstances is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment is rendered and shall not affect or impair the validity of the remainder of this Act or the application thereof to other persons or circumstances.

CARGO SECURITY ACT OF 1974: SECTION-BY-SECTION ANALYSIS

Section 1 is the short title.

Section 2 sets forth Congressional findings upon which the proposed Act is based, and its purpose.

Section 2(a) makes findings relating to the necessity of security and safety of movement of cargo in interstate and international commerce, the magnitude of the cargo theft problem, its danger to the national economy, the business, and especially the small business community, the Constitutional basis for federal action, the difficulties in preventing cargo thefts, and the deficiencies in the efforts of common carriers—by air, truck, rail and water—to combat criminal activity.

Section 2(b) sets forth findings relating to the responsibility of State and local governments to stimulate measures to enhance cargo safety, and to the necessity for coordination of effort at all levels of government.

Section 2(c) sets forth the purpose of the Act: to provide a comprehensive program to correct the cargo theft problem.

TITLE I

Section 101 amends the Interstate Commerce Act by adding a new section 27 (existing section 27 is redesignated as 28) entitled "Missing and Stolen Cargo Requirements." The section empowers the Interstate Commerce Commission to compel common carriers subject to its jurisdiction (Railroad Carriers, Motor Carriers, Water Carriers and Freight Forwarders) to take effective action to prevent cargo thefts. It does this by authorizing the Commission, based on appropriate information including special reports filed with it by regulated carriers, to prescribe by regulation acceptable limits (which may vary by class of carrier and type of cargo, and may except certain losses, including those beyond the control of the carrier) on the amount of cargo stolen, etc. for periods as may be determined by the Commission and by prescribing, in addition to criminal penalties provide for by the Act, sanctions of civil penalties for violations of the limits, and suspension or revocation of certificates for successive violation. The new action also authorizes the appropriation of \$1,000,000 to effect its purposes.

Section 102 amends the Federal Aviation Act of 1958 (49 U.S.C. 1371 et seq.) by adding a new section 418 entitled "Missing and stolen cargo requirements." Similar to the Interstate Commerce Act provision, section 418 authorizes the Civil Aeronautics Board, based on appropriate information, including reports filed with it by direct or indirect air carriers and foreign air carriers (including

air freight forwarders and foreign air freight forwarders), to prescribe by regulation acceptable limits (which may vary by class of carrier and type of cargo, and may except certain losses, including those beyond the control of the carrier) on the amount of cargo stolen, etc. for periods as may be determined by the Board, and by prescribing, in addition to criminal penalties provided for by the Act, sanctions of civil penalties for violations of the limits, and suspension or revocation of certificate for successive violations.

TITLE II—CUSTOMS PORT SECURITY

Title II of the Act enacts the "Customs Port Security Act of 1974," new legislation empowering the Secretary of the Treasury to establish effective cargo security measures at ports of entry to protect and safeguard cargo.

Section 201 is the short title of Title II.

Section 202 declares the purpose of the Title to establish a security program for international maritime cargo, taking into account the differing situations in the several ports of entry.

Section 203 defines the terms used in the Title.

Section 204, Cargo Security Measures and Procedures, empowers the Secretary of Treasury to issue regulations, based on appropriate information including loss reports the Secretary may require to be filed by foreign and coastwise trading vessels with the Bureau of Customs and other relevant reports of losses as may be required by other Federal, State and local governments, establishing cargo security measures necessary to protect cargo at port of entry terminals. The section also provides that the cargo security measures or procedures established will be effective 6 months after publication in the Federal Register and allows the Secretary to prescribe regulations by which, either on the Secretary's own initiative or upon petition filed by a terminal operator or other affected party, cargo security measures or procedures required by this section may be withdrawn. Upon request of the aggrieved party, the Secretary is required to hold a prompt hearing upon his denial of a petition for withdrawal of cargo security measures or procedures and notify the applicant in writing of his decision within a reasonable time after the hearing.

Section 205, Civil Penalties, prescribes a civil penalty of \$5000 for each violation by a carrier or terminal operator of regulations issued under section 204, authorizes the Secretary to remit or mitigate a penalty, and provides for recovery of the penalty by civil action in federal court.

Section 206, Lading or unlading provides that where the Secretary determines that other sanctions against a terminal operator are unavailing to secure its compliance with cargo security measures, the Secretary may prohibit the lading or unlading of cargo for export at the terminal until compliance is achieved. Exception is made for cargo transiting the United States destined for another country.

Section 207, Criminal Penalties, amends 18 U.S.C. 549 (Removing goods from customs custody; breaking seals) by adding a misdemeanor penalty (\$1000 fine, one year imprisonment) for lesser violations of the section, and by increasing the penalty from two years' to ten years' imprisonment (but retaining the \$5000 fine) for major violations.

Section 208 authorizes the appropriation of \$500,000 to effect the purposes of Title II.

TITLE III—STUDIES AND OTHER PROVISIONS

Title III of the Act authorizes investigations and studies on cargo security, establishes an Interagency Council on Transportation Security, and contains a savings and severability clause.

Section 301 directs the Interstate Com-

merce Commission, the Civil Aeronautics Board and the Department of Transportation, after consultation with the Interagency Council established under § 303 of the Act, to conduct continuing investigations and studies of methods to deter cargo theft, packaging and labelling of cargo, containerization, claims rules and practices, documentation and waybill practices, carrier insurance and liability standards, and other appropriate matters. The Section authorizes necessary appropriations.

Section 302 directs the Secretary of Transportation to establish pilot programs to demonstrate the effectiveness of different cargo security systems, establish liaison with the various modes of transportation to exchange cargo security data, and promote the use of new techniques to improve cargo security. The section also directs the Secretary to publish advisory standards to assist the carriers in complying with Sections 101 and 102 of the act (limits on cargo damage and loss). Necessary appropriations are also authorized.

Section 303 establishes an Interagency Council on Transportation Security consisting of representatives of the Departments of the Treasury, Justice and Transportation, the ICC, FMC and CAB. The Council is to identify Federal agency responsibilities to improve cargo security, facilitate interagency communication, obtain and exchange the views of agencies having cargo security interest, review Federal cargo security efforts to insure integration of efforts and coordinate Federal, State and local cargo security activities.

Section 304 is a savings and severability clause.

PROPOSED EXECUTIVE ORDER ASSIGNING TRANSPORTATION CARGO SECURITY FUNCTIONS TO FEDERAL DEPARTMENTS AND AGENCIES

Whereas loss of cargo by theft from the Nation's transportation system is a serious problem adversely affecting the integrity and efficiency of the system, the viability of the Nation's commerce and economy, and the interests of the public;

Whereas the loss of cargo by theft from the transportation system is ultimately passed on to the consumer by increased cargo transportation costs charged by elements of the transportation system, which suffer such losses;

Whereas it is highly desirable that the reduction of these cargo losses be achieved to the maximum practicable extent through voluntary action by the private sector;

Whereas there should be continued Federal guidance, leadership, and program coordination to assist all elements of the transportation system in implementing cargo loss preventive measures;

Whereas State and local governments have a parallel responsibility to stimulate cargo security measures within their respective jurisdictions;

Whereas there is a need to assign certain functions within the Executive Branch of the Federal Government to assure effective Federal leadership in and coordination of cargo security efforts; and

Whereas the Secretary of Transportation is responsible for providing leadership in the development of national transportation policies and programs and for giving full consideration to the need for improved effectiveness and safety in the Nation's transportation system;

Now, Therefore, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. *Responsibilities of the Secretary of Transportation.* The Secretary of Transportation shall be responsible for:

(a) planning, developing, and testing measures to assist the transportation industry in the protection of cargo, and coordinat-

ing the activities of the other Federal Department and Agencies to prevent the theft of cargo from the transportation system;

(b) collecting and analyzing cargo loss data for all modes of transportation, and preparing reports periodically on the extent of cargo losses, local and national loss trends, and other special analyses useful to the development of loss prevention measures; and

(c) issuing, after coordination with the Secretary of the Treasury and the heads of other interested Federal Departments and Agencies, Cargo Security Advisory Standards for use by all elements of the transportation industry, including shippers and receivers, in preventing cargo losses.

Section 2. *Responsibilities of the Attorney General.* The Attorney General, in providing financial assistance to State and local law enforcement organizations, shall recognize the need to establish and improve programs for the prevention of theft of cargo from the transportation system, and he shall increase whenever possible and appropriate, such assistance to State and local law enforcement organizations and prosecutors for the investigation and prosecution of cargo theft incidents and for the development of cargo theft prevention programs.

Section 3. *Recommended Actions of the Transportation Regulatory Agencies.*

The Chairmen of the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission are urged to cooperate with the Secretary of Transportation by:

(a) obtaining from carriers, freight forwarders, and terminal operators under their respective jurisdictions cargo theft reports providing information on such subjects as cargo lost, missing, stolen, presumed stolen, or damaged as a result of theft;

(b) developing the reporting scope and format in consultation with those elements of the transportation industry from which such reports would be required; and

(c) providing the Secretary of Transportation with the data collected pursuant to this section both in a summary report format and in basic form for analysis and preparation of national cargo theft reports.

Section 4. *Contracts for the Transportation of Cargo by Federal Departments and Agencies.*

(a) All Federal Departments and Agencies which award contracts for the transportation of cargo shall provide for affirmative consideration of implementation of the Cargo Security Advisory Standards issued by the Department of Transportation by requiring that the following provisions be included in each such contract hereafter executed with carriers, freight forwarders and terminal operators.

"During the performance of this contract the contractor agrees as follows:

"(1) The contractors shall maintain a current file of the Cargo Security Advisory Standards issued by the Department of Transportation at its headquarters and at appropriate subordinate offices.

"(2) The contractors shall affirmatively consider implementation of the Cargo Security Advisory Standards in relation to all theft related losses throughout its system.

"(3) All measures taken to affirmatively consider implementation of the Cargo Security Advisory Standards and the resulting determination(s) shall be documented and maintained on file at the contractor's headquarters and at appropriate subordinate offices and shall be available upon request by a designated representative of the contracting department or agency."

(b) The Department of Transportation, in consultation with other contracting Federal Departments and Agencies, shall develop procedures to determine the effectiveness of the Cargo Security Advisory Standards in reducing the amount of theft suffered by elements of the transportation industry which con-

tract with the Federal Government for the transportation of cargo.

Section 5. *Effective Date.*

This order shall become effective thirty (30) days after the date of execution of this order.

By Mr. CRANSTON:

S. 2978. A bill to establish a special commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of official misconduct and other offenses committed by high government officials. Referred to the Committee on the Judiciary.

COMMISSION ON AN INDEPENDENT PERMANENT PROSECUTOR

Mr. CRANSTON. Mr. President, today I am introducing legislation to establish a commission to study the establishment of an independent permanent mechanism for the investigation and prosecution of alleged wrongdoing by high Government officials.

I believe that we owe the Nation a permanent answer to the need for swift, sure investigation and prosecution of high Government officials when evidence of alleged wrongdoing on their part comes to light.

One of the tragedies of the Watergate affair has been that so much of the early investigation and prosecution was conducted under clouds of suspicion and doubt. It was only through the insistence of Judge John Sirica that the full story has begun to be unraveled—and we are not yet at the end.

To the great credit of Mr. Leon Jaworski and his predecessor, Mr. Archibald Cox, the Special Prosecutor's Office has managed to conduct a steady and thorough investigation which appears to be leading to conclusive results. The Office has managed to do this in spite of the disruption caused by the President's precipitous dismissal of Mr. Cox and in spite of the President's continuing reluctance to cooperate fully in the turning over of relevant evidence.

But an improvised Special Prosecutor's Office is not a satisfactory answer to the need for restored public confidence that wrongdoers in positions of public trust in the future will be investigated and prosecuted.

Some ready and reliable way must be found to overcome the built-in conflicts of interest that appear to exist whenever the powerful are asked to investigate themselves.

Too often there has been an appearance that corruption in high places is being swept under the rug. Because of the very nature of the Department of Justice, with the Attorney General so often, in recent years, a chief companion or key political adviser to a President, certain criminal and civil cases always are subject to question as to whether justice really is being done and whether the public interest is well and fully represented.

When incidents of corruption and scandal occur, administrations always face the temptation to keep such evidence from reaching public attention. Sometimes apparently persuasive reasons can be offered for handling such affairs in a quiet manner, but I believe

that such expedient choices have cost the Nation greatly in loss of public confidence in the integrity of our political institutions of government.

I have believed for some time that we need some permanent mechanism which will restore public confidence that persons high in Government who are accused of wrongdoing will be investigated and, if the evidence justifies, prosecuted.

The best first step is to study ways to set up a permanent means of triggering independent investigations and prosecutions of alleged wrongdoing by high Government officials.

Last June when the need for a Special Prosecutor in the Watergate affair arose, and our attention was focused on that matter in relationship to the nomination of Elliot Richardson as Attorney General, I asked my staff to consider how, legislatively, we might create some such permanent institution, so that we should not find our country improvising each time a crisis like Teapot Dome or Watergate develops. The matter is complicated, as we discovered.

One possible solution would be to establish machinery for bringing into existence a Special Prosecutor when allegations or actual instances of high official misconduct come to light.

One way to implement this would be to create a permanent Commission, independent and bipartisan, appointed by the President with the advice and consent of the Senate. The Commission, when certain types of allegations of official misconduct, abuse of public trust or political offenses came to light at a high level, would designate a Special Prosecutor to investigate and prosecute offenses against the United States arising out of the events and allegations brought to the Commission's notice.

There may be other and better approaches. So that we can consider and study the matter further, I am offering legislation establishing a special Commission to study the question of how the Nation should prosecute offenses involving high levels of the executive branch, particularly when the Justice Department—its top officials appointed by and answerable to the White House—is called upon to investigate itself and the White House.

The Commission which I am proposing to study the feasibility of a permanent prosecutor would be composed of six persons who have achieved eminence in a field of public service, including the administration of justice, and who would be appointed by the Chief Justice of the Supreme Court. The Attorney General would be an ex officio member of the Commission.

To preserve further the independence of the Commission, the bill exempts the Commission from those provisions of the Federal Advisory Committee Act which place similar bodies under the control of a full-time Federal employee, who typically is a political appointee of the Executive. This Commission will have the power to select and hire its own executive director and other personnel.

The Commission also is directed to consult with the Special Prosecutor to obtain the benefit of his experience.

The Commission will have 1 year in which to conduct its study and prepare its report. Following submission of the report to Congress and the President, the President and the Department of Justice are directed to respond to the recommendations of the Commission within 90 days. The Commission continues its existence in the meantime and does not expire until 90 days following the submission of the President's response to its recommendations.

Among the questions which the study Commission should consider would be:

What categories of possible violations of Federal law and other instances of official misconduct should be subject to the jurisdiction of a permanent prosecution machinery? What would trigger action by the permanent prosecution machinery? Who would have standing to bring accusations before it? Should there be a permanent prosecutor who serves for an extended term, such as 15 years?

Do we want a Special Prosecutor on hand all the time—looking for some high official to prosecute?

Should we have instead a permanent independent and bipartisan Commission empowered, under specified and appropriate circumstances, to designate a Special Prosecutor?

Should Congress confirm the prosecutor?

Under what conditions could the prosecutor be removed from office?

What safeguards would be necessary to protect against mischief, abuses, or political bias by the permanent prosecutor or the permanent Commission for appointment of a Special Prosecutor?

Should the Special Prosecutor function as a check on investigations and prosecutions carried out for partisan political purposes? Should the permanent Special Prosecutor have jurisdiction over all official misconduct to the exclusion of the Department of Justice?

I have no instant answers to any of these questions. I do believe they, along with similar issues, should be studied by a Commission consisting of experienced and able persons in the field of administration of justice, as I am proposing today.

Currently, there is renewed interest in the need for solutions to the problems of independent investigation and prosecution of Government officials.

On February 9, the Committee for Public Justice, under the direction of Leon Friedman, will conduct a seminar on establishing a permanent prosecutor. Speaking that morning in room 1202, Dirksen Senate Office Building, will be Lloyd Cutler, distinguished Washington attorney, who has written on the need for a permanent prosecutor. The seminar will be part of a 3-day series of discussion of the "Politics of Justice" with emphasis on the problem of political influence in the administration of justice by the Department.

In addition, a group of law students under the direction of Prof. John Banzaff III of George Washington Law School have prepared an excellent memorandum on their proposal for a permanent Federal Special Prosecutor. In their

memorandum, Messrs. Peter Dingman and Ira Meiselman list the numerous State statutes providing for special prosecutors. As they observe, "one of the ironies of the furor over a Federal Special Prosecutor is the fact that State governments have traditionally provided for this device and used it successfully in a variety of ways."

Since I believe that this memorandum serves as an excellent source of information and material on the question of a Special Prosecutor, I ask unanimous consent that the full text be printed in the RECORD. I also ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 2978

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 "Commission on an Independent Permanent Prosecutor Act."

FINDINGS OF CONGRESS

SEC. 2. The Congress hereby finds and declares—

(1) the continued strength of public confidence in the impartial administration of criminal justice and in the institutions responsible for order and justice under law is vitally important to the future of the Nation;

(2) public confidence in the integrity of the Nation's criminal justice system suffers when the investigation and prosecution of alleged illegal acts committed by high officials of the executive branch are carried out under the authority of the executive branch itself;

(3) each time in the Nation's history when it has been necessary to provide for the independent investigation and prosecution of alleged illegal acts committed by high officials of the executive branch the public has had to accept *ad hoc* responses to such need;

(4) the delay and the controversy entailed in the process of developing such an *ad hoc* response almost inevitably hinder the effectiveness of any subsequent investigation and prosecution;

(5) the Congress should consider the desirability and feasibility of establishing a permanent institution which in the future will provide for the independent investigation and prosecution of alleged illegal acts committed by high officials in the executive branch;

(6) an independent study of the full range of possibilities for the investigation and prosecution of alleged illegal acts committed by high officials in the executive branch, including the conclusion that present institutions are adequate to the task, would provide a substantial and useful basis upon which Congress could consider the need for such legislation.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) There is established a Commission of an Independent Permanent Prosecutor (hereinafter in this Act referred to as the "Commission") which shall be composed of six members who shall be appointed by the Chief Justice of the United States from among persons who have achieved eminence in a field of public service, and at least four of whom shall be persons who have achieved eminence in the field of administration of justice. Not more than three of the members of the Commission shall be adherents of the same political party. The Attorney General or his designee shall be an *ex officio* member of the Commission.

(b) The Chief Justice shall select one of the members of the Commission to serve as Chairman and one to serve as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(c) Members of the Commission shall be compensated at the daily rate for executive level IV, for each day they are engaged in the performance of the functions of the Commission, including traveltime; and all members while so serving away from their homes or regular places of businesses, may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

(d) Vacancies in the membership of the Commission shall be filled in the same manner in which the original appointment was made.

(e) Vacancies in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission to execute the purposes, functions, and powers of the Commission. Four members of the Commission shall constitute a quorum for the transaction of business.

(f) Members of the Commission shall not hold any Federal office in the executive branch or full time employment with the United States during their tenure as members of the Commission.

DUTIES OF THE COMMISSION

SEC. 4. It shall be the duty of the Commission—

(1) to study the desirability and feasibility of possible means for the establishment of an independent permanent mechanism to provide for the independent investigation and prosecution of crimes, misdemeanors, and other offenses or acts of official misconduct alleged to have been committed by high officials in the executive branch of government;

(2) to consult with any Special Prosecutor, established pursuant to regulations of the Attorney General or by Act of Congress, and seek the views of such Special Prosecutor on recommendations proposed to be made by the Commission; and

(3) to consult with the Attorney General and seek his views on recommendations proposed to be made by the Commission.

POWERS OF THE COMMISSION

SEC. 5. (a) The Commission may, in carrying out its duties under this Act, sit and act at such times and places, hold such hearings, take such testimony, have such printing and binding done, and make such expenditures as the Commission deems advisable without regard to the provisions of section 10 of the Federal Advisory Committee Act. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) Subject to such rules and regulations as may be adopted by the Commission, the Commission shall have the power—

(1) to appoint and fix the compensation of an executive director, and such additional staff personnel as it deems necessary, without regard to the provisions of title 5, United States Code, governing appointment in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for grade GS-18 of the General Schedule under section 5332 of such titles; and

(2) to procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed the maximum daily equivalent of the annual rate in effect for

grade GS-18 of the General Schedule under section 5332 of such title.

COOPERATION OF OTHER FEDERAL DEPARTMENTS

SEC. 6. The head of each department, agency, and independent instrumentality of the United States shall cooperate with the Commission to the fullest extent permitted by law in the carrying out of its duties and functions under this Act.

REPORTS

SEC. 7. (a) The Commission shall report its findings and recommendations, including if the Commission deems appropriate, draft legislation implementing such recommendations, to the President and the Congress not later than one year after the date on which all of the members of the Commission take office under section 3 of this Act.

(b) Notwithstanding any other provision of law, the views of any Special Prosecutor required to be obtained under section 3(2) of this Act shall be printed as an appendix to the final report required to be submitted under subsection (a) of this section.

(c) Not later than ninety days after the date on which the Commission reports its findings and recommendations to the President and the Congress, the President shall submit to the Congress and publish a report specifying his views, and rationale therefor, and the views and detailed analysis of the Department of Justice, with respect to the findings and each recommendation contained in the report of the Commission.

EXPENSES OF THE COMMISSION

SEC. 8. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the purposes of this Act not to exceed \$450,000.

EXPIRATION OF THE COMMISSION

SEC. 9. The Commission shall cease to exist ninety days after the submission of the report of the President and the Department of Justice described in section 7(c) of this Act.

FEDERAL SPECIAL PROSECUTOR ACT OF 1974

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INTRODUCTION

This pamphlet proposes the enactment of the Federal Special Prosecutor Act of 1974. Adoption of this law would, without any extreme alteration of governmental machinery, put the Federal District Courts in a position to circumvent any conflict of interest in the office of the United States Attorney without subjecting the nation to new crises or abusing faith in our system of justice by expecting the public to believe that a prosecutor can fulfill the high duties of his office impartially when the accused are friends and colleagues.

The Federal Special Prosecutor Act of 1974 is based on successful state experience with judicially appointed special prosecutors. Research into the problem of conflict of interest in the office of the prosecuting attorney by the National Law Center Special Prosecutor Task Force reveals that the overwhelming majority of state governments have recognized the seemingly inevitable possibility that a prosecuting attorney may be called upon by the duties of his office to investigate those toward whom he cannot be impartial. Forty-two states have by statute provided for the appointment of a special prosecutor in such circumstances. These laws have worked for the states and the Federal Prosecutor Act of 1974 would adapt their form and substance to the Federal System.

Congress has the power to enact this law. Article II, section 2 of the United States Constitution vests with the Congress the power to grant courts authority to appoint public officers. The Federal Special Prosecutor Act

of 1974 would exercise this power to place appointing authority in the least political arm of government and the one best suited to pass on the qualifications of counsel who would appear before the bench. Because the authority conferred on the courts would be only appointing authority and not power to interfere with the exercise of prosecutorial discretion, the Doctrine of Separation of Powers would not be infringed.

The Federal Special Prosecutor Act of 1974 is the answer to a problem unavoidable where the duty to investigate and prosecute political corruption is placed on men with strong personal and political ties to those who may be accused of crime. Similar laws have met with success in state experience. Recent events suggest it is already past time for Congress to use its power to enact such a statute.

THE PROBLEM

The continuing uncertainty swirls around one constant: the U.S. system is not very thoughtfully set up for dealing with misconduct that involves the top ranks of an Administration. *Time*, Dec. 3, 1973, p. 73.

The problem addressed here is, quite simply, a crisis in public confidence in the integrity of elected government and its ability to cleanse itself of officials who abuse their offices. More specifically, suspicions, allegations and actual revelations of mishandling and improper influence of cases before the United States Department of Justice have denigrated faith in Justice as a vigilant prosecutor of crimes against the public trust. Within very recent history the nation has been shocked by too many instances where the impartiality of investigation and prosecution has been left an open question. The inference is easily gathered that some crimes go unpunished.

If we look back only a couple of years we find that the special prosecutor has been used in several prominent cases—Nadjari in New York, Cox for Watergate, Sears for the Hanrahan case, and quite possibly one should have been appointed for Agnew. Even though there may be only a few cases which would require a special prosecutor it would be well worth it even if it's needed only once because these cases are so important.

It is a shame to go from crisis to crisis if we don't have to. We should not wait for a new crisis to pass a comprehensive bill. One thing our proposal would do would be to influence the Justice Department and other government agencies. They would be aware of the possibility of a disinterested person checking into the matter. This is not an insult to the Justice Department. The states have recognized the possibility of this sort of conflict of interest and have provided for it.

The problem was defined well in Governor Rockefeller's statement of September 19, 1972 announcing the appointment of Nadjari as special prosecutor to investigate corruption in the New York City criminal justice system. "Under the present circumstances only an independent agency with citywide authority, assigned a clear and specific mission and armed with full prosecutorial power and independent investigation capacity, can break through the natural resistance of government agencies to investigate themselves or their close allies."

A University of Pennsylvania Law Review article puts it:

"The realities of political life raise serious doubts that an investigation controlled by a prosecutor who owes his position and salary to those under investigation will be faithfully and rigorously pursued.

"Comparison of the spectacular disclosures of corruption made by the N.Y. Extraordinary Grand Jury with Thomas Dewey as special prosecutor and by the Michigan one-man grand juries assisted by special prosecutors with the results of ordinary grand

jury investigations conducted by regular prosecutors underscores this conclusion. The burden should be shifted to the district attorney to come forward with evidence of his fitness to conduct an investigation of his political associates." David C. Toomey, "Discretionary Power in the Judiciary to Organize a Special Investigatory Grand Jury," 111 U.Pa.L.Rev. 954, 970 (1963).

As Senator Bayh's bill to create an independent Watergate Special Prosecutor declares in its findings and declarations, "Public confidence in the integrity of the nation's criminal justice system cannot be maintained if the investigation of allegations and prosecution of illegal acts of high officials of the Executive branch of government are carried out under the authority of the Executive branch itself." Findings and Declarations in Support of the Independent Special Prosecutor Act of 1973, p. 3 (Oct. 26, 1973). The Supreme Court states in *Humphrey's Executor v. United States*, 295 U.S. 602 (1935), "one who holds his office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will."

That's why public sentiment would favor a statute establishing a special prosecutor as an agency completely independent of the President, to be appointed by a court. The power of Congress to establish independent agencies is unquestionable.

THE PROPOSAL

The National Law Center Special Prosecutor Task Force proposes that Congress enact the following bill empowering Federal District Courts to appoint a Federal Special Prosecutor when justice demands it.

A bill to provide for the appointment of a Special Prosecutor to represent the United States in certain criminal cases.

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

1) That this Bill shall be known as the Federal Special Prosecutor Act of 1974; and
2) That section 543, title 28, United States Code (chapter 35, part 2), shall be amended to read as follows:

§ 543. Special Prosecutors

a) The Attorney General may appoint attorneys to assist United States Attorneys when the public interest so requires. Each attorney appointed under this subsection (a) is subject to removal by the Attorney General.

b) (1) Whenever it shall appear that a United States Attorney, whose duty it is to attend upon a district court and prosecute as required by law or to conduct other business over which the court has jurisdiction, is disqualified by a conflict of interest or otherwise, disabled or unable to appear for any other reason and the United States Attorney General, after reasonable notice of such disqualification, disability or inability, has filed to act under subsection (a) above, the judge or judges of the district court before which it is his duty to appear shall have full power to appoint such attorney or attorneys as it deems necessary to act as special prosecutor, special counsel to a grand jury or perform such other functions as are required by justice and the public interest. Each attorney so appointed is subject to removal by the court.

(2) Nothing in this section shall be construed to be in derogation of inherent powers of the courts to disqualify counsel from appearing before them when counsel suffer from potential or actual conflict of interest.

(3) The Supreme Court of the United States is authorized to prescribe, from time to time, rules of procedure to carry out the provisions of this section.

(4) The salary and reasonable expenses, including expenses for office space, secretarial and clerical assistance, and necessary

equipment, of the Special Prosecutor or Special Counsel appointed by the court shall be paid out of the regular appropriations made for the Department of Justice or such other fund as Congress may appropriate.

STRUCTURE AND CONTENT OF THE ACT

The structure of the proposed act was dictated by its goal: to provide a simple, reliable mechanism for the appointment of an alternative counsel for the government in cases where the regular U.S. Attorney is disqualified to properly exercise the functions of a federal prosecutor.

The present section 543 of Title 28, United States Code is retained. Under this section the Attorney General is given primary responsibility to see that the United States Attorney assigned to any case is not hampered by a personal conflict of interest or other disability. The Federal Special Prosecutor Act is directed only at that extraordinary case in which a disqualification or disability exists and the Attorney General though aware of the situation does not act as justice and the public interest require. In such a case the district court is empowered to act and appoint someone who can represent the people with undivided loyalty.

The first paragraph of the Act contains the major authorization. Leaving specific procedure to be worked out by the judiciary, the new law clearly sets out the basic criteria application of its provisions. The district court, before exercising the authority here conferred, must find: 1) that some matter, over which the court has jurisdiction, demands the attendance at court of the U.S. Attorney; 2) that justice and the appearance of justice are incompatible with appearance in that matter of the regular prosecutor; and 3) that the Attorney General, with knowledge of this detriment to the public interest, had not acted under subsection (a) of the law. Only then could the court appoint an independent counsel to exercise the authority and discretion of counsel for the government as to the pending matter.

The second paragraph of the Federal Special Prosecutor Act leaves with the Supreme Court of the United States responsibility for promulgating the specific rules of procedures under this section of the law. This seems no more than assigning the task to those best able to perform it. Similar approaches were used in drafting the Federal Rules of Civil Procedure and the Proposed Federal Rules of Evidence. Procedural rules drafted by the judiciary seem more likely than those fashioned by the legislative process to content themselves with governing the form and not the content of the proceeding.

Finally the Act disclaims any intent to limit the common law power of courts to disqualify counsel for any party for appearing in a matter when their loyalty to the client is not complete. There is a real question as to whether any attempt to limit this power would be constitutional. In any event, there is no reason to believe Congress would do so if it could.

Provision is also made for payment of salary and costs out of regular Justice Department funds or special appropriations. This should insure that economic considerations do not interfere with the capacity of a Special Prosecutor to do justice.

STATE EXPERIENCE

The Special Prosecutor device is not a new answer to the problem of conflict of interest in the office of the regular prosecuting office. The overwhelming majority of states, forty-two, have seen the utility of some Special Prosecutor provision. Thirty-two state legislatures have by statute placed appointing authority in trial judges of general jurisdiction. A substantial number of state courts have claimed that appointing authority as an inherent right.

This experience of the states with special prosecutors seems to be relevant in two

ways here. First, the use of the device by state governments for over a century indicates the utility of such provisions and their resilience under a variety of court challenges. Second, the success of the state statutes, representative samples of which appear in the appendix, demonstrate the workability of a concise, uncomplicated statutory provision. The samples set out in the appendix were chosen because they reflect the common trends in the various state laws. Almost all are rather short giving authority to trial court judges to appoint a special prosecutor whenever a conflict of interest or other disability disqualify or prevent the regular prosecutor from appearing properly before the court. This should appear also from the table of state provisions in the appendix and statutes there cited.

The table in the appendix includes citations to the state court holdings which assert that the right to appoint a special prosecutor is a right belonging to all courts charged with administering the criminal laws. These cases and those, too numerous for citation here, upholding state special prosecutor statutes are of some interest in indicating that the state courts have refused to find prosecution by a special prosecutor violative of a defendant's due process rights, e.g., *Tomlinson v. State*, 182 S.E. 2d 320 (Ct. of App. Ga. 1971); *People v. Doss*, 48 N.E. 2d 213 (App. Ct. Ill. 1943), cert. denied 321 U.S. 789 (1943). Rather than attempt to annotate the experience of the several states in this area we have chosen to examine a single state's representative experience with the office of special prosecutor.

For extended discussion it is perhaps enough to note the experience of the State of Illinois. That state's law is typical of statutes in many other jurisdictions. (See examples Appendix 1B.)

"Whenever the Attorney General or State's Attorney is interested in any cause or proceeding, civil or criminal, which it is or may be his duty to prosecute or defend, the court in which the cause or proceeding is pending may appoint some competent attorney to prosecute or defend said cause or proceeding and the attorney so appointed shall have the same power and authority in relation to such cause or proceeding as the Attorney General or State's Attorney would have had if present and attending the same." Ill. Rev. Stat. Ch. 14, sec.

This law has been challenged as violating Constitutionally mandated separation of powers. The Illinois State Constitution has a clause expressly setting out three branches of government, "Legislative, Executive, and Judicial", and proclaiming that no one, holding office in one branch, "shall exercise any power belonging to either of the others, . . ." Art. III, 1870 Ill. Const. The Illinois Supreme Court held that mere appointment, pursuant to and according to the terms of the statute, was not violative of separation of powers or the state constitution. *Tearney v. Harding*, 166 N.E. 2d 526 (Ill. Sup. Ct. 1929). Appointing an officer to exercise the prosecutorial function was found not to be an invasion of executive function.

In the very recent history the existence of this law has proved dramatically useful to the State and people of Illinois. The entire and more specifically, the City of Chicago had been aroused by the circumstances surrounding the police-militant shootout at a Black Panther headquarters. An initial county grand jury charged only crimes against seven Panthers. Then a federal grand jury, investigating whether the civil rights of Hampton and Clark (the dead Panthers) had been violated by the police, declined to indict anyone, but did report that the evidence was contrary to some of the police claims. Shortly before the federal grand jury report, State's Attorney Edward Hanrahan's

office had abruptly reversed itself and decided to drop the Panther indictments because of "faulty" evidence.

In the midst of all this and the resulting press and public pressure, a special county grand jury was convened to look into the whole affair. Because of the potential conflict of interest for the regular prosecutor, Chief Criminal Courts Judge Joseph Power appointed a Special Prosecutor for the case. Barnabas Sears, who among other distinctions had once before served in the same post and resolved a police scandal by winning 8 convictions, was appointed to handle this case. This appointment also survived litigation. *People v. Sears*, 49 Ill. 2d 14, 273 N.E. 2d 380 (1971). In light of the situation's obvious potential to produce not just distrust of government, but social upheaval, it is difficult to imagine a better example (except perhaps the appointment of Archibald Cox) of the efficacy of the special prosecutor device in a system of government like our own. Of course in this case, where charges ran directed against the regular prosecutor, a man with close political ties to other members of the Executive Branch of government, there was no suitable alternative to judicial appointment. It may require the judgment of history to proclaim the Sears appointment a total success but the impropriety of asking Mr. Hanrahan to investigate his own office is clear.

It is possible to cite other examples of state special prosecutors who have served both justice and the public interest in maintaining the appearance and fact of justice. From Nadjari and Dewey in New York the use of special prosecutors runs back at least to the appointment in *White v. Polk Co.*, an 1864 Iowa case. It should be enough, however, to say that a solution exists, tried, tested and found workable in the laboratory of state government, for what seems an inevitable problem. The logic of adapting such a successful state device to the Federal system seems to require little more argument.

WHY A SPECIAL PROSECUTOR IN THE FEDERAL SYSTEM?

In recent times numerous allegations and even proofs of political influence on the Justice Department have surfaced. This is a tragic development in our system of laws because our government rests fundamentally on a faith that public officials act for the general and not the individual good.

APPEARANCE OF JUSTICE

In this time of uncertainty about the morality of public officials it is extremely important not only that justice be done but that the people believe it is being done. Faith must be restored. Perhaps the very essence of democracy is that the people consent to be governed under a system in which they believe. Democracy is dependent on maintaining the public's faith, trust and confidence.

"The Preamble to the Canons of Ethics admonishes the members of the bar that their conduct should be such as to merit the approval of all good men. That conduct should not be weighted with hairsplitting nicety. We have found no exceptions to the exhortation to 'abstain from all appearance of evil.'" *U.S. v. Trafficante*, 328, F.2d 117, 120 (5th Cir. 1964).

A case having to do with judges' duties and the importance of maintaining both the fact and the appearance of justice, *Saunders v. Piggly-Wiggly Corp.*, declares, "Parties are entitled to a determination of these rights by an individual to whose acts there should not exist in the mind of either party any doubt but what even and exact justice will be done and an impartial and an impersonal consideration and determination of the questions is made." 1 F.2d 582, 585 (6th Cir. 1924) The Justice Department in our situation has to make a judgment of whether to prosecute and that decision is as important to the parties as any judge-made decision.

ABA President Chesterfield Smith in a speech on October 25, 1973 pointed to the ABA Standards for Criminal Justice, which provide that the prosecuting officer should have no conflict of interest, or the appearance of a conflict of interest. He concluded:

"Thus, under that standard, it clearly was and is improper for an investigation of the Executive Branch of the government to be conducted by a prosecutor who is under the control and direction of either the President himself or some other person who himself is under the direction and control of the President. (This is so because:) It has never been suggested to my knowledge that the truth of opposing contentions could be fairly and equitably ascertained if one of the opposing parties before the court could determine what evidence and what contentions his opponent could present to the judge or jury for consideration." Speech to Nat'l Legal Aide Defender Assoc., Oct. 25, 1973, pp. 4-6.

The Supreme Court in *Tumey v. Ohio*, said that "the requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of injustice." 273 U.S. 510, 532, (1927). The Supreme Court of Iowa said that "it would be a burlesque upon the law" if crimes went unpunished for lack of power in the courts to appoint a special prosecutor. *White v. Polk County*, 17 Iowa 413, 414 (1864). The total independence of the prosecutors is the only possible way that the American people will be satisfied that complete fairness, thoroughness and impartiality are being observed. The public must know that the persons in charge of administering justice are totally free from any pressure from the President or his associates.

PROSECUTORIAL CONFLICT OF INTEREST

There is ample judicial authority that a prosecuting attorney must not allow personal interest to influence his tactics or handling of a case. In *State ex rel. Williams v. Ellis*, the court said, "The prosecuting attorney owes a duty to both state and defendant, and, if the facts are such as to preclude the exercise of his full duty to both, he should step aside." 112 N.E. 98 (1916). The prosecutorial function cannot accommodate a split allegiance, for it is a position "... to be held and administered wholly in the interest of the people at large and with a single eye to their welfare." *Attorney General v. Tufts*, 239 Mass. 458, 489, 132 N.E. 322, 326 (1921).

The entire matter of Special Prosecutor and particularly the concept of a prosecutor's qualifications as a proper concern of the judiciary is well treated in an article by three Georgetown law students working under the supervision of Samuel Dash. Their authoritative and exhaustive research is especially in point here.

"In accordance with this strong distrust of the 'interested' prosecutor, state courts have further recognized that it is not only their right, but their duty, to fill the need for impartial enforcement. In *State ex rel. Latham v. Spencer Circuit Court*, the court found cause to appoint a special prosecutor where it was shown that the regular district attorney was hostile and prejudiced toward the interest of the one for whom the prosecution was brought. The proposition that an attorney cannot properly represent one where he maintains an antagonistic interest toward that party was deemed 'elementary.' In that instance, the prosecutor concedes his incapacity to act and it is the court's affirmative responsibility to replace him as to that matter. Similarly, in *Hendicks v. State*, the court granted a request for the appointment of a special prosecutor due to the district attorney's prejudice and voluntary inaction in the face of racketeering, professional gambling, corruption and

high crime. Recognizing that but for its action citizens would be helpless in their desire for 'an active, good-faith prosecution, the court deemed such circumstances to justify the disregard of prosecutorial discretion.'" Schneider, Greenspan and Anazalone, "The Special Prosecutor in the Federal System: A Proposal," 11 Am. Crim. L. Rev. 576 (1973) (footnotes omitted).

The Supreme Court of Missouri has declared it essential that a prosecutor's discretion "be exercised in accordance with the established principles of law, . . . (and) according to the dictates of his own judgment and conscience and not that of any other person." *State v. Wallace*, 353 Mo. 312, 322-23, 182 S.W. 2d 313, 318-19 (1944). And the Supreme Court of the United States has held that it violates due process of law for a judge to have a pecuniary interest in the outcome of a case. *Tumey v. Ohio*, supra, 273 U.S. 510 (1927).

Enactment of the Federal Special Prosecutor Act of 1974 would go a long way toward insuring that our Federal Prosecutors are free to investigate political corruption and abuse of office wherever it appears. Further it would guarantee to the people and defendants in politically connected trials the kind of even handed justice the *Tumey* Court held is demanded by due process.

CONSTITUTIONAL CONSIDERATIONS

Something should be said as to the constitutional implications of enactment of the Federal Special Prosecutor Act. The discussions which occurred concerning various Watergate Special Prosecutor proposals indicate that two points should be clarified. First, Congress clearly has the power to authorize judicial appointment of Special Prosecutors. Secondly, the cases and leading commentators do not support any contention that exercise of this Congressional power would in any way infringe the Doctrine of Separation of Powers.

CONGRESS HAS THE POWER

There can be no serious question but that the United States Constitution gives to the Congress ample power to enact this law. "The Congress may by Law vest the Appointment of such inferior officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments," Art. II, sec. 2, cl. 2. This power was exercised in the enactment of the present § 543(a) under which the Attorney General acted to appoint Messrs. Cox and Jaworski. No reason appears, however, to assume that the current law is any exhaustive exercise of the Congressional power to provide for the appointment of public officials. The Federal Special Prosecutor Act should be seen as merely a further use of that power.

Leon Irish, former clerk to the United States Supreme Court and respected member of the District of Columbia Bar, has written a thorough exposition of this point.

"The critical provision of the Constitution (Art. II, sec. 2, cl. 2) states that the advice and consent of the Senate is required for appointment by the President of "Officers of the United States," and that "the Congress may by law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments."

"Several things are made clear by this provision: First, the President has no inherent, constitutional authority to create offices of the Special Prosecutor. It lies with Congress to create by statute such offices as it deems proper for exercising the powers of the United States government, and to decide which shall be 'inferior offices.' The President has his usual veto powers over such legislation, but he has no independent power to create offices.

"Second, the President has no independent, constitutional power to appoint the persons who will fill the offices created by Congress.

The President's power to appoint 'Officers of the United States,' such as the Attorney General, is subject to the advice and consent of the Senate. As to the appointment of lesser officers, the Constitution says merely that *Congress may give appointment powers to the President, the courts or department heads.* Thus, whatever power he may have to choose personal advisers, the President cannot appoint officers to act for the United States without a delegation of authority from Congress to do so. Furthermore, whether any such appointment will require the advice and consent of the Senate is basically for Congress to decide.

"Finally, it is implicit in the constitutional provision just quoted that Congress may itself retain and exercise the power to appoint lesser officers, such as a Special Prosecutor, which it might otherwise delegate to the President, department heads or the courts.

"In short, it is clear from the Constitution that Congress has the power to create an Office of Special Prosecutor. It is equally clear that Congress may withdraw from the President or the Attorney General any previously delegated power to create a Special Prosecutor and, by doing so, terminate the powers of any incumbent prosecutor. Congress may determine the jurisdiction and the powers of the Special Prosecutor it creates and either choose the individual who will hold that office or delegate that function to the courts.

"The fact that a Special Prosecutor had been appointed by a court or directly by Congress would not make him a judicial officer incapable of acting as a criminal prosecutor, or a mere arm of the legislature. The Special Prosecutor would have whatever powers and independence Congress conferred upon him by statute, and he could unquestionably be placed beyond the control or removal of the appointing body other than for gross improprieties or malfeasance." *The Washington Post*, Nov. 9, 1973, p. A30.

Article I, Section 8 of the Constitution is also in point and supports the legislation. It provides that the Congress shall have power over a wide scope of subject matter, and also "to make all laws which shall be necessary and proper for carrying into execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Offices thereof." As Chief Justice Marshall put it in *McCulloch v. Maryland*, 4 Wheat. 316, 415 (1910), the "necessary and proper clause" is a provision "made in a constitution intended to endure for ages to come, and, consequently, to be adapted to the various crises of human affairs."

SEPARATION OF POWERS

Even though conceding that Congress has ample power to pass the Federal Special Prosecutor Act, some advance the Doctrine of Separation of Powers as a bar to enactment. This fear that the Doctrine, an interpretive gloss on the Constitution, is a barrier to exercise of the expressly granted Congressional power does not, on a review of the authorities, seem well founded.

United States v. Cox is sometimes cited for the broad proposition, that prosecution of offenses is somehow an inherently executive function whose placement in any other branch would violate the Constitutional principle of separation of powers. 342 F.2d 167 (5th Cir. 1965). What the Court of Appeals said is that the prosecutor is "an executive official of the Government. . . . It follows, as an incident of the Constitutional separation of powers, that the courts are not to interfere with the free exercise of the discretionary powers of the attorneys of the United States in their control over criminal prosecutions." *United States v. Cox*, supra, at 171. (emphasis supplied) The Federal Special Prosecutor Act is not inconsistent with this holding because it provides for judicial appointment but not control of a

Special Prosecutor. When the regular U.S. Attorney is so entrained by a conflict of interest as to be unable to make free exercise of the discretion inherent in the office of federal prosecutor, the court is empowered to appoint someone capable of acting with independent discretion. No power is conveyed on the judiciary by this act, however, to order the performance of specific acts by the Special Prosecutor.

It is clear that merely giving the courts power to appoint Special Prosecutors in no way contravenes the doctrine of the separation of powers. Indeed, 28 U.S.C. 546 provides:

"The district court for a district in which the office of United States Attorney is vacant may appoint a United States Attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court."

United States v. Solomon, 216 F. Supp. 835 (S.D.N.Y. 1963), is the only Federal case to have passed on a Constitutional challenge to judicial appointment of a prosecuting officer. The appointment was made pursuant to 28 U.S.C. § 546, above, authorizing the District Courts to fill vacancies in the office of United States attorney, and the court squarely held that this did not violate the doctrine of the separation of powers.

As Senator Bayh said:

"The doctrine of separation of powers is a functional one, stemming from the basic concept that each of the separate powers is designed to serve as a check and balance on the scrutiny and restraint exercised by the other holders of power if arbitrary government is to be avoided. It would be anomalous if this notion of separation of powers could be used to allow the executive to exercise power in its own case unchecked and unscrutinized—and produce the ironic result of the executive branch investigating itself.

"(T)he separation of powers is not a formal, rigid doctrine dividing our government into water-tight compartments. As the Supreme Court said in the famous and important *Humphrey's Executor vs. United States*, where the Court upheld the power of Congress to prevent that President from dismissing a member of the Federal Trade Commission, 'Whether the power of the President to remove an officer shall prevail over the authority of Congress to condition the power by fixing a definite term and precluding a removal except for cause will depend upon the character of the office.'" Findings and Declarations, *supra*, p. 6.

The leading commentators agree that the Separation of Powers Doctrine cannot be stretched to infringe the express appointment power of Congress.

Leon Irish notes,

"As to separation of powers, the realities of government do not present themselves neatly creased in three labeled piles, nor does the Constitution require that we force all governmental functions into three preconceived molds. By virtue of congressional enactment, there already exists a 'headless fourth branch' (e.g., the independent regulatory agencies) which for all practical purposes operate independently of Congress, the President or the courts." *supra*, p. 30.

Raoul Berger, a leading Constitutional Law Authority wrote,

"Had the framers considered that appointments and functions fell into ironclad compartments, they would have lodged all 'executive' appointments in the President. Instead they gave him quite limited powers of appointment and left the bulk of the appointment power in the discretion of the Congress. They left Congress free, in the present extraordinary circumstances, to place a prosecutorial function outside the executive department when quite plainly it could not be trusted to investigate and prosecute itself." *New York Times*, Nov. 7, 1973, p. 47.

And Anthony Lewis concludes,

"Separation of powers in the American Constitution is not a notion of neat and totally distinct packages. The idea rather is a system of sometimes overlapping, even conflicting authority.

"The constitutional purpose, Justice Brandeis said, was 'not to promote efficiency but to preclude the exercise of arbitrary power.' It would be ironic to put it mildly to say that a principle designed to avoid arbitrary power requires Presidential appointment of a prosecutor to investigate the President." *New York Times*, Nov. 12, 1973, p. 33.

INHERENT POWER

Indeed, so far is the Federal Special Prosecutor Act from violating Separation of Powers it may very well only confirm an inherent power in all courts of criminal jurisdiction to appoint a Special Prosecutor when the need arises. There can be no doubt that a Federal District Court possesses the inherent power, and has the duty, to disqualify an attorney for conflicts of interest. *E. F. Hutton & Co. v. Brown*, 305 F. Supp. 371, 378 (S.C. Texas 1969) and cases cited therein. As Canon Six of the Canons of Professional Ethics provides, an attorney has no "obligation to represent the client with undivided fidelity," and "it is unprofessional to represent conflicting interests . . ."

"It is consistent with the public interest and welfare for any law enforcement officer directly or indirectly to represent any person involved in a criminal matter, except the state, or receive any personal profit or gain as a result of the arrest, conviction, or acquittal of one charged with the infraction of the law . . . The books are replete with cases indicating that any appearance of evil connected with the administration of public office should and must be avoided." *State v. Detroit Motors*, 62 N.J. Super. 386, 163 A. 2d 227, at 230 (1960) (emphasis added).

The standards for the disqualification of an attorney upon these grounds are "potential, no less than actual conflict of interest." *International Brotherhood of Teamsters v. Hoffa*, F. Supp. 246, 256 (D. Ct. D.C. 1965). Disqualification should be ordered whenever an attorney has "potentially conflicting obligation." *Id.* As the Second Circuit recently stated, the court had discretion to "nip any potential conflict of interest in the bud." *Tucker v. Shaw*, 378 F.2d 304, 307 (1967). See Annot. Disqualification of Prosecuting Attorney on Account of Relationship with Accused, 31 A.L.R. 3d 953, for discussion of the court's power to disqualify a prosecuting attorney and its duty to appoint a special prosecutor to replace him.

Thus it can be argued (and it has been by a noted George Washington University Law Professor) that Federal District Courts might create a Special Prosecutor procedure by disqualifying a U.S. Attorney for conflict of interest, then replacing him by appointment under 28 U.S.C. 546 (judicial authority to fill vacancies in the office of U.S. Attorney). In the matter of the Grand Jury enpaneled December 5, 1972, petition of intervenor John F. Banzhaf III (filed October 9, 1973 D. Md., Hoffman, J.), Professor Banzhaf rests his argument on the strong state precedents holding a court of criminal jurisdiction must have such authority if it is to do justice. One court has gone so far as to suggest that this is a power that the legislature has no right to abridge. *State v. Henderson*, 123 Ohio St. 474, 479, 175 N.E. 865, 867 (1931). In *Taylor v. State*, the Florida Supreme Court asserted:

"The power of removal in the Governor may act as a deterrent, and if applied, would prevent a recurrence of the wrong, but it does not afford a remedy—much less an adequate remedy—in the particular case. The law does not contemplate lapses through which the guilty, by reason of the complicity, good fellowship, or what not, of the

state attorney, may escape indictment, and then suffer vicarious punishment through removal of the officer." 49 Fla. 69, 76-77, 38 So. 380, 383 (1905).

The Supreme Court of Florida more recently pointed out:

"(I)t is a universally accepted principle of law that such power of appointment is an inherent power of a court possession criminal jurisdiction. No statute is necessary to the exercise of such inherent power."

Kirk v. Baker, 224 So. 2d 311, 317-18 (1969). See also *Williams v. State*, 183 Ind. 283, 123 N.E. 209, 215 (1919); *State v. Spencer Circuit Court*, 244 Ind. 552, 194 N.E. 2d 606 (1963); *State v. Jones*, 306 Mo. 437, 268 S.W. 83 (1924).

"Most states by statute authorize the court to appoint a special prosecutor when the regular prosecuting attorney is absent because of death or illness or when he is disqualified because of 'interest' in the outcome of the investigation . . . Absent such statutory authority, courts have held that, as a matter of discretion, they could appoint special prosecutors under these same circumstances in the exercise of their 'inherent power' . . . (T)he courts' interest in supervising the proper use of their machinery and protecting the judicial system from political or personal misuse justified their exercise of extraordinary power." *supra*, 111 U. Pa. L. Rev. 954.

Whether or not the Federal Courts could claim the power to appoint a Special Prosecutor as an inherent right, the Federal Special Prosecutor Act will confirm that the Federal District Courts possess this tool to do justice.

CONCLUSION

We have said that there exists an answer to the questions as to the capacity of this government to seek out and prosecute crimes in the higher levels of government. That answer is the Federal Special Prosecutor Act of 1974. There seems to be growing agreement that the time has come to enact such a provision.

As the authors of the American Criminal Law Review article to which we have made reference remark, "There is much evidence that ours is not a government of separate powers, but of blended powers, and ample precedent exists for the proposition that no harm will obtain when an official of one branch has the authority to merely confer a role upon a member of another branch . . . such a procedure may be the only means of insuring impartial enforcement where a United States Attorney is in the uncomfortable position of having to prosecute his fellows in the executive branch . . . To let a prosecutor continue to act where political interest is present, or to mandamus him where it is likely that he will put forth a half-hearted effort, is to allow him to 'thumb his nose' at the very persons who are responsible for his position in office. For the sake of doctrinal tradition, the entire purpose of public office is defeated. If indeed, a public office is a public 'trust,' then failures to proceed with a single-minded concern for the electors, constitutes an unconscionable breach of duty. A prosecutor who must look in two directions will see clearly in neither and must therefore be prohibited from carrying on a futile attempt." 11 Am. Cr. L. Rev. *supra*, at 637-8.

Leon Irish, the former Supreme Court law clerk, also quoted above, seems to agree there is a need for such legislation.

"The Constitution enjoins the President 'to take Care that the Laws be faithfully executed.' When a criminal investigation requires examination of allegations involving the President and his closest personal advisers, however, the appearance and perhaps the actuality of faithful execution of the laws is possible only through a Special Prosecutor with sufficient independence and power to

follow wherever the trail of evidence may lead.

"The power to prosecute alleged wrongdoing in the executive branch clearly is among those powers vested by the Constitution in the Government. As Chief Justice Marshall wrote in his classic description of constitutional power: 'Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.'" (*McCulloch v. Maryland*). *Washington Post*, Nov. 9, 1973, p. A30.

It would be difficult to disagree with Raoul Berger, senior fellow in American Legal History at Harvard Law School, who wrote in the *New York Times* on November 7, 1973,

"To insist that the President must investigate and prosecute himself, for that is what the argument for executive control of prosecution boils down to, is plainly unreasonable. The power of appointment and the separation of powers were not designed to obstruct justice.

"Let our guide be the utterance of Con-

gressman Bland in the first Congress. Faced with the fact that the Constitution made no provision for removal, he said, 'it was essentially necessary that such a power should be lodged somewhere, or it would be impossible to carry the Government into execution.'

"Somewhere there must exist power to provide for an independent special prosecutor to carry forward an untrammelled investigation of White House participation in a criminal conspiracy. Without straining, it can be found in Article II, Section 2(2). It follows that a statute authorizing a court to appoint a special prosecution would be constitutional." at p. 47.

Forty-six deans of American law schools supported the Bayh Special Prosecutor bill as did the *New York Times*, *Washington Post*, and scores of other leading journals and newspapers. As Cardozo remarked: "All found, however, in the end that there was a principle in the legal armory which, when taken down from the wall where it was rusting, was capable of furnishing a weapon for the fight and of hewing a path to justice."

The time to focus attention on the broader issues is now. Too often these past few weeks

we have heard the Congressmen's aides say we would have to wait—maybe a few years for a complete evaluation of the jobs that Cox and Jaworski did. To us this is terribly wrong. The two aren't connected. What we are talking about has nothing to do with the President or the present crises.

The Federal Special Prosecutor Act is designed to help an individual who in a case like Ernest Fitzgerald's or Gordon Rule's is in a situation where the administration faces an inherent conflict of interest in prosecuting the people who may have wronged him. In a larger sense the Act is designed to help the American people who are wronged whenever justice goes apparently undone. The significance of Watergate here is that it is essential that we act now.

APPENDIX 1A

One of the ironies of the furor over a federal special prosecutor is the fact that state governments have traditionally provided for this device and used it successfully in a variety of ways. What follows is a list of statutes and cases by which the special prosecutor has been established in various states. (Note that some statutes were taken from outdated State Codes.)

State	By statute	By case law	Statute or case citation	Appointing authority
Alabama	X		13 § 235	Trial court.
Alaska (1948 territorial law)	X		§ 54-5-1	Do.
Arizona	X		§ 17-903	Do.
Arkansas	X		§ 24-117	Do.
California	X	X	Cvt. § 12553 Sloan v. Hammond, 254 P. 2d 648 (1927)	Do.
Colorado	X		§ 45-1-7, 8	Do.
Delaware	X		29 § 2504	Do.
Florida	X	X	§ 32.17 Taylor v. State, 38 So. 380 (1905)	Do.
Georgia	X	X	24 § 2913 Tomlinson v. State, 182 S.E. 2d 320 (1971)	Do.
Idaho	X		31 § 2603	Trial court (after petition of regular).
Illinois	X	X	1466 People v. Doss, 48 N.E. 2d 213 (1943)	Trial court.
Iowa	X	X	§ 336.3 White v. Polk Co., 17 Iowa 413 (1964)	Do.
Indiana	X	X	49§2515, 16, 17, 18 (repealed 1965) Williams v. State, 123 N.E. 209 (1919)	Supreme Court (on appl. of regular).
Kansas	X		19§117	Trial court.
Kentucky	X		§ 69.060	Do.
Louisiana	X		§ 16-4 (Civil) 15-311 (Criminal)	Do.
Maine	X		30§551	Do.
Michigan	X		§ 5.758	Do.
Minnesota	X		§ 383.12	Do.
Mississippi	X	X	§ 25-31-21 State v. Jones, 268 S.W. 83 (1924)	Do.
Missouri	X		§ 56.110	Do.
Nebraska	X		23§1205	Do.
Nevada	X		252.100	Do.
New Hampshire	X		7833	Do.
New Jersey	X		2A-158-9	Trial court (en banc).
New Mexico	X		§ 17-1-9.1, 9.2 and 17-1-14	Trial court.
New York	X		18§701	Removal by Supreme Court.
North Carolina	X		7A-96	Trial court.
North Dakota	X		11-16-06	Do.
Ohio	X	X	§ 2941.63 State v. Henderson, 175 N.E. 865 (1931)	Do.
Oklahoma	X	X	19§215.9 Lizard v. State, 166 P.2d 119 (1946)	Do.
Oregon	X		§ 148.150	Attorney General, trial court.
Pennsylvania	X		71-297	Governor, Attorney General, at request of Trial court.
Rhode Island	X		36-4-2	Attorney General.
South Carolina	X		Const. Art. 5, sec. 29	Trial court.
South Dakota	X		1-11-2	Attorney General.
Tennessee	X		Const. Art. 6, sec. 5	Trial court.
Utah	X		Const. Art. 8, sec. 10	Do.
Washington	X		§ 36.27.040	Regular prosecutor.
West Virginia	X		7-7-6	Trial court.
Wisconsin	X		§ 59.44	Do.
Wyoming	X		§ 18-117	Do.

APPENDIX 1B

Three typical state statutes are here set out in addition to the Illinois statute set out at page 11. Without reprinting a great many state laws these examples suffice to give the flavor and common terms of the thirty-two state provisions which provide for trial court appointment of a Special Prosecutor.

OHIO CODE OF CRIMINAL PROCEDURE

§ 2941.63 Counsel to assist prosecutor. (GO § 13439-15)

The court of common pleas, or the court of appeals, whenever it is of the opinion that the public interest requires it, may appoint an attorney to assist the prosecuting attorney in the trial of a case pending in such

court. The board of county commissioners shall pay said assistant to the prosecuting attorney such compensation for his services as the court approves.

NORTH DAKOTA STATUTES

11-16-06. Failure of state's attorney to perform duty—Power of court—Appointment of acting state's attorney.—If it shall appear,

by affidavit or otherwise, to the satisfaction of a judge of the district court of the judicial district in which the county is situated, that the county has no state's attorney, or that the state's attorney is absent or unable to attend to his duties, or that the state's attorney has refused or neglected to perform any of the duties prescribed in subsections two to six, inclusive, of section 11-16-01, or to institute any civil suit to which the state or the county is a party after the matter has been properly brought to the attention of such state's attorney, and that it is necessary that some act be performed, the judge shall:

1. Request the attorney general or an assistant attorney general to take charge of such prosecution or proceeding; or

2. Appoint an attorney to take charge of such prosecution or proceeding and fix his fee therefor by an order entered upon the minutes of the court, and the attorney so appointed shall be vested with the powers of the state's attorney for the purpose of that action, but for no other purpose, and shall be the only person authorized to proceed in such action. The fee specified in the order shall be allowed by the board of county commissioners and, if so ordered by the court, the amount of such fee shall be deducted from the salary of the state's attorney.

WYOMING CODE

§ 18-117. Assistant prosecutor.—The district court may, whenever it is of the opinion that the public interest requires it, appoint an attorney to assist or act, for the prosecuting attorney, in the trial of cases or before the grand jury, and, while so assisting or acting, such attorney may perform any act or duty which the prosecuting attorney could perform; and the county shall pay such assistants such compensation for his services as the court shall deem proper, which sum, unless otherwise ordered by the court, shall be deducted from the salary of the prosecuting attorney. (Laws 1890, ch. 73, § 149, R. S. 1899, § 1110; C. S. 1910, § 1211; C. S. 1920, § 1457; R. S. 1931, § 30-408; C. S. 1945, § 27-608.

By Mr. BELLMON:

S. 2979. A bill to amend the Commodity Credit Corporation Charter Act to provide additional service and protection to producers of agricultural commodities and to the purchasers of such commodities. Referred to the Committee on Agriculture and Forestry.

Mr. BELLMON. Mr. President, with the growing demand for agricultural commodities has come an increased amount of forward contracting of wheat, soybeans, feed grains, and cotton. Many legitimate purchasers are attempting to buy in advance to cover their needs and many producers are interested in contracting ahead in order to stabilize the market and to have available the funds they need to pay operating costs at harvest time. Forward contracting is mutually beneficial provided it is carried on by responsible, honorable individuals who will live up to the terms of their contract.

Unfortunately, experience has shown that not every party to a contract is honorable in his business dealings. As an example, last year, long before cotton was harvested, a number of farmers in my State, as well as in other areas, contracted to deliver their cotton to a purchaser for 28 cents a pound. Subsequently, that purchaser took bank-

ruptcy. This left the farmers with no protection had the price of cotton gone down. However, the price went up sharply and that trader who had tricked the farmers and who risked nothing now stands to make a large fortune.

There is no way this trader could have fulfilled his side of the contract, but by using a legal device he has profited handsomely. Naturally, these cotton growers feel they have been cheated. They have kept their side of the bargain at considerable financial sacrifice while the other party has escaped his responsibility and yet reaped a huge profit.

Mr. President, because of the great demand for farm commodities, these kinds of abuses can be expected to increase in the months and years ahead unless Congress takes action to prevent such activities. I am today introducing legislation to amend the Commodity Credit Corporation Charter Act to provide a means for buyers and sellers of agricultural commodities to protect themselves. The bill directs the CCC, upon payment of a reasonable premium, to insure the seller and buyer of agricultural commodities against financial loss resulting from failure of the other party to comply with the terms of the contract.

For example, if the seller was concerned about the financial stability of the buyer and his ability to pay for the contracted commodity upon delivery in the future, the seller could purchase insurance to assure him that he would receive the price stipulated in the contract.

The buyer might want to secure the insurance if failure of the seller to deliver because of natural disaster or other problems places him in a financially precarious position.

As I have stated, Mr. President, I believe that forward contracting is beneficial to farmers and ranchers and this amendment to the CCC authority would provide additional incentives for both buyer and seller to forward contract.

This insurance will not be available for contracts traded on organized futures markets.

The second portion of this bill is aimed at a problem prevalent in many areas currently because of the transportation bottleneck, particularly with reference to agricultural commodities.

Local purchasers, such as grain elevator operators, take delivery of the farmers produce but are unable to pay the farmer until payment is received from the next purchaser down the supply chain. That payment is not received until delivery is made.

Mr. President, the problem with this arrangement is that many months may transpire between the time the grain producer sells his commodities and the time payment is finally received. During this time, it is possible for the dealer's business to fail, to change hands, or for the dealer to leave the country without settling for the purchases he has made.

Again, because of the high level of demand and the high value of farm commodities, this problem is likely to become even greater in the future. It is a risk

agricultural producers should not be required to take.

The second section of this bill provides authority to the CCC to alleviate the situation by allowing the original purchaser from the farmer to borrow from CCC funds to pay the farmer if, first, the purchaser is unable to pay the farmer upon delivery because of unavoidable transportation delays and, second, if the purchaser is unable to obtain funds from his usual commercial credit sources.

It is my hope that early action can be taken on this much-needed legislation.

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

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

S. 2979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended by (1) inserting "(a)" immediately after "specific Powers.—", (2) redesignating paragraphs (a) through (g) as paragraphs (1) through (7), respectively, and (3) adding at the end of such section a new subsection as follows:

"(b) In the fulfillment of its purposes and in carrying out its annual budget programs submitted to and approved by the Congress pursuant to the Government Corporation Charter Act (31 U.S.C. 841-871), the Corporation shall—

"(1) insure, under such rules and regulations as the Secretary may prescribe and upon payment of a reasonable premium, (A) any buyer who contracts to purchase from any producer for future delivery any agricultural commodity (including livestock) produced by such producer, and (B) any producer who contracts to sell for future delivery any agricultural commodity (including livestock) to be produced by such producer against financial loss resulting from failure of the buyer or seller to comply with the terms of the contract for future delivery, but no buyer or seller may be insured under this paragraph with respect to any agricultural commodity contracted for sale through a contract market (as defined in section 2 of the Commodity Exchange Act (7 U.S.C. 4)).

"(2) Finance the purchase of any agricultural commodity from the producer of such commodity at such rate and on such terms and conditions as the Secretary may prescribe whenever the purchaser is unable to (A) make payment upon delivery of the commodity because of an unavoidable delay in the delivery of any agricultural commodity sold by the purchaser to a subsequent purchaser, and (B) obtain financing for such purposes from usual commercial sources upon reasonable terms and conditions."

By Mr. BELLMON:

S. 2981. A bill to postpone certain regulations relating to utilization review requirements under titles XVIII and XIX of the Social Security Act. Referred to the Committee on Finance.

Mr. BELLMON. Mr. President, today I am introducing legislation which would postpone until January 1, 1976 the implementation of proposed Federal regulations promulgated pursuant to section 237(a) and section 207 of the Social Security Amendments of 1972 (P.L. 92-603). These sections permit the Secretary of Health, Education, and Welfare to establish regulations requiring preadmis-

sion approval of all elective hospital admissions of medicare and medicaid patients. This bill is a temporary, stopgap measure to halt these regulations. Its enactment would give Congress the necessary time to thoroughly review these provisions of law. Congress needs time to determine whether or not such Federal intervention is in the national interest.

It is the intention of the vast majority of Oklahoma doctors and hospital administrators that the proposed Federal regulations establishing preadmission standards published in the Federal Register on January 9, 1974, will have the effect of greatly impeding the normal flow of patients and interfere with the efficient operation and delivery of medical and surgical care.

My office has received hundreds of letters from concerned members of the medical profession protesting these regulations. I ask unanimous consent that a letter from Richard J. Mooney, the Administrator of St. Anthony's Hospital in Oklahoma, to the Social and Rehabilitative Services be printed in the RECORD at this point. It typifies the type of protest which is presently being voiced from Oklahoma.

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

ST. ANTHONY HOSPITAL,

Maryville, Mo., January 31, 1974.

ADMINISTRATOR,

Social and Rehabilitative Services, Department of Health, Education and Welfare, Washington, D.C.

DEAR SIR: We have recently presented a copy of Section 1447 of the Federal Register issued on January 9, 1974 concerning proposed utilization review regulations. We feel that it is imperative that prior to the implementation of these regulations, certain information be brought to your attention.

St. Anthony Hospital, the oldest hospital in the state of Oklahoma, has for many years attempted to furnish the finest possible medical care to its patients; and as a nonprofit hospital, has carried a large portion of uncompensated patient load for the city of Oklahoma City. Our daily average census has been 475 for the past fiscal year with an average daily admission rate exceeding 65 patients per day. Thirty-five percent of our patients have been either Medicare or Medicaid funded.

From a quick review of the proposed regulations, we find that it will be necessary to have prior to the admission of these patients, current histories, physical examinations, results of previous tests, as well as a proposed plan for the patient's treatment. This is a new departure for hospital admissions as has been practiced in this area for generations. Assuming that all the admitting physicians servicing patients in St. Anthony Hospital would immediately comply with these requirements, there are still three acute problems:

1. Medicaid patients within the state of Oklahoma: At the present time, there are apparently little or no funds available to pay for expensive and extensive outpatient diagnostic procedures for Medicaid patients. Therefore, these patients would have difficulty qualifying for admission to hospitals without the required extensive diagnostic procedures to be performed on an outpatient basis, as there are no funds to cover the cost of these procedures.

2. At St. Anthony Hospital, approximately 30% of our patients are referred from out of the four county areas for admission. Many of these patients have to travel upwards of a hundred miles. It would be almost impos-

sible to have the patient wait while the Medical Utilization Review Committee were to screen the preadmission forms, and in a number of instances, possibly having to return the patients to their homes many miles away. St. Anthony Hospital cannot control the prehospital work-ups of patients referred here from out of town communities.

3. The increased cost shown in dollars and in the services of skilled personnel that will be required to implement and operate the proposed program will be substantial. We assume that the increased costs will be borne by the Medicare and Medicaid programs without problem. However, these procedures will require the diverting of a number of skilled nursing personnel to perform administrative functions in order to properly operate the program. Here in Oklahoma City, there is already an acute shortage of nurses, and the diverting of additional nurses at each of the larger hospitals to support the implementation of this program will further detract from the ability of hospitals to provide adequate nursing care.

Hospitals have been placed in an impossible situation whereby we are inundated with a multitude of federal rules and regulations, many of which are in conflict with other regulations or have not been staffed as to the feasibility of implementation. St. Anthony Hospital requests that you abandon the plan to implement these proposed regulations.

Sincerely,

RICHARD J. MOONEY,
Administrator.

Mr. BELLMON. Mr. President, undoubtedly the implementation of these regulations will result in increased and unnecessary Federal expenditures to administer the program. In addition, it is the feeling by the Oklahoma medical profession that these regulations would have the effect of preempting certain provisions of legislation establishing Professional Standard Review Organizations. Under PSRO, the physicians in Oklahoma have the option, until January 1, 1976, of implementing a professional peer review program which could incorporate a precertification feature. This approach is currently being studied by a foundation established solely for this purpose. In my view, the implementation of the proposed regulations would completely circumvent the authority granted to private physicians to function under the terms of PSRO.

For these reasons, I have written the Secretary of Health, Education, and Welfare, Caspar Weinberger, to register my objections. I ask that a copy of this letter be inserted in the RECORD at this point.

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

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., February 7, 1974.

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

DEAR CAP: As you can imagine the entire Oklahoma medical profession as well as our hospitals and clinics are in complete uproar because of the new utilization review procedures for admission under Medicare and Medicaid. Apparently the medical profession looks upon this procedure both as an insult and a threat.

It is my opinion that at least in the state of Oklahoma the medical profession has done an excellent job in providing high quality medical service at a reasonable cost and with a minimum of abuses.

Oklahoma physicians are in the process of

establishing PSRO review teams. I strongly urge that at least in Oklahoma the medical profession be given the opportunity to monitor the performance of physicians and hospitals before another layer of federal bureaucracy is imposed.

Sincerely,

HENRY BELLMON.

Mr. BELLMON. Mr. President, the medical profession has and is generally providing excellent medical care. I strongly oppose the creation of a bureaucratic barrier between physicians and their patients. Here is one place where I feel that government has definitely gone beyond the limits of reason and commonsense. Hopefully, the proposed regulations will not be implemented. I call for early and favorable congressional approval of this measure. I ask unanimous consent that the full text of this bill be printed in the RECORD.

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

S. 2981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no regulation and no modification of any regulation promulgated by the Secretary of Health, Education, and Welfare after January 1, 1973, shall be effective for any period which begins prior to January 1, 1976, if (and insofar as) such regulation or modification of a regulation pertains (directly or indirectly) to so much of the provisions of law as relate to the use, under title XIX of the Social Security Act, of utilization review committees and procedures for review of inpatient hospital services and skilled nursing services established under title XVIII of such Act and certification and recertification of patient need for institutional services under such Act, as are contained in sections 207, 237(a), and 239(b) of the Social Security Amendments of 1972.

By Mr. DOMENICI:

S. 2982. A bill to designate certain lands in the Bandelier National Monument, N. Mex., as wilderness. Referred to the Committee on Interior and Insular Affairs.

Mr. DOMENICI. Mr. President, today, I send to the desk for appropriate reference a bill to designate certain lands in the Bandelier National Monument as wilderness.

In 1916, President Woodrow Wilson proclaimed the canyon of the Rito de los Frijoles and adjacent lands in northern New Mexico as a national monument. This was done to preserve and protect the relics of the Pueblo communities of the 1200-1500 period for their ethnologic, scientific, and educational interest. In 1932, this area became a part of the national park system and since that time there have been boundary changes to bring the total area of the monument to 29,661.20 acres, all of which is federally owned.

Hearings were held on the preliminary Bandelier National Monument wilderness proposal at Los Alamos, N. Mex., on December 18, 1971, and there was overwhelming local support for inclusion of some of the monument area as a part of the wilderness preservation system.

The Department of Interior recently completed study of the Bandelier National Monument in their review of road-

less areas of 5,000 acres or more as to their suitability for preservation as wilderness. The Department has recommended the establishment of acres totaling approximately 21,110 acres in Bandelier National Monument as part of the national wilderness preservation system.

Mr. President, the bill I introduce today includes the areas which were recommended by the Department of Interior and have been deemed suitable for designation as wilderness.

I believe that this unique piece of New Mexico has great historical, scientific, and social importance. Included are a great number of major archeological sites. We in Government must exert every effort to preserve the unique which is such a vital part of our heritage. This particular area gives us an unrivalled look to those humans who inhabited our land hundreds of years before us and we cannot afford to lose this priceless asset. Designation as a wilderness area will make sure that Bandelier is protected as fully as possible for future generations.

By Mr. JAVITS (for himself, Mr. EAGLETON, and Mr. WILLIAMS):

S. 2983. A bill to amend the Public Health Service Act to provide for emergency assistance to urban hospitals. Referred to the Committee on Labor and Public Welfare.

THE URBAN HOSPITAL EMERGENCY ASSISTANCE ACT OF 1974

Mr. JAVITS. Mr. President, the bill I introduce today for myself and Senators EAGLETON AND WILLIAMS, the Urban Hospital Emergency Assistance Act of 1974, is designed to breathe life into a badly deteriorating—perhaps perishing for fiscal reasons—but critically important element of the Nation's health care delivery system—our overburdened urban public hospitals. These great institutions provide the bulk of inpatient and outpatient care for the millions of poor, uninsured, medically indigent, and disadvantaged citizens in cities across America.

The urban public hospital is nationally recognized as the provider of service to all in need of health care, regardless of their economic status. They are community institutions practicing high quality medicine, but their quality care is not publicly recognized and they are stigmatized as facilities for the poor, and the affluent avoid using them because of this stigma.

I will go on to analyze the historic causes for our two-track hospital health care system and its resultant fiscal plight for our public hospitals, but it does regrettably exist.

I believe we have the responsibility to provide emergency support to insure public hospital survival and, at the same time, the impetus for change.

The bill I introduce today would accomplish these goals:

First, \$500 million over 3 years is authorized for grants to public general hospitals which meet specified criteria for modernization and outpatient activities, with a specific exclusion against using the grants for expansion of bed capacity. The immediate dire financial straits of our public hospitals are recognized by the

provision for a grant priority where the assistance sought is to either eliminate or prevent an imminent safety hazard or avoid loss of the hospital's licensure or accreditation. But the hospital must first establish to the Secretary's satisfaction, that the failure to overcome such serious problems cannot be achieved without Federal assistance.

Second, \$110 million is authorized over 3 years for grants to public and private nonprofit hospitals to demonstrate innovations in health care delivery construction. Applicants must demonstrate how such grants would implement quality control or eliminate documented operational inefficiencies in the provision of health services to patients.

Third, \$300 million is authorized over 3 years as an entitlement to public hospitals, which derive 15 percent of their operating expenses from local government's general revenues. The entitlement would be in the form of a grant equal to 75 percent of "annual net cost of patient care"; not otherwise reimbursed by medicare, medicaid, or other third party insurers, and require that to be eligible for such grant, it be established that without such Federal assistance the local unit of government would otherwise be required to provide general revenue funding. The total operating expenses of a hospital are included in the term "annual net cost of patient care," but such cost cannot be more than the costs of the most efficient institutional provider of health care in the community which is providing an equivalent range of services; and it is less the amounts received by the hospital from patients, or third party payors on the patients' behalf, for such care, but excludes from such reduction, first, payments from general revenues by local units of government or by other public agencies in support of the hospital or specifically for the care of low-income or medically indigent persons; second, payments by the Secretary under title VI of this act; and third, charitable contributions to the hospital.

Fourth, \$150 million is authorized over 3 years as an entitlement to public and nonprofit private hospitals which adopt uniform cost accounting, utilization and reporting systems and procedures for training residents, interns, and individuals preparing for careers in nursing or the allied health professions in approved programs except noncitizen foreign medical graduates. Each hospital would receive the lesser of the product of \$500 multiplied by the number of patient beds in such hospital, or \$500,000.

Urban public hospitals serve as the family doctor, specialist, nurse, and counselor. Their specialty services are available to the entire community, and they have been among the leaders of medicine in provision of emergency services, drug abuse, and alcoholism treatment, and burn and trauma centers. There is generally no other resource.

Public hospitals pioneered in the establishment of ambulatory care programs long before the term became popular. Their outpatient clinics, while often overcrowded and understaffed with overworked and dedicated physicians, nurses,

and other health personnel, have long provided leadership in the development of maternal and child health programs, in cancer detection, heart and stroke prevention and rehabilitation, and in health education and family planning.

As teaching hospitals, urban public hospitals offer opportunities for vitally needed residency training, internships, nurse training, and other health profession programs; ranging from basic aid and technical training to highly specialized postgraduate medicine.

Unfortunately, these important health care functions are provided through a system that has historically distinguished between private medical care for the affluent and public care for the economically disadvantaged. In the early days of our Nation's history, care for the destitute was in hospitals which were never used for the treatment of well-to-do patients. Only after hospital officials were convinced by men such as Lister, Pasteur and Semmelweis of the necessity for antiseptics and sterile procedures did hospitals become places to get well, rather than die. And the introduction of anesthesia gave a purpose to the hospital-surgery. When all this took place, the middle and upper classes began to use hospitals, but they generally used newly built private institutions. Thus, the historic separation of care systems originated and persists: Private hospitals are seen as places to get well, while public hospitals all too often and wrongly are seen as places to die.

After the issuance of the historic Flexner report on medical education, the teaching hospital became an essential element of physician training; the poor patient in public hospitals—receiving free care—became the experimental material for generations of medical students and in exchange the medical schools provided the medical manpower resource at virtually no cost to the hospital.

The growth of third-party payment systems, while having great impact on the private hospitals, had little effect on the public hospitals, because their patient population had little, or no insurance coverage. The public hospitals remained almost totally dependent on local tax revenues while the financial base of the private hospitals gradually shifted.

Unfortunately, the promises seen for public hospitals through medicaid never became a reality. Medicaid initiated the demand for health services, but at the same time proved too expensive for many State governments and they cut back on their commitments. The cutback impacted most severely upon public hospitals which provided the vast majority of care for medicaid patients. The cost of previously paid medicaid health care now must be paid from the local tax base posing an even more serious tax problem.

Medicaid while excellent as a social tool for itself has not solved the public hospital problem, and the urban poor are still victims of the historical distinction between the public and private health care systems.

The public hospitals are in a critical condition. In many cities, the physical plants are obsolete, poorly located, and

incapable of supporting quality care. Patient-staff ratios are unacceptable, and heavy reliance is placed on the use of medical staff composed of foreign medical graduates. In cities across the country the public hospitals have lost or are threatened with loss of accreditation. Several public hospitals are scheduled for closure and the New York City Health and Hospitals Corp. is faced with the need to close or lease a number of its municipal hospitals.

We need to take immediate and emergency action to save our public hospitals. The legislation we introduce today is not intended to be permanent, nor do we expect it to be a panacea for the ills of the system—ills which are historic and rooted in the facts of local property taxation and public attitudes toward the poor. But the temporary infusion of capital and operating support proposed in this measure together with minimal assistance in the cost of training our health manpower may provide a brief respite in the continuing slide of the public hospital system so that we may proceed to the larger public policy issues surrounding health care, confident that we are not too quickly sacrificing a vital resource which may be, after due consideration, retained as a key element of our new national health service delivery structure.

One of the most outstanding presentations and analyses of the issues confronting our public hospitals was set forth in an article entitled "Public Hospitals—Critical or Recovering?" by Alice Tetelman, formerly a legislative assistant in the office of the former Republican Senator from New York, Charles Goodell. I commend the article—which highlights the proceedings of five regional conferences sponsored by the Council of Urban Health Providers and the Health Services and Mental Health Administration, January through March 1972—written by Ms. Tetelman to the attention of my colleagues and ask unanimous consent that the full text of the article and the bill be reprinted in the RECORD.

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

S. 2983

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 "Urban Hospitals Emergency Assistance Act of 1974".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. The Congress hereby finds and declares that—

- (1) The achievement of equal access for all people to high quality medical care at a reasonable cost is a priority of the Federal Government.
- (2) Urban public hospitals provide such health care services to a large segment of the population who would not otherwise be served.
- (3) Improvements in the financing of these institutions must be made if they are to survive over the next five years.
- (4) Emergency financial assistance must be provided (a) to prevent the closure or denial of accreditation to urban public hospitals; (b) to provide operating support for patient care activities not otherwise reimbursable; and (c) to assist in meeting urban

public hospitals' costs of training professional and allied health personnel.

SEC. 3. Section 600 of the Public Health Service Act (42 U.S.C. 201) is amended by striking the word "and" at the end of subsection (b); by striking the period at the end of subsection (c) and inserting in lieu thereof the word "; and"; and by inserting after subsection (c) the following new subsection:

"(d) to provide alternate methods of operational financing to public hospitals for patient care and to public or other nonprofit community hospitals for manpower training programs."

SEC. 4. (a) Title VI of the Public Health Service Act is further amended by adding after section 610 the following new section:

"HOSPITAL FACILITIES RESTORATION"

"SEC. 611. (a) The Secretary is authorized to make grants to public general hospitals to assist such hospitals in meeting the costs of—

"(1) modernization of patient care facilities in urban areas, and

"(2) construction or modernization of outpatient facilities of such hospitals located apart from the hospital so that ambulatory care service may be decentralized.

"(b) In no case shall a grant under this section exceed 75 per centum of the cost of a project and no amount of such grant may be used for the expansion of bed capacity of the facility.

"(c) To be eligible for a grant under this section an applicant shall demonstrate to the satisfaction of the Secretary—

"(1) the ability to serve low-income residents residing in the area to be served by such applicant;

"(2) that a long-range plan for facilities improvement will be implemented with commencement of assistance under this section;

"(3) that the facility to be modernized or constructed and the services to be provided herein shall be located in, or readily accessible to, areas with a high density low-income population; and

"(4) that such application has been approved by an appropriate unit of local government in which the facility is or will be located.

"(d) In making grants under this section the Secretary shall give priority to those applicants who demonstrate the need for such assistance to—

"(1) eliminate or prevent an imminent safety hazard as defined by State or local fire, building, or life safety codes or regulations; and

"(2) avoid noncompliance with State or voluntary agency licensure or accreditation.

"(e) No grant shall be made under this section unless the project for which the funds are to be used is approved by the appropriate planning agency or agencies established under this Act and the applicant has established to the satisfaction of the Secretary that the applicant previously proceeded reasonably and diligently to overcome the hazards or noncompliance referred to in paragraphs (1) and (2) of subsection (d), but cannot achieve these stated goals without the financial assistance herein authorized.

"(1) There are authorized to be appropriated to carry out the provisions of this section \$100,000,000 for the fiscal year ending June 30, 1975, \$150,000,000 for the fiscal year ending June 30, 1976, and \$250,000,000 for the fiscal year ending June 30, 1977.

"(g) For each project there shall be submitted to the Secretary an application by the governing body of the hospital. Such application shall set forth—

"(1) a description of the site for such project;

"(2) plans and specifications therefor, in accordance with regulations prescribed under section 603;

"(3) reasonable assurance that title to such site is or will be vested in one or more of the agencies filing the application or in a public or other nonprofit agency which is to operate the facility on completion of the project;

"(4) reasonable assurance that adequate financial support will be available for the completion of the project and for its maintenance and operation when completed; and

"(5) reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of construction or modernization on the project will be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. 1332-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"(h) Payments under this section may be made in advance or by way of reimbursement, and on such terms and conditions and in such installment, as the Secretary may determine.

"(i) If any facility with respect to which funds have been paid under this section shall, at any time within ten years after completion of construction—

"(1) be sold or transferred to any person, agency, organization—

"(A) which is not qualified to file an application under this section, or

"(B) which is not approved as a transferee by the State agency designated pursuant to section 604 or its successor, or

"(2) cease to be a public health center or other nonprofit hospital, unless the Secretary determines, in accordance with regulations, that here is good cause for releasing the applicant or other owner from this obligation,

the United States shall be entitled to recover from either the transferor or the transferee (or in the case of a facility which has ceased to be public or nonprofit, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of the facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of construction or modernization under such project or projects. Such right shall not constitute a lien upon said facility prior to judgment.

"GRANTS FOR INNOVATIVE CONSTRUCTION"

"SEC. 644. (a) The Secretary is authorized to make direct grants to public and private nonprofit hospitals for special projects to demonstrate innovations in health care delivery construction which implement quality control or improve efficiency in the provision of health services by meeting identified needs, and reducing documented inefficiencies.

"(b) The Secretary may not authorize the recipient of a grant under this section to use funds under such grant for any construction unless the applicant filed (as appropriate) under this Act for a grant for such construction and such application was not approved or was approved but for which no or adequate funds were made available under such Act.

"(c) There are authorized to be appropriated to carry out the purposes of this section \$25,000,000 for the fiscal year ending June 30, 1975, \$35,000,000 for the fiscal year ending June 30, 1976, and \$50,000,000 for the fiscal year ending June 30, 1977."

SEC. 5. Title VI of the Public Health Service Act, as amended by this Act, is further

amended by adding at the end thereof the following new part:

"PART E—SUPPORT OF PATIENT CARE FACILITIES

"GRANTS TO HOSPITALS

"SEC. 651. (a) Each public general hospital shall be entitled for each fiscal year to a grant equal to 75 per centum of the annual net cost incurred by the hospital for patient care.

"(b) To be eligible for an entitlement under this section an applicant must—

"(1) demonstrate that it derives at least 15 per centum of its annual budgeted operating expense from funding that is appropriated for such expenses by a local unit or units of general government from general revenues;

"(2) provide assurances that health care services are provided to low-income persons residing in the area of that local unit of government;

"(3) demonstrate that it provides a complete continuity of health care encompassing a comprehensive range of health care services commensurate with the hospital's capability to provide the services and the community's need therefor including but not limited to—

"(A) emergency medical services,

"(B) outpatient services,

"(C) maternal and child care services,

"(D) family planning services,

"(E) psychiatric services, and

"(F) diagnostic and treatment services for individuals suffering from alcoholism and drug dependence.

"(c) There are authorized to be appropriated to carry out the purposes of this section \$50,000,000 for the fiscal year ending June 30, 1975, \$100,000,000 for the fiscal year ending June 30, 1976, and \$150,000,000 for the fiscal year ending June 30, 1977.

"(d) If the total of the entitlements for approved applications under this section exceeds the amounts appropriated under this section, the amount for that fiscal year to each such applicant shall be an amount that bears the same ratio to the amount determined for that applicant for that fiscal year under subsection (a) of this section as the total of available appropriations bears to the aggregate amount that would be required to fund all approved applications.

"(e) No payments shall be made under this section unless the applicant has demonstrated to the satisfaction of the Secretary that—

"(1) the applicant has established a viable program for the collection of all third-party payments to which it may be entitled; and

"(2) the local unit of government in which the facility is situated, would in the absence of assistance under this section have to supply such funds from its general revenue."

Sec. 6. Title VII of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART I—URBAN HOSPITAL MANPOWER TRAINING SUPPLEMENTS

"GRANTS TO HOSPITALS

"SEC. 799B. (a) Each hospital having adopted uniform cost accounting and utilization and reporting systems procedures (in accordance with regulations issued by the Secretary) shall be entitled for each fiscal year to a grant to assist such hospital in meeting the costs of training residents, interns, except noncitizen graduates of foreign medical schools, and individuals preparing for careers in nursing or the allied health professions in programs approved by him after consultation with the appropriate professional accrediting agency or specialty board.

"(b) Each hospital operating such a program shall be entitled for each fiscal year to an allotment equal to 25 per centum of the hospital's reasonable net cost of such training programs, but in no event shall the total assistance a hospital may receive under this section exceed the lesser of (1) the

product of \$500 multiplied by the number of patient beds in such hospital, or (2) \$500,000.

"(c) (1) There are authorized to be appropriated to carry out the purposes of this section \$25,000,000 for the fiscal year ending June 30, 1975, \$50,000,000 for the fiscal year ending June 30, 1976, and \$75,000,000 for the fiscal year ending June 30, 1977.

"(2) Sums appropriated pursuant to paragraph (1) for a fiscal year shall remain available for grants under this section until the close of the next succeeding fiscal year.

"(d) If the total of the entitlements for approved applications under this section exceeds the amounts appropriated under subsection (b) of this section, the amount for that fiscal year to each such applicant shall be an amount which bears the same ratio to the amount determined for that applicant for that fiscal year under this section as the total of the available appropriations bears to the aggregate amount that would be required to fund all approved applications."

DEFINITIONS

Sec. 5. Section 645 of the Public Health Service Act is amended by adding at the end thereof the following new subsections:

"(m) The term 'annual net cost of patient care' means the total operating expenses of a hospital (including transportation, board and room, outpatient care services incurred by a hospital for a fiscal year and directly or indirectly attributable to patient care, but no more than the costs of the most efficient institutional provider of health care in the community providing an equivalent range of services, less the amounts received by the hospital from patients, or third party payors on the patients' behalf, for such care, but excluding from such reduction (1) payments from general revenues by local units of government or by other public agencies in support of the hospital or specifically for the care of low-income or medically indigent persons, (2) payments by the Secretary under title VI of this Act, and (3) charitable contributions to the hospital.

"(n) The term 'low-income person' means any individual at an income level at or below a level designated by the Secretary after taking into consideration family size, urban-rural and farm-nonfarm differences and other relevant factors.

"(o) The term 'urban' means a standard metropolitan statistical area as determined by the Office of Management and Budget."

Sec. 8. Title VI of the Public Health Service Act is further amended by adding after section 646 the following new section:

"RECORDS AND AUDITS

"SEC. 647. (a) Each recipient of Federal assistance under this part, pursuant to grants, subgrants, contracts, subcontracts, loans, or other arrangements, entered into other than by formal advertising, and which are otherwise authorized by this part, shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project or undertaking referred to in subsection (a) of this section, have access for the purposes of audit and examination to any books, documents, papers, and records of such recipients which in the opinion of the Secretary or the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, loans, or

other arrangements referred to in subsection (a)."

NONDUPLICATION OF FUNDS

Sec. 9. No funds other than those appropriated under the provisions of section 611, 644, 651, or 799B of the Public Health Service Act, may be used for the purposes of those sections.

PUBLIC HOSPITALS—CRITICAL OR RECOVERING?

(By Alice Tetelman)

Public hospitals are much in the public eye these days. Questions about their current role in the health care delivery system, their ability to provide services to a large part of the nation's population, and what their proper future should be are being asked with increasing frequency by a significant number of health professionals and consumers. This concern is not a new phenomenon; it dates back almost as far as the origin of the public hospital system in this country.

The Federal Government has been an active participant in this debate. In 1967, the Public Health Service held an important working conference of public health professionals to examine the role of the public hospital system and to devise recommendations toward improving that role. (A report of that conference appeared in *Public Health Reports*, vol. 83, January 1968, pp. 53-60.)

The Community Health Service of the Health Services and Mental Health Administration has had an interest in following up the results of that conference, determining what new developments took place since the 1967 meeting, and re-examining several facets of the public hospital system in light of Administration proposals on health maintenance organizations and national health insurance. Thus, in fall 1971, HSMHA contracted with the Council of Urban Health Providers (CUHP)—a national membership organization of large urban public hospitals—to conduct a series of five regional conferences on these issues.

The meetings were held from January to March 1972 in San Francisco, Atlanta, Chicago, Philadelphia, and New York. The 228 participants included public hospital administrators and medical directors, government officials, health planners, consumers, citizen board members, academic experts, and representatives of accrediting organizations, medical societies, and hospital associations. At the conclusion of the conferences, CUHP submitted a report of the proceedings to HSMHA. The highlights of that report are summarized here.

THE PUBLIC HOSPITAL SYSTEM

At each conference, there was extensive discussion of the positive and negative aspects of the public hospital system.

Positively, there is substantial recognition of the role of the public hospital as a provider of service to all who come to it, regardless of income or status. The large urban public hospital is the major provider of inpatient and ambulatory care to the cities' poor and minority groups. This role, however, goes far beyond just taking care of people who must rely on Medicaid or Medicare or who cannot pay at all. The public hospital assumes a life of its own as a community resource.

The public hospital provides quality, expensive services in specialized areas such as emergency services, kidney centers, burn centers, and alcohol and drug detoxification. These are responsibilities which many private hospitals do not or will not assume. Although the perennially poor image of these hospitals sometimes prevents the public from acknowledging the high level of care offered in them, there is recognition of the high quality specialty services by professionals. These institutions are also the major training ground for our nation's health manpower. The large urban public hospital is usually

a teaching institution and has the resources of at least one medical school available to it.

At the same time, however, some negative aspects of public hospitals affect the care they provide. First, the physical plants of public hospitals are often obsolete. Inadequate financing for operating the hospitals and for construction and remodeling is most often cited as the cause. The single central location of the facility, common in many places, makes access difficult to those who need its services; inadequate transportation to the hospitals has been a major contributing factor in lowering access for consumers. Overextended outpatient and admitting services require long waits and adversely affect care. Severe budget and civil service constraints often inhibit the assembly of top-quality staff and often result in ineffective management.

The public hospitals have no real constituency to which they can turn for active support. As one participant stated, "The poor who get care do not like the public hospitals; the boards of supervisors or city councils who have to raise taxes to support them do not like them; the people in general do not like them because they are stigmatized as providers of second class medicine; taxpayers resent their taxes going into facilities for the poor; and health planners want them to go away."

A commonly accepted premise, often referred to at the 1967 conference, was that the advent of Medicaid and Medicare would signal the end of the public hospitals because people who had been using them could now afford to pay for care in private institutions. Nonetheless, statistics show that after an initial decline, the utilization of inpatient and ambulatory services has begun to rise to its previous level. This increased utilization has occurred for several reasons, all of which reflect the role of these institutions and their problems.

The public hospital is regarded as a community resource, and the voluntary hospitals have clearly indicated that they are generally not interested in the typical public hospital patient. Complex regulations and procedures for payment drive the former patient back to the public hospital. And, of great influence, Medicaid proved too expensive for many State governments; they are cutting back their commitments.

The Medicaid program increased demand for health services by people who had not been able to pay for services before Medicaid. It provided an influx of matching Federal dollars—as high as three Federal dollars to one State dollar. When States have cut back their Medicaid programs, the Federal share was also cut. Thus, for every dollar the State program saved, the local public hospital lost as much as \$4. This cutback is particularly important for the public hospitals, which provide the bulk of the care for the Medicaid patient. Much of the cost of care previously paid by Medicaid now has to be paid from the local tax base, so that city councils and county supervisors—left with a higher demand for services for which they must now pay—find they have even more financial problems.

Serious questions are still being asked as to whether the public hospitals should be abolished and their responsibilities turned over to other institutions. The participants at the conferences concluded that the nation could not afford to close them, but that, to survive, public hospitals had to change and were in fact in the process of changing. To do so, they need more public and private support for their present and future activities.

GENERAL CONCLUSIONS

At each of the five conferences the following general conclusions were reached:

It is neither feasible to abolish nor to allow the decline of the public hospital because it provides health services to a large segment of the population.

The public hospital must become more of a community institution by dispersing its facilities and responding positively to its consumers.

Public hospitals are acutely in need of capital funds for constructing new facilities and remodeling outmoded physical plants. They must receive additional financial assistance for this purpose.

Alternate methods of financing the operations of public hospitals must be found.

The public hospital is essential to providing trained health manpower for the nation. Public hospitals should be reimbursed for the costs of this training.

No one form of governance structure is applicable to all public hospitals.

The current health maintenance organization strategy is not appropriate for public hospitals. A review and modification of this strategy is necessary if public hospitals are to establish HMOs.

Convenient, low-cost public transportation is a key factor in the public hospital's ability to provide care.

More effective management controls must be instituted by public hospitals as soon as possible.

Public hospitals must build a constituency among consumers, public officials, other health providers, and the community at large. The image of the public hospital must change from the stigma of an institution for the poor into an acceptable place for all to obtain quality medical care.

Public hospitals have not been involved in the policymaking process. Deliberations on the future of the health care delivery system at the local, State, and Federal levels of government, the development of an HMO strategy, and planning for national health insurance need their participation.

Specific discussions of these points were as follows:

The two-track system of care

As might be anticipated, participants at each conference were concerned about the existing two-track standard of care reflected by the public hospitals on one track and the private delivery systems on the other.

The general feeling at each meeting was that although it is desirable to move toward a single system of care, it is not feasible or pragmatic to expect it to happen in the near future. Therefore, in the interim, more aid would have to be given to improving the public hospital system today. Resentment was expressed that while the public hospital struggled to live up to its responsibilities in caring for the poor, all attention and aid seemed to be focused on only one track of the system—the voluntary hospitals, which did not fulfill their responsibilities to the indigent.

The public hospitals are now performing many services which the private hospitals will not or cannot perform—emergency services, overall participation in community planning institutions, relationships with neighborhood health centers, and medical education. One reason why the existing burdens must be shared by the voluntary institutions is that the public hospitals are constantly being given new responsibilities which others are unwilling or unable to take on. Local public institutions, responsible for medical care and rehabilitation of prisoners, for example, find their burdens growing. In addition, the responsibility is increasing for the care of inmates of halfway houses, custodial facilities, and mental hospitals who require medical service. This area must be considered in future planning by local, State, and Federal officials.

Interestingly, as more public money goes into private hospitals, the public will surely demand more accountability from them, and this could help diminish the two-track notion. Because of declining daily census, voluntary hospitals are now looking to the public hospital patient as a resource to fill empty

beds if they can get adequate reimbursement. One recommendation, which might move the two tracks closer together, called for private physicians to admit their patients into municipal hospitals, a practice now followed only in a few such institutions.

The public hospital as a community institution

The impression at each conference was that regardless of which direction the voluntary institutions go, and how close we come to establishing a single standard of care, the public hospital must become a more decentralized, community institution. This change is imperative for both the provider and consumer of care. The objective must be an expansion of ambulatory facilities, neighborhood health center programs and outpatient facilities, and a physical dispersal of many of the public institutions' facilities. The goal is not to save the city hospitals but to reorder the urban health care delivery system and improve it with community facilities.

For the public hospital, the move to increased ambulatory care takes on particular significance. It is a natural outgrowth of the institution's primary role as a provider of service to all who need it without regard to ability to pay. The emergency rooms of the municipal hospital are in fact used by the public as a substitute for a family doctor. The strength of the public hospital revolves around the perception by its consumers of the hospital as "their" institution, even if they have to travel for 2 hours each way for care at the hospital. As a public institution which should be accountable to its constituency, consumer input and control should be heightened by this outreach.

There is a great need for availability of upgraded primary care delivery services in facilities easily recognizable to the community. A community center can be the base from which the public hospital hedges against becoming a highly specialized institution with expensive services.

Finance and governance

In discussions of how public hospitals should be financed and governed, two themes were quick to emerge: (a) that the two issues are interdependent and (b) what works in one part of the country will not necessarily succeed in another.

The participants were discouraged about the lack of funds for public hospitals, particularly investment capital for construction and remodeling. These institutions appear to have an advantage over the voluntary hospitals in the favorable borrowing power of State and local governments. However, in many instances, these governing bodies have already reached the legal limit allowed for employing this device. In addition, use of the borrowing power depends on the support of political officials who often are unwilling to use it because of pressure from voters against spending more money. Long-range planning which anticipates additional funds from this source is adversely affected when officials who support the programs are not re-elected or leave office.

The financing problems, then, are less a problem of the loss of the ad valorem tax base because people are leaving the center city where these hospitals are located, but are matters of political and governing bodies not using all of the tax systems available to obtain funds. Higher taxes and other priorities are clearly on the minds of the voters, and the governing bodies are responding to those pressures. There clearly has not been a significant amount of public pressure to renovate a 60-year-old facility in a declining area; the result for such hospitals is undercapitalization. Clearly unacceptable methods of handling such a financial crisis are the cutback of services to get governing bodies to act and threats of closing down. The conferees agreed that these were merely emergency devices which could not be used often.

Another way to change is for the municipal government to get out of the public hospital business completely and purchase services. In so doing, however, most municipalities would need a vastly increased health care budget and a definite way to obtain all the revenue they need. This is highly unlikely.

Better management controls and accounting procedures will result in cost savings and in improved ability to collect revenues. Efficiency in management would also help avoid duplication of certain services. Nonetheless, antiquated civil service procedures and complicated purchasing and collection requirements now imposed by governing bodies have hampered improvement in this area. Stringent and unnecessary justification requirements for reimbursement have meant increased dumping of problem patients on the public institutions, which increases and emphasizes difficulties in paperwork and claims. Areawide planning and control among the private and public sectors would do much toward solving these difficulties.

The key issue, however, is how to find new sources of funds or tap existing ones for more money. Several ideas for new sources of funds were discussed, among them the feasibility of public hospitals becoming district hospitals with independent taxing authority. In California some county hospitals have tried enterprise funding, in which the hospital operates partly as a business enterprise and earns its own way. Enterprise funding also allows for capitalization or depreciation funding. Some States have laws prohibiting a governmental organization to accumulate funds, but private hospitals can legitimately include depreciation in their charges so as to build up capital status. Why can't this be true for public hospitals as well?

One proposal for Federal legislation, perhaps as an aspect of a Federal revenue sharing plan, would provide Federal reimbursement to the cities for a fixed percentage of the net cost of operating public hospitals. After a determination was made as to what the costs were in 1 year—after reimbursements—the Federal Government would pay for a certain part of the operating costs. These funds then would be available in the ensuing fiscal year and would help offset the costs of the hospitals during that year.

Another recommendation made by a number of participants at each meeting was that the Hill-Burton program give higher priority to the need for new physical plants for public hospitals.

The conferees agreed that more emphasis should be placed on innovation in hospital construction for planning better facilities and primarily for cost saving purposes. The expansion of the public hospital into new ambulatory care facilities offers an excellent opportunity for the public hospital to test this concept.

Discussions in three meetings concerned the ultimate establishment of the hospital system as a public utility to deliver medical services in the same manner that electricity and gas are regulated and delivered. One group stated that hospitals are now public utilities, and that in devising a national health insurance scheme we have to plan stages of development toward that end. Even with the public utility approach, however, there will always be a need for public monies to support some medical care services.

The overall conclusion at each meeting was that the Federal Government has not yet adequately met its responsibilities toward the public hospital. Greater assistance will also have to come from the States.

On the issue of governance, the participants quickly agreed that since no one situation was applicable to another, this precluded recommendations as to the "best way" to set up effective governing bodies. Many institutions are moving to adopt the manage-

ment structure with which others are having problems. Effective leadership is as important as the governance mechanisms; even this leadership, however, is affected by the system of governance within which it functions.

There was agreement that local control—not State or Federal—was and should continue to be the pattern of governance. The parameters of this control would vary, and much of the discussion concerned consumer participation, flexibility of administration, and ability to raise funds.

Most participants favored the establishment of an independent governing board—with opinions varying on whether it should be elected or appointed. Some felt that a board elected with a single focus on health matters would be more geared to better fiscal management and operation and be a buffer to the political system. A hospital board will have flexibility to make decisions, and it could give muscle to planning and some guidance to the relationship with the educational institutions. Most often, however, boards have more responsibility than authority, particularly with regard to control over funds.

Without "the power of the purse," all agreed, there was no point to any form of organization, especially a decentralized one. Public hospitals now are financially dependent, either on a legislature or a county board or a city budget.

Finally, there was a suggestion for an interrelation of governances between the public and private sectors. The hospital boards in some way must be linked in terms of decision making and planning for the community.

Consumer participation

Many of the issues discussed in these meetings concerned a greater role for the consumer in determining the care he receives in a public institution.

In terms of specific consumer issues, more community involvement is necessary now. This could be accomplished by increased representation on governing bodies at all levels so that these bodies (both public and private) will be more representative of the communities they serve. Membership alone on committees and advisory boards, however, is not the only answer. The institution should consider ways of encouraging active participation on hospital boards and holding meetings at times when consumers can attend. In addition, a semiannual or annual meeting of the hospital staff, medical staff, board members, and a random sample of discharged patients, could be held to review procedures and make suggestions for a change.

A preventive medicine outreach program initiated by the public hospital is needed. The hospitals have a responsibility to do something about the health care system in a much broader sense than they now do, such as preventive health and dealing with the urban environment. Concomitant with this is an opportunity for hospitals to educate their patients, not only so that they can contribute to advisory boards but to be a spearhead in the community to gather support for the public institution. This support could then be translated to public officials making decisions about the future of the hospital.

Finally, comprehensive health planning boards in many metropolitan areas are dominated by suburbanites, not the people in the cities who use the public hospitals. The current thrust toward regionalization could potentially be detrimental to municipal facilities and their patients.

Health maintenance organizations

The relationship of public hospitals to the strategy of developing health maintenance organizations was discussed extensively at each conference. The general attitude of the public hospital community toward HMOs was skeptical and negative.

First, there is a basic difference of philosophy between an HMO and the public hospital. The public hospital is the place of last resort; by law it has to accept anyone who comes to its doors for care. The HMO is a closed system, dependent upon people making advance commitments to it for their care. How, then, the question was asked, can the public hospital develop an HMO? Who will provide care to nonenrollees if the public hospital is part of the HMO strategy? Can public hospitals refuse to care for a person who seeks help but requires more than just emergency care? What about those who do not now have coverage? They could not join an HMO which requires funds for a capitation system.

Second, there were doubts that enough incentives exist for patients to join an HMO established through the public hospital system. Those who are now in a public institution are probably receiving a broader range of services than the HMO can provide; middle income populations would probably not wish to join a "stigmatized group." Thus, the concept of a mixed population base for HMOs was questioned.

Great concern was expressed over the financial viability of an HMO from the public hospital viewpoint. An HMO strategy is built upon (a) competition and (b) a profit system that makes it economically viable and offers an incentive for providers to establish and consumers to join.

However, most public hospitals are prohibited from making a profit. Any additional funds left over from one year's operation must be returned to the public treasury. Without massive changes on the local governmental level, HMOs and public hospitals could be mutually exclusive. The conferees were also skeptical that a financially viable public hospital HMO could be established in view of the high costs of training offered in these institutions.

The issue of training makes difficult the relationship of HMOs and public hospitals. Will enough house staff, for example, be attracted to such an institution given the potential lack of certain specialty training?

In summary, then, the participants agreed that the public hospital must face the fact that, under the present HMO scheme, it appears to be given two objectionable alternatives: (a) do not go into the HMO business and become the final dumping ground for all undesirable patients or (b) go into the HMO business and exclude some kinds of care for which the hospital is responsible.

National health insurance

The public hospital community has a tremendous interest in the structure of a national health insurance program because of its potential effect on their institutions. While there were many conflicting views on what this effect might be, all groups concluded that they should have an input into the policymaking process on this issue. This has not been the case up to now.

The conferees agreed that the public institutions must not continue to be the repository of people who cannot carry co-payments or who are generally unwelcome in the voluntary institutions. The objective of a universal comprehensive system must be that all elements of the provider groups would have to deliver certain minimal care or provide entry to the care system, and that all those covered would not necessarily have to go to only one element of that system—the public hospital.

If this objective was not brought about, however, the Federal Government should give special recognition in any plan to public hospitals, perhaps through the financing mechanism with a sliding scale of capitation coverage or a sliding scale of co-payment depending on income level of the person covered.

The voluntary hospitals may need stronger financial incentives to care for the economi-

cally deprived, and health insurance legislation could specify roles and incentives. Certainly, speedier reimbursement should be mandated from all third-party payers. A plan might be developed for prospective reimbursement based on "average experience" of these hospitals. The average reimbursement would be based on showing periodic reconciliation of actual experience with monies received.

Manpower training

Much has been written about the crucial role of public hospitals in providing education and training to our nation's physicians, and it does not need repeating here. Although we have no estimates on the total numbers of practicing physicians who received some or all of their training in these institutions, undoubtedly this figure is substantial. One major study recently found that more than 20 percent of the country's interns and 15 percent of the residents received their training in 51 large urban public hospitals (1).

The most compelling issue seems to be the ability of the public hospitals to respond to pressures for accepting increasing numbers of people into specialty training without new sources of funding to pay for them.

Increased emphasis on expanding the number of graduates from medical schools will have a significant impact on public hospitals. The Federal Government should be concerned about the potential effect of this on the ability of public hospitals as training institutions to handle the increase at both the undergraduate and postgraduate levels. Even if many of the new physicians are encouraged to seek training in areas without an adequate supply of physicians, the large urban public institutions still will have problems in accommodating the increase. Capitation payments might be made available for postgraduate as well as undergraduate education to handle this problem.

Increasingly, hospitals are hiring physicians to handle emergency services and the increased outpatient load, using the hospital as a base of operation. Because emergency rooms are increasingly becoming the source of primary care, and because of the importance of the primary physician, it was recommended that medical schools be encouraged along with the public hospitals to establish training programs for emergency room physicians.

These recommendations are not inconsistent with the need for public hospitals to expand their outpatient facilities and ambulatory care role. This is one way of handling the increase in emergency room services while ambulatory care facilities are being established and expanded; it also is a means of encouraging new physicians to enter community-oriented medical practice.

By far one of the strongest recommendations was for the public teaching hospitals to separate educational costs and service costs and then to receive some type of reimbursement for the training provided. This is not a new idea; indeed, it was discussed at length at the 1967 conference, and some hospitals have attempted this; however, many problems remain.

A teaching hospital requires a great deal of money, and for public institutions money is scarce. The use of tax or patient revenue to support education poses a dilemma when it is not defined as such. No overall estimates were given at the conferences as to what portion of the patient and tax revenue actually goes into teaching costs over service costs, but there was considerable agreement that the portion is significant. Up to now not too many outside sources have made funds available for education purposes, and there are no volunteers.

Separating these costs is difficult because accurate figures are hard to compile. The public hospital suffers from a lack of re-

sources and staff to assemble the necessary data.

Another factor is that there are in fact two types of public hospitals—the public teaching hospital and the public treatment hospital. The teaching hospital is not the general public's conception of the institution, and it is important to consumers to know what the hospital's functions are. Separation of costs would clarify that for the community, as well as for State legislatures which consider apportioning educational manpower funds for the State as a whole. Moreover, new sources of funds will have to be found once costs are determined. Several hospitals are considering a tuition mechanism for interns and residents because of increased costs. Others are asking the States for funds.

One new concept is that of establishing a revolving loan fund for physician training. The Federal Government would issue vouchers to prospective students who would then seek admission to a medical school or graduate program. The Federal Government would, in effect, guarantee the loan to the student for his education; he would be responsible for reimbursement after completion of training.

The future Federal role, then, might be to (a) identify the means by which hospitals can undertake a separation of these costs, (b) assist in implementing the system, and (c) be a potential source of funds through changes in existing legislation and increased appropriations.

Effective management

The need for more effective management accounting techniques and more accurate data about public institutions is acute. The size of these hospitals, archaic civil service requirements which prevent hiring competent staff on a competitive basis, and an overall lack of funds are three main factors contributing to this situation.

Tightening up management controls means more money for public hospitals. Most institutions have inadequate records to answer questionnaires and to claim a fair share of the money due them, and they cannot bill accurately. One reason for lack of accounting information is noncompetitive salaries, so the hospitals find it difficult to attract and keep personnel.

Management teams or systems could be placed in some of the hospitals, perhaps through Federal support on a demonstration basis. Another recommendation strongly called for instituting program budgeting as a replacement for the line item budgeting now prevalent. Such a substitution would allow for more rational planning and better allocation of scarce resources.

On the issue of data collection, the conclusion was that accurate, meaningful data on the public institutions do not exist, and no rational planning has been done or decisions made as to what data are useful or necessary to collect.

Finally, local, State, and Federal governments have to agree on definitions on which aid is based. For example, one hospital has received three different definitions of "poor"—from the county, medical plans, and OEO—and this situation is not uncommon. Some studies should be undertaken to ascertain what these disparities are, how they affect a public institution dependent on third party payments, and what changes might be made to make the system more uniform.

Transportation

To a great extent, the public hospital's problems in service delivery are related to inadequacies in public transportation. The transportation issue cuts both ways. Not only is the consumer prohibited from easy access to a central facility (or even some community ones) by poor transportation, but physicians and paramedical personnel also have difficulty getting to areas of need.

The conclusion reached was that adequate

transportation is an obvious but overlooked issue in planning the public service provision of health care. While some of the problems may be mitigated by the development of extended ambulatory care facilities, much more needs to be done. Access to and availability of transportation must become an integral part of the planning for any future hospital system. Cooperation can and should be obtained for this on the local level. Appropriate Federal assistance might also be in order here.

Image and constituencies

Public hospitals have long traditions. One of them is a poor community image. This issue was discussed at length in the 1967 conference, and many of the same points raised then were discussed in 1972. Public hospitals are stigmatized as institutions "for the poor." The high quality of medicine practiced in them is not publicly recognized. Persons who can avoid using the services of public hospitals do so because of this stigma.

An improvement of image is essential if meaningful change is to occur and serious efforts made to establish a one-track system of care. Certainly, there is a place for public relations in a public hospital.

Fostering public knowledge about the plight of these hospitals is one way to attack the image problem. Other suggestions included (a) change the name of the institution, (b) encourage important people in a community to use the public hospital for their care, (c) add influential physicians to the medical staff, and (d) establish mechanisms for the philanthropic community to contribute rooms and special equipment the same way they now contribute to private voluntary institutions.

Closely related to the problem of poor image—and perhaps a direct result of it—is the lack of a viable constituency for the public hospitals. The conferees recognized that a sizable portion of the community is either negative or neutral about its institutions.

A position of neutrality can have negative effects. If the community does not actively support the public hospitals, there is a lack of input into the policymaking process which determines the current and future course of the institution. Many participants acknowledged that they are out of the political mainstream in decision making but said they wanted and needed to be closer to it. An obvious need was seen for better relations with legislators on a city, county, State, and Federal level. Most hospital administrators stated that if legislators saw their institutions first hand and assessed their needs, they would respond positively. Some of this has been done in certain cities, but the consequences of inadequate funding and the value of these institutions to their communities have not yet been well presented to enough public officials.

An input into the policymaking process goes beyond the laws which are written to structure the public hospital. It involves the rules, regulations, and guidelines that develop as a result of the law. As long as the hospitals depend upon the appropriation process, however, no matter what level of government, there will be no guarantees. Dr. Roger Egeberg, Special Consultant to the President on Health Affairs, echoed in San Francisco a feeling of the participants that they would have to go out and sell themselves to the public policymakers, when he said: ". . . We need you, but you may have to tell us that we need you."

The government needs you, the Federal Government, the State and local governments need you, because the people need you, and it is going to be a long time before we can do what you are doing . . ."

COORDINATION WITH FEDERAL GOVERNMENT

The conferees uniformly criticized the lack of coordination and communication between the public hospitals and the executive branch of the Federal Government. The

public hospitals have been virtually ignored as institutions and in terms of specific programs for which they might qualify for Federal assistance.

Two specific items were suggested:

1. The multiplicity of Federal grant programs in a variety of agencies is a harrowing experience for the public hospital community. Programs exist of which they are unaware. Budgeting and time pressures prevent them, least of all, from hiring personnel to track down these programs. A need was expressed for a Federal liaison officer who would be knowledgeable about public hospitals, their problems, and needs, and whose office would be a central referral point so that these institutions could save time and effort in dealing with the Federal establishment.

2. There is a lack of understanding on the Federal level of the role of the public hospital within the health delivery system and its future alternatives. While a small amount of Federal funds has gone into an examination of this area up to now, perhaps the Federal Government should initiate a demonstration program to observe various hospitals within the health setting. The impetus for this could be at the local level, which would initiate a study of these issues, but a Federal subsidy to selected areas which undertook such action would be appropriate and needed.

Most of the problems and much of the unrealized potential of the public hospitals which were discussed in 1967 still remain—a conclusion reached in all five conferences. There have been changes, and a commitment to even further improvement is keenly evident among the people who will have to make this a reality.

REFERENCE

First. The contemporary status of large urban public hospitals—ambulatory services. Summary report of the Large Urban Public Hospitals Ambulatory Services Project, School of Public Health, University of California, Los Angeles. Hospital Research and Education Trust, Chicago, 1972.

Mr. EAGLETON. Mr. President, I am pleased to join with the distinguished senior Senator from New York (Mr. JAVITS) today in introducing the Urban Hospital Emergency Assistance Act of 1974, which is designed to provide a broad range of assistance to what is currently one of the weakest elements in the Nation's health system.

Public general hospitals are the shame of our cities. Underfunded, understaffed, often housed in ancient facilities, they are called upon to provide an entire range of health services for urban Americans. Many poor families in need of immediate medical help have no personal physician to call upon—they go to the emergency room of the one hospital they know will not turn them away. And so the city or county hospital is the "family doctor" for millions of Americans.

Decrepit and rundown though some may be, these institutions remain as potentially valuable health resources. They need assistance, first, to survive, and then to greatly improve the quality of the care they render. That is the purpose of the bill we are offering today.

Some may recall that there was a day in which public hospitals in our major cities were acclaimed for their greatness. They played a large role in the training of several generations of physicians, nurses, and ancillary personnel. In some cases, public hospitals are still important centers of manpower training. But in a

great many others, once-prized residencies now go unfilled.

The bill we are offering today is a major initiative in the effort to rehabilitate public general hospitals and to greatly upgrade the quality of the care provided by them. Indeed, it is not an overstatement to say that such assistance is essential if some of these institutions are even to survive, much less improve.

Over the years, public hospitals have received relatively little in benefits from Federal hospital assistance programs. The Hill-Burton program, in particular, is targeted primarily to aid hospitals in rural areas and has not been of great value to public hospitals. While the Hill-Burton legislation is broad enough in its terms to authorize the needed help to public hospitals, the administration's repeatedly proclaimed intention to terminate Hill-Burton compels the conclusion that a new program of hospital aid is called for, emphasizing the needs of the publicly owned institutions that have been neglected in the past.

Our bill does emphasize public hospitals but it also authorizes grants to private, nonprofit hospitals as well for special construction projects designed to demonstrate innovations in health care delivery, and for graduate medical education and the training of nurses and allied health personnel.

Specifically, the bill authorizes programs in four areas, with the amounts authorized to be appropriated to be spread over a period of 3 years beginning in fiscal year 1975.

First, grants in the amount of \$500 million are authorized to be made by the Secretary of Health, Education, and Welfare to public general hospitals for the purpose of modernizing existing facilities and constructing new outpatient facilities. No funds are authorized for expanded bed capacity, given the general consensus that most major urban areas have an adequate number of hospital beds. Priority in awarding grants is to be given to those intended to eliminate or prevent safety hazards and to those which would assist the recipient in avoiding the loss of accreditation or licensure.

Second, both public and private nonprofit hospitals would be authorized to receive up to \$110 million in construction grants for projects designed to demonstrate innovations in health care delivery. Such projects must implement quality control procedures or operate to improve efficiency in the provision of health services.

Third, \$300 million would be authorized to help meet operating deficits of public general hospitals. Such grants could not exceed 75 percent of the annual net cost of patient care not otherwise reimbursed by Medicare, Medicaid, or other third-party insurers.

Fourth, public hospitals and private nonprofit hospitals would be authorized to receive a total of \$150 million in grants to pay part of the costs—up to 25 percent—of training residents, interns, nurses, and allied health personnel. Foreign medical graduates may not be supported with these funds, our purpose being to help to reverse the trend which now leaves a great many public institu-

tions manned largely by foreign-trained individuals—often with a limited ability to communicate with patients.

There is a continuing debate, Mr. President, over the role of the public general hospital. Some argue that these hospitals have seen their day and it is time to phase them out, along with the enactment of adequate reimbursement programs so as to permit their patients to seek care at voluntary hospitals.

I think it should be recalled that some of these same arguments were made when the Medicare and Medicaid programs were under consideration. It was said that public hospitals would either be able to make it financially—since the cost of treating their charity patients would largely be met by State and Federal Government—or else they would disappear from the scene as their patients could now afford to pay for care in private institutions.

Neither of these events has come about. The demand for care in public hospitals remains high as utilization appears to be increasing. Reimbursement—especially that provided under the Medicaid program—has proved to be far from adequate to meet costs. The inevitable result, given the competing demands for such local funds as may be available, has been the steady deterioration of institutions which a great many people still count on for important health care services.

My home city of St. Louis provides a case in point. Two city hospitals are operated, one constructed in 1908 and the other in 1935. The chronic difficulty in obtaining sufficient operating funds has resulted in the steady physical deterioration of both facilities, as even essential maintenance has been deferred. These older decaying structures are increasingly costly to operate and this factor, combined with the general skyrocketing of all health care costs, absorbs budget increases in a manner that makes improvements in the quality of care extraordinarily difficult to achieve.

The fight becomes one to retain accreditation * * * to survive.

The problems facing public institutions in St. Louis County and Jackson County—Kansas City—while perhaps not so acute as those in the city of St. Louis, are of the same nature. The only constituency that all of these hospitals have is the poor—a group notoriously overlooked in the allocation of scarce public resources. Public hospitals cannot depend on fundraising drives or the gifts of wealthy trustees as can many private institutions. Rarely are private physicians clamoring to serve on their staffs; usually it is a matter of physicians agreeing to serve as a matter of civic duty.

Despite these problems, Mr. President, the public hospitals in our major urban areas have at least one enormous virtue—they are there. They represent an existing resource that could be replaced only at great cost. They hold the potential for rendering excellent health care to that segment of our population which has the greatest difficulty in obtaining such care. I regard the funds proposed to be made available by the bill which Senator JAVITS and I offer today as an investment in the preservation

and improvement of this resource. I urge its speedy and favorable consideration by the Congress.

By Mr. THURMOND:

S. 2984. A bill to amend title IX of the act of June 15, 1917, as amended (22 U.S.C. 213), by adding a requirement that passport applicants shall subscribe to an oath or affirmation of allegiance to the United States; and

S. 2985. A bill to require the execution of an oath or affirmation of declaration of allegiance before a passport is granted or issued. Referred to the Committee on Foreign Relations.

THE OATH OF ALLEGIANCE ON PASSPORT APPLICATIONS

Mr. THURMOND. Mr. President, on January 24, 1974, the Department of Justice announced that it would not seek review of the recent court of appeals decision in Woodward against Rogers that there was no statutory authority requiring the oath of allegiance on a passport application. An oath of allegiance has been required of all passport applicants from 1861 until 1966, when it was made optional by the Department of State.

In the case of Cohen against Rogers, the U.S. District Court for the District of Columbia ruled, on July 28, 1971, that the Passport Office must either require all applicants to execute an oath of allegiance or not require the oath at all. On November 1, 1971, the Secretary of State made the decision that an oath would be required of all applicants. A subsequent suit was then filed in Woodward against Rogers. The U.S. District Court for the District of Columbia ruled, on June 26, 1972, that the Passport Office had no regulation to require an oath, nor any statute to require an oath.

The district court's decision was appealed to the U.S. Circuit Court of Appeals for the District of Columbia. That court, on October 26, 1973, upheld, without opinion, the decision of the district court. The Solicitor General determined that the court's reasoning that the Department of State did not have a statute to require an oath was persuasive and, for that reason, made the decision not to seek an appeal to the Supreme Court in the Woodward case.

Mr. President, Justice Field of the Supreme Court once stated:

Allegiance is meant the obligation of fidelity and obedience which the individual owes to the government under which he lives or to his sovereign in return for the protection he receives.

Allegiance, therefore, encompasses, for a U.S. citizen, the right to the protection of the United States while traveling abroad. In volume III of Hackworth's Digest of International Law, on page 435, the following statement appears:

The American passport is a document of identity and nationality issued to persons owing allegiance to the United States and intending to travel or sojourn in foreign countries. It indicates that it is the right of the bearer to receive the protection and good offices of American diplomatic and consular officers abroad and requests on the part of the Government of the United States that the officials of foreign governments permit the bearer to travel or sojourn in their terri-

ories and in case of need to give him all aid and lawful protection.

It is believed that there must be a purposeful connection between the oath of allegiance and the document to be issued. Since the passport is the primary evidence recognized internationally which brings into play the responsibility of this Government to protect the bearer, his correlated responsibility—that of allegiance to this country—is both logical and reasonable.

The special committee to study passport procedures appointed by the president of the Association of the Bar of the City of New York made the following observation in its report regarding the oath of allegiance:

Oath of Allegiance. This is unobjectionable because of its close relationship to citizenship. An essential for every passport applicant. A Citizen should never object to his government's calling upon him to reaffirm his willingness to support and defend the Constitution.

It is unfortunate that the true comprehension of allegiance rapidly is being blurred by the vociferous elements of our own society who emphasize solely civil rights and privileges to the total exclusion of responsibility.

Mr. President, at this time, I send to the desk two bills, either of which will give to the State Department the necessary authority to require passport applicants to subscribe to an oath or affirmation of allegiance to the United States. I urge my colleagues to give these bills their most careful attention.

By Mr. GURNEY:

S. 2987. A bill to amend the Economic Stabilization Act of 1970 to stabilize the prices of propane and butane. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. GURNEY. Mr. President, today I am introducing a bill which will amend the Economic Stabilization Act so as to stabilize the prices of propane and butane at their respective wholesale and retail market prices of May 15, 1973.

The price of LP gas products does not resemble an equitable cost increase for all petroleum products, calculated as a percentage of sales or volume refined. Much of the blame for this disproportionate price increase can be attributed to Cost of Living Council regulations, which, as early as August 22, 1973, were interpreted to permit refiners to pass-through increased foreign petroleum costs and domestic crude prices—although most propane is secured from natural gas, the National LP Gas Association believes that the rising price of natural gas has not been a significant factor to the spiraling price of propane—in whatever amount they deemed appropriate. The only restriction, however, being that price increases for diesel, gasoline, and heating oil did not exceed the ratio of sales among these major products. Therefore, price increases for all other petroleum products were uncontrolled so long as the total increase did not exceed the total pass-through. Thus, a refiner could underprice either of the three major products below the allowable limit, and therefore

allocate crude costs to "other products," including propane.

Given the fear of a propane shortage, the Government encouraged petroleum refiners to increase the price of propane in order to facilitate greater production and thereby guarantee plentiful supply, and to "load" cost increases on propane so as to keep the price of diesel, gasoline, and heating oil down.

It is indeed interesting to note that only three petroleum products—gasoline, heating oil, and diesel—appear in the Cost of Living Council's wholesale price index. The mandatory petroleum allocation and price regulations announced January 15, 1974, did little to remedy this problem as they still permitted a refiner to apportion the total amount of increased product costs to a particular covered product other than a special product—that is, other than gasoline, heating oil, and diesel—in whatever amounts he deems appropriate.

On February 1, 1974, the Federal Energy Office proposed new propane price regulations which limit, during any 12-month period following January 31, 1974, the pass-through on propane to the percent of total sales volume at the refinery level. This change has the effect of freezing further disproportionate price increases, but it presents no relief to the existing high level of propane costs to the consumer.

Mr. President, I am sure my colleagues know that propane has many uses, chiefly as a chemical raw material: A source of energy for mechanized vehicles; and for those applications outside the venue of natural gas lines—smaller communities, urban fringe areas, and rural farms. For example, in 1971, farm-related use of propane accounted for approximately 20.3 percent of total U.S. propane consumption. Nonfarm residential use, both urban and rural, amounted to approximately 37 percent. Thus, well over half of propane consumption is related to residential and farm use. In fact, 49 percent of U.S. farms use propane in some manner. The only other large consumers of propane were chemical processors, who accounted for 24.5 percent of total U.S. consumption.

In Florida, primary users of propane include private residences, farms, chemical processors, and mobile homes. Of the 800,000 mobile homes in Florida—housing over 2 million individuals—it is estimated that approximately 80 percent depend on propane for space and water heating, and for cooking. Similarly, approximately 70 percent of the entire food-related industry in Florida—from citrus to poultry—use propane. The Florida Energy Committee estimates that propane consumption among residential and commercial users amounts to 84 percent of the State's total LP gas consumption—based on 1972 figures. Nonetheless, LP gas is not a major energy source in Florida, as it contributed only 1.9 percent to the State's 1972 total energy use, as measured in British thermal units. From this scanty data, it is clear that exorbitant costs for propane are shared most heavily by those consumers who can least afford price inflation.

According to the Florida LP Gas Association, as of January 26, 1973, the wholesale price of propane—without freight charges—averaged 6.6 cents per gallon. In April of 1973, the cost averaged 9.75 cents per gallon; this tended to reflect a true scarcity, the fear of another cold winter such as that which occurred in 1972-73, and speculative buying by private entrepreneurs, utilities, and certain industries. However, as of January 30, 1974, the price of propane now varies from 18.4 cents to 25.4 cents per gallon throughout Florida, with an average of 21 to 22 cents per gallon. Since last January, this represents increases ranging from a minimum of 279 percent to a maximum of 385 percent. No other energy product—not gasoline, heating oil, or natural gas—has increased by such a sizable amount. It is even said that in parts of Florida, the price differential between heating oil and propane gas approaches 10 cents per gallon, propane being more expensive. As a result, many retail LP gas dealers now foresee a switch to electricity by their former customers; and yet, electricity is one of the more wasteful forms of energy as only a third of the basic energy producing material used in electrical generation—excluding nuclear and hydro-electric power—ultimately gets to end-consumers.

If the Federal Energy Office intends to adhere to the mandate of the Emergency Petroleum Allocation Act of 1973 which provides for the equitable distribution of crude oil, residual and refined products at equitable prices—then it is clear that a rollback in the price of propane is justifiable, and that changes in FEO price regulations are in order.

At a meeting I called in Washington last week, representatives of the cattle and agriculture industries, the Florida LP Gas Association, and the major propane suppliers met with Dr. William Johnson, FEO Assistant Administrator for Policy Analysis, and me to discuss the exorbitant price for LP gases. All of us reached the conclusion that the new regulation is seriously deficient as it fails to require a rollback of those disproportionate cost increases for LP gas occurring on or before January 30, 1974.

I, therefore, strongly urge the Senate to adopt this measure which will correct defects in existing FEO price regulations.

Mr. President, I ask unanimous consent that this bill be printed in the RECORD following my remarks.

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

S. 2987

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

“(K) Upon the enactment of this subsection, the President or his delegate shall issue an order—

“(1) stabilizing the refinery level prices of propane and butane at the refinery level prices of May 15, 1973; and

“(2) permitting adjustments in such prices to reflect cost increases incurred at the refinery level and which are, or have been, incurred after May 15, 1973, except that such

adjustments may not be made in a manner which apportions a greater percentage of any such cost increase or decrease to propane or butane than the percentage that the total sales volume of propane or butane, as the case may be, of any refiner is to the total sales volume of that refiner.”

By Mr. BURDICK (for himself, Mr. GURNEY, Mr. HRUSKA, and Mr. McCLELLAN) (by request):

S. 2988. A bill to improve judicial machinery by designating Alabama, Florida, and Georgia as the 5th judicial circuit; by designating Louisiana, Mississippi, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes;

S. 2989. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th judicial circuit; by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota as the 8th judicial circuit; by designating Arkansas, Louisiana, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes;

S. 2990. A bill to improve judicial machinery by designating Alabama, Florida, Georgia, and Mississippi as the 5th judicial circuit; by designating Louisiana, Texas, and the Canal Zone as the 11th judicial circuit; by dividing the 9th judicial circuit and creating a 12th judicial circuit, and for other purposes; and

S. 2991. A bill to authorize additional judgeships for the U.S. Courts of Appeals. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I am introducing, for appropriate reference, four bills, the consideration of which will permit the Congress to make a start on solving some of the most immediate problems of the U.S. courts of appeals.

In 1963, the courts of appeals for the 11 circuits in the Federal system were called upon to handle 5,400 cases with a complement of 69 authorized judgeships or an average of 78 cases per judge. Ten years later, in 1973, the number of appeals filed had soared to 15,629 which, with 97 authorized judgeships, resulted in an average 161 per judge. Thus, while judgeships increased by a little less than 50 percent, the cases filed increased by 300 percent. In 1971, the Judicial Conference of the United States recommended that the Congress authorize 11 additional circuit court judgeships in most but not all of the 11 circuits. In recognition of the fact that the caseload problems of our Federal courts are not amenable to solution solely by the increase in the number of judges, the 92d Congress responded by creating a Commission on Revision of the Federal Court Appellate System—Public Law 92-489. On December 18, 1973, this Commission, which was chaired by the senior Senator from Nebraska, and upon which the senior Senators from Arkansas, Florida and I were privileged to serve, filed its initial report in which it recognized that the appellate problems were particularly

acute in the fifth and ninth judicial circuits. The Commission further recommended that immediate relief could be afforded to litigants in those circuits only by dividing each of those circuits into two new circuits. While the Commission is continuing the second phase of its studies in which it will study the structure and internal operating procedures of the courts of appeals, its further recommendation in this area will not obviate the necessity for realigning the States presently included in the fifth and ninth circuits in each of which the volume of litigation has far outstripped the capacity of the 28 judges currently assigned to those circuits.

Three of the bills which I am introducing today by request and on behalf of myself and my colleagues from Arkansas, Florida, and Nebraska, S. 2988, S. 2989, and S. 2990 are bills which would implement the alternative recommendations of the Commission on Revision of the Federal Court Appellate System. Each of these three bills would split the existing 5th circuit into two new circuits to be designated as the 5th and 11th circuits. Under one bill the new fifth circuit would consist of the States of Alabama, Florida, and Georgia. The new 11th circuit would consist of Louisiana, Mississippi, and Texas and would also include jurisdiction over appeals emanating from the District Court of the District of the Canal Zone.

The second bill incorporates the Commission's first alternative recommendation under which the new 5th circuit would consist of Florida, Georgia, Alabama, and Mississippi, and the 11th circuit would consist of Texas, Louisiana, Arkansas, and the Canal Zone.

The third bill incorporates the second alternative recommendation of the Commission, under which the 5th circuit would consist of Florida, Georgia, Alabama, and Mississippi; and the new 11th circuit would consist of Texas, Louisiana, and the Canal Zone.

It will be perceived that the first two bills present alternatives under which at least three States would be included in each circuit, a factor deemed important by several authorities. The third alternative would provide for only two States in one of the circuits. Obviously the Congress must make a choice between these alternatives.

All three of the bills would divide the existing 9th circuit by creating a new 12th circuit comprised of Arizona, the central and southern judicial districts of California and Nevada. A new 9th circuit comprising the balance of the present ninth circuit would consist of the eastern and northern judicial districts of California and the States of Alaska, Hawaii, Idaho, Montana, Oregon, Washington, and the District Court of the District of Guam. Since a simple division of the States comprising the present circuits would accomplish nothing, unless the judge power is also increased, these bills also contemplate creation of new judgeships within the new circuits sufficient to handle the workload which is being allocated to four circuits instead of the present two. The exact number of new circuit judgeships will be considered

during the hearings and will require amendment of section 5 of these bills.

Because the State of California comprises 10 percent of the national population and because the State of California alone generates two-thirds of the judicial business of the present ninth circuit, the Commission concluded that the only feasible realignment of States within the ninth circuit must include a division of the four judicial districts in California between the two new circuits in the west. If the Commission's recommendation is accepted by the Congress, a possibility would exist that the two new circuits would reach conflicting results regarding the constitutionality of a California statute or an order of a California administrative agency having statewide application. A conflict of this nature must be resolved and the bills which I am introducing would require in section 7 of each bill, that such a conflict to be resolved by the Supreme Court of the United States.

As presently constituted, the fifth and ninth circuits, with an expanding caseload, have encountered difficult problems and each of those circuits have been forced to resort to various expedencies to cope with the increased workload. The fifth circuit has adopted a practice of screening cases which has resulted in almost 60 percent of all the cases being decided without according to the parties the right of oral argument. During the hearings held by the Commission in the principal cities within the fifth circuit, members of the trial bar raised strenuous objections to this denial of oral argument in the fifth circuit.

In the ninth circuit expediency has taken a different approach. In that circuit, in order to avoid delays in the disposition of civil cases, which in many instances have run 2 years or more, the court has adopted the practice of assigning a district court judge as one member of the three-judge panels which hear and determine cases of that circuit. In the hearings held by the Commission on the west coast, many members of the trial bar objected to the frequency with which the cases were being considered by panels not of circuit judges but of a panel including one or more district judges.

The sponsors of these bills believe that the problems presently existing in the fifth and ninth circuits are of such a dimension that some realignment of the States in those circuits is required in order to eliminate the resort to unpopular expedencies as a means of coping with an excessive caseload. These bills will serve as vehicles to lay these problems before the appropriate committee for thorough study in the hearing process.

The fourth bill which I am introducing today (S. 2991) is a so-called omnibus circuit court judgeship bill which incorporates the recommendation of the Judicial Conference of the United States that the Congress create nine additional circuit judgeships as follows:

- First Circuit: one judgeship,
- Second Circuit: two judgeships.
- Third Circuit: one judgeship.
- Fourth Circuit: two judgeships.
- Sixth Circuit: one judgeship.
- Seventh Circuit: one judgeship.

Tenth Circuit: one judgeship.

As I previously stated the additional judgeships needed by the existing fifth and ninth circuits will be considered in connection with the bill realigning those circuits.

The increased case filings in the courts of appeals which has occurred since 1968, when an increase was last approved in the number of authorized circuit judgeships, requires that the Congress investigate the need for additional judges. In the hearings to be held on these four bills I propose that the need for additional judges be weighed in the light of the workload which the current level of case filings imposes upon the judges of our appellate courts in the 11 circuits. I hope that such hearings can be scheduled this spring.

Mr. President, I ask unanimous consent that all four bills be printed in the RECORD following these explanatory remarks.

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

S. 2988

A bill to improve judicial machinery by designating Alabama, Florida and Georgia as the Fifth Judicial Circuit; by designating Louisiana, Mississippi, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

"Fifth: Alabama, Florida, Georgia.

"Ninth: Alaska, Eastern and Northern Judicial District of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

"Eleventh: Louisiana, Mississippi, Texas, Canal Zone.

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

Sec. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

Sec. 3. Any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the ninth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former ninth circuit as is constituted by this Act the ninth circuit, and shall be a circuit judge thereof; and any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the twelfth circuit as constituted by this Act, is assigned as a circuit judge of such part of the former ninth circuit as is constituted by this Act the twelfth circuit, and shall be a circuit judge thereof.

SEC. 4. Where on the day prior to the effective date of this Act any appeal or other proceeding has been filed with the circuit court of appeals for either the fifth or the ninth circuit as constituted before the effective date of this Act—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

Sec. 5. The President shall appoint, by and with the consent of the Senate, such additional circuit judges for the Fifth, Ninth, Eleventh and Twelfth Circuits as the Congress may authorize by this Act.

Sec. 6. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"Terms of court—

"Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

"Circuits and Places

* * * * *

"Fifth: Atlanta and Jacksonville.

* * * * *

"Ninth: San Francisco, Portland and Seattle.

* * * * *

"Eleventh: New Orleans and Houston.

* * * * *

"Twelfth: Los Angeles."

"Sec. 7. Section 1254 of title 28 of the United States Code is amended by adding a new subsection (4) reading as follows:

"(4) By appeal, where is drawn in question, the validity of a state statute or of an administrative order of statewide application on the ground of its being repugnant to the Constitution, treaties or laws of the United States: *Provided, however,* That this subsection shall apply only when the court of appeals certifies that its decision is in conflict with the decision of another court of appeals with respect to the validity of the same statute or administrative order under the Constitution, treaties or laws of the United States."

Sec. 8. This Act shall take effect on July 1, 1975.

S. 2989

A bill to improve judicial machinery by designating Alabama, Florida, Georgia and Mississippi as the Fifth Judicial Circuit; by designating Iowa, Minnesota, Missouri, Nebraska, North Dakota and South Dakota as the Eighth Judicial Circuit; by designating Arkansas, Louisiana, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

"Fifth: Alabama, Florida, Georgia and Mississippi.

"Eighth: Iowa, Minnesota, Missouri, Nebraska, North Dakota, South Dakota.

"Ninth: Alaska, Eastern and Northern Judicial Districts of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

"Eleventh: Arkansas, Louisiana, Texas, Canal Zone.

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

Sec. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

Sec. 3. Any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the ninth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former ninth circuit as is constituted by this Act the ninth circuit, and shall be a circuit judge thereof; and any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the twelfth circuit as constituted by this Act, is assigned as a circuit judge of such part of the former ninth circuit as is constituted by this Act the twelfth circuit, and shall be a circuit judge thereof.

Sec. 4. Where on the day prior to the effective date of this Act any appeal or other proceeding has been filed with the circuit court of appeals for either the fifth or the ninth circuit as constituted before the effective date of this Act—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

Sec. 5. The President shall appoint, by and with the consent of the Senate, such additional circuit judges for the Fifth, Ninth, Eleventh and Twelfth Circuits as the Congress may authorize by this Act.

Sec. 6. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"Terms of court

"Terms or sessions of courts of appeal shall be held annually at the places listed below, and at such other places within the respec-

tive circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

"Circuits and Places

"Fifth: Atlanta and Jacksonville.

"Ninth: San Francisco, Portland and Seattle.

"Eleventh: New Orleans and Houston.

"Twelfth: Los Angeles."

Sec. 7. Section 1254 of title 28 of the United States Code is amended by adding a new subsection (4) reading as follows:

"(4) By appeal, where is drawn in question, the validity of a state statute or of an administrative order of statewide application on the ground of its being repugnant to the Constitution, treaties or laws of the United States; *Provided, however,* That this subsection shall apply only when the court of appeals certifies that its decision is in conflict with the decision of another court of appeals with respect to the validity of the same statute or administrative order under the Constitution, treaties or laws of the United States."

Sec. 8. This Act shall take effect on July 1, 1975.

S. 2990

A bill to improve judicial machinery by designating Alabama, Florida, Georgia and Mississippi as the Fifth Judicial Circuit; by designating Louisiana, Texas and the Canal Zone as the Eleventh Judicial Circuit; by dividing the Ninth Judicial Circuit and creating a Twelfth Judicial Circuit, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 41 of title 28 of the United States Code is amended to read in part as follows:

"The thirteen judicial circuits of the United States are constituted as follows:

"Circuits and Composition

"Fifth: Alabama, Florida, Georgia, Mississippi.

"Ninth: Alaska, Eastern and Northern Judicial Districts of California, Hawaii, Idaho, Montana, Oregon, Washington, Guam.

"Eleventh: Louisiana, Texas, Canal Zone.

"Twelfth: Arizona, Central and Southern Judicial Districts of California, Nevada."

Sec. 2. Any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the fifth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former fifth circuit as is constituted by this Act the fifth circuit, and shall be a circuit judge thereof; and any circuit judge of the fifth circuit as constituted the day prior to the effective date of this Act, whose official station is within the eleventh circuit as constituted by this Act, is assigned as a circuit judge of such part of the former fifth circuit as is constituted by this Act the eleventh circuit, and shall be a circuit judge thereof.

Sec. 3. Any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the ninth circuit as constituted by this Act, is assigned as a circuit judge to such part of the former ninth circuit as is constituted by this Act the ninth circuit, and shall be a circuit judge thereof; and any circuit judge of the ninth circuit as constituted the day prior to the effective date of this Act, whose official station is within the twelfth circuit as constituted by this Act, is assigned as a circuit judge of such part of

the former ninth circuit as is constituted by this Act the twelfth circuit, and shall be a circuit judge thereof.

Sec. 4. Where on the day prior to the effective date of this Act any appeal or other proceeding has been filed with the circuit court of appeals for either the fifth or the ninth circuit as constituted before the effective date of this Act—

(1) If any hearing before said court has been held in the case, or if the case has been submitted for decision, then further proceedings in respect of the case shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If no hearing before said court has been held in the case, and the case has not been submitted for decision, then the appeal, or other proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders duly entered of record, be transferred to the circuit court of appeals to which it would had gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in said court.

Sec. 5. The President shall appoint, by and with the consent of the Senate, such additional circuit judges for the Fifth, Ninth, Eleventh and Twelfth Circuits as the Congress may authorize by this Act.

Sec. 6. Section 48 of title 28 of the United States Code is amended to read in part as follows:

"Term of court

"Terms or sessions of courts of appeals shall be held annually at the places listed below, and at such other places within the respective circuits as may be designated by rule of court. Each court of appeals may hold special terms at any place within its circuit.

"Circuits and places

"Fifth: Atlanta and Jacksonville.

"Ninth: San Francisco, Portland and Seattle.

"Eleventh: New Orleans and Houston.

"Twelfth: Los Angeles."

Sec. 7. Section 1254 of title 28 of the United States Code is amended by adding a new subsection (4) reading as follows:

"(4) By appeal, where is drawn in question, the validity of a state statute or of an administrative order of statewide application on the ground of its being repugnant to the Constitution, treaties or laws of the United States; *provided, however,* that this subsection shall apply only when the court of appeals certifies that its decision is in conflict with the decision of another court of appeals with respect to the validity of the same statute or administrative order under the Constitution, treaties or laws of the United States."

Sec. 8. This Act shall take effect on July 1, 1975.

S. 2991

A bill to authorize additional judgeships for the United States Courts of Appeals

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President shall appoint, by and with the advice and consent of the Senate, one additional circuit judgeship for the first circuit, two additional circuit judgeships for the second circuit, one additional circuit judgeship for the third circuit, two additional circuit judgeships for the fourth circuit, one

additional circuit judgeship for the sixth circuit, one additional circuit judgeship for the seventh circuit, and one additional circuit judgeship for the tenth circuit.

Sec. 2. The two additional circuit judgeships authorized by section 1 for the second circuit shall be filled only upon certification of need by the Judicial Conference of the United States.

Sec. 3. In order that the table contained in section 44(a) of title 28 of the United States Code will reflect the changes made by section 1 in the number of circuit judgeships for said circuits, such table is amended to read as follows with respect to said circuits:

"Circuits and Number of Judges

* * * * *

"First: Four.

"Second: Eleven.

"Third: Ten.

"Fourth: Nine.

* * * * *

"Sixth: Ten.

"Seventh: Nine.

* * * * *

"Tenth: Eight".

By Mr. HUMPHREY:

S. 2992. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. Referred to the Committee on Rules and Administration, by unanimous consent.

Mr. HUMPHREY. Mr. President, I introduce a bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes. I ask unanimous consent that this bill, to be cited as the Modern Congress Act of 1974, be referred to the Committee on Rules and Administration.

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

Mr. HUMPHREY. Mr. President, my statement on this bill and the text of the proposed legislation are printed on pages 2156 to 2163 of the CONGRESSIONAL RECORD for February 5, 1974.

ADDITIONAL COSPONSORS OF BILLS

S. 780

At the request of Mr. SPARKMAN, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 780, to amend the Clayton Act by adding a new section to prohibit sales below cost for the purpose of destroying competition or eliminating a competitor.

S. 2495

At the request of Mr. MANSFIELD (for Mr. MAGNUSON), the Senator from Missouri (Mr. SYMINGTON) was added as a cosponsor of S. 2495, a bill to amend the National Aeronautics and Space Act of 1958 to apply the scientific and technological expertise of the National Aeronautics and Space Administration to the solution of domestic problems, and for other purposes.

S. 2757

At the request of Mr. MANSFIELD (for Mr. EAGLETON) the Senator from Nevada (Mr. CANNON), and the Senator from South Dakota (Mr. MCGOVERN) were added as cosponsors of S. 2757, to prevent windfall profits by automobile insurance companies during any period when the

casualty rates of such companies are reduced as a result of official action in connection with the energy crisis.

S. 2782

At the request of Mr. MANSFIELD (for Mr. NELSON) the Senator from California (Mr. CRANSTON) 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 U.S. energy resources on public lands and elsewhere, and for other purposes.

S. 2875

At the request of Mr. HATHAWAY, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 2875, to amend the State and Local Fiscal Assistance Act of 1972 to exempt any unit of local government which receives not more than \$5,000 for the entitlement period from the requirement that reports of use of funds be published in a newspaper.

S. 2894

At the request of Mr. DOLE, the Senator from Idaho (Mr. McCLURE) was added as a cosponsor of S. 2894, to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973.

S. 2895

At the request of Mr. DOLE, the Senator from Nebraska (Mr. CURTIS) was added as a cosponsor of S. 2895, to amend the Economic Stabilization Act of 1970 to stabilize the price of propane.

S. 2938

At the request of Mr. JACKSON, the Senator from Oklahoma (Mr. BELLMON) and the Senator from Alaska (Mr. GRAVEL) were added as cosponsors of S. 2938, the Indian Health Care Improvement Act.

SENATE CURRENT RESOLUTION 67—SUBMISSION OF A CONCURRENT RESOLUTION PROVIDING FOR THE TERMINATION OF ASSISTANCE UNDER THE FOREIGN ASSISTANCE ACT OF 1961

(Referred to the Committee on Foreign Relations.)

LEGISLATING AN END TO FOREIGN AID

Mr. FULBRIGHT. Mr. President, the American people have always been generous and compassionate toward the suffering of their fellow men whether at home or abroad. But the makeup of the current foreign aid program, with heavy emphasis on military hardware and dollar diplomacy is a gross abuse of that compassion. Because of this, for many years I have voted against foreign aid bills.

Foreign aid, in all too many cases, has been like trying to treat cancer with morphine; it has served as a narcotic but not a cure. Indeed, a strong case can be made that many of the major recipients of our assistance, South Vietnam and India, for example, would have been better served if we had let them alone and thus forced them to face up to their own political and economic problems.

The world of more than a quarter of a century ago, which spawned the foreign aid program, bears little relation-

ship to the world of today. The cold war is over. Yet the policies of that era linger on in the foreign aid program, détente and the journey to Peking notwithstanding. It is time to wipe out this relic of the past and start anew.

I am introducing today a concurrent resolution to terminate the major U.S. foreign assistance programs carried out under authority of the Foreign Assistance Act. Section 617 of that act provides:

Assistance under any provision of this Act may, unless sooner terminated by the President, be terminated by concurrent resolution. Funds made available under this Act shall remain available for a period not to exceed eight months from the date of termination of assistance under this Act for the necessary expenses of winding up programs related thereto.

The foreign aid program needs a complete overhaul. Mere tinkering, as tried in the 1973 legislation that passed the Congress by such a narrow margin, will only compound the problem. Passage of my resolution will wipe the slate clean so that Congress and the President can together develop a new policy which will merit public support and be consistent with our country's worsening economic situation.

The recent 155 to 248 defeat by the House of Representatives of the \$1.5 billion authorization for the International Development Association, demonstrated anew that the Government's foreign aid policy lacks the public support essential for ultimate success of any significant national policy. A major reason for the defeat of the IDA bill by the House, in my view, was the failure of the administration to heed the repeated warnings of those of us who said that Congress would not continue indefinitely to support both a large bilateral and a large multilateral aid program. For too long, the administration has tried to have it both ways—with unfortunate consequences.

Foreign aid survived on a hand-to-mouth basis without a regular appropriation from June 30, 1972, until January of this year. Last month the conference report on the new Foreign Aid Authorization Act passed the Senate by a margin of only three votes, and then only after extensive arm twisting from the executive branch. The situation in the House is no different. Last July the authorization bill passed that body narrowly, by a vote of 188 to 183. With a switch of three votes, it would have been defeated then. Foreign aid has been kept alive over the last several years not on its merits, but primarily through Republican party loyalty to their President's legislative program.

Congress must face up to the fact that the foreign aid program, as constituted, is discredited and disorganized, without clear objectives or purposes. It has become a hydraheaded monster, immune from effective control by either the Congress or the President. And Congress has not had either the will to reform it or the courage to end it. Congress has continually taken the easy way out, allowing bureaucratic momentum to keep the program alive but without effective guidance or control.

For its part, the executive branch has also shown no inclination to bring about a unified policy, content to let the foreign aid bureaucracies compete among themselves for larger pieces of the pie. There is not one national foreign aid policy. There are at least four—one run by the Agency for International Development which seeks to perpetuate a large bilateral economic aid program, one run by the Treasury Department which promotes aid through the international lending organizations, one run by the Defense Department which emphasizes military aid, and, finally, one through the Agriculture Department which has large vested interests in providing food as foreign aid. For all of these and other parts of the foreign aid puzzle, the total this fiscal year will come to some \$8.5 billion.

I have said repeatedly that this hodge-podge arrangement did not make sense, that our Nation could not afford the luxury of financing both large bilateral as well as multilateral aid programs, and that military aid, which defeats the purposes of development assistance, should be ended.

It is time to call a halt to this inconsistent and wasteful policy. My resolution would do that. It will force a thorough reexamination of basic foreign aid policy, both by Congress and the executive branch.

Under my proposal, four Foreign Assistance Act programs which enjoy broad public and congressional support would be continued: First, the population control program, second, voluntary contributions to U.N. organizations such as UNICEF, third, funds for disaster relief and other emergencies, and, fourth, funds for control of the international traffic in drugs. Also, food aid under Public Law 480 for disaster and humanitarian purposes would not be affected. And the military sales program and military aid to Israel and South Vietnam would continue since that assistance is not provided under authority of the Foreign Assistance Act but under separate statutes.

Passage of my resolution will not compel a disorderly, wasteful termination of aid projects. Under the law, as long as 8 months is allowed to wind up the programs which will be terminated by the resolution. Some \$3.4 billion is now in the pipeline for the programs that would be ended and these funds would continue to be available for 8 months to insure their orderly termination. Passage of my resolution should result in saving at least two-thirds of that amount, about \$2.3 billion. During this period Congress and the executive branch can work together to come up with a more realistic policy that will command the support of the American people.

Mr. President, the House defeat of the IDA bill adds to the existing chaos in foreign aid policy. Now is the time to stop and think out a coherent policy. The only way to start anew is to reject the old. Adoption of my resolution will do that.

The concurrent resolution reads as follows:

S. CON. RES. 67

Resolved by the Senate (the House of Representatives concurring), That, in accordance with section 617 of the Foreign Assistance Act of 1961, all assistance provided under that Act is terminated on the date this concurrent resolution is agreed to, except for assistance for the following:

- (1) population planning;
- (2) international organizations and programs;
- (3) contingencies payable out of the contingency fund;
- (4) international narcotics control;
- (5) famine and disaster relief to the African Sahel; and
- (6) administrative expenses relating to matters referred to in clauses (1)–(5) of this concurrent resolution.

ADDITIONAL COSPONSORS OF CONCURRENT RESOLUTION

SENATE CONCURRENT RESOLUTION 66

At the request of Mr. PERCY, the Senator from Michigan (Mr. GRIFFIN) and the Senator from Ohio (Mr. TAFT) were added as cosponsors of Senate Concurrent Resolution 66, to urge the release from prison of Simas Kudirka, the Lithuanian seaman.

SENATE RESOLUTION 280—SUBMISSION OF A RESOLUTION TO REFER A BILL TO THE COURT OF CLAIMS

(Referred to the Committee on the Judiciary.)

Mr. TOWER submitted the following resolution:

S. RES. 280

Resolved, That bill (S. 2980) entitled "A bill for the relief of Elizabeth Blanton", now pending in the Senate, together with all the accompanying papers, is referred to the Chief Commissioner of the United States Court of Claims; and the Chief Commissioner shall proceed with the same in accordance with the provisions of sections 1492 and 2509 of title 28, United States Code, and report thereon to the Senate, at the earliest practicable date, giving such findings of fact and conclusions thereon as shall be sufficient to inform the Congress of the nature and character of the demand as a claim, legal or equitable, against the United States or as a gratuity and the amount, if any, legally or equitably due from the United States to the claimant.

SENATE RESOLUTION 281—SUBMISSION OF A RESOLUTION RELATING TO ENERGY SOURCES AND THE TOURISM INDUSTRY

(Referred to the Committee on Commerce.)

Mr. GURNEY. Mr. President, on behalf of the distinguished Senator from Hawaii (Mr. INOUE), I submit a resolution, and I ask unanimous consent that a statement prepared by Senator INOUE in connection with the resolution, together with the text of the resolution be printed at this point in the RECORD.

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

STATEMENT BY SENATOR INOUE

The resolution I am submitting today on behalf of myself and 36 Senators would express the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to

alleviate the energy shortage, proper consideration should be given, in light of the facts expressed in the preamble of the resolution, to the provision of adequate supplies of energy to all parts of the tourism industry.

The resolution recites some statistics illustrating the significant role the tourism industry has in our economy.

It also recites how essential tourism and other leisure activities are to a sound and healthy society.

Mr. President, our failure as a nation to recognize these facts has caused us to regard tourism as somewhat expendable, in our order of priorities during the present energy crisis.

The truth is tourism is not expendable. Neither in terms of the contribution it now makes to our society, nor in terms of its potential to improve the quality of our life.

Mr. President, on February 27 and 28 my Subcommittee on Foreign Commerce and Tourism will hold hearings which I hope will highlight the importance of tourism to our economy and our life style.

So that all Members who wish to cosponsor the resolution I am introducing today may have an opportunity to do so, I ask that the resolution be held at the desk until the close of the day's business.

LIST OF COSPONSORS OF S. RES. 281

Mr. Gurney	Mr. Hollings
Mr. Inouye	Mr. Bentsen
Mr. Magnuson	Mr. Helms
Mr. Pastore	Mr. Domenici
Mr. Hartke	Mr. Hugh Scott
Mr. Hart	Mr. Thurmond
Mr. Cannon	Mr. Dole
Mr. Moss	Mr. Brooke
Mr. Cotton	Mr. Brock
Mr. Griffin	Mr. Stevenson
Mr. Baker	Mr. Jackson
Mr. Cook	Mr. Tunney
Mr. Stevens	Mr. Cranston
Mr. Beall	Mr. Kennedy
Mr. Chiles	Mr. Fong
Mr. Pearson	Mr. Dominick
Mr. Javits	Mr. Hansen
Mr. Muskie	Mr. Stafford
Mr. Huddleston	

S. RES. 281

To express the sense of the Senate with respect to the allocation of necessary energy sources to the tourism industry

Whereas tourism spending in the United States in 1972 totaled approximately \$61,000,000,000;

Whereas tourism expenditures are the second ranking retail expenditure in the United States;

Whereas the Report of the National Tourism Resources Review Commission (June 25, 1973) estimated that spending for tourism in the United States is expected to total \$850,000,000,000 over the decade 1970 to 1980;

Whereas tourism expenditures in the United States directly and indirectly provide employment for approximately four million Americans;

Whereas the leisure activity provided for Americans by the tourism industry is essential for a sound and healthy society;

Whereas the tourism industry is a major economic and social force in the United States;

Whereas the continued viability of the tourism industry depends upon the ability of our public and private transport system, including sightseeing companies, motor coach operators, cruise lines, hotels, motels, and travel agencies to provide in a safe, economic and efficient manner those goods, facilities and services which support the tourism industry; and

Whereas the current energy shortage poses a serious threat to the tourism industry and consequently to the national economy and

that of many States, areas and cities: Now, therefore, be it

Resolved, That it is the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given, in light of the facts expressed in the preamble of this resolution, to the provision of adequate supplies of energy to all segments of the tourism industry.

Mr. DOMENICI. Mr. President, I rise in support of the resolution I am cosponsoring today which recognizes the vital importance of the tourism industry in the United States. I feel it is imperative that we recognize that the tourist industry is a substantial part of the U.S. economy and that it deserves consideration in the fuel distribution process. If tourism and recreation are not given fair consideration, it could mean the loss of jobs for many persons in New Mexico and other States.

Tourism spending in the United States in 1972 totaled approximately \$61 billion; tourism expenditures are the second-ranking retail expenditure in the United States; and the Report of the National Tourism Resources Review Commission—June 25, 1973—estimated that spending for tourism in the United States is expected to total \$850 billion over the decade 1970 to 1980. Our best estimates are that up to 40,000 New Mexico jobs are related to tourism and recreation; many of these being in areas where there is little or no chance for alternate employment.

Mr. President, because of these very important factors, I wholeheartedly support this resolution seeing to make it the sense of the Senate that in any allocation of energy supplies or other actions by Federal departments and agencies to alleviate the energy shortage, proper consideration should be given, in light of the facts expressed in the preamble of this resolution, to the provision of adequate supplies of energy to all parts of the tourism industry.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 271

At the request of Mr. CHURCH, the Senator from Illinois (Mr. STEVENSON), the Senator from Delaware (Mr. BIDEN), the Senator from Wyoming (Mr. HANSEN), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. HELMS), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Wisconsin (Mr. NELSON), the Senator from Missouri (Mr. EAGLETON), the Senator from California (Mr. CRANSTON), the Senator from Nebraska (Mr. CURTIS), and the Senator from Wisconsin (Mr. PROXMIER) were added as cosponsors of Senate Resolution 271, to disapprove the recommended rates of pay.

SENATE RESOLUTION 279

At the request of Mr. JAVITS, the Senator from Massachusetts (Mr. BROOKE), the Senator from California (Mr. CRANSTON), the Senator from Wisconsin (Mr. NELSON), the Senator from Tennessee (Mr. BROCK), the Senator from Vermont (Mr. STAFFORD), the Senator from Min-

nesota (Mr. HUMPHREY), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Ohio (Mr. TAFT), the Senator from Kansas (Mr. DOLE), the Senator from South Dakota (Mr. McGOVERN), and the Senator from Rhode Island (Mr. PELL) were added as cosponsors of Senate Resolution 279, relating to the Washington Energy Conference.

REGULATION OF COMMERCE AND PROTECTION OF CONSUMERS FROM ADULTERATED FOOD—AMENDMENTS

AMENDMENT NO. 962

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

Mr. HART. Mr. President, on behalf of the Senator from Utah (Mr. MOSS), for himself and myself, I submit amendments, intended to be proposed by us, jointly, to the bill (S. 2373) to regulate commerce and protect consumers from adulterated food by requiring the establishment of surveillance regulations for the detection and prevention of adulterated food, and for other purposes. I ask unanimous consent that the amendments be printed in the RECORD.

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

No. 962

On page 4, line 20, delete "1973" and insert in lieu thereof "1974".

On page 6, line 13, at the end thereof, insert the following new sentence: "Final regulations in accordance with the requirements of subsection (b)(1) of this section shall take effect not later than 30 months after the date of enactment of this section, except that the Secretary may extend such deadline for successive additional 12-month periods upon a finding in writing that there is insufficient knowledge to establish a regulation meeting such requirements for any food or class of foods (or any contaminant, unsanitary practice, or other factor with respect to such food or class) and upon the initiation by the Secretary of a program to develop regulations meeting such requirements."

On page 9, line 25, delete "section." and insert in lieu thereof the following: "subsection, which shall include, at a minimum, an inspection once each year of every establishment engaged in the processing of food, other than establishments engaged in processing for consumption or retail sale on the premises."

On page 10, line 16, delete "to the public health and safety" and insert in lieu thereof "of adulteration within the meaning of section 402(a) of this Act".

On page 10, lines 18 through 20, delete the third sentence in paragraph (3).

On page 11, line 21 insert "or misbranded" after "adulterated".

On page 11, line 22 delete "section" and insert in lieu thereof "Act".

On page 12, line 5, redesignate "(8)" as "(9)" and between lines 4 and 5, insert the following new paragraph:

"(8) The Secretary shall make available to the public, upon request and at cost of reproduction and mailing, any and all information obtained or developed under this section except to the extent that such information constitutes a trade secret or confidential commercial or financial information which if disclosed would result in significant competitive damage to its owner, except that such information may be disclosed by the Secretary—

"(A) to Federal Government departments, agencies, and having reasonable need for such information for official use;

"(B) to committees of Congress having jurisdiction over the subject matter to which the information relates;

"(C) in any judicial proceeding under a court order formulated to preserve the confidentiality of such information to the extent feasible without impairing the proceeding;

"(D) if relevant in any proceeding under this section, except that confidentiality shall be preserved to the extent feasible without impairing the proceeding;

"(E) to the public to provide reasonable protection of public health and safety, after affording parties who oppose disclosure notice and opportunity for comment in writing or for discussion in closed session, if the delay resulting from such notice and opportunity for comment would not be detrimental to public health and safety; and

"(F) to a contractor in furtherance of the provisions of this Act: *Provided*, That such contractor takes such security precautions as are set by the Secretary."

On page 13, line 12, delete the quotation marks and between lines 12 and 13, insert the following two new subsections:

"(e)(1) Except as provided in paragraph (2) of this subsection, any person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, on his own behalf, whenever such action constitutes a case or controversy—

"(A) against any person (including the Secretary) who is alleged to be in violation of any regulation promulgated under subsection (b)(1) of this section; or

"(B) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this section which is not discretionary with the Secretary.

The district courts of the United States shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

"(2) No civil action may be commenced—

"(A) under paragraph (1)(A) of this subsection—

"(i) prior to 60 days after the plaintiff has given notice of the alleged violation to the Secretary and to any alleged violator; or

"(ii) if the Attorney General, the Secretary, or the regional administrator for the involved region has commenced and is diligently prosecuting proceedings with respect to such alleged violation, except that any person may intervene in any such action as a matter of right.

"(B) Under paragraph (1)(B) of this subsection, prior to 60 days after the plaintiff has given notice to the Secretary of such alleged failure to perform an act or duty.

Notice under this paragraph shall be given in such manner as the Secretary may require by regulation.

"(3) In any action under this section the Attorney General, the Secretary, or the regional administrator for the involved region if not a party, may intervene as a matter of right.

"(4) The court, in issuing any final order in any action brought pursuant to paragraph (1) of this subsection may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such an award is appropriate.

"(5) Nothing in this subsection shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any regulation or order or to seek any other relief.

"(6) For purposes of this section, the term 'person' means an individual, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(f) During March of each year, the Secretary shall submit to the President and Congress a comprehensive and detailed written report with respect to implementation and administration of section 410 of this Act during the immediately preceding calendar year. Such report shall include, but is not limited to—

"(1) a description of any regulations issued during such year;

"(2) an evaluation of the extent, amount, and degree of compliance with regulations issued pursuant to subsection (b) of this section; and

"(3) information concerning the number of food processing establishments registered under section 411 of this Act which were inspected during such year pursuant to section 704 of this Act and the number of inspections of each such establishment."

On page 12, line 16 and line 21, delete "to the public health" and insert in lieu thereof "of adulteration within the meaning of section 402(a) of this Act".

On page 14, line 15 after "Act" insert "with regard to food introduced into, delivered for introduction into, or received in interstate commerce."

On page 16, between lines 4 and 5, insert the following two new sections:

"Sec. 106. (a) (1) The second sentence of subsection (a) of section 704 of such Act (21 U.S.C. 374(a)) is amended by inserting 'or foods' after 'prescription drugs' each time it appears therein.

"(2) The third sentence of such subsection is amended by (A) inserting 'or foods' immediately after 'prescription drugs' and (B) inserting immediately after the phrase 'other than data', the following: 'relating to the safety or nutritional value of food, or'.

"(b) Section 304 of such Act (21 U.S.C. 334) is amended by adding at the end the following two new subsections:

"(g) Whenever any food is found, by any authorized representative of the Secretary, in any establishment or vehicle where it is held for purposes of, or during or after distribution in interstate commerce or otherwise subject to this Act, and there is reason to believe that the article is adulterated, misbranded, or otherwise in violation of this Act, such food may be detained by that representative for a reasonable period but not to exceed twenty days, pending seizure action under this section or notification of any Federal, State, or other governmental authority having jurisdiction over the food, and shall not be moved by any person, firm, or corporation from the place at which it is located when so detained until released by such representative.

"(h) Because virtually all food is subject to the jurisdiction of this Act, there is a rebuttable presumption that any food found in any State is subject to seizure and condemnation pursuant to this section. The claimant or any other party to a condemnation proceeding under this section shall have the burden of establishing that the article or articles are not subject to the jurisdiction of this Act. In the absence of such a showing jurisdiction shall be deemed to be established."

"(c) Section 301 of such Act (21 U.S.C. 331) is amended by adding at the end the following new subsection:

"(q) The unauthorized movement of a food detained under section 304 of this Act or the removal or alteration of any mark, or label used to identify the food as being detained."

"Sec. 107(a) Chapter III of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Ch. 9 subch. VII) is amended by adding at the end thereof the following new section:

"AUTHORITY TO INITIATE LEGAL ACTIONS

"Sec. 308. Notwithstanding any other provisions of law, the Secretary or the regional administrator for the involved region may

initiate, defend, or appeal any court action arising under this Act through his own legal representative or through the Attorney General except that the Attorney General shall have exclusive authority to prosecute persons under Section 303 of this Act."

"(b) Section 304 of such Act (21 U.S.C. 334) is amended by deleting 'United States attorney for such district' each time it appears therein and inserting in lieu thereof 'the Secretary, the regional administrator for the involved region, or the United States attorney for such district, as appropriate,' including page 21, line 26, and insert in lieu thereof the following three new titles:

"TITLE III—FOOD LABELING

"Sec. 301. Section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341) is amended by striking out the fourth sentence thereof.

"Sec. 302. (a) Section 403(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(f)) is amended by adding at the end thereof the following two new sentences: 'Such information is prominently placed with sufficient conspicuousness and clarity within the meaning of this subsection if it is in accordance with regulations which shall be prescribed by the Secretary. Such regulations shall require that any food which is labeled or in package form bear a label in a uniform location on the package and such label (1) appears in conspicuous and easily legible type in distinct contrast (by typography, layout, color, embossing, or molding) with other matters on the package; (2) contains letters or numerals in type size which shall be (A) established in relationship to the area of the principal display found on the package, and (B) uniform for all packages of substantially the same size; and (3) is placed so that the lines of printed matter included in that statement are generally parallel to the base on which the package rests as it is designed to be displayed.'

"(b) Section 403(g) of such Act (21 U.S.C. 343(g)) is amended to read as follows:

"(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 401 of this Act, unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and standard."

"(c) Section 403(i) of such Act (21 U.S.C. 343(i)) is amended to read as follows:

"(1) If its label fails to bear (1) the common or usual name of the food, if there is one, and (2) if the food is fabricated from two or more ingredients, the common or usual name of all such ingredients in the order of their predominance and in terms of their percentage of the total: *Provided*, That under clause (2) of this subsection a declaration of the percentage of the total of an ingredient of such food is required only if it is an integral part of such food and is significant with respect to value, quality, nutrition, or acceptability of such food, or is designated by the Secretary, pursuant to regulations as an ingredient for which such percentage declaration would be useful for consumers of such foods."

"(d) Section 403(k) of such Act (21 U.S.C. 343(k)) is amended by striking out 'paragraphs (g) and (i)' and inserting in lieu thereof 'paragraph (1)'.
"

"(e) Section 403 of such Act (21 U.S.C. 343) is amended by adding after subsection (o) thereof the following new subsection:

"(p) PERISHABLE OR SEMIPERISHABLE FOOD. If it is a perishable or semiperishable food in package form, unless it bears a label which shows (1) the pull date of such food, (2) the optimum temperature and humidity conditions for its storage by the ultimate consumer and the length of time it can be so stored without loss after the pull date, and (3) such other information as the Secretary determines to be necessary to protect consumers

from the purchase of foods which may have spoiled, suffered a loss of nutritional value, or suffered a loss of palatability. As used in this subsection—

"(A) 'Perishable or semiperishable food' means any food, except any fresh fruit or vegetable, which the Secretary determines has a high risk, as it ages, of (i) spoilage, (ii) significant loss of nutritional value, or (iii) significant loss of palatability.

"(B) 'Pull date' means the last date on which a perishable or semiperishable food can be offered for sale at retail without a high risk of spoilage or significant loss of nutritional value or palatability."

The pull date shall take into account the length of time such food may reasonably be expected to be stored and used by the ultimate consumer without a high risk of spoilage or significant loss of nutritional quality or palatability."

"Sec. 303. Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, is further amended by adding after section 403 the following new section:

"QUALITY AND NUTRITIONAL LABELING OF FOOD

"Sec. 403a. (a) SYSTEM.—The Secretary shall formulate and prescribe by regulations a system of food quality grade designations, expressed in a uniform nomenclature, for any food which is labeled or in package form.

"(b) GENERAL.—No person subject to this Act shall distribute or cause to be distributed in commerce any package or labeled food except in accordance with regulations which shall be prescribed by the Secretary in accordance with this section. Such regulations shall require that any food which is labeled or in package form bear a label (1) containing a food quality designation of the food contained therein; (2) a statement specifying the nutritional value of the food contained therein; and (3) a composite number indicating the overall value of the nutrients and quality of the food contained therein.

"(c) GENERAL.—Such regulations shall also require that any food for which a quality grade designation has been promulgated under the Act of August 14, 1946, as amended, and which is packaged shall bear a label containing such designation.

"(1) The Secretary shall initiate and carry out a program of consumer education in conjunction with the promulgation of food quality designations prescribed by him under this section.

"(2) The Secretary shall by regulations require additional or supplementary words or phrases to be used in conjunction with the composite number and the statement of nutritional value appearing on the label whenever he determines that such regulations are necessary to prevent the deception of consumers or to facilitate value comparisons among foods. Nothing in this subsection shall prohibit supplemental statements, which are not misleading or deceptive, at other places on the package, describing the nutritional value of the food contained in such package.

"(d) DEFINITIONS.—As used in this section—

"(1) 'Composite number' means the overall value of the food on a scale to be established by the Secretary.

"(2) 'Nutritional value' means the amount of nutrients contained in the food expressed in terms of the relationship of the amount of each nutrient contained in such food to the total recommended daily requirement of each such nutrient required to maintain a balanced diet as determined by the Secretary.

"(3) 'Nutrient' includes protein, vitamin A, B; vitamins (thiamin, riboflavin, niacin), vitamin C, vitamin D, carbohydrate, fat, calories, calcium, iron, and such others

as shall be established, by regulations prescribed by the Secretary.

"Sec. 304. Section 6 of the Act of March 16, 1950 (64 Stat. 22; 21 U.S.C. 347b) is amended by adding at the end thereof the following new sentence: 'Any provision of any State law relating to ingredient, quality or nutritional labeling which is in contravention of any provision of section 403 or 403a of the Federal Food, Drug, and Cosmetic Act or regulations thereunder is preempted to the extent that such State law provision is less stringent than Federal law or requires the same information to be expressed differently than is required under regulations prescribed, by the Secretary in accordance with such sections.'

"Sec. 305. Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343), as amended by this Act, is amended by adding after subsection (p) thereof the following new subsection:

"QUALITY AND NUTRITIONAL LABELING.—If its label fails to conform to the requirements which have been prescribed by regulations as provided by section 403a of this Act.'

"Sec. 306. (a) Section 203 of the Act of August 14, 1946, as amended (7 U.S.C. 1622), is amended by adding at the end of subsection (c) thereof the following new sentences: 'Standards of quality, condition, and grade shall be consistent and uniform with respect to all agricultural products in order to minimize consumer confusion and to maximize consumer awareness of the significance and meaning of the various grade designations prescribed by the Federal Government. The Secretary of Agriculture shall formulate and prescribe by regulations, in accordance with section 553 of title 5, United States Code, a new system of grade designations of agricultural products, expressed in a uniform nomenclature. Such regulations shall be developed in cooperation with the Secretary of Health, Education, and Labor acting under authority of chapter IV of the Federal Food, Drug, and Cosmetic Act.'

"(b) Section 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371) is amended by adding at the end thereof the following new subsection:

"(h) The Secretary shall assist and cooperate with the Secretary of Agriculture in the development and formulation of standards of quality, condition, and grade with respect to agricultural products, to minimize consumer confusion and to maximize consumer awareness of the significance and meaning of the various grade designations prescribed by the Federal Government.'

"Sec. 307. The amendments made by this title shall take effect on the first day of the thirteenth month beginning after the date of their enactment, except that such effective date shall be postponed if the Secretary of Health, Education, and Welfare determines that there is good cause therefor, for a period not to exceed an additional twelve months with respect to any specific food not in compliance with such amendments. Notwithstanding the preceding sentence, the amendments made by this title shall apply to any food bearing a label ordered to be printed after the first day of the fourth month after the date of such enactment.

"TITLE IV—ENFORCEMENT

"Sec. 401. Public health and safety being essential to the well-being of the Nation and informed consumers being essential to the fair and efficient functioning of the Nation's economic system, it is declared to be the purpose of the Congress in this title to establish and direct the maintenance of a system of speedy and efficacious administration and enforcement of the requirements of and the regulations under chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by this Act, with the emphasis on regional and local enforcement.

"Sec. 402. Chapter IV of the Federal Food,

Drug, and Cosmetic Act, as amended by this Act, is further amended by adding after section 411 the following new section:

"ENFORCEMENT

"Sec. 412. (a) The Secretary shall establish and maintain, for purposes of administering and enforcing this chapter and for such other purposes as he shall determine, not less than twelve regional offices of the Food and Drug Administration of the Department. Each such regional office shall be headed, subject to the general direction of the Secretary, by a regional administrator who shall be a qualified individual appointed by the Secretary solely upon the basis of fitness to perform the duties of such office and without regard to political qualifications. Each such regional administrator shall receive compensation at the rate prescribed for GS-17 of the General Schedule as set forth in section 5332 of title 5, United States Code. Each such regional office shall be adequately staffed with competent personnel which shall include in each case at least one attorney who by reason of his training and experience shall be capable of representing the Secretary or regional administrator in legal proceedings.

"(b) (1) If a person violates or commits an act which violates any provision of section 301 of this Act, or omits to do any act which is required by any provision of this chapter or any regulation thereunder, the regional administrator, the Secretary, or the Attorney General at the request of either may petition the appropriate district court of the United States praying the imposition of a civil penalty against such person in an amount to be computed in accordance with paragraph (3) of this subsection. Such civil penalty shall be paid to such court within 90 days after the entry of final judgment, and the court may assign such funds for use in facilitating the purposes of this Act. If a person otherwise violates, or commits an act which violates, any provision of section 301 of this Act such person may also be issued an official reprimand by the Secretary or the regional administrator for the involved region.

"(2) Attorneys designated for such purpose by a regional administrator or the Secretary shall represent him before the district courts and upon appeal before any appropriate court of appeals of the United States in any action under this subsection. Upon request by such regional administrator or the Secretary, the United States attorney for the district in which the alleged violation occurred shall assist such regional administrator.

"(3) The amount of the civil penalty which may be imposed under this subsection shall not exceed \$10,000 for each day of each violation, plus restitution. In the alternative, such civil penalty may be imposed in an amount which does not exceed twice the pecuniary benefit derived by the defendant or twice the personal injury or property damage or loss caused by the defendant in the course of or arising out of commercial activity to which the violation contributed in whole or in part plus restitution in an amount which does not exceed twice the amount expended in commercial activity which involves a violation, including, but not limited to, advertising and market promotion. The amount of such civil penalty shall be based upon consideration of the nature, circumstances, and extent of such violation, the practicability of compliance with the provisions violated, and any goodfaith efforts to comply with such provisions.

"(4) Upon the recommendation of the court, the Secretary of the Treasury is authorized to pay an amount equal to one-half of any civil penalty paid pursuant to this subsection, but not to exceed \$2,500, to any person who furnishes information which

leads to the imposition of such penalty. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this paragraph.

"TITLE V—FOOD PRICE DISCLOSURE

"Sec. 501. The Congress finds and declares that consumers are victimized, especially in a period of continuously and rapidly rising food prices, by commercial packaging and marketing practices which make it difficult if not impossible to determine which food and food products constitute the most economical products. The Congress further finds and declares that commerce among the several States is not properly regulated unless and until the average American family is able to determine how to obtain the most food for the dollar. It is therefore declared to be the purpose of the Congress in this title to mandate disclosure of the retail unit price of any packaged consumer commodity at the point of sale and in promotional price advertising.

"Sec. 502. Section 4(a)(1) of the Fair Packaging and Labeling Act (15 U.S.C. 1453 (a)(1)) is amended to read as follows:

"(1) The commodity—

"(A) shall bear a label specifying the identity of the commodity and the name and place of business of the manufacturer, packer, or distributor; and

"(B) shall not bear any label, depiction, vignette, or other representation which purports to identify the commodity or its quality in a manner that does not accurately disclose the identity or quality of the commodity;'

"Sec. 503. Section 4 of the Fair Packaging and Labeling Act (15 U.S.C. 1453) is amended by adding at the end thereof the following two new subsections:

"(c) No person engaged in business in the sale at retail of any packaged consumer commodity which has been distributed in commerce, or the distribution of which affects commerce, shall sell, offer for sale, or display for sale any such commodity unless—

"(1) the total selling price of such commodity is plainly marked by a stamp, tag, or label affixed to a principal display panel of the package or by a label or sign at the point of display of such package; and

"(2) the retail unit price of such commodity is plainly marked by—

"(A) a stamp, tag, or label affixed to a principal display panel of the package, or

"(B) a label or sign in close proximity to the point of display of such package, which label or sign shall also contain the name and quantity of contents of such commodity.

"(d) No person subject to the prohibition contained in section 3 of this Act and no person subject to subsection (c) of this section shall advertise or cause to be advertised in commerce through any communications medium any packaged consumer commodity if such advertisement states the selling price of such commodity unless the advertisement includes the retail unit price of such commodity: *Provided*, That if retail unit prices are significantly different in different sections of the country, price advertising covering more than one such section shall include national average retail unit prices and shall disclose clearly and conspicuously that the retail unit prices of such commodities may be obtained from the retailer. As used in this subsection, "communications medium" means any printed or electronic means of communication which reaches significant numbers of people including, but not limited to, newspapers, journals, periodicals, publications, radio, television, films, and direct-mail statements.'

"Sec. 504. Section 5(b) of the Fair Packaging and Labeling Act (15 U.S.C. 1454(b)) is

amended by inserting before the first word thereof "(1)"; and by adding at the end thereof the following new paragraph:

"(2) The following shall be exempt from the requirements of subsection (c)(2) and (d) of section 4 of this Act:

"(A) Any individual retail outlet which sells or offers for sale packaged consumer commodities and whose total gross sales do not exceed \$250,000 per annum, unless such an outlet is one of a number of outlets owned substantially or whose inventory is supplied substantially, by a single person, partnership, or corporation whose total gross sales exceed \$500,000 per annum; and

"(B) Any retail outlet in any State or any political subdivision thereof which has enacted mandatory unit pricing laws and whose laws, in the judgment of the Federal promulgating authority, are in full force and effect and are comparable in scope and comprehensiveness to the requirements of this section; except that retailers (including chain-stores and affiliated stores) who operate outlets in any such geographical area shall be subject to such provisions if they also operate outlets in one or more other States or political subdivisions."

"Sec. 505. Section 5(c)(2) of the Fair Packaging and Labeling Act (15 U.S.C. 1454 (c)(2)) is amended by striking out "regulate the placement upon any package containing any commodity, or upon any label affixed to such commodity, of any printed matter stating or representing by implication that such commodity and inserting in lieu thereof 'regulate the stating or representing by implication on the package, label, coupon, or other promotional device that such commodity'."

"Sec. 506. Section 7(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1456(a)) is amended by striking out the words "or delivered for introduction in commerce", and inserting in lieu thereof a comma and the following "delivered for introduction in commerce, or sold at retail, offered for sale at retail or displayed for sale at retail."

"Sec. 507. (a) The first sentence of section 10(a) of the Fair Packaging and Labeling Act (15 U.S.C. 1459(a)) is amended by—

"(1) striking out the word 'consumption' the first time it appears in such sentence and inserting in lieu thereof the word 'use'; and

"(2) striking ", or use by individuals for purposes of personal care or in the performance of services ordinarily rendered within the household, and which usually is consumed or expended in the course of such consumption or use", and inserting in lieu thereof the following: "in or around the household, but shall not include durable goods which are customarily not extended or consumed during the first year of use."

"(b) Paragraph (1) of the second sentence of section 10(a) of such Act is amended by striking out "meat or meat product, poultry or poultry product, or'."

"(c) Section 10 of such Act (15 U.S.C. 1459) is further amended by adding at the end thereof the following new subsection:

"(g) The term "retail unit price", when used in relation to the contents of a package of any consumer commodity, means the retail prices of the contents of that package expressed in terms of the retail price of such contents per single whole unit of weight, volume, or measure."

"Sec. 508. The amendments to the Fair Packaging and Labeling Act made by this title shall take effect on the first day of the thirteenth month beginning after the date of their enactment."

NOTICE OF HEARINGS ON FEDERAL DEPOSIT INSURANCE

Mr. McINTYRE. Mr. President, the Subcommittee on Financial Institutions

of the Banking, Housing and Urban Affairs Committee will hold hearings on legislation to increase Federal deposit insurance on March 19, 20, and 21.

The House of Representatives passed on February 5, 1974, the bill, H.R. 11221, which would increase Federal deposit insurance from \$20,000 to \$50,000 and provide deposit insurance for government funds. The committee presently has pending before it a bill, S. 2735, title I of which contains provisions similar to those passed by the House this week. During the hearings, the subcommittee will consider both of these bills.

The hearings will be held at 10 a.m., room 5302, Dirksen Senate Office Building, and those persons interested in testifying should contact Mr. T. J. Oden of the committee staff at 225-7391.

Mr. President, I would also like to state specifically that the committee rules require that all witnesses scheduled to testify must submit written statements to the committee at least 48 hours before their appearance. The rules also provide that witnesses must limit their oral presentations to 15 minutes. In view of the interest in this legislation, I wanted it to be made clear that the committee rules must be complied with.

NOTICE OF HEARINGS ON COMPETITION IN THE OIL INDUSTRY

Mr. HASKELL. Mr. President, on February 20 and 21, 1974, the Special Subcommittee on Integrated Oil Operations of the Senate Interior Committee will continue its hearings on the market performance and competition in the petroleum industry. The hearings will start at 10 a.m. and will be held in room 3110 of the Dirksen Office Building.

The following have been invited to testify: Dr. Vincent McKelvey, Director, U.S. Geological Survey; Dr. John Fisher, General Electric Co., New York; Mr. Robert A. Wallace, vice chairman, National Exchange Bank, Chicago; Mr. John Winger, vice president, Chase Manhattan Bank, New York; Mr. John Bigler, Price Waterhouse, New York; Mr. Randal B. McDonald and Arthur Anderson, Houston; Dr. Stuart Myers, Massachusetts Institute of Technology, Cambridge; Prof. Walter Adams, Michigan State University, East Lansing; Prof. Joel Dirlam, University of Rhode Island; Prof. Robert Engler, City College of New York; Mr. Michael Tanzer, New York; Dr. Edward Mitchell, University of Michigan, Ann Arbor; Dr. John Lichtblau, New York; and Mr. Jim Langdon, chairman, Texas Railroad Commission.

ANNOUNCEMENT OF HEARINGS ON S. 2969

Mr. MANSFIELD. Mr. President, on behalf of the Senator from Missouri (Mr. EAGLETON). I wish to announce hearings by the Senate Committee on the District of Columbia on S. 2969, a bill to reduce auto insurance rates in the District.

The hearings will begin at 9:30 a.m. February 22, 1974, and at 9:30 a.m. February 25, 1974, in room 6226, Dirksen Senate Office Building.

Persons interested in testifying on this bill should contact Mr. Andrew Manatos, associate staff director, in room 6222, Dirksen Senate Office Building.

NOTICE OF HEARING CURRENT FEED GRAIN ACREAGE ALLOTMENTS

Mr. CLARK. Mr. President, the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Senate Committee on Agriculture and Forestry will hold a hearing at 10 a.m. on February 21, 1974, in room 324 of the Russell Senate Office Building, on current feed grain acreage allotments.

Both the U.S. Department of Agriculture and public witnesses, including representatives of producers' organizations, have been invited to testify.

The Department of Agriculture has established a feed grain allotment of 89 million acres for the coming crop years. The purpose of this hearing is to determine whether this is consistent with the Agriculture and Consumer Protection Act of 1973 and with the obvious need to plant more than the 100 million acres of feed grains that were planted last year.

The 1973 farm bill was enacted in part to insure adequate supplies of feed grains and other farm products. For a number of reasons, great concern has arisen in recent months that adequate supplies are not or will not be available.

These hearings should help to determine whether such fears are justified and whether feed grain acreage allotments have been properly determined.

NOTICE OF ENERGY OVERSIGHT HEARINGS

Mr. PERCY. Mr. President, the ongoing fuel shortage hearings that have been held before the Permanent Subcommittee on Investigations have been most helpful in filling in some of the gaps that existed in our knowledge about the oil industry and the Federal Government's role in this area. At the opening day of the most recent series of these hearings, Senator JACKSON, chairman of the subcommittee, succinctly explained the situation in which we then found ourselves when he stated that "the facts are that we don't have the facts." Due to the information generated in this investigative effort, as well as the material produced and facts uncovered by the executive branch, we are now in the process of determining what role the Federal Government can fruitfully play in reestablishing an equilibrium in America's energy picture.

Before the Christmas recess, the subcommittee held 3 days of hearings which dealt with the causes for the petroleum product shortages that existed during the winter of 1972 and the summer gasoline season of 1973. Permanent Subcommittee on Investigations investigators and private economists attributed the shortages to keeping the mandatory oil import program long after it served any useful purpose, the unwillingness of the administration to adequately raise the level of oil imports in late 1971 and early

1972, and the alleged policy of some of the major oil companies to purposely create a tight supply-demand situation so as to put upward pressure on prices. The oil companies will naturally be afforded an opportunity to respond to these charges at a later stage of these hearings.

During the most recent series of Permanent Subcommittee on Investigations hearings, oil company executives from the seven largest American oil companies—Exxon, Texaco, Mobil, Shell, Standard Oil of Indiana, Gulf, Standard Oil of California—were given the opportunity to respond to charges that are now being made about them. These allegations range from stating that the entire shortage of petroleum products is due to a conspiracy by the major oil companies to dramatically increase their profits by decreasing supplies, to charges that the oil companies have caused some of their products to be "watered down," that the major oil companies have deliberately used the tight supply situation that now exists to drive large numbers of independent retailers out of business, and that hoarding of gasoline supplies by the oil companies is rampant.

The testimony of the oil company executives was most informative. Members of the subcommittee were given a unique opportunity to focus on crucial questions that are on the minds of millions of Americans. The representatives of the oil companies, on the other hand, were able to respond to the serious charges that the energy crisis has in one way or another been contrived.

The following points were covered by the testimony of the oil company executives:

The energy shortage is not a phony or a fraud. It is real, and will be with us for at least a decade absent some unexpected change of circumstances.

Almost all of the oil companies had excellent profit years in 1973 and they did especially well during the third and fourth quarters of 1973. Exxon's earnings increased by 59% during 1973; Mobil, 47%; Texaco, 45%; and Shell, 28%.

A shortage of petroleum products actually exists in the United States. Refinery runs for the industry as a whole are now at approximately 85% of capacity as compared to a long-run sustainable rate of 92%. These low refinery runs are due to a serious, and increasing, shortage of crude oil in this country due to the Arab oil embargo. The oil embargo has become much more effective during the past three or four weeks.

The oil company executives were not able to adequately explain their United States tax situation to the subcommittee. While their Federal taxes ranged from roughly 2% to 7% of income from domestic operations, the oil executives stated that their worldwide tax bills were in the range of 52% to 62%.

The oil company executives vehemently denied under oath that they were responsible for the dilution of gasoline products that has been mentioned in the media.

The major oil companies that operate in the Persian Gulf are no longer able to effectively negotiate with the governments in that area over the price of crude oil. According to the oil company executives, the last price increase was dictated to them by the nations in the Organization of Petroleum Exporting Countries (OPEC).

At least one of the oil company executives

(Harry Bridges of Shell Oil) recognized that some form of control on oil company profits is necessary. Mr. Bridges stated that some form of control on the profits generated from the production of domestic crude oil would be reasonable over the next few years. Representatives of the other major oil companies seemed to realize that some form of profit control would be necessary.

Two oil company executives (Standard of Indiana and Shell) felt that the American public can reasonably expect, under current circumstances, that the price of gasoline will rise from 10 cents to 15 cents per gallon in 1974, and so too the price of home heating.

All the oil company executives felt that it would be impossible to achieve energy self-sufficiency in this country by 1980. Even a target of 1985 will be hard to achieve.

All of the oil company executives agreed that, notwithstanding the current energy shortage, today's situation does not warrant the imposition of gas rationing by the Federal government. William Simon, Director of the Federal Energy Office, concurred with this judgment in his testimony.

Further hearings on the petroleum product shortages will be held by the Permanent Subcommittee on Investigations. We have only begun to uncover the facts concerning the structure and operation of the oil industry. We must have all the facts so that the American people will be willing to continue their superb conservation efforts, support legislation designed to encourage domestic exploration, production, and refining of oil, and encourage the pursuit of policies designed to achieve energy self-sufficiency for the United States.

PUBLIC HEARINGS TO BE HELD ON THE U.S. FERTILIZER SUPPLY-DEMAND SITUATION

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Agricultural Credit and Rural Electrification on behalf of the full Senate Committee on Agriculture and Forestry, will hold a 1-day public hearing on Tuesday, February 19, 1974, on the fertilizer supply-demand situation in the United States. This hearing will begin at 10 a.m., and will be held in room 4202 of the Dirksen Senate Office Building.

Mr. President, 30 percent of our Nation's total production of field crops is directly attributable to the availability and application of fertilizer. When one considers the fact that our Nation's current reserves of wheat are at 27-year lows and expected carryovers of corn will be down to somewhere between 400 and 600 million bushels this marketing year, the importance of reaching our 1973-74 production year goals becomes all too obvious. And whether we are able to reach those goals will be determined not only by weather factors, but also by the availability of essential fertilizer supplies.

The recently issued planting intentions report of the U.S. Department of Agriculture indicates that farmers intend to plant 10 percent more corn acres this year over last, 19 percent more wheat, and about 17 percent more cotton acres. This means that almost 20 million more acres of land are being brought into production for these crops this year over last. Now the question is, will farmers get the fertilizer they will need to grow

these crops, which on a combined acreage basis, will involve 268,896,000 acres.

USDA is now estimating that in 1974, domestic supply of nitrogen from ammonia and byproduct ammonium sulfate will be 1 million tons less than the quantity demanded, a shortfall of nearly 7 percent. The Fertilizer Institute, on the other hand is projecting a shortfall of nitrogen nutrients of somewhere between 2 and 2.5 million tons. USDA also is projecting a 700,000-ton shortfall of phosphates in relation to demand this year.

During much of last year when domestic fertilizer prices were subjected to Cost of Living Council controls, substantial amounts of our domestically produced fertilizers were exported in response to higher prices being offered for them by foreign buyers. U.S. farmers during this period were prevented from competing with these foreign buyers for available supplies. On October 25, 1973, the Cost of Living Council lifted these controls, which since that time has resulted in two major developments: First, U.S. farmers have been able to secure more of available supplies but, second, at a much higher price. Since last November prices paid by farmers for anhydrous ammonia have increased by 71 percent; ammonium nitrate, by 55 percent; urea, 69 percent; nitrogen solution, 57 percent; triple superphosphate, 42 percent; diammonium phosphate, 41 percent; potassium chloride, 26 percent; and mixed fertilizer, by 40 percent.

The 1974 fertilizer bill for farmers in the United States may go to \$4 billion, nearly 40 percent above 1973.

While perhaps 8 percent more nitrogen and phosphates will be available in 1974, it is not likely that demand requirements will be met. For instance, natural gas, essential to ammonia—nitrogen—production, is short. This shortage is keeping new plants from being built and some existing plants from operating at capacity. Also, availability of other liquid and middle distillate fuels to operate many fertilizer plants are being reported as falling short of need requirements.

In addition to these supply shortfalls being expected and factors limiting production capacity, several major fertilizer manufacturers are rearranging their marketing areas and relationships with local dealers. In its January 25, 1974, report on farm fuel, fertilizer, and transportation situation, USDA stated the following with respect to this matter:

At least one large company is closing out farmer-dealer (large farmer) accounts. Suppliers are using this opportunity to rid themselves of problem dealers. A large share of telephone calls and correspondence received result from the above actions. Companies withdrawing from marketing areas is causing hardship on dealers.

I should like to add, Mr. President, these actions are more importantly causing even greater hardship on the farmers who purchase their fertilizer from such dealers. Many of these farmers are now faced with no supplier and no supplies. We hope in our February 19 hearings to examine these and the many other factors now affecting the production, distri-

bution, and availability of these critically needed supplies among farmers.

Invitations to appear at these hearings are being extended to Secretary of Agriculture Butz, Dr. Dunlop of the Cost of Living Council, Mr. Simon of the Federal Energy Office, Mr. Nassikas, Chairman of the Federal Power Commission, and Secretary of Commerce Dent. Mr. Ed Wheeler, of the Fertilizer Institute, and officials of several major fertilizer manufacturers also are being invited.

We hope, Mr. President, to get as complete a picture as possible of this entire fertilizer situation at these hearings. We also hope to identify what, if any, additional steps that may have to be taken to insure maximum production and equitable distribution of these urgently needed farm supplies. Much of next year's food supply in the world will be determined by how well we can maximize our efforts to produce and make available these supplies.

NOTICE OF HEARINGS ON S. 2904, EXEMPTING ACTIONS BROUGHT BY THE SECURITIES AND EXCHANGE COMMISSION FROM THE OPERATION OF TITLE 28, UNITED STATES CODE, SECTION 1407

Mr. BURDICK. Mr. President, as chairman of the Judiciary Committee Subcommittee on Improvements in Judicial Machinery, I wish to announce hearings for the consideration of S. 2904, to improve judicial machinery by amending title 28, United States Code, section 1407, with respect to actions brought by the Securities and Exchange Commission, beginning at 10 a.m. on February 20, 1974, in room 457 of the Russell Senate Office Building.

This legislation will exempt enforcement actions brought by the Securities and Exchange Commission under the Federal securities laws from the pretrial consolidation proceedings under title 28, United States Code, section 1407.

Any person who wishes to testify or submit a statement for inclusion in the Record should communicate as soon as possible with the Subcommittee on Improvements in Judicial Machinery, room 6306, Dirksen Senate Office Building.

ANNOUNCEMENT OF HEARINGS ON "TRANSPORTATION AND THE ELDERLY: PROBLEMS AND PROGRESS"

Mr. CHURCH. Mr. President, as chairman of the Senate Special Committee on Aging, I would like to announce that the committee will hold hearings on "Transportation and the Elderly: Problems and Progress" February 25, 27, and 28, beginning at 10 a.m. each day in room 1318, Dirksen Office Building.

Testimony will explore recent legislative enactments which should provide resources useful in improving mobility of older Americans. Testimony on the effects of the energy crisis upon programs serving the elderly will also be sought, and the President's new transit proposals will be considered.

ANNOUNCEMENT OF REGIONAL FIELD HEARINGS ON S. 2008, NATIONAL WORKERS' COMPENSATION STANDARDS ACT

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will continue its series of regional field hearings on legislation designed to provide Federal standards for workers' compensation.

The next hearings will be on Monday, March 11, 1974, in Buffalo, N.Y.; Friday, March 15, 1974, in Jacksonville, Fla.; Monday, March 18, 1974, in Houston, Tex.

The subcommittee expects to hear witnesses at these hearings who represent interested persons or groups on the subject of workers' compensation from the surrounding State areas. Those persons or groups wishing to present testimony at these field hearings should contact Donald Eilsburg, associate counsel of the Labor Subcommittee, room G-237, Dirksen Senate Office Building or telephone 202-225-3674.

ANNOUNCEMENT OF FIELD HEARINGS ON THE ENERGY CRISIS AND EMPLOYMENT DISLOCATION

Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Labor of the Committee on Labor and Public Welfare will hold a public hearing on the severe effect that the energy shortage is having on the economy, and in particular, on the employment situation.

The hearing is scheduled for 9:30 a.m., Tuesday, February 12, 1974, in Trenton, N.J.

The subcommittee will hear witnesses who represent interested persons or groups on the subject of the "Energy Crisis and Employment Dislocation."

ADDITIONAL STATEMENTS

THE PRESIDENT'S RECOMMENDATION ON PAY ADJUSTMENTS

Mr. MANSFIELD. Mr. President, the distinguished Senator from Wyoming (Mr. McGEE), the able chairman of the Senate Committee on the Post Office and Civil Service, has prepared an explanation of the President's pay adjustment proposal. While Senators have expressed themselves on all sides of this matter, I think it would be helpful to have this statement for reference. I, therefore, ask unanimous consent that Senator McGEE's remarks on this important issue be printed in the Record.

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

STATEMENT BY SENATOR GALE MCGEE

In the few days since the Congress received the President's recommendations on pay adjustments for top officials of the three branches of Government, a number of resolutions of disapproval have been submitted. Under the law, the President's pay proposal becomes effective unless specifically disapproved by either body of Congress within 30 days of its receipt by the Congress as a part of the President's budget message.

I intend to oppose the enactment of any resolution of disapproval, because a denial by Congress of the President's very modest pay-increase proposal would wreak havoc upon the Federal pay structure, which already is unbalanced and compressed.

The pay-adjustment proposal—which by law is made every four years—would provide salary increases for cabinet-level officials of the executive branch; judges and top staff of the Federal judiciary; and Members of Congress. These increases would be made in three yearly increments of 7½ percent a year, except that the pay of positions now compensated at \$60,000 per year would receive only one pay increase, in 1975, of 7½ percent.

Mr. President, I am aware that some Members oppose pay increases for Members of Congress whenever they are proposed. Perhaps that is why Members have received only six pay increases since 1874—a hundred years ago. The last increase was approved five years ago in 1969.

But today we face a question relating not only to Congress but of vital concern to some 2,500 other top officials in the executive and judicial branches who must rely upon Congress to break the compression logjam which for five years has imposed a rigid and inflexible maximum upon their earnings and their retirement incomes. The Compression sits heavily as well upon the subordinates of these officials, the top career managers in the competitive civil service in grades GS-15, GS-16, GS-17, and GS-18. Their pay is pegged at \$36,000 a year, the same as a Level V employee of the Executive Salary Schedule.

Now, what would have happened to the salaries of these career GS employees since 1969 if the pay compression problem had been relaxed? I am sure Senators are aware that, under the comparability principle adopted by Congress in 1962, Federal salaries are adjusted once a year. The adjustments are based upon a Bureau of Labor Statistics figures comparing the pay of Federal jobs with the pay of comparable jobs in private industry. There have been six comparability increases since 1969, averaging about 6 percent, the latest effective October 1 of last year. The top GS employees have been denied any of these raises which would have taken their salaries beyond the \$36,000 top limit. Thus a GS-18 career manager, for example an employee who has worked his way up through the grades and steps of the General Schedule, would be earning \$43,926 now instead of \$36,000, if he had been allowed the increases accruing to the incumbents of comparable jobs outside Government—increases received by all others in his class of Federal employees. Executives in industry, state, and local governments have had their compensation increased approximately 30 percent during the five year period since 1969.

This static pay condition at the top of the General Schedule inhibits recruiting and encourages retirement. Top managers possessing readily marketable skills are retiring at the earliest possible time to accept positions outside Government where there is no need to wait four years for consideration of a salary increase. The Departments and agencies are losing valuable managers, and the executive branch is powerless to offer monetary inducements.

Mr. Rowland Kirks, Director of the Administrative Office of the U.S. Courts, states that the compression problem exists in the Federal judiciary no less than it does in the executive branch. He advises that the top classified employees in the judicial system are frozen in their present salaries, which are fixed as a percent of the salary of a district judge. For example, referees in bankruptcy, U.S. magistrates, clerks of court, and probation officers who have reached the top of their grades can no longer receive increases

in salary as long as the district judge's salary remains static.

Compression means that many a subordinate is receiving the same income as not only his boss but also his boss's boss. Sometimes four levels of executive reporting one to another are all receiving the same income.

Mr. President, last year I introduced a bill, S. 1989, to provide that the President's proposal on pay would come to Congress for consideration every other year instead of every four years. Under S. 1989, pay consideration for the officials involved would have been brought more nearly into line with the annual consideration given the pay of other Federal employees. That bill passed the Senate but failed in the House. So the quadrennial provisions of the 1967 law still prevail. I urge Senators to allow the President's proposal to go into effect, keeping in mind that it may be four more years before Congress has an opportunity to bring a measure of equity to the Federal pay structure—four more years before we can provide what the comparability principle promises: equal pay for equal work. If no increase in the Executive Schedule is allowed this year, GS-18 will be paid \$15,200 below its comparability rate by October, 1976. Furthermore, 28,000 employees in GS-18, 17, 16, 15, and the top of GS-14 would all be paid an identical \$36,000 in 1976. The unfair pay compression must be relieved this year.

THE MAN IN THE MANSION: THE HONORABLE STAN HATHAWAY

Mr. HANSEN. Mr. President, many of our distinguished colleagues have remarked upon the news that the Governor of Wyoming, the Honorable Stan Hathaway, has announced his intention not to seek reelection to an unprecedented third term as Governor of our State.

Stan Hathaway already has served longer than any other Governor of Wyoming, having completed more than 7 years as the State's chief executive—and those years have been years of outstanding service. There was little question in the minds of Wyoming people that had Governor Hathaway decided to seek a third term, his solid record of service, and his vast popularity would have insured his reelection. But he has indicated his intent to return to private life, and perhaps logically to the practice of law, for he is an excellent attorney.

We hear and read often today—too often—of complaints citizens have that their governments have become inaccessible and remote from the people and the people's needs. That is not the case in Wyoming, and in an ever rapidly changing world, Governor Hathaway has managed to keep most of the red tape out of government. A recent letter to the editor of the Wyoming State Tribune from Mrs. Michelle Gonzalez Allen of Cheyenne illustrates this, and I ask unanimous consent that it be printed in the RECORD.

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

[From the Wyoming State Tribune,
Jan. 25, 1974]

THE MAN IN THE MANSION

To the Editor:

Two years ago I was having problems dealing with local officials concerning a state license. I talked with every secretary, assistant flunky and head chief to no satisfaction; the situation was frustrating and exasperating, then, realizing there was no one else to appeal to I decided to talk with the governor.

This last hope seemed improbable because it was 10 p.m. and I was taking a plane to Florida the next morning; but I decided I would take the chance. I drove to the Governor's Mansion and sat outside for about 5 minutes just looking at this imposing house and thinking of the importance of the man inside. Who did I think I was anyway? "People", average "people", just don't go to the Governor's Mansion unannounced or uninvited; but I was determined and had to try.

I went to the door, rang the doorbell and waited. I saw someone coming so I took a deep breath, squared my shoulders and hoped I'd be able to persuade the first of many "guardians" of the governor.

"Hi! What can I do for you?", queried a man, in casual dress, house-slippers, holding a can of Sprite, with a little cocker spaniel standing at his side.

"I have a problem I'd like to discuss with you." "Sure! Come on in. I'm watching the news on TV . . . just a moment and we'll talk."

He watched the news awhile then sat with me and talked. I was quite nervous just to be in his presence but certainly not because he didn't do everything to make me comfortable. I couldn't help but think . . . Governor Hathaway had answered the door!

No servants to get past, no bloodhounds, No guards! He was not unlike a neighbor inviting a friend into his home. He told me he would check personally but couldn't promise anything except that he would be attentive to both sides of the problem.

He walked me to the door, bade me good-night and as I walked away I knew I had just left the presence of someone very special. No matter which way he decided I felt he would be fair.

The next morning, one of his aides phoned me to tell me that the governor had decided in my favor and that he said to tell me "Hi". Where else could this happen except in Wonderful Wyoming? How many governors of other states would be so accessible to the people? Every time I pass the Governor's Mansion I wish everyone could see, as I see, the big WELCOME sign for all the people of Wyoming.

MICHELLE GONZALEZ ALLEN.

FREEDOM OF INFORMATION AND THE FEDERAL ENERGY OFFICE

Mr. MUSKIE. Mr. President, Mr. William E. Simon, the Administrator of the Federal Energy Office, gave an excellent and encouraging address to the National Press Club last Tuesday on the subject of press access to official information about energy. Accessibility to the press, he observed, is crucial to the Government's efforts to develop popular support for the work and decisions of the Energy Office, and he added, "We can get that confidence by earning it."

In setting standards for handling journalists' inquiries, Mr. Simon was precise about the way he would earn confidence—

Within 24 hours of our receiving your requests for information, we will issue an acknowledgment, or grant the request. Within ten working days, I personally guarantee that you will get the information you seek, or have the opportunity to appeal. Appeals will be ruled upon within no more than ten days.

As he pointed out, those time limits go far beyond the existing requirements of the Freedom of Information Act. They are even stricter than the ones I proposed last March in S. 1142, to amend the act, and stricter than the deadlines set in S. 2543, the thoughtful bill Senator KENNEDY has offered for the same purpose.

Yet our amendments have been repeatedly criticized by spokesmen of various Government agencies for setting unrealistically short deadlines. Mr. Simon's pledge is the best answer I know to such complaints. If an office as busy as his can handle requests for information in the time he promises, there is no reason that other agencies cannot do the same. Mr. Simon suggested that it might be "inefficient to run an open agency." He said that such a practice "costs time and money." But he declared, and I completely agree—

Curtailing secrecy is one thing we can do to help restore confidence in government. Being open, the Federal Energy Office can ask for public confidence. If it were a closed agency, we could not.

Mr. President, I ask unanimous consent that the full text of Mr. Simon's remarks on freedom of information policy in the Federal Energy Office be printed in the RECORD.

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

REMARKS BY THE HONORABLE WILLIAM E. SIMON, ADMINISTRATOR, FEDERAL ENERGY OFFICE, DEPUTY SECRETARY OF THE TREASURY

It's great to be back at the National Press Club. The last time I was here, a week ago last Friday, was for the inauguration of your new President, Clyde LaMotte. That was, you will recall, a somber occasion. I am grateful to Sarah McClendon for inviting me to that ceremony, and to Clyde for inviting me here today and introducing me.

I neglected to mention last time that we are beginning a new allocations program of specific interest to you all. We are going to cut back on the power of the press. Effective immediately, you in the press will be allocated no more power than you had during your base period . . . 1812.

Seriously though, thank you for inviting me here today to discuss the energy crisis. During the two months since the Federal Energy Office was created, a primary concern of mine has been getting our message out to the people across this country.

You and I share a responsibility, for communicating to the American people. We must present the truth, as we can perceive it, about America's energy problems and prospects, about alternatives for the future, about what government is doing and has done.

I have a responsibility for managing the energy crisis, and I am accountable, to you and to Congress and to the American people, for my actions and decisions.

You know that the energy crisis is real. We have fuel shortages now, and we're going to have them for several years to come. We Americans consume more fuel than we produce. We have thus become increasingly dependent upon imported oil—a dependency which has an impact not only upon our domestic economy but also upon our balance of payments position as well. We must respond, now.

That is, by definition, a crisis.

We've been telling the American people this, but I'm not sure they're listening and accepting what we say. Today, I am going to forego my ritual recitation of consumption, conservation, allocations, and audits, and focus instead upon the major obstacle we face in turning today's objectives into tomorrow's achievements. The latest surveys indicate that more than a third of the public believes that the Federal Government is most responsible for the energy crisis.

Pollster Lou Harris called it the "crisis of confidence," and he said two months ago that "Public confidence in government must

generally be reported as being lower than a constituent democracy can afford."

Ladies and gentlemen of the press, as we all know, this country does not hold together because all the people support a set of policies. America will not fall apart because of policy disagreements. The people can disagree with and try to change an Act of Congress, or an action or decision of the Executive Branch or the courts. But a democracy cannot stand—and remain free—unless virtually all of the people accept its institutions; not necessarily the actual policies of the government, but the way those policies are made.

The energy crisis and this crisis of confidence are integrated. We cannot consider one without the other. We cannot solve one without solving the other. We cannot fail to solve one, without failing to solve the other.

It was exposure to the public, through management responsibility for the energy crisis, that brought me to realize the magnitude of our national disillusionment. Without question, the most serious impediment to the effective performance of my job has been, and continues to be, that sad and overworked word, credibility.

This has been a year of great stress for governmental credibility. The fact is that the public is no longer willing to give public officials the benefit of the doubt. If there is doubt, most of the citizenry these days will presume they are being misled, until the doubt can be dispelled.

The American people have lost confidence. They have, however, not transferred this confidence from the Executive Branch to the Congress or the Supreme Court. No, the American people have simply lost confidence in all government.

And they have also lost confidence in medicine, in higher education, the military, organized religion and labor, big business, and virtually every institution you and I were brought up to trust.

This trend must be reversed.

Nobody likes to be doubted. You certainly know that—the polls indicate that most Americans don't have a great deal of faith in the fairness and accuracy of the press. And you, like me, need credibility to do your job.

I have been accustomed to being believed. I like to think this is because I lay the facts on the table; I tell the truth as best I can and so does my staff.

We all should be greatly disturbed by growing cynicism in the land. As a father of seven children, I wonder, what happens to a generation of kids growing up with the notion that their government and their basic institutions are not to be trusted?

Translated to our activities in the Federal Energy Office where we must have the cooperation of the American people in conservation efforts, we are especially concerned about this "crisis of confidence." If people don't believe us when we tell them there is an energy crisis, if they think we are acting in cahoots with the major oil companies to boost profits at the expense of the people, then they will not cooperate. They will not conserve. And if that happened, the current crisis could come to be a catastrophe.

CONFIDENCE AND SECRECY

If there was any single outstanding lesson for public officials to learn from that Harris survey, it is that the American people crave openness in government.

The relationship between government information policies and democracy is close and direct. The rights to vote or run for office mean little without the rights to know the activities of the incumbent government, and make or hear informed criticism of public officials and policies.

As President Nixon observed in his State of the Union address last week, a society's freedom can be measured by the extent to which it protects the right of personal pri-

vacy. A democracy's validity can be measured by the extent to which a people can know about the affairs of the government.

If the government knows or can find out what the people are up to, but the people do not know and cannot find out what the government is up to, then the people don't control their government; it controls them.

Many of you who cover the Federal Energy Office have told us that it is a very open agency. And most of you, I think, believe that we are putting out the most accurate information we can get on the energy crisis. But the American people don't all believe us, and they won't all believe you.

This is a complex situation that contains no simplistic answers. We cannot point a finger at the government, at the politicians and officials, at the oil companies, at the Arabs or Israelis, or at the environmentalists. We must all accept a share of the blame. What matters is that once we recognize that mistakes have been made, we work together to develop energy policies and programs that will put us on the road to self-sufficiency with the strong backing of the American people. We at FEO need the confidence of the American people, because we need the voluntary cooperation of the American people.

How can we get that confidence, if the people hold their government in such low regard that they doubt its word before it speaks? We can get that confidence by earning it.

One way to earn it is through being open—not just when we are right, and proud of what we have done because we think people will like it, but also when we are wrong, when we have goofed.

People in bureaucracies tend to want to be secretive, not just to cover their mistakes, but to avoid having to answer a lot of questions they regard as nuisances at best and threats at worst. I know that, and you know that. The pressures for secrecy in bureaucracies are not caused by malice. They are a part of the nature of bureaucracies.

The Federal Freedom of Information Act attempts to countermand inherent tendencies toward secrecy in government. Nearly seven years after the FOI Act went into effect, we all know that it has not eliminated unwarranted secrecy. By the admission of the Congressional committee that wrote the law, it doesn't work. Information that belong in the public domain is withheld and this compounds the entire problem.

As journalists, you are familiar with delays of access to government agency information. It is an old and established legal principle that "Justice delayed is Justice denied." For journalists working under a deadline to find out the significance of breaking news, the delay of access to public information can amount to the denial of that access.

At the Federal Energy Office, we want to design Freedom of Information mechanisms to provide maximum possible access to information. At the same time, we have some concerns that militate against simply throwing open the doors and drawers and telling people to help yourselves.

In the first place, we handle sensitive national security data, some of which we cannot make public.

A second consideration is that we receive proprietary data—trade secrets of the energy companies and private tax information—and information that, to release, might substantially endanger free market competition. We cannot disclose this without crippling our ability to gather such data in the future.

Third, we issue regulations and make policy decisions having profound and direct impact upon the American economy. If we had to release our plans before being prepared to act upon them, hoarding, profit-taking, the buying or selling of stock, and general economic chaos could result.

Fourth, we receive some information from

other agencies that other laws require the government to keep secret, for example, reports from the Bureau of the Census and Internal Revenue Service.

Also, we have to be concerned about the administrative effort necessary to comply with requests for access to information. For requests from industry sources, intended for private use rather than general news publication, we will have to assess a fee.

And we have certain other kinds of information—for example, medical data in our employees' personnel files—which, to disclose would amount to an unfair invasion of the right to personal privacy.

Nonetheless, the American people do not want excuses. You have seen government agencies cover up mistakes, incompetence, and possible illegalities under the claim that information sought by reporters was exempt from the Freedom of Information Act.

The FOI Act serves to force disclosure of information when an agency wants to keep it secret. Later this week I will send to the Federal Register our operating regulations for Freedom of Information. These regulations go far beyond the requirements of the law, and reflect our concern that openness shall be the firm rule, not merely a temporary expedient.

The outstanding features are these: most requests for information will be handled as they have been. But for problems with access, we will have an Information Access Officer. This officer and I will be the only persons authorized to deny an initial request for information.

Within 24 hours of our receiving your requests for information, we will issue an acknowledgment, or grant the request. Within ten working days, I personally guarantee that you will get the information you seek, or have the opportunity to appeal. Appeals will be ruled upon within no more than ten days.

Curtailing secrecy is one thing we can do to help restore confidence in government. Being open, the Federal Energy Office can ask for public confidence. If it were a closed agency, we could not.

But we must do more. We must be honest, not merely in the words we issue by mouth or press release, but also in the impressions we convey to people. If the people believe something that once was true, and it later becomes false, we must correct the false impression—even if it is not of our making.

To restore public confidence is not an option for this government, any more than collecting taxes is an option. This is imperative. We can quibble about how it is to be done, but it must be done.

Only then can we achieve, to use Lou Harris' fine words again, ". . . an America, and indeed a world, in which a spirit abound where people are in a mood to attack their common problems instead of attacking each other."

Over the years, you in the press have proven yourselves. I couldn't put anything over on you if I wanted to . . . and I don't. I want you to get the whole story on the energy crisis, and tell it to the public.

We cannot afford to delude ourselves. It is time to inform and alert the American people. They must be armed with enough facts to evaluate our performance directly, not through clouds of public relations from those who support or oppose our policies.

Last week, my Office of Public Affairs had a meeting with four reporters who regularly cover energy in Washington. The purpose was to get suggestions about how the Federal Energy Office can better serve the needs of the press in getting information out. They had a few criticisms, but I was pleased to learn that the reporters who visited us felt that no Federal agency is as accessible as the FEO.

It is perhaps inefficient to run an open

agency. The time we spend answering queries from the press could be devoted to other work. It costs time and money.

The same can be said for the process of democratic elections; it ties up the time of public officials and costs the taxpayers a lot of money. It is a part of the price we as citizens pay for the right to run our government. To keep that right, we must see that public business is, truly, public business.

A SCHOOLBUS OF ANOTHER COLOR: SAME TIN CAN, DIFFERENT LABEL, MORE TRAGIC DEATHS

Mr. PERCY. Mr. President, in previous remarks, I have pointed up the serious problem of schoolbus safety.

But, schoolchildren are not the only persons endangered by these buses.

On January 15, 1974, 19 farm laborers were killed and 29 others injured when a school-type bus missed a turn and plunged into 6 feet of water in an irrigation canal southwest of Blythe, Calif.

Most of the deceased drowned.

Would lives have been saved if the bus had been equipped with escape exits suitable for adults and older high school students? I do not think there is any doubt about that.

Although autopsy reports are not yet available, there is considerable evidence that many of the injuries and some deaths were incurred on impact. The body structure of the bus was clearly inadequate in construction to withstand accident stress.

In response to a request I made to the National Transportation Safety Board for a full investigation of the accident, Henry H. Wakeland, Director of the Bureau of Surface Transportation Safety, reports the following:

(1) Although there was little structural damage to the exterior or interior of the bus body, an unsafe seat anchorage system "contributed radically" to the death toll. All twenty of the double seats on the bus, and the driver's seat, were uprooted from the floor upon impact when the bus struck the drainage ditch embankment. The unrestrained driver died due to injuries sustained from collision with the steering wheel.

The seats were anchored to the floor with 3/8 inch metal screws. The metal flooring was .078 of an inch in thickness. Thus, "about one tread of each screw was engaging the metal." And, there were only two screws per leg, each double seat having but two legs.

The side fastenings were no more sturdy.

(2) The bus came to a rest in the water on its left side. This prevented the use of the rear emergency door which was located on the left side.

Many emergency doors on school-type buses are positioned in the middle of the bus. Because an overturned bus must come to rest on either side or the roof, a middle-positioned rear escape door is less likely to be blocked. Certainly, such an exit would have facilitated escape in this case.

There are 11 windows on each side of the bus. The top half of each window opens downward and provides only a 12-by-24-inch escape area—an extremely tight squeeze for adults and older high school students.

This additional impairment to escape may well have contributed to the tragic death toll.

Mr. Wakeland observed—

If we had to design a bus for all people, then we'd suggest a right front entrance and exit door of improved design, a center-rear emergency door with a standard, uniform opening device and windows with larger escape areas.

(iii) The bus overcrowded with 47 passengers and only 44 seats.

In response to an inquiry by me, Mr. Wakeland contacted the Bureau of Motor Carrier Safety, the National Highway Transportation Safety Administration, the National Safety Council, the Schoolbus Manufacturers Institute, the Institute for Highway Safety, and the Calspan Corp. requesting data on the extent to which school-type buses are used for purposes other than the transport of schoolchildren.

He was told that this information does not exist.

Unless the vehicle is painted yellow, bears the label "Schoolbus," is equipped with warning light systems and is used to transport schoolchildren, it is not classified as a schoolbus for registration or reporting.

What this means, sadly, is that our present statistics on the hazards of the school-type bus, grim as they are, are woefully incomplete.

And, the safety standards we do have, which are minimal and not at all comprehensive, are inapplicable and inadequate for school-type buses used for other purposes than to transport schoolchildren.

Because of this, action by the Federal Government to promote safer school-type buses must be threefold.

First, comprehensive safety standards should be promptly promulgated for all school and school-type buses, whomever they carry.

Second, special standards must be developed to accommodate the particular safety problems involved in the use of those buses that are not part of a school fleet.

And, third, a more efficient system of reporting and registering data on these buses must be devised and promptly implemented. Reliable information and statistics are necessary to identify the serious safety problems which present themselves.

It would seem that we all agree there are enormous shortcomings in the regulations which govern the construction and operation of school-type buses in this country.

But who is to blame for the tragedy in Blythe, Calif.?

Is it the driver of the bus, uncertified, perhaps, from reports, ill or unqualified, perhaps speeding or inattentive, in whose hands the lives of 47 farmworkers were entrusted?

Is it his employer, perhaps unaware of the qualifications and health of his driver, perhaps unaware that 47 persons were being transported in a vehicle intended to carry 44, but who should have been aware?

Is it the manufacturer of the vehicle who, perhaps driven by a concern about competitive disadvantage, produced a veritable death trap in which 19 of the farmworkers came to be ensnared?

Is it the State transportation officials

who—like those in so many other States—for far too long have left questions of vehicle safety in the hands of their Federal counterparts, oblivious to the conspicuous silence emanating from Washington?

Is it the Federal Government—the National Highway Traffic Safety Administration—which has been given the mandate by Congress to set comprehensive standards for vehicle and passenger safety, but which bears instead the dubious accolade of negligent inaction for so long at so high a cost?

How many more young children, how many more farm laborers and migrants, and how many more others must needlessly die or suffer grievous injury before destructive unconcern gives way to constructive action? How many bodies must be piled how high before empty promises and irresponsible buckpassing yields to performance?

Who is to blame? There is enough shared responsibility to go all around.

Mr. President, let me take this opportunity to commend the National Transportation Safety Board for the thoroughness of its investigation into this matter and also, Mr. Walter Conahan of the NTSB staff for his outstanding cooperation with my office.

I only wish that the investigatory findings of NTSB were taken up with the same degree of alacrity and resolve by the National Highway Traffic Safety Administration in promulgating needed standards to deal with the problems uncovered. Or, is that too much to expect?

FINANCIAL STATEMENT FOR 1973 OF SENATOR JAMES B. ALLEN

Mr. ALLEN. Mr. President, prior to coming to the U.S. Senate on January 3, 1969, I publicly stated that I would, each year during my service in the Senate, file a statement of my financial condition with the Secretary of the U.S. Senate, the Secretary of State of the State of Alabama, and the probate judge of Etowah County—my home county—Alabama.

I have pursued this policy and have filed statements of my financial condition at the end of 1968, 1969, 1970, 1971, and 1972. In addition to such filings, I have placed in the CONGRESSIONAL RECORD copies of my 1968, 1969, 1970, 1971, and 1972 statements. I ask unanimous consent that my 1973 statement be printed at this point in the RECORD. The statement sets forth my reasons for making these statements public.

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

[District of Columbia, City of Washington]

FINANCIAL STATEMENT

I, James B. Allen, Gadsden, Alabama, do hereby certify that the following is a true and correct statement of my financial condition as of December 31, 1973.

ASSETS

Home at 1321 Bellevue Drive Gadsden, Ala.—cost 1959	\$32,500.00
Furniture, furnishings, books	5,000.00
Automobile	2,500.00
State of Alabama; City of Huntsville, Ala., bonds (recent broker's bid)	23,500.00

U.S. savings bonds, at cost.....	\$600.00
Residence at 7405 Hallcrest Dr., McLean, Va.—1970 cost \$47,700 less \$3,733.33 depreciation.....	43,966.67
Bank accounts—exact.....	2,493.19
Payments into Civil Service Reti- rement account—exact.....	16,619.12
Life insurance surrender value (all but \$2,000 is term).....	200.00
Total.....	127,378.98

LIABILITIES

Indebtedness on residence at 7405 Hallcrest Dr., McLean, Va., to First State Bank of Altoona, Ala., and Exchange Bank of Attalla, Ala., monthly payment loan—exact.....	37,935.06
Note—First State Bank of Al- toona, Ala.....	10,000.00
Total.....	47,935.06
Net worth.....	79,443.92

I am not an officer, director, stockholder, employee or attorney for any person, firm, company or corporation, nor am I a member of any law firm, nor am I engaged in the practice of law in any form.

My income is limited to my Senate salary and interest on U.S., State of Alabama and municipal bonds listed above. During 1973, I received no honoraria or non-official expense payments or reimbursements of any sort. I have never during my service in the Senate or at any time prior thereto, accepted any such honoraria or non-official expense payments or reimbursements of any sort, nor do I have a committee or person designated to receive contributions, political or otherwise, except the single campaign committee conducting my campaign for the U.S. Senate in 1974.

This statement is made pursuant to a declared policy of filing annually with the Secretary of the U.S. Senate, the Secretary of the State of Alabama, the Probate Judge of Etowah County, Alabama (my home county), a statement of my assets and liabilities. A similar statement will be filed each year during my service in the Senate, this being the sixth such annual statement I have filed since coming to the Senate in January 1969.

The purpose of this statement is two-fold:

1. To show the absence of any conflict of interest between my ownership of assets and my service in the Senate in the public interest.

2. To keep the public advised as to my financial status, and to disclose the extent to which I have benefited financially during my public service.

I believe the public is entitled to this information from me as a United States Senator in the discharge of this public trust.

Recapitulation of past years' net worth:

End of 1968, as I came to Senate.....	\$92,984.81
End of 1969.....	87,750.00
End of 1970.....	87,243.34
End of 1971.....	85,939.09
End of 1972.....	85,265.70
End of 1973.....	79,443.92

This 7th day of January, 1974.

JAMES B. ALLEN.

Sworn to and subscribed before me on this 8th day of January, 1974.

PETER L. HUBER,
Notary Public.

THE GENOCIDE TREATY

Mr. ROTH. Mr. President, during the past few days we have been debating whether the Senate should give its advice and consent to the ratification of a treaty that has been on our calendar for

almost a quarter century—the Genocide Convention. Genocide is a hideous and abhorrent crime. It should be prevented, and, when it does occur, it should be punished. I would like to see an international agreement, consistent with the rights and liberties of Americans, that would be effective in prohibiting and punishing the crime of genocide. Originally, I had hoped that the present convention, as limited by the reservations and understandings which the Senate might adopt, could be such an agreement. But, after close and careful study of the convention and the testimony presented both in favor and opposed to it in committee and listening to the debate on the floor, I have become convinced that the Senate should not give its advice and consent to this convention. It cannot be effective in preventing genocide and it raises a host of serious constitutional and legal questions for the United States.

It has often been pointed out during this debate that more than 70 countries around the world have already ratified the Genocide Convention. This fact has not deterred genocide which, in recent years, has reared its ugly head in such diverse places as Burundi, Nigeria, and Cambodia. The Soviet Union has ratified the convention, yet the convention has not prevented the Soviet Union from harassing its Jewish or other minorities. Our ratification could in no way enhance its effectiveness.

One flaw in the convention is that while it applies to genocide of "national, ethnical, racial, or religious" groups, it does not apply to genocide of political groups. Its application to political groups was dropped at the insistence of the Soviet Union and other Communist countries which do not tolerate political parties or other organizations which are opposed to the official ideology of the state.

The argument has been made that the United States should ratify this convention to demonstrate once again our clear and consistent policy against genocide. In fact this is the main argument for ratification. In this respect, I believe our actions have and will speak much more loudly than our words. We fought and defeated Hitler who practiced genocide on a scale and with a cruelty unknown in human history. Within our own Government we have sought to bring many diverse groups within the mainstream of our society and polity and not to isolate them. America has always been the refuge of those who have been the victims of religious or political persecution elsewhere.

We should not ratify simply because the goals of the convention are worthy goals. Indeed they are. But we must examine the text of the convention and determine whether it constitutes the best means of achieving the goals and whether it reflects standards of justice and judicial procedure consistent with those we provide for our citizens.

A careful examination of the text shows, as both opponents and supporters acknowledge, glaring faults of vague language. It is not clear how the convention is to be implemented, nor indeed even what the crime of genocide is. The

convention speaks of "complicity in genocide," of "incitement to commit genocide," and of "mental harm" to the members of a group. Such phraseology would be struck down by our Supreme Court on the grounds of vagueness and failure to provide due process, yet this convention as a treaty would become part of the supreme law of the land.

Questions have been raised as to whether the provision respecting "measures intended to prevent births within the group" could be applied to birth control clinics or reference to "forcibly transferring children of the group to another group" could influence school busing. While such interpretations appear absurd, it is just because absurdities do occur that our courts insist upon precision in the law.

Another question that has been raised is whether North Vietnam could have tried American prisoners of war under this convention. How would the convention affect other prisoners of war, for example, Israeli prisoners of war now being held by Syria? It is true, of course, that the North Vietnamese could have tried our soldiers on trumped-up charges of genocide whether or not we had ratified the Genocide Convention. But ratification would have given a coloring of legitimacy to such trials.

It is not clear how this treaty affects the rights of individual American citizens. The Genocide Convention departs from traditional concepts of international law in establishing liability for individuals as apart from nations. Legal and constitutional scholars, such as Senator ERVIN, have pointed out that ratification would fundamentally alter our principles of criminal justice by transferring the obligation for prosecuting the crimes covered by the convention—which could include homicide, assault, and kidnaping—from State and local governments to the Federal Government and to a potential international tribunal. Potentially American citizens could be tried in foreign courts, most of which do not measure up to our unique principles of justice, such as the fifth amendment protecting the individual from self-incrimination and the sixth amendment providing counsel for defense. While supporters of the convention point out that further legislation is required to implement the convention, it seems to me unwise and pointless to enter an international covenant if we have no clear intention of fully implementing it.

It is a reflection of the seriousness of these constitutional and legal questions that a majority of the American Bar Association has voted on two occasions in 1949 and 1970 to recommend against the ratification of the Genocide Convention. The margin on the second vote was closer than on the first vote and shows that even our best and most knowledgeable lawyers and legal scholars can honestly disagree on the problems involved. The fact that a majority of the distinguished membership of the ABA has expressed such reservations concerning this treaty demonstrates that these problems are neither simple nor easily dismissed.

I do not believe that the proposed reservations and understandings will or can

sufficiently clarify the meaning of the treaty nor sufficiently protect the rights of American citizens. Some 30 other countries have attached various understandings, reservations, or objections to their ratification instruments, only compounding the confusion and further obscuring just what international law is being created by this Convention. Attempts by the International Court of Justice, which are advisory opinions only, have succeeded only in further muddying the water.

To me, this suggests that the United States should avoid adding to the confusion and should instead call for a new international conference to renegotiate this Convention on clear and precise lines, consistent with our principles of justice. America can better show its opposition to genocide by insisting that there be a new Genocide Treaty, one which would be truly effective in protecting all minority groups, including political groups, from destruction and deculturation by dictatorial governments.

ELECTRICITY SOURCES IN ILLINOIS

Mr. PERCY. Mr. President, one of the beneficial side effects of this energy crisis may be to learn some lessons on how nuclear capacity can and should be expanded. The Commonwealth Edison Co. in Chicago, has proven to be a pioneer in this area accounting for one-fourth of the present U.S. nuclear capacity. Commonwealth is now building its seventh nuclear plant and hopes that, by 1983, nuclear energy will account for 55 percent of its total electric output. In reference to the risks involved in operating nuclear plants, Commonwealth Edison can show a completely impeccable record after 22 years of operation.

In addition, Illinois low-sulfur coal is estimated to account for more than 50 percent of total fuel requirements in the State in 1974. This home grown Illinois soft coal has a very efficient burning capacity as well as a very competitive price; about 50 percent below the price of high-sulfur coal. Illinois coal is expected to be used in even greater quantities as a \$17 million coal gasification pilot project in the State is underway.

Mr. President, I ask unanimous consent to print in the RECORD an article, "Electricity To Burn" by Nick Timmesch, which was released by the Los Angeles Times Syndicate on January 26, 1974, and which outlines present and future use of coal and nuclear power for electricity in the State of Illinois.

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

ELECTRICITY TO BURN (By Nick Timmesch)

CHICAGO.—This city and northern Illinois have electric power to spare, indeed, electricity to burn, largely because of a reliance in this area on coal and nuclear energy. The voluntary cutback in use of electricity around here is for symbolic reasons.

This happy situation contrasts sharply with the Northeast, Middle Atlantic and West Coast regions—all highly dependent on oil. In fact, Midwestern utilities, which primarily depend on coal or hydropower, are

now wheeling millions of kilowatt hours daily to their fuel-short brother utilities in the East.

In recent years, many utilities were required, for environmental reasons, to convert coal-powered stations to oil. New York's Con Edison is a good case in point. In 1973, some 84% of Con Ed's electricity came from oil, with natural gas supplying 15%, and nuclear just 1%. In New England, 80% of the electricity is produced through oil.

But here in Chicago, Commonwealth Edison's estimated 1974 fuel requirements are 54% coal, 34.5% nuclear, only 9% oil and 2.5% natural gas, which demonstrates that oil doesn't have to be king.

For many years, huge Commonwealth Edison depended on good old home-grown Illinois soft coal. But the state and city administration of then-Gov. Richard Ogilvie and Chicago's current Mayor Richard Daley cracked down on the use of such high-sulfur coal, forcing Commonwealth to go to Western states to get coals with less than 1% sulfur. Additionally, Commonwealth converted one of its coal-burning stations to oil in 1970 to conform to a Chicago city ordinance.

With new federal air quality regulations to take force in 1975, Commonwealth plans to increase its shipments of Montana and Wyoming coal which, like Illinois coal, must be burned in pulverized form. In 1973, Commonwealth burned nearly 8 million tons of this Western coal at prices ranging between \$12 and \$14 a ton, compared with 11 million tons of Illinois coal at \$6 to \$7 a ton.

The Western coal carries the additional penalty of having a lower heat value, therefore more must be burned. Illinois coal is expected to be used in greater quantities, too, with a \$17 million coal gasification project under way. There is already one power station operating right over a coal mine near Springfield.

The most remarkable discovery for a vagrant journalist is to learn that Commonwealth Edison has one-fourth of the licensed nuclear capacity in the United States. In 1973, its nuclear generation accounted for 29% of all the electricity it produced, compared with a national nuclear figure of 5.6%.

This week, Commonwealth announced it will build its seventh nuclear plant, one at Savannah, Ill., and hopes to have nuclear energy account for 55% of its total electric output by 1983.

Even before the Atomic Energy Act was enacted in 1954, Commonwealth Edison was conducting experiments for peacetime use of nuclear energy. Commercial nuclear electric power was first generated in the United States in 1957 at Shippingport, Pa. Commonwealth Edison opened its first nuclear station in 1960, but didn't open a second until 1970. Since 1972, Commonwealth doubled its nuclear capacity.

Nuclear electric power stations are more efficient than non-nuclears, can run about 70% of the time but require enormous initial investment, most of it to ensure safety.

According to testimony presented to the state of Pennsylvania by Westinghouse, 150 reactor years were logged in 100 commercial nuclear operations around the world, with "no member of the public . . . ever killed or injured from any reactor-related accident." There have been seven workers who died in nuclear radiation accidents in the United States, according to the AEC, but all died in noncommercial (usually military) operations.

Dixie Lee Ray, AEC commissioner, recently stated that the chance of a nuclear core melting is "about one in a million per year for each reactor," and that "this probability compares with the chance of getting two poker hands in a row of four of a kind while playing five-card draw."

The energy crisis has accelerated introduction of nuclear power reactors, and last week

the Atomic Industrial Forum reported that its industry finally "came into its own in 1973."

Commonwealth Edison is bullish about its nuclear program, and notes that in its 22 years' experience with nuclear power it has maintained a perfect record on health and safety—five million man-hours of work without a single radiation injury.

One of the beneficial side effects of this energy crisis, it seems to me, is to learn some lessons on how nuclear energy capacity can and should be expanded, and that old King Coal has plenty of life left in him, too.

URBAN HOMESTEADING

Mr. BIDEN. Mr. President, the urban homesteading concept is being examined by interested housing officials across the country as a housing proposal which can provide new life for old cities. In response to a letter of inquiry concerning the viability of national legislation which I introduced on November 9, 1973, the mayors of the cities of Greensboro, N.C.; Indianapolis, Ind.; Charleston, W. Va.; Omaha, Nebr.; Detroit, Mich.; Houston, Tex.; and Memphis, Tenn., expressed support and enthusiasm for the legislation.

The homesteading program in Wilmington, Del., still serves as the example of the possibilities and hardships accompanying a homestead program, and emphasizes the need for national legislation which offers monetary assistance. Urban homesteading is not a comprehensive housing proposal, but used in coordination with urban renewal legislation, provides some relief to blighted and abandoned cities.

Two recent articles, one from the Wilmington (Del.) Evening Journal and the other from the Washington Post, summarize the progress and difficulties homestead officials still must resolve while emphasizing the potential of the program.

I ask unanimous consent that these two articles be printed in the RECORD.

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

NO FREE HOMESTEAD

One of the most bothersome problems facing some of Wilmington's homesteaders turns out to be the high cost of money. The result is one more illustration of the fact, misunderstood by too many observers, that the city's innovative plan for rehabilitating some of its abandoned houses is not for the poor. It is not even for the fainthearted middle-income family.

The appeal of the plan, from the beginning, figured to be greatest to those homesteaders with sufficient skill to do much of the necessary renovating themselves. The individual forced by lack of skill or time to pay for the work of remodeling as well for the necessary materials starts with an economic disadvantage, despite the fact that the house itself is free.

Homesteaders begin with a credit disadvantage by virtue of the ground rules that made the plan so appealing at the start. The "free" house is theirs if they rehabilitate it within 18 months and live in it for three years. That sounds like a good deal and it is a good deal, unless renovation will require a substantial amount of money. At that point, the lack of immediate claim on the property renders the homesteader ineligible for a mortgage, a long-range loan at around 9 percent interest. Instead, he must seek a per-

sonal loan, repayable in about seven years at rates of 12 per cent or more.

The example of Wilmington homesteaders with income of more than \$20,000 per year underscores the difficulty. The difference between monthly payments of \$90 on a mortgage for 20 years and installments of \$170 per month for seven years is a formidable obstacle that anyone maintaining a budget can understand.

It is possible, of course, that individual homesteaders might visualize renovations that are prohibitively expensive because they are unrealistic. In that case, prohibitively high monthly payments on a loan might produce a disappointment that was a blessing in disguise.

There is no reason to criticize mortgage banks for this difficulty. To issue mortgages on such properties without foreclosure protection or at least a guarantee of insured payment would be the height of irresponsibility.

If continuing inflation in the cost of materials and labor is not to write an untimely end to the city's experiment in urban rehabilitation, the program requires a new shot of imagination, this time on financing renovations, to match the original thinking that went into its creation.

Sen. Joseph R. Biden Jr., D-Del., has proposed in a national homesteading bill that the Department of Housing and Urban Development be authorized to provide funds to homesteaders under existing housing rehabilitation programs. That is not necessarily the answer to Wilmington's problems, but it offers a starting point. Wilmington should solicit the private and public advice and cooperation necessary to make the program more workable.

The original homesteading concept was a creative idea. What is needed now is a little more creative thinking on the part of the Maloney administration, in conjunction with some of the bankers, to make it work.

HOMESTEADERS: NEW LIFE FOR OLD CITIES

WILMINGTON PIONEERS PROGRAM

(By Thomas W. Lippman)

WILMINGTON, DEL.—The little street where Annie Mae Barksdale lives, a few blocks from the center of this grim industrial city, is a prototype of the American urban slum.

Abandoned, vandalized row houses built in the last century look out on trash-filled lots and tottering sheds. Dogs and vermin roam through the rubble. Idle men, gathered on a corner, gaze idly at strangers. In that scene, Mrs. Barksdale's neat house with freshly painted door and bright brass hardware is cheerfully incongruous.

It is also something of a landmark: Mrs. Barksdale is the first, and so far the only, person to rehabilitate and move into an abandoned inner city house under an "urban homesteading" plan.

This is the program, which Wilmington pioneered and other cities, including Washington, are about to copy, that takes rundown, vacant city-owned houses and gives them to people who are willing to rehabilitate them and live in them for a few years. There is a steady stream of visitors to Wilmington to see homesteading in action—a Washington group was here last month—and Mrs. Barksdale's house is a highlight of the tour.

In a time of rising housing costs and declining inner-city neighborhoods, urban homesteading is being talked of as a dramatic turnabout that can revitalize cities, put property back on the tax rolls, and provide housing for people who need it. It is being promoted in legislation in Congress, studied by the Department of Housing and Urban Development and seized upon by politicians as a way to produce highly visible results in a troublesome field.

It is called urban homesteading because

of the parallel to the 1862 Homestead Act that gave away land in the American West to people who would live on it and farm it. The idea is basically simple: empty houses owned by the government through tax foreclosure or mortgage foreclosure do nobody any good and have little value, so why not turn them over to people who will fix them up and live in them, bringing new life to blighted areas and turning a city maintenance burden into a tax-producing dwelling?

Whether homesteading will fulfill the hopes of its proponents is not yet known. What the experiences of Wilmington and of nearby Philadelphia do show is that it is a complex and difficult program that requires a lot of hard work to produce limited results.

Mayor Thomas C. Maloney conducted a public lottery last August in which the first 10 houses under the Wilmington program were given away. Seven others were awarded in a drawing in November, and a third batch is to be given away in the spring.

The city acquired the houses through tax foreclosures. Theoretically, as in any city, they were to be sold by competitive bids so the city could get the money that was due. But in fact they could not be sold because they were unfit to live in and in undesirable neighborhoods, and because abandoned dwellings are a glut on the market in a city where the population has declined from 105,000 to 80,000 in 20 years. So the City Council changed the law to allow them to be given away.

Mrs. Barksdale, a 47-year-old nurse's aide, was one of the winners at the first lottery. She got the two-bedroom row house where she and her grandson now live provided that she refurbish it in 18 months and live in it for three years. That residence requirement, like those in other cities preparing homestead programs, is designed to prevent speculators from making quick profits on property acquired at the taxpayers' expense.

With a loan from a local bank that softened its usual credit standards to help the homesteading program, Mrs. Barksdale hired a contractor to rehabilitate her house and she moved in late last year. So far she is the only one who has actually made the move.

"Right now I'm just as happy as can be," she told a recent visitor. Pointing to the new paneling, carpeting, electrical fixtures, stairs and kitchen, she said, "so far so good. I haven't had any trouble with the neighborhood. . . I'm not satisfied with all the work but you can't have everything. I hope this program goes over well so it will help others.

She said she had been paying \$115 a month rent for an apartment where she was not happy. Her combined loan payment, utility bill and property tax on her new house, she said, is less than her previous rent—a fact partly attributable to a city ordinance that actually reduces tax assessments when properties are improved or rehabilitated as an incentive to homesteaders and other developers.

Perhaps the ideal homesteader, as envisioned by supporters of the program here and in other cities, is William Carter, a 30-year-old carpenter and handyman with a working wife and three children, who is doing much of the work himself on the four-bedroom house he received in another part of town.

City officials estimate the cost of putting the houses in the program into habitable condition at from \$5,000 to \$12,000—more than they are worth on the open market, in some cases—and Carter's house was one of the most rundown. He needed a bank loan to pay for new heating and plumbing installation, and has had to take time off from work to do the other repairs on his house—while continuing to pay rent on the place he is living in till the new one is ready. ("I don't have the time to do this, I'm making the time," he said.)

Carter ripped out all the old plaster, in-

stalled new sheetrock walls and baseboard heating, is replacing the floors and window sashes and is rebuilding the kitchen.

"The main reason I wanted to do this," he said, "is that everybody wants something of their own. As long as we're living over there paying rent, we'll never have anything. It's worth it to me."

At the other end of the scale is the homesteader whose name drew boos from the watching crowd when Mayor Maloney pulled it out at the first lottery: Daniel Frawley, an Ivy League lawyer who owns a house on the Philadelphia main line, works for DuPont here and has no children.

The Frawleys will move in a few months into their homestead house a few blocks from his office. He and his wife designed the new interior themselves and plan to do their own finish work. He hired a contractor to do the preliminary work, such as laying new sub-floors.

"Sure it's a little zany," said Frawley. "For a lot of people in my office, the best they can say is that I'm a visionary. I enjoy living in the city and I don't have the territorial imperative—it just seemed to make a lot of sense." Frawley, who is 30 years old, said he and his wife, a teacher in the Wilmington suburbs, "have been driving 700 miles a week in two cars" to get to work. "Now I'm going to walk and she'll just have a few miles to drive."

Not everything is going well in the Wilmington program. One man gave his house back after deciding it was more trouble than it was worth. Some of the recipients are reportedly having trouble obtaining financing. In the mayor's view, however, even if the whole program failed, the city would have lost nothing.

Mayor Maloney, a 31-year-old Democrat, said the city was "perpetuating blight by owning boarded-up houses. This is not a housing program, it's an antiblight program. There are people who are willing to make this investment at no cost to us, and it might get people back into these neighborhoods who are concerned about clean streets and good schools. What if it doesn't work? All we had to start with was a lot of boarded-up houses."

Maloney, like almost everyone in the Wilmington and Philadelphia programs, acknowledged that urban homesteading will not benefit the people at the bottom of the economic and educational ladder, for whom the shortage of decent housing is most acute and who have the fewest resources for obtaining it.

A federal urban homesteading bill, sponsored by Sen. Joseph Biden (D-Del.) and incorporated into an omnibus housing bill about to emerge from committee, would sharply increase the number of houses available for homesteading by turning tens of thousands of federally owned units over to the cities, and would make low-cost federal loans available to the participants.

Without that bill, homesteading officials acknowledge that the program does more to benefit the municipalities through neighborhood rehabilitation and the reopening of a few abandoned units than it does to benefit the nation's urban poor.

"Don't tell me about the poor, I'm Mr. Poor himself," says Joseph Coleman, a Philadelphia city councilman who is the chief architect of that city's homesteading program. Coleman was born in Mississippi and is trained in chemistry and the law.

Coleman says of the criticism that urban homesteading will do nothing for the poor: "You have to ask how these hours could be used for them. What about those millions of dollars that have been spent on housing programs for the poor that didn't work? What we have here is a program that tells a man, 'There's a pair of boots, now get walking.'"

He said the first objective of urban homesteading is to stop blight and "save the cities. We have got to get economic integration

back into the city. If our cities go down the drain, how can we help the poor? You can't have a city of welfare clients."

Philadelphia's homestead ordinance provides that the houses to be distributed first be reassessed downward to their current actual value, which is minimal, and that the homesteads be exempted from increased assessments on their improvements for five years, the period during which they are required to live in the houses.

"We're not giving anything away," Coleman said. "We're giving these hours to people who will pay for them with their sweat and their toll and their risk. It's not easy. We don't want people to think it's easy. We're talking about creating life where there is no life, that's their payment."

Coleman said Philadelphia expects to set up a nonprofit corporation, financed by church contributions, that would provide rehabilitation loans to homesteaders. The first 100 houses are expected to be turned over in May, he said. There are an estimated 30,000 abandoned housing units in Philadelphia, including those owned by the Federal government.

The federal houses, acquired through foreclosures on federally insured mortgages, are in better condition than those owned by the city, according to Walt Johnson, Mayor Frank Rizzo's housing coordinator, "but even if the Biden bill passed today it would take two years just to set up the mechanics of transferring those houses over to us. We need houses now."

He said the city's homesteading board, of which he and Coleman are members, is still trying to deal with such questions as what happens if the homesteader does not keep up his part of the bargain, and whether the homesteader should get clear title at the beginning or only after the rehabilitation is completed.

Without careful attention to such questions, and without careful selection and preparation of participants, without neighborhood consultation and the cooperation of private lenders, and without tax and assessment incentives, Johnson and others agree, urban homesteading may not be able to achieve even the limited objectives currently set for it.

Mary F. Berry, a consultant to the HUD Office of Policy Planning, says in the January issue of "HUD Challenge" that urban homesteading is "essentially an excellent idea," but is "doomed to failure if it is seen merely as a way of transferring the unpleasant burden of abandoned, foreclosed housing from government agencies to homesteaders. That approach would be yet another attempt to renew slums on the cheap . . . putting people into vacant houses does little to arrest the process of social and physical decay and of inadequate social services that usually combine to produce the problems of housing abandonment."

MEDVEDEV PRAISES "GULAG ARCHIPELAGO"

Mr. JACKSON, Mr. President, Roy A. Medvedev, the well-known Soviet historian and author of an unofficial history of Stalinism, has written a long essay circulated to western newsmen which praises and defends Alexander I. Solzhenitsyn's "The Gulag Archipelago." While the two writers differ on certain facts and evaluations, Mr. Medvedev calls Solzhenitsyn's latest book a "mercilessly truthful" work giving new insight into Soviet prison life.

I ask unanimous consent to print in the RECORD the excerpts from the Medvedev essay as published in the New York Times of Thursday, February 7, 1974.

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

EXCERPTS FROM ROY MEDVEDEV'S ESSAY ON SOLZHENITSYN'S "GULAG ARCHIPELAGO"

(Special to the New York Times)

Moscow, February 6.—Following are excerpts from an essay by Roy A. Medvedev, the dissident Soviet historian and specialist on the Stalin period, on the book "The Gulag Archipelago, 1918-1956," by Aleksandr I. Solzhenitsyn, which deals with the Soviet prison system:

In this essay I have tried to express only brief and preliminary thoughts about Solzhenitsyn's new book, not only because the author has published only the first out of three or four volumes.

Solzhenitsyn's book is crammed with fearful facts, many of the lesser of which stick in the mind with difficulty. In it is a concrete description of the unusual and tragic destinies of hundreds of people that were, however, typical of decades past.

This book is full of deep and true thoughts and observations, and some not so true, but born in the monstrous sufferings of tens of millions of people, sufferings that our people had never endured before during their history of several centuries.

No one ever came out of the awful "Archipelago" of Stalinist camps and prisons the same as he went in, not only in his age and health but in his ideas about life and people. I think that few people, having read the book, would be the same as when they opened its first page. In this respect, it seems to me that nothing in Russia or world literature can compare with Solzhenitsyn's book.

BASIS FOR THE NARRATION

A certain I. Solov'ev wrote in Pravda on Jan. 14 that facts given in Solzhenitsyn's book were not authentic and were the result of a sick imagination of the author's cynical falsification.

This is certainly not true. I cannot accept certain of Solzhenitsyn's evaluations or conclusions but I must firmly state that all the basic facts given in his book and all the details about the life and torments of prisoners from the moment of their arrest to the moment of their death (in rare cases, up to the moment when they were released) are completely authentic.

It is inevitable that certain inaccuracies occur in such a sweeping literary research work based not only on the author's impressions but on testimonies and stories and accounts of more than 200 former prisoners, especially since Solzhenitsyn had to write his book in deep secrecy and had no opportunity to discuss it before publication, even with many of his close friends.

However, these inaccuracies are infinitesimally few for such a significant book.

EXPULSIONS ARE DISPUTED

I think, for example, that the size of expulsion from Leningrad (the Kirov wave) in 1934-35 was smaller than Solzhenitsyn indicates. Tens of thousands of people were expelled. But not a quarter of the two million population of the city. I do not have exact figures. I am simply guided by random facts and my own impressions. (I lived in Leningrad for more than 15 years).

It is hard to believe that, in Solzhenitsyn's story from an unknown informer, Ordzhonikidze [Serg Ordzhonikidze, People's Commissar of the Workers' and Peasants' Inspection Commission] used to talk to old engineers with two pistols lying on the right and left of his desk.

The G.P.U. [main political administration, the secret police] hardly needed to use notes of random people to trace officials of the old Czarist apparatus (and not even all of them but mainly those from judicial bodies and the police). All of these lists could have

been found in local archives and published reference books.

I think that Solzhenitsyn exaggerates the number of peasants evicted during collectivization (15 million). But if we add to those victims the peasants who died of hunger in 1932-33 (in the Ukraine, alone, not less than three million to four million people died), then we will get a figure larger than the one Solzhenitsyn gives.

ONE HUNDRED OFFICIALS PUNISHED

After Stalin's death not 10 but about 100 responsible officials at the Ministry of State Security and Ministry of Internal Affairs were put in jail or shot (and in certain cases without an open trial). But still, this figure is extremely low in comparison with the number of criminals "from the Organs" [security organs] who remained free or even got various high posts.

Bukharin in 1936-37 was no longer a Politburo member, as Solzhenitsyn writes, but only an alternate member of the Central Committee.

These and some other inaccuracies are absolutely immaterial for such a tremendous literary research work as Solzhenitsyn has done. On the other hand, Solzhenitsyn's book has other "defects" about which he himself writes in his introduction: he was not able to see everything, to remember everybody, or to guess about everything.

He writes, for example, about the arrest of the amnestied and repatriated peasants in the mid-1920's. But more awful in its consequences was the campaign of dispossession of the Cossacks and the mass terror on the Don and the Ural Rivers in the winter-spring of 1919.

This campaign lasted "only" two months but it prolonged the civil war, with all its excesses, not less than a year, giving the white armies dozens of new cavalry regiments.

PRAVDA VS. THE GAZETA

While Pravda was trying to prove that facts given by Solzhenitsyn are not authentic, Literaturnaya Gazeta tried on Jan. 16 to convince its readers that the book did not contain anything new.

But this is not true. Although I have been studying Stalinism for more than 10 years, I still found a lot of unknown things in Solzhenitsyn's book. Except for former prisoners, Soviet people, even those who remember the 20th and 22d party congresses of the Communist party, hardly know one-tenth of the facts about which Solzhenitsyn writes. And young people do not know even one-hundredth part.

Many newspapers write that Solzhenitsyn justifies or even praises the Vlasovites, but this is a deliberate and malicious distortion. [Lieut. Gen. Andrei A. Vlasov was a Soviet commander whose forces were captured by the Germans in World War II and who then led some units who fought with the Nazis against the Red Army. He was seized at the end of the war by Soviet authorities, imprisoned and executed.]

Solzhenitsyn writes in "Archipelago" that the Vlasovites became evil mercenaries of the Hitlerites and that "Vlasovites could be tried for treason," that they were taking the enemy's weapons and, on getting to the front, they fought with despair like doomed people, Solzhenitsyn himself, with his battery, was almost destroyed in East Prussia by Vlasovite fire.

EACH HIS OWN TRAGEDY

But Solzhenitsyn does not simplify the problem of the Vlasovites. In numerous "offshoots" of Stalinist repressions, many of us had our own particular tragedies.

For Solzhenitsyn, not his own arrest but the cruel and awful destiny of millions of Soviet prisoners of war of his own age and of the age of the Great October Revolution, who made up the major part of our profes-

sional army in June, 1941, became a deep personal tragedy.

This army was destroyed and surrounded in the first days and weeks of war because of criminal miscalculations of Stalin, who was unable to prepare either the army or country for war; because of Stalin's absurd and stupid orders on the first day of war and abandoning his post during the first week, and because of the shortage of experienced army commanders and commissioners [after the purges].

More than three million soldiers and commanders landed in prison camps and one million others were later imprisoned near Vyazma, near Kharkov, on the Kerch Peninsula and near Volkhov. But Stalin's Government betrayed its soldiers in prison, too, by refusing to recognize Russia's signature on the international prisoner-of-war convention. As a result, Soviet prisoners did not get help through the International Red Cross and were doomed to die of hunger in German concentration camps.

Once again, Stalin betrayed those who survived when, after victory, almost all were arrested, increasing the population of "the gulag archipelago." This triple betrayal of Stalin's soldiers is what Solzhenitsyn considers the worst, gravest crime of the Stalinist regime.

Solzhenitsyn does not justify and praise those desperate and unfortunate people [who collaborated with the Nazis]. But he is asking the tribunal of their descendants to take into consideration certain circumstances that would diminish their guilt. Those young and often illiterate fellows, most of whom were from villages, were demoralized by the defeat of their army; and they were repeatedly told in concentration camps: "Stalin denounced you" and "Stalin does not care about you."

As to the heavy battle near Prague, between several large Vlasovite units and German SS units under Gen. [Ulrich] Steiner, this is a historic fact that cannot be ignored. What happened, happened.

Solzhenitsyn is accused of minimizing the evil deeds of Hitlerites and the cruelty of Russian Czars. A study of the Germans' "Gulag Archipelago" was not part of Solzhenitsyn's task.

STALIN'S ROLE AFFIRMED

Although in a number of cases he writes about the tortures of the Gestapo and inhumane treatment of Soviet prisoners by the Fascists, he does not depart from the truth in writing that Stalin started mass repressions, deportation of millions and tortures and falsified trials long before Hitler came to power. And all this continued here for many years after the defeat of German Fascists.

The Russian Czars could hardly be compared to Stalin in this respect. Solzhenitsyn speaks a lot in his book about Czarist prisons and exile, since it was the topic of open conversation among prisoners, especially when an old Bolshevik was among them.

In these conversations, the former prisons and exile as well as the scale of repression appeared like a rest home to the prisoners of the nineteen-forties.

During the revolution of 1905-07 and the following years, the Czarist executioners were shooting each year the same numbers of peasants, workers and craftsmen as were shot or died in camps and prisons [in the Stalin era] in one day.

BEST CHAPTERS OF THE BOOK

For me, especially important were chapters entitled "The Bluecaps" and "Capital Punishment." Here the author achieves the greatest depth in psychological analysis of the behavior of both prison guards and their victims.

Here, Solzhenitsyn writes more deeply than

Dostoyevsky. I do not mean to suggest that Solzhenitsyn is a better writer than Dostoyevsky. I am not a literary expert.

But it is obvious that Stalin's prisons and camps, through all stages of which Solzhenitsyn went a century after Dostoyevsky's arrest and exile, gave the author of "Gulag Archipelago" many more opportunities for exploring different forms of malice in the human soul and human institutions than were given to the author of "Notes from the House of the Dead." Of course, Solzhenitsyn coped with his task as only a great writer could."

SOLZHENITSYN ON STALIN

In several places, Solzhenitsyn's book has a number of deep, precise observations on Stalin's personality, as if in passing. The author, however, considers the personal role of Stalin in our country's disaster and even in the creation of "The Archipelago" so insignificant that most of his comments on Stalin are included not in the basic text of the book but in short remarks and notes.

Thus in notes on the next to last page, Solzhenitsyn writes: "In the years before prison and in prison itself, I thought for a long time that Stalin had given a fateful direction to the course of Soviet state. Then Stalin quietly died. But how much has the course of our ship of state changed in fact? The particular personal imprint he gave to events was dismal stupidity, wilfulness and self-glorification. Otherwise, he simply followed exactly 'in the footsteps.'"

It is hard to agree with such a view of Stalin's role and his significance in the tragedy of the nineteen-thirties. Certainly it would be a mistake to divorce entirely the era of Stalinist terror from the preceding revolutionary era.

Of course, there is a continuity between the party that took power in October, 1917, and the party that remained in power in 1937, 1947, 1957, and 1967 when Solzhenitsyn was finishing "The Gulag Archipelago."

But that continuity is not tantamount to identity. Stalin did not "follow in the footsteps." In the very first years after the revolution, he did not always follow in Lenin's footsteps. And certainly afterward, with every step he led the party astray.

Stalinism in many respects negates—and is bloody annihilation of—Bolshevism and all revolutionary forces. In a certain sense, it is a real counterrevolution. Of course, we do not contend that the Lenin legacy and the Lenin period in the history of our revolution do not require most serious, critical analysis.

STALINISM NOT STUDIED

Solzhenitsyn does not set himself the task of studying the phenomenon of Stalinism, its nature, peculiarities, its development, history, its premises. Such a notion as Stalinism probably does not exist for Solzhenitsyn, who feels that Stalin "followed exactly in the footsteps." What we might call historic background is altogether absent from Solzhenitsyn's book.

It opens with a chapter called "Arrest," through which the author emphasizes immediately that he is studying and describing only the world of prisoners, the world of outcasts, the mysterious and terrible country of Gulag, its geography, structure, its social system, its written and unwritten laws, its population, its customs, its rulers and its subjects.

And Solzhenitsyn does not need historic background too much. For his Gulag Archipelago made its appearance as early as 1918 and since then has been developing according to its own laws.

This single-mindedness, interrupted sometimes by profound observations, is preserved throughout the whole volume. Of course, such an approach is a legitimate right of the author.

BOOK IS "POWERFUL BLOW"

Without uttering a word about Stalinism and seemingly denying the logic of such a concept altogether, Solzhenitsyn, with his literary research into one of the most basic elements of the Stalinist system, contributes much to the study of the entire criminal and inhuman system of Stalinism.

Solzhenitsyn is wrong in assuming that this system has been preserved in its basic features up to the present day. But it has not departed entirely from our social, political and spiritual life. Solzhenitsyn's book strikes a powerful blow at Stalinism and neo-Stalinism. None of us has done more in this regard than Solzhenitsyn.

Solzhenitsyn believes that Lenin insisted on carrying out a new "proletarian and socialist" revolution in Russia in 1917 although neither Russia nor the Russian people were ready for it or needed it. Solzhenitsyn also believes that Lenin abused the use of terrorist methods in fighting his political adversaries.

It is easy to analyze revolutionary errors 50 years after the revolution. However, the first socialist revolution was inevitably a step into the unknown. There was nothing to compare it with. Its leaders had nobody's experience to borrow from. In this case, it was impossible to calculate and weigh everything in advance.

However, no cybernetics expert in the world can prove that the armed uprising on Oct. 24, 1917, was historically premature and that all subsequent crimes of the Stalinist regime resulted from this fateful error by Lenin.

LENIN ERRORS CONCEDED

But even the most dispassionate historian would have to say that any reasonable limit in the use of violence was exceeded many times over even in the first years of Soviet rule. Starting in the summer of 1918, our country was swept by a wave of both White and Red terror. A major part of these acts of mad violence was absolutely unnecessary and even harmful from a logical standpoint and in terms of the interests of the class struggle.

One can only regret that these abuses of power took place. They should be condemned. And yet this terror of the Civil War period did not predetermine the frightful terror of the Stalin era.

Lenin committed many mistakes and many of them he himself admitted repeatedly. An honest historian must undoubtedly point out all these mistakes and abuses.

However, the sum total of Lenin's activities, we are convinced, was positive. Solzhenitsyn thinks otherwise. But that is his right. In a socialist country everybody should be given the opportunity to express his views and opinions about the activities of any political leader.

If power corrupts and spoils people, if politics as Solzhenitsyn thinks, "is not a field of science but an empirical field that cannot be described by mathematics and is even subject to ego and blind passions," if all professional politicians are only "boils on the neck of society preventing it from freely moving its head and arms," then what is it we should strive for? How should we build a just human society?

Solzhenitsyn speaks about that in passing. He puts his ideas in parenthesis without explaining or interpreting them in detail. But from these brief comments, it is clear Solzhenitsyn would consider most correct a social system "headed by those who can direct its activities intelligently."

Such people include mainly engineers and scientists (while workers, in Solzhenitsyn's opinion, are only auxiliary helpers of engineers in industry). But who will exercise moral leadership in society?

It follows from Solzhenitsyn's reasoning

that moral leadership can be exercised only by religion, not political doctrine. Only belief in God can serve as the foundation of human morality and real believers can live through the hardships of Stalinist camps and jails better than others.

However, for the overwhelming majority of the Soviet people, religion is no longer and cannot become the truth. Young people in the 20th century would hardly find guidance in belief in God.

I do not very much like these ideals of Solzhenitsyn. I am deeply convinced that for the foreseeable future, our society should be built on a combination of Socialism and Democracy, and that specifically the development of Marxism and scientific Communism will allow creation of the most just human society.

Before his arrest, Solzhenitsyn considered himself a Marxist. After he went through the cruel tests described with such merciless truthfulness in "Gulag Archipelago," Solzhenitsyn lost his belief in Marxism.

But this is a matter of his conscience and convictions. Any sincere change of conviction deserves respect and understanding.

Marxism will certainly not perish for loss of one of its former adherents. We even think that Marxism will only benefit from debate with such an opponent as Solzhenitsyn.

UAW SUPPORT FOR NATIONAL HEALTH CARE

Mr. PERCY, Mr. President, in this year in which the Senate will consider major health insurance legislation, I feel it is appropriate to bring to the attention of my colleagues and of the public the long and active involvement of the UAW in health care in America.

For more than 30 years, the UAW has compiled an impressive record of participation in improvement of our national health care delivery system. As early as 1943, the UAW was active in supporting the Wagner-Murray-Dingell bill which called for changes in the Social Security Act and for the creation of a compulsory national health insurance system for the whole U.S. population, incorporating hospital, medical, dental, and nursing home care, and financed through a payroll tax.

In 1945 the UAW supported President Truman's proposed comprehensive prepaid medical insurance plan for all people. In 1946 it supported the President's bill authorizing some \$230 million in Federal grants to the States for comprehensive medical care for people who could not otherwise afford it.

In 1951 President Truman established the President's Commission on Health Needs of the Nation and directed that it study and report on health manpower, the need for additional facilities, health research, the effect of existing health government programs and the adequacy of private programs financing medical care. The Commission, chaired by Paul B. Magnuson, included UAW President Walter P. Reuther and Albert J. Hayes, president of the International Association of Machinists. Mr. Reuther sat as a member of the Commission for several years. Later, Mr. Reuther was elected chairman of the Committee for National Health Insurance—CNHI—a position now held with distinction by Leonard Woodcock, UAW president.

The CNHI has long been active in the development and support of the Health Security Act. In addition, the UAW sup-

ported the Forand bill in 1959 which eventually evolved into Medicare in 1966.

Whether the issue has been the delivery of health care, its costs, medical manpower or its distribution, or quality of care, the UAW has accepted the challenge and provided testimony, information, and direction to congressional committees as needed. The list of testimonies alone is an impressive one.

Aside from the national scene, the UAW has been active in carrying policy into practice. Since its inception, UAW members have placed a high priority on adequate health care insurance, as they do not generally have the substantial savings necessary to pay health bills, and illness which deprives them of their work can be disastrous. In response to these needs, the union has been in the process of developing and negotiating health benefits for its members. They have had coverage for both inpatient and outpatient care for a number of years. They have also expanded inpatient benefits to cover up to 365 days of care and a full range of medical services and have virtually eliminated coinsurance and deductibles. In the area of ambulatory and preventive care, the UAW developed nursing home, home care, and rehabilitation coverage. In 1964 it was the first to negotiate a nationwide mental health outpatient benefit. In last year's negotiations, the UAW included a dental health care program covering the entire family and a drug and alcohol treatment benefit for ambulatory patients. Mr. Robert Johnston, regional director of the UAW, has been most gracious in enabling me to study the results of some of these programs firsthand.

By the mid-1960's, the UAW recognized that the disorganization of the health care system and the runaway inflation in health costs had reached the point where it was increasingly difficult to improve health benefits at the bargaining table. Workers recognized that they would have to obtain changes in the society's approach to health care if the gains made at the bargaining table were to be assured. These developments gave rise to the UAW's active involvement in developing a national, comprehensive health insurance system through CNHI.

The UAW is not only concerned with the members' health outside of the plant but inside of the plant as well. To this end, the union has fought for a cleaner, safer, and healthier work environment. At the national level, the UAW supported the Occupational Safety and Health Act of 1970. At the worksite, the union has been involved in all phases of health and safety on the job, from negotiating regular breaks in work and washup time to the control of air pollution, extremes of heat or lack of it, and noise pollution, not to mention control of work performed on dangerous, previously unguarded machinery.

The UAW was instrumental in establishing the Blue Cross/Blue Shield insurance program in the forties. The philosophy or social policy that the union had then is the same as it has now: no man or group of men should profit from another man's illness.

In its concern for reorganization and delivery of health services, the union took leadership in the mid-1950's in organizing the Community Health Association—CHA—a community-oriented prepaid group practice plan. This type of program preceded by some 15 years the widespread and growing interest in "health maintenance organizations," another name for prepaid group practice. In January of 1972, Blue Cross/Blue Shield incorporated CHA and renamed the program the Metro Health Plan. Around the Nation, the UAW has given support to other prepaid group practice plans, for example, HIP in New York; Kaiser Permanente in California, Oregon, Ohio, and Colorado; Group Health Plan, St. Paul; to name just a few.

The UAW's efforts to find a more responsive and economical health care delivery system included the support of S. 14, Senator Kennedy's Health Maintenance Organization bill. This bill would have subsidized the development of prepaid group practice plans across the Nation. The President recently signed the Health Maintenance Organization Act of 1973, a modified version of the original proposal.

I could expand further on how the UAW has lent its support to the development and improvement of Medicare, Medicaid, OEO, and numerous Federal and local programs that benefit not only union members but all Americans. The point should be clear that the UAW and its President Leonard Woodcock have been involved with health care for all Americans for many years and have been involved as a spokesman for the concerned health care consumer.

J. MARK TRICE

Mr. TOWER, Mr. President, it is a privilege indeed to pay tribute to our former minority secretary and true friend, J. Mark Trice, retired after over 53 years of service in the Senate.

Mark was, I think, the second person I met in Washington after being elected as a Senator from Texas in 1961. His total service at that time equaled the total of my years on Earth.

Any freshman Senator would be somewhat in awe of such amassed experience. In fact, I am still awed by it. Yet it was made available to me—and to every Republican newcomer—with complete selflessness, in an effort to help us through a most bewildering period. I will always be grateful for that guidance.

Mark Trice was dedicated to the Senate and his Senators. For that reason, he never hesitated to speak plainly and clearly when he provided his most capable advisory services. In other words, he was the most valuable type of staff assistant, for he was never afraid to speak his mind and tell you the truth as he saw it.

The most striking architectural creation in Washington is simply known as "The Capitol"—that majestic building crowned with a perfectly proportioned great dome.

It houses Congress—still the strongest, most vital legislative body in the world. Thus it is not a mere museum or pantheon. It is the symbol of American

strength combining unity and diversity, "E Pluribus Unum."

Yet, I am speaking today not of Congressmen, but of a staff member. For the unique strength of our great national legislature has long depended not just on the quality of its Members, but on the loyalty and service of such professional assistants as Mark Trice.

Mark, thank you for all the good years you gave us. May you enjoy many more good years in retirement as well.

DOC WALKER DAY

Mr. FULBRIGHT. Mr. President, Doc Walker of Trumann, Ark., one of the Nation's outstanding Boy Scout leaders, was recently honored with a "Doc Walker Day" in Jonesboro.

Mr. Walker has been working in scouting since 1942 and is the scoutmaster of troop 58 in Trumann. He has provided leadership for two entire generations and has worked with some 1,800 boys in his troop.

As the Jonesboro Sun recently reported:

Most are grown now with families and jobs of their own, perhaps better for the fact that their lives came into contact with one of Northeast Arkansas' most famous scouters.

Activities on Doc Walker Day included a parade of Scouts from throughout the patch trading session.

Mr. President, I join in paying tribute to Doc Walker for his years of outstanding service and leadership to his community and to the young men of Northeast Arkansas. I ask unanimous consent to have printed in the RECORD an article from the Jonesboro Sun of February 3.

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

1,800 BOYS TREATED AS IF HIS OWN BY DOC WALKER

Doc Walker of Trumann, who is known to Scouts in the Shawnee District as "Mr. Scouting," never had any sons, but he adopted, through Scouting, two entire generations of boys and treated them as if they were his own.

Several of those boys, some with sons of their own in Doc's Troop 58, were present yesterday at the Shawnee District honored Walker during "Doc Walker Day" in Jonesboro, with a parade, a luncheon and a "patch trading session" Saturday afternoon in the Army Reserve Center on Caraway Road.

Doc's wife, Mattie, and one of their two daughters, Mrs. Effie Dungan of Jonesboro, were present during the day-long honorarium. The other daughter, Mrs. Frances Lance who lives at Waxahachie, Tex., was unable to attend the festivities honoring her father.

Looking back over the 31 years since he began working in Scouting in 1942, Doc said he figured he had been in contact with around 1,800 boys through Troop 58. Most are grown now with families and jobs of their own, perhaps better for the fact that their lives came into contact with one of Northeast Arkansas' most famous scouters.

Doc said he began Scouting on Nov. 6, 1942, and obtained his first registration in March, 1943. At that time Troop 54 was the only Scout troop in Trumann. Later Troop 58 was formed with Walker as Scoutmaster, a post only he has held since and one he is not ready to relinquish to anyone.

At 59 Doc still enjoys the outdoors and camping, one of the reasons he was drawn to Scouting. Most of all, however, he relished

the opportunity to be able to teach young people how to cope with the life they were to face as adults.

During the time Walker has worked with Scouting, he has attended three national jamborees and countless district and state gatherings.

Besides all that, he still had time to devote to his family and his job with the Singer Company in Trumann. He retired on Dec. 31, 1969, from Singer.

His wife and daughter, noted during the course of conversation that Doc really didn't retire in 1969, that's just the time when he gained his freedom to begin working.

Scoutings' highest rank Eagle, has been attained by about 20 scouts from Walker's troop after they went from Boy Scouting into Explorer Scouting.

Doc himself has attained many awards for his work including Order of the Arrow, Silver Beaver and Honor Camper, the latter an award that can be gotten only through nomination by Scouts within a master's own troop.

Mrs. Walker said that her husband's work with Scouts has "really been worth it all," especially as she looks back in retrospect at the many times when she questioned his leaving the family home to go camping or on other activities with his troop.

"He enjoyed it so much," she said, "that soon he had me enjoying it with him."

His daughter, Effie, who was at the honorarium said at one time during the program that she went with her father on many of his Scouting activities.

"Our home was open at all times to the boys and they were running in and out all the time to ask Doc about various things in Scouting," Mrs. Walker said.

The fact that they had two daughters about the ages of the Scouts probably had something to do with the fact that many of the boys were around a lot.

"Several times he went off camping when I really thought we needed him at home, but it has been worth it all to see young lives molded into men through Scouting," she said. She told of several letters Doc had received from former members of his troop while they were in the service telling him how much they appreciated the training and guidance they had received as Scouts.

Praise is sweetest when it comes from one's own family, but for Doc Walker it did not end there. A telegram of commendation and a letter of congratulations from Governor Dale Bumpers and from the Chief Scout Executive were read to the persons gathered at the luncheon in the First Christian Church Fellowship Hall, Saturday afternoon.

K. C. Brown, Shawnee District executive, praised Walker as the person who "fits the vision of a Scoutmaster" more than anyone he ever met.

Brown presented Walker with the District Award of Merit from the Shawnee District, the tenth such award ever presented in the history of the district.

Members of the Arkansas Antique Car Club, of which Doc is a member, Friday night presented him with a plaque in honor of his years of service through scouting.

Doc himself had a few words to say.

He noted that the "pay" for working in Scouting is right in this room. There are several men and boys here that have been and are still in my troop. That's my reward, working with boys, helping them to be better men.

"I can look around the room and see several persons I feel are more deserving of this award," Walker said. "No one asked me or I would have suggested someone else."

A special patch has been created in honor of Doc Walker Day and is in the process of being made up. An oil painting of the patch design by artist Lorrie Pearson of Jonesboro was shown at the meeting and later presented to Walker.

He was also given a red wool mackinaw jacket by Scoutmasters of the district. He was actually presented with a cutout from a catalog because the jacket, which was not available from stock in his size, had to be specially ordered.

Doc didn't seem to mind though, he already has his reward—the expression of love and respect from his family and the scores of persons whose lives he has touched over the years.

CHILI

Mr. TAFT. Mr. President, I could not fail to note certain remarks by the distinguished Senators from Texas and Arizona regarding the quality of their respective States' chili. Each likened the other chili to barnyard apples, and possibly both spoke truly. The point they missed is the secret of tenderness and tang by this standard. The only real chili comes from Cincinnati, Ohio.

Whereas southwestern chili, both in flavor and effect, guarantees new vices of Montezuma's revenge, Cincinnati chili draws on the subtleties of the Balkans for its spicing. In a recent test conducted by the chili institute, a blind-folded subject, upon tasting southwestern chili, reported "images of Texans mowing down helpless Mexicans and then ransacking their mess kits." Cincinnati chili, on the other hand, brought a detailed description of the floor plan of the Castle of Zenda. Needless to say, the desperate attempts of pseudo Latinos to cover the taint of fatigue bear little comparison with the cuisine of provinces trod by Lucullus and Vitellius.

I can promise my distinguished colleagues from Texas and Arizona that a Cincinnati three-way and a couple of cheese coney at an Empress or Skyline chili parlor will deflate both their provincial egos and their lower tracts. Indeed, I think it symbolic that Cincinnati chili is served over spaghetti, but southwestern chile is accompanied by beans.

I ask unanimous consent that a full report on the superiorities of Cincinnati chili, prepared by one of the world's foremost chili cognoscente, be printed in the RECORD for the further enlightenment of my benighted colleagues.

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

BEST DAMNED CHILI ON EARTH

(By F. Starr)

What do Jerry Rubin and Robert A. Taft, Jr., have in common? Precious little, of course. But both know that without question the best chili on earth is made in their home town, Cincinnati. And only in Cincinnati. Thirty miles down the Ohio, in Rabbit Hash, Kentucky, Cincinnati chili is unknown. The same distance upstream, in Moscow, Ohio, it is as alien as Peking duck.

Neither Rubin nor Taft deals casually with facts. Contrast them with Elizabeth Taylor's chili chef, Dave Chasen, who clings to the fanciful notion that Texas is still the chili capital of the world. (Question: Why, then, does he live in Hollywood?)

And Chasen isn't alone in believing this. Every year, an "international chili competition" (obviously rigged) is held somewhere in Texas, and one of the believers walks off with the prize—presumably on a rotating basis. Can foreign chili equal and surpass Texas' fiery slush? Can an Arab get to

heaven? In a single onionsoaked breath the Texans cry, "No!" But they are wrong.

How could such an idea gain currency in this enlightened age? I submit that the villains are the members of the Eastern Establishment press corps who spent long evenings at the L.B.J. ranch back in the '60s. Hostile to Johnson's policies and guilty over having accepted Federnale's hospitality, they damned the politics and praised the food. Not one of those pen-pushers, by the way, has seen Cincinnati since the '37 flood.

It is no secret that Cincinnati chili surpasses that of Texas, but it's a well-kept truth, notwithstanding the fact that the genuine article is available locally at some two dozen establishments. One reason for the world's ignorance is that those addicted to the fare at the Empress or Skyline chili parlors rarely leave town for long enough to spread the word. Jim Dine, the painter, had such acute withdrawal symptoms when he did move from the city that the National Endowment for the Arts nearly had to enter the food-shipping business. Fearing just such physical torment, the real Cincinnati just stays put, bound to his daily fix of "Three-Ways" and "Four-Ways."

Those few émigrés who conquer the physical habit retain psychic scars for decades longer. I once saved the sanity of a Cincinnati woman living in Manhattan who verged on psychosis over her inability to express to her Brooklyn-born husband the euphoria which comes from a surfeit of root beer and Empress chili dogs. Fortunately, I was able to rush her half of one of the delicacies that my wife Nancy had been preserving in our freezer. This brought her around.

Another cause of the general public's unfamiliarity with Cincinnati chili is that the product doesn't travel well. Calvin Trillin, writing in *Playboy*, took pride in reporting that his beloved Kansas City cheeseburgers arrived intact at P.O.'s on both coasts. That is like bragging that Gallo Thunderbird is superior to a '62 Laite because it reaches the village alcoholic in Cecaucus, New Jersey, in the same state it left the factory. I am proud that Cincinnati chili is a more delicate flower; indeed, one so fragile that it wilts when exposed even to changes in barometric pressure. Chemists assure me that anything over 47.3 pounds per square inch breaks down the essential chili molecule into unsavory compounds.

Last Christmas I tried to bring a box of Skyline Two-Way (chili, spaghetti) back with me on the plane. The TWA inspector at the gate stopped me flat with the declaration "Your package contains a bomb." He eventually allowed me to board, but his charge proved true that evening, as several Boston friends of mine can testify.

If you want to check my claim, go to Cincinnati. Take the bus, which drops you at the East Fifth Street Terminal, next to the A-OK parking lot and directly across from the Empress, oldest of the local chili emporia. Say "Howdy" to Joe Kiradjieff at the cash register and behold, as you pass, the largest collection of breath mints in the hemisphere.

The menu is as economical with words as a Shakespeare sonnet: One-Way Chili, Two-Way, Three-Way, Four- and Five-Way—Coke, root beer, and coffee. One-Way is straight chili. Two adds spaghetti under the chili, Three piles a layer of grated cheese on top, Four a cap of onions, and a Five-Way is constructed over a fundament of beans. The menu includes no desserts ("What's wrong, didn't you get enough chili?"), no side orders of anything except oyster crackers (which come with everything), and no salad. You can have chili dogs, though, which are known as cheese coney but have nothing in common with that dish except the name.

I suggest you start with a Three-Way and two or three chili dogs. And root beer, of course. Your Three-Way is a good starter

since it includes all the basic elements and no frills. In 1963, I made the mistake of using a Five-Way to introduce my younger sister to Empress chili. She hasn't been back since.

Chili components are stored in separate five-gallon crockery tubs and are later mixed with a single two-arm motion. An average server can produce four Three-Ways a minute, but I once timed a left-hander who spoke no English but could turn out eleven Four-Ways in fifty-six seconds. The Chili Institute of America (CIA) accepts this as a record and has voted to erect a plaque in honor of the event.

Eating chili rivals the Japanese tea ceremony for ritual. Not that it can't simply be bolted—for it most frequently is, just as most tea in Kyoto is guzzled on the run. But one's sense of well-being is heightened by following the rules.

The chili ceremony is easily described. First, let the meal sit for a few minutes to enable the cheese to melt down a bit. Spend your time sipping root beer and crumbling oyster crackers around the edge of the plate, right on the shore line of the orange-brown chili. Then eat from one end of the oblong platter to the other, slicing the spaghetti and cheese (and onions, if you have them) vertically into the brew below and adding more crackers as needed to maintain it all at a barely viscous state.

NEVER eat a Three-Way from the side. It shouldn't be necessary to state this, but when I was in town a few months ago I stopped by for a quick Four-Way on my way to another dinner and was appalled to notice a fellow attacking his chili sideways, and even mixing it up with his fork. I was scarcely surprised to notice an out-of-state panel truck festooned with agitational bumper stickers parked in the lot across the street. That same person probably eats apple pie sideways.

You have finished your first course. Now turn to the chili dogs. Unlike the Three-Ways, these must be swallowed in one or two gulps, like Russian vodka. The beginner may experience difficulty in this; overcome by embarrassment, he will squeeze the bun too firmly, catapulting the hot dog down the counter into the lap of another celebrant. Assuming this does not occur, the ceremony is complete, unless you want a final Three- or Four-Way.

As you leave, be sure to get a toothpick from the chrome Dial-A-Pick vendor. Set it loosely between your lips, switching it from one corner of your mouth to the other with the tongue only. If you must use your hands, the palm-up ("Turkish cigarette") technique is de rigueur. The preferred post-chili cigar is the Strauss No. 9, unfortunately also available only in Cincinnati.

What is the secret of Cincinnati chili? Why did Reuben Robertson, a Nader's Raider and former Acting Director of the Washington-based CIA, repeatedly hail it as "Nature's Most Perfected Food"? The essence of the recipe is certainly not the beans. These figure prominently only in the Five-Way, which is a Johnny-come-lately concession to the Texans. Nor the spaghetti, which is the standard commercial product. Nor even the cheese, which Skyline's President, Lambert Lambrinides, readily admits is American cheddar. This leaves only the spices.

If you know anyone from Cincinnati, he has probably long since subjected you to a chili dinner made "according to the real Empress (or Skyline) recipe, which Sibyl and I were the first to crack." This is a double lie. In the first place, nobody has cracked either recipe—and they're not identical. Only seven people on earth know them: the five Lambrinides brothers, at Skyline, and Joe Kiradjieff and his mother, at Empress. Not one of the dozens of workers at the various parlors gets near the actual cooking process. Everything is prepared in camera at centralized commissaries and the spices mixed in total

secrecy by the Kiradjieffs and the Lambrinides themselves.

In the second place, your friends are the seventy-third and seventy-fourth individuals claiming to have cracked the formula. Every cookbook published in the Queen City contains at least one version. Cincinnati's answer to Craig Claiborne, Dr. Jerry Ransohoff, alone has published in the *Enquirer* no fewer than three recipes for Empress chili, all of them different. This is not to say that Dr. Ransohoff or your friends Sibyl and Ralph are fools. Ransohoff, at least, is a talented gourmet in most other respects. But like Dewey in '48, they have all permitted themselves to make claims in the evening which the sober light of day will not sustain. One fact they might have pondered is that at least eight different spices are involved. I calculate that the chances of identifying all the right spices and then hitting the correct ratios as well are only about one in twelve thousand.

The chief caveat for the aspiring brewer of Cincinnati chili is to forget everything he learned on his trip to the Southwest. It won't help. Cincinnati chili was first concocted in October, 1922, by a man who had never eaten a bit of Texas chili, and it has been made ever since by people immunized against it by geography and culture. The importance of the cultural gulf between the two chili traditions was first brought to light by a premed student, Dale Siemer, who made the discovery during a smell test of Empress, Skyline, and Texas chili—conducted under the auspices of the Chili Institute—for the purpose of exploring their consciousness-heightening properties.

Siemer, blindfolded, reported that the Southwestern mixture forced to mind images of Texans mowing down helpless Mexicans and then ransacking their mess kits. After only one whiff of Cincinnati chili, however, Siemer—who at the time had never traveled farther east than Chillicothe—spontaneously related Wallachian folk tales and the most specific details of the assassination of Archduke Ferdinand in Sarajevo, punctuating the narrative with morose snatches from the Orthodox mass. He ripped off his blindfold, stunned, "This is no Cincinnati concoction," he announced, "but a rare Balkan chili."

Researchers set to work at once. Sure enough, they found that the original Empress Chili Parlor was opened on Cincinnati's Vine Street by Joe Kiradjieff's father, Athanas, when he arrived from Sofia. Born in Macedonia, of Bulgarian parents, Kiradjieff had taken work as an accountant in the Bulgarian capital after being furloughed from the Royal Bulgarian Army in 1917. Restless at his desk job, he soon left Sofia for Cincinnati. He opened a fast food counter in 1922 and, after a year of research and development, served his first chili late in 1923. Kiradjieff's masterpiece was distinguished from all previous chili by the Macedonian spices used—particularly cloves, nutmeg, and cinnamon. You won't have Empress chili by merely tossing these into the pot; but you won't even be in the same ball park if you don't.

Not only that—the Macedonian brew of Cincinnati has been the issue over which an authentic Balkan feud has raged for three decades. Besides the Kiradjieffs, the other roles in this drama have been filled by the five Lambrinides brothers, impresarios of the Skyline chain. It is no secret that the Lambrinides are Greek, and that Greeks and Bulgarians hold no gold medals for neighborly affection.

Who actually invented Cincinnati chili—and, hence, who is heir to the original recipe today? Was the pioneer actually Kiradjieff, Sr., as the Empress faction maintains, or was it Nicholas, the patriarch of the Lambrinides clan? During the '20s and '30s, Nicholas Lambrinides worked as a cook at the original Empress where, according to his sons, he invented the chili formula and preserved it as

sole guardian. When he left to set up his own parlor in 1940, he took the recipe with him and it has remained in Skyline hands ever since.

If this account is true, then the Empress recipe is derivative. If it is false, of course, the Lambrinides have been perpetuating a heresy. It requires little imagination to understand the grave implications of this controversy for the two great chili dynasties. What may not at once be appreciated is that thousands of other Cincinnatians have just as much at stake, especially those who, like myself, have devoted a major part of their adult life to eating chili.

Every seven years the human body completely replaces itself, cell for cell. This means that anyone who consumes as few as 7,665 Three-Ways becomes, as it were, a Three-Way, with Skyline or Empress chili coursing through his veins disguised as blood. This is the stuff of which deep allegiances are made and which threatens to perpetuate the feud for generations to come. Alarmed at this prospect, the CIA has acted to set up a neutral commission to investigate the issue. But it has yet to find anybody who is neutral.

In spite of all this, it would be wrong to conclude that the chili barons are hung up on Balkan ethnicity. Far from it! You are met at the door with Muzak, not gusli or buzuki music, and when somebody painted a mural of the Parthenon on the wall of a Vine Street Skyline it was soon replaced with prints of Ohio Elver steamboats. Farther down Vine you may still hear Greek spoken behind the counter of another Skyline by two servers recently arrived from Sparta, but this is a rarity today. The great parlors are in fact monuments to Formica and Naugahyde, their equipment ordered from the same catalogs out of which the St. Clair Broiler in St. Paul and Winstead's in Kansas City were created. If (perish the thought) some tragedy caused the demise of these establishments as chili marts, they could be resurrected as burger joints.

Fortunately, the resemblance between Cincinnati's chili parlors and the legions of franchised greasy spoons ends there. Whatever their differences, the Skyline and Empress are still serving a distinguished cuisine, as distinctive in its way as the *pistou* or *cassoulet* of Provence. It is the only regional fare in the nation that has courted battle with the Almighty Cheeseburger on its own turf and has not been put to rout.

THE FEDERAL PAY RAISE

Mr. BIDEN. Mr. President, yesterday the President of the United States sent his proposed budget for the fiscal year 1975 to Congress. It contained a pay raise for Members of the House of Representatives, Senators, Federal judges, most Presidential appointees, and an increase in the present \$36,000 career ceiling.

Unless rejected by the House or Senate within 30 days, the salaries of Members of Congress—now \$42,500—will go up to \$45,700 next month, and to \$49,100 in 1975, and to \$52,800 in 1976.

This is an inauspicious time for pay raises for upper-level Federal employees and for Members of Congress, ourselves.

Mr. President, this is a trying time for the American people. Prices everywhere have skyrocketed, especially for gasoline and food—certainly staples of our family economy. The American people are having difficulty living within their means, for price increases overwhelm increases in income for many, many Americans. In my own State of Delaware the

median income of the average family in 1970 was \$10,211.

While at some future date, I would support, under specified conditions, congressional pay raises—when the purchasing ability of the average citizen is a lot better—I believe that this is the wrong time to raise our own pay.

I am well aware that Members of Congress have taken substantive cuts in income to serve the people as their elected representatives here in Washington, D.C. And many more well-qualified individuals could be enlisted to run if the monetary remuneration could approach what their success had brought them outside the Congress.

However, Mr. President, I spoke on July 27 and July 29 of last year in this Chamber regarding my conviction that a congressional pay raise makes no sense by itself. I believe that any pay raise must be tied to restrictions on outside income. A Congressman and Senator should devote his or her full time and full attention to public service. He or she should be fully and fairly remunerated for that service. Then there would be no justification for outside income. I will support congressional pay raises in the future only when they further restrict or preferably terminate outside sources of income for Senators and Congressmen.

I am pleased to support Senate Resolution 271, introduced by Senator FRANK CHURCH yesterday for himself and Senator CHILES, designed to disapprove pay raises at this time with respect to section 225(h) of the Federal Salary Act of 1967, for the fiscal year 1975.

THE SOCIAL SECURITY RECORD

Mr. CHURCH. Mr. President, during the past 5 years, the Congress has enacted four across-the-board social security increases, aggregating 68.5 percent.

In addition, other major reforms were approved in the 1972 social security amendments, including:

Increased payments for more than 3 million elderly widows and dependent widowers;

Liberalization of the retirement test under social security;

A new special minimum monthly payment for persons with low lifetime earnings and long periods of covered employment; and

Establishment of a supplemental security income program which will, for the first time in our history, build a Federal floor under the incomes of older Americans.

Because of these changes, average monthly benefits for retired workers have increased from \$97 in December 1969 to \$181—after the recently enacted 11-percent raise becomes effective in June. During this same period, average monthly payments will be boosted from \$88 to \$177 for elderly widows and from \$169 to \$310 for aged couples.

These measures, to be sure, have substantially improved the retirement income position of millions of older Americans. And, they have certainly helped to

provide welcome relief for aged persons struggling against inflationary pressures.

But, we must also be mindful of other harsh facts of life. Despite these urgently needed social security raises, about 3.5 million older Americans still subsist in abject poverty. And millions more are very close to the poverty line.

The social security increases, I am also pleased to say, generated widespread bipartisan support from Members of Congress. Unfortunately though, the administration did not join in this partnership.

Instead, it continued to pursue a half-hearted income strategy without any meaningful goals for the Nation's elderly. In fact, since this administration took office in 1969, it has never initially proposed a social security increase which would have allowed older Americans to keep pace with the rise in the cost of living since the last social security raise.

An excellent article—describing the feeble administration efforts to improve social security benefits during the past 5 years—appeared in the January 26 edition of the Washington Post.

This account, by John Herling, provides a clear, concise, and accurate record of congressional and administration actions.

Mr. President, I commend this article—entitled the "Social Security Record"—to my colleagues, and ask unanimous consent that it be printed in the Record.

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

SOCIAL SECURITY RECORD

President Nixon's technique in grabbing credit where credit is not his due was incredibly illustrated when he signed the latest legislation calling for an 11 per cent increase in Social Security benefits.

As he signed the bill in San Clemente, he spoke with pride of the fact that Social Security benefits "have risen by 68.5 per cent since this administration took office five years ago."

What he did not say was that he and his top associates dragged their feet and tried to slow down Congress from enacting an increase in Social Security on the four separate occasions that Social Security benefits were raised.

Seventy-two year old Nelson Cruikshank, the vigorous president of the 4,000,000-member National Council of Senior Citizens, scorched the "dismal record" of the Nixon administration in its first five years. Not only has Mr. Nixon resisted adequate improvements in the Social Security system but, says Mr. Cruikshank, "he lacks a realistic income strategy for old Americans." But the President's effort to block improvements in Social Security benefits was thwarted by the Democratic Congress which attached Social Security increases to veto-proof legislation.

Here is the record, starting with his first year in office:

In April 1969, Mr. Nixon proposed a 7 per cent increase in benefits. Organized labor and the National Council of Senior Citizens lobbied hard against the administration's proposal. Whereupon, in September of that year, the President relented and said he would go with 10 per cent. But Congress insisted on a more adequate figure and in December, Congress tacked on a 15 per cent increase to the tax reform bill. Thereupon, the President reluctantly bowed and signed the bill on Dec. 30.

In 1971, Nixon proposed a 6 per cent increase in Social Security benefits, but Congress—again by oblique action—stiff-armed

the President. In March of that year, it passed a 10 percent increase which was tied to the debt ceiling bill.

In June 1972, Congress again circumvented the President. At first, he favored a 5 per cent increase but later agreed to a 10 per cent boost. Labor and senior citizens organizations insisted on a higher figure—20 per cent. This became law when Congress again attached the increase to the debt ceiling law.

In that presidential year, the re-election of the President was the main order of business. Without a flicker of embarrassment, President Nixon took the credit for the increase he had opposed. Every Social Security payment contained the following notice:

"Your Social Security payment has been increased by 20 per cent with this month's check by a new statute passed by Congress and signed into law by President Nixon on July 1, 1972."

Finally, the other day, the President signed the latest Social Security bill for a two-step 11 per cent increase, the first increase of 7 per cent to be effective in March and the second in June. But Mr. Nixon wanted no increase at all until July.

Actually, if the President had his way in the last five years, the Nixon increases in Social Security benefits would have amounted, at best, to no more than 28 per cent instead of the 68.5 per cent to which he now points with pride.

THE IMPACT OF THE ENERGY CRISIS ON SENIOR CITIZENS

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague (Mr. MATHIAS) and I held hearings in Baltimore which were designed to ascertain the impact of the energy crisis on our constituents. As the ranking Republican on the Labor and Public Welfare Committee's Subcommittee on Aging and a member of the Senate Special Committee on Aging, I have a deep and abiding interest in the welfare of older Americans. I, therefore, asked Mr. Harry F. Walker, the executive director of the Maryland Commission on Aging and the president of the National Association of State Units on Aging to testify before our hearing with specific regard to the way the energy shortage is affecting the lives of our senior citizens.

Mr. President, I ask unanimous consent that Mr. Walker's testimony be printed in the RECORD at the conclusion of my remarks.

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

TESTIMONY OF HARRY F. WALKER

Most of our population will be affected by the energy crisis, but the disadvantaged more than most will suffer from the direct effects of shortages of fuel and the indirect effects of rising costs, scarcity of goods, unemployment and reduced services.

Among those especially hard hit are the elderly, about one in every ten persons. For most of them a fixed and inadequate income were a way of life before this crisis. The recently approved Social Security increase could be rendered meaningless or at best a holding pattern rather than increasing purchasing power by a continuation of the overall increase in living costs at least partly attributable to the current crisis.

With insufficient and fixed income the elderly will have difficulty with price increases in home heating oil. Supply is reduced from last year by about 10% (a mild

winter). If an elderly person in Maryland cannot secure sufficient fuel he can contact the Energy Policy Office and they will arrange delivery. However, delivery is on a C.O.D. basis and as far as we know no policy or provision exists with any agency in the event an elderly person does not have sufficient cash.

Many low income persons, which always includes a large percentage of elderly, are hardest hit by the increasing shortage of Kerosene, a major fuel for them. Elderly poor may have to turn to wood and coal and the increased use of portable heaters and stoves burning solid fuel increases the likelihood of fire-related injuries.

So the elderly are faced with a terrible dilemma. Fuel shortages which can cause or aggravate physical discomforts and/or increase in the cost of fuel and related goods and services which erodes their fixed income. While most elderly live outside institutions the 5% that are in hospitals and nursing homes and the other approximately 25% who rent will feel the effects of this crisis by having any increase in costs of fuel and other expenses to the landlord or institution passed on to them.

Another important way in which the energy crisis affects the elderly is health related. Dr. William Reichel who is Chairman of the Public Policy Committee of the American Geriatric Society and a practicing physician in Maryland (also a member of the Maryland Commission on Aging) in a letter to me said, "This week in my office I saw a 68 year old woman whose arthritis is disabling when the temperature in her home is set at 65 to 68 degrees, but which has improved at 70 degrees. At lower temperatures she is actually crippled in one of her knees and is unable to walk. She was reluctant to adjust her thermostat to a higher temperature because of the current fuel shortage.

"There are multiple illnesses which are similarly affected by cold temperatures. I believe that these illnesses would need to be individually evaluated and out of a sense of humaneness those individuals should receive greater amounts of fuel if shortages result in rationing or some other types of allocation."

To paraphrase Dr. Reichel, he also urges that attention be placed on the medical needs of Maryland's ill of all ages but that special consideration be given to the elderly because they have more medical problems and are therefore among those hardest hit.

The Maryland Energy Policy Office recognizes that because of lower resistance in chronic or temporary illness the elderly are most vulnerable to lower temperatures and therefore urge that the elderly should set their thermostat at the temperature the physician recommends regardless of the prevailing standard. However, many elderly when faced with the choice of comfort versus pocketbook will sacrifice their well-being.

Another important effect that this crisis will have on the elderly is in its impact on transportation which under the best of conditions is a problem of almost crisis proportions itself.

Many elderly depend on public transportation where it is available. Any reduction in service or increase in cost hits them hard. They are less able to pay more nor can they readily join car pools.

Those in public and private agencies serving elderly try to provide programs and services to enhance physical and mental well-being but unless the older person can get to the service or the provider get to them there can be no help.

Many of the programs for the elderly, whether the Foster Grandparents Program or a senior center or the nutrition program, provide free transportation for older persons.

Other programs such as Meals on Wheels, Friendly Visiting, etc., call for volunteers to

go to the home of the older person. For example, the Baltimore City Meals on Wheels Program serves over 500 people each day utilizing in excess of 1,000 volunteers who travel 680 miles a day and use almost 14,000 gallons of gas each year.

Throughout the country the ability of the elderly to get to or have delivered to them needed services can be adversely affected unless special consideration is given to their needs.

For many people lower temperatures means moving about more, buying or wearing warmer clothes, but for the elderly it can mean real physical discomfort.

Higher living costs may mean less money to save or to spend on nonessentials for some people. For the elderly, however, it will in many cases mean less food.

Reduced transportation may mean walking, riding a bike or joining a car pool, but for the elderly who have no car or can't drive and are unable to walk long distances it may mean increased isolation.

In summary, the energy crisis will affect most Americans adversely, but the effect on the elderly will be in those areas in which they are least able to do anything to help themselves. That is, reducing their income through inflation, cutting back on available transportation and the potential aggravation of chronic physical ailments or disorders.

A HEAD START PROGRAM IS REVITALIZED

Mr. BIDEN. Mr. President, the Head Start programs throughout this Nation have sought to provide comprehensive development services to the children of low-income families. However, in addition to serving our children, Head Start has functioned at the community level by seeking the active participation of local residents in the Head Start Policy Council, which is composed of parents and representatives of the community.

It is the purpose of the policy council to hear and resolve complaints about the Head Start program, to conduct self-evaluations, to establish goals for the program, and to develop plans to utilize available community resources, to name a few.

Not long ago, Delaware's New Castle County Head Start program suffered from staff difficulties, a deluge of Federal paperwork, and the threatened loss of Federal money, factors which combined to threaten the effectiveness of the Head Start Policy Council.

However, the county's Head Start program has made significant progress, and, recently, I had the pleasure of observing first-hand the successes of this program when I visited the Head Start day-care centers in Wilmington, and conferred with the director of New Castle County Head Start, Mrs. Lula P. Cooper.

The county program, which offers preschool education and day care for more than 600 children in eight centers, has a new policy council whose members are regularly attending meetings and training sessions. Through volunteer efforts from secretarial students at Wilmington College and Delaware Technical and Community College, the load of paperwork has been reduced. The program has also received much needed Federal assistance.

An article in the Wilmington News-Journal on January 10, reports on the recent achievements of the Head Start pro-

gram, and cites Mrs. Cooper's statement that the New Castle County Head Start program is "well on its way" to straightening out, and is working "in an orderly way rather than a crisis way."

Mr. President, I commend the efforts of the participants in the New Castle County Head Start program for their perseverance in overcoming the obstacles which confronted them. I ask unanimous consent that an article in the Wilmington News-Journal, "Head Start Unit Well on Its Way," be printed in the RECORD.

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

HEAD START UNIT WELL ON ITS WAY, ITS CHIEF REPORTS
(By Terry Zintl)

New Castle County's Head Start program, after a year of trouble, is "well on its way" to straightening out, Mrs. Lula P. Cooper, the program's director, said last night.

Mrs. Cooper told the board of Community Action of Greater Wilmington, Inc., Head Start's parent agency, that the program's new parents' policy council is "excellent," that its load of federal paperwork has been brought under control and that the program is working "in an orderly way rather than a crisis way."

The county Head Start-Day Care program offers preschool education and day care for more than 600 children in eight centers. Last year, the program suffered tremendously from fighting among its staff, the firing of a director, a mountain of federal paperwork and the threatened loss of federal money. In October, the parents' policy council—an ad hoc board of directors—was disbanded and reformed, partly because of the old council's inability to get along with the staff.

Mrs. Cooper, who has been Head Start director since September, said the new council members have been faithfully attending meetings and training sessions and are expected to name officers at the next meeting.

The load of paperwork has been reduced through volunteer efforts from secretarial students at Wilmington College and Delaware Technical and Community College, she said.

The program also has received a \$236,000 check from the federal government to cover three months of expenses, which will allow it to pay off a loan from the Bank of Delaware, according to Dick Thompson, the comptroller for Community Action.

Community Action itself—the federal government's anti-poverty agency for New Castle County—has been guaranteed another \$105,750 to keep operating through March. The agency, which has been living hand-to-mouth since being cut from the federal budget last year, will keep \$26,440 for itself and parcel out \$74,359 to its delegate agencies.

Community Action's board is calling a press conference this morning at which it probably will announce the appointment of Mrs. June Copeland, the acting director, as permanent director. Mrs. Copeland has been running the agency since Charles D. Ramsey resigned in August, and her appointment has been long expected.

CAGW board members also were told that the state is expected to submit a written report this month on the future of the Hannibal drug program. The state took over the program and has been evaluating it since November, when Community Action fired its second director in eight months.

CONFIRMATION OF AMBASSADOR GODLEY

Mr. PELL. Mr. President, I believe the appointment of Ambassador McMurtie

Godley to Beirut is an excellent one. The qualities of initiative and courage and personal integrity, with which Ambassador Godley is blessed to a remarkable degree, will find full scope for their use in the difficult area that is Lebanon today. By virtue of his experience, temperament, and knowledge, I know he will do a fine job and the administration is to be commended on this nomination.

PRIDE IN AMERICA

Mr. DOMENICI. Mr. President, I very frequently have occasion to be justifiably proud of civic activities in my home State of New Mexico. One such occasion was called to my attention recently when the citizens of the city of Artesia, N. Mex., honored their local elected officials in a surprise banquet, the theme of which was "Pride in Artesia." I find it particularly remarkable that out of a small city of approximately 10,000 people that almost 300 guests attended this surprise affair as an outward expression of respect and appreciation for their mayor and city council.

Although the theme of the banquet was designated as "Pride in Artesia," the entire event had a broader flavor, a flavor that reflected the feeling that people ought to remember to thank their elected officials for a job well done and that it is time for Americans to stand up and say something about what is good in America rather than constantly berating its shortcomings. That theme was very well expressed in a speech presented by the Reverend Bob Hildreth entitled "Stand Tall. You're an American" and since I think that the thoughts contained in Reverend Hildreth's address are worthy of consideration by the Members of this body and by all Americans, I request unanimous consent that it be printed in the RECORD.

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

STAND TALL. YOU'RE AN AMERICAN

We have come together tonight to say something positive in a world so filled with the negatives to do something constructive when so many seem determined to be destructive; to express a spirit of gratitude and love in a world so filled with jealousy and hate. The spirit in the planning of this occasion was not to say that necessarily everyone of us have agreed with everything the City Council has done or that they have done everything we would have hoped they might accomplish. I doubt even the City Council members themselves could make such a statement.

We simply come together to say to each "thank you" for a job well done. You, as elected city leadership, have given unselfishly of yourselves and we say "thank you." We did not come together to raise funds (in fact, we are coming out in the red), nor have a political rally, but we simply come together to express our heartfelt gratitude to a group of people who have faithfully executed a great service to their community. What we do tonight needs to be done across our land, in Roswell and Carlsbad, in Albuquerque and Santa Fe, in Dallas and Houston, in San Francisco and St. Louis, in New York and New London, and in my opinion, even in Washington, D.C. We need to say to those who give so much of themselves "thank you" for doing the thankless, and God bless you when people curse you.

I love America! When I see the flag march

by I still have chill bumps on my arm. When I hear the National Anthem sung, there are still and I trust always will be tears in my eyes. If you call me a flag waver I'll say, "Thank you."

There are many reasons why I love America and I could take a great deal of your time expressing this. Let me quickly summarize in four ways.

1. I love America because of her unselfish concern for others. Never in human history has a country sacrificed so much of their resources, lives, blood, sweat, tears for another country without the result being to obtain in return land, money, slaves, or some other great material gain. It was Howard Fieger, editor of U.S. News & World Report, who recently said, "It is easy to forget that Americans are the most giving people in history. Private donations to charity here exceed the total national budget of many countries."

2. I love America because of her willingness to work. Give this great nation of ours a tough assignment and a difficult task and with the needed time and hard work that task will be completed. There are some trends in the life of our beloved Land that concerns me greatly and one of those trends is that we become fat and lazy people. Never let that happen! If it involves landing a man on the moon, we have worked hard to complete that task! If it involves solving the energy crisis, we will work hard to solve that crisis. I pray that America will always be strong of spirit and ready to work hard to accomplish any task put before her.

3. I love America because of her strong foundational faith. I walked one cold November day in the Thanksgiving season through the Plymouth Village and through the cemetery where many lie buried after a death from exposure and thought to myself, "This is what has made us great." It is faith like this that has brought us through many crises and it is faith like that of the Pilgrims that has given us the foundational faith that has made us a great people. One cold December day I relived in my mind the agony of heart that George Washington must have felt at Valley Forge. I remember walking the little dirt paths of Abraham Lincoln's home just out from Springfield, Illinois and seeing the Bible from which he often read and I said, "Here is illustrated the greatness of America." It was Woodrow Wilson who called in a group of clergymen at the beginning of World War I and commissioned them to the chaplancy by saying he did not intend for them to go entertain the soldiers, but to tell dying men how to die.

I agree with Billy Graham in his New Year's Eve message a few days ago when he expressed he did not feel America was at a crossroads but that we had passed the crossroad and are on a dead end street to moral bankruptcy. America needs to return to the strong foundational faith that has made us great. We need to have our national and personal day of repentance and return with renewed faith in God.

In the midst of a counselling session with some 20 or more wives of men who are M.I.A. in Vietnam one wife justifiably was distraught about no word from her husband. I, and one other counselor, was trying to help her when another of the wives gave the satisfying answer I could never have given. Here is what she said, "I know that wherever Carl is God is with him, and God loves Carl even more than I do, and God is going to take care of Carl even better than I could."

4. I love America because this great nation has provided far more opportunities than I have ever deserved. I do not deserve the freedoms that are mine. I have not sacrificed with my blood nor have I given a son as many of you have. I do not deserve the freedom of speech but this great nation has given it to me! I do not deserve the freedom of assembly but this great nation has given it

to me! I do not deserve the freedom of worship but thank God our Constitution has provided it! I genuinely feel that I do not deserve to be an American but never a day goes by that I do not thank God that I am. Do you?

Lt. Commander Ralph Gaither, in his recent book, "With God in a P.O.W. Camp", tells the story of how he and a large group of other P.O.W.'s were taken blindfolded from their prison camp named Briar Patch before the Vietnamese people. In order to really feel this story, I must read a fairly lengthy section from his book. Listen as he recounts the story himself.

The blindfolds were removed. It was late in the day. Darkness had crept up. My eyes were blurred because the blindfold had been so tight. But I could see well enough to see a line of prisoners in twos stretching ahead of me. The number looked to be about sixty. I was near the end of the line. Each line was strung out some seven to ten feet apart down a long curve that appeared to be a street. The mob's number was huge. Crowds pressed in on both sides—men, women, and children. Political cadres spoke continuously to the mob over loudspeakers, teaching the people to say "S - - of a B - - - , S - - of a B - - - , S - - of a B - - - ."

Seeing what we were in for, one of my buddies spoke out with advice that was to strengthen me throughout the coming ordeal: "Stand tall, you're an American."

A soldier with a fixed bayonet stood on each side of each team of prisoners. Young girls who evidently belonged to some kind of youth brigade ran up and down the line trying to control the crowd.

Some very bright lights way up at the beginning of the line came on. My eyes focused on the truck on which cameras were mounted. We were being filmed, but I never found out whether the crew was Vietnamese or from some other country.

We were given a chance to urinate, but had to do so right in the street in front of the crowds.

The march began, slowly at first. I could hear the roar pass among the crowd as we started.

The Vietnamese officer in charge ordered us to march with our heads bowed. But we were not contrite and we did not feel repentant. We would not bow our heads. Guards, who were much shorter than we, grabbed our hair and perked our heads down. We raised them up again. We were not going to walk with bowed heads. We were determined. We were Americans. But during the entire ordeal, the insistence to bow our heads was continuous.

Someone in the crowd shouted in English, with a Latin accent. He shouted that we were criminals. We had killed innocent women and children. We deserved to be punished. Why had we come to Vietnam? Why did we seek to disrupt their happy lives? The Vietnamese did not attack the United States. They were a peaceful people.

The same guy went on and on, repeating the inflammatory and propagandistic phrases. The crowd became frenzied, and pressed in on us. The guards lowered their bayonets to allow the crowd to get closer. The women and men hammered at our shoulders and bodies with their fists, and hit us with rocks. The children kicked our legs and flayed at us with their fists as high as they could reach. The men broke into our paths and spat into our faces.

We marched on. We ran when we could, but the crowd was too thick to move fast often. The men grabbed at my hair to pull my head down. When I resisted, they hit me with clenched fists. The people shouted at me, much of it in Vietnamese, but often they repeated the recurring English phrase they had been taught over the loudspeakers. The children threw rocks at our heads.

Jim was shorter than I was. He stum-

bled under a blow and I caught him. Then I stumbled and he caught me. To keep the cuffs from cutting our wrists, we locked our hands, we supported each other as time and again one of us stumbled. From time to time Jim repeated to me and I to him, "Stand tall, you're an American."

I started quoting out loud the Twenty-Third Psalm. Jim joined me practically on the second word. As we walked through that parade, as the rocks interrupted us, as the mob beat and spit on us, we quoted:

"The Lord is my shepherd; I shall not want. He maketh me to lie down in green pastures; he leadeth me beside the still waters. He restoreth my soul; he leadeth me in the paths of righteousness for his name's sake. Yea, though I walk through the valley of the shadow of death, I will fear no evil; for thou art with me; thy rod and thy staff they comfort me. Thou preparest a table before me in the presence of mine enemies; thou anointest my head with oil; my cup runneth over. Surely goodness and mercy shall follow me all the days of my life: and I will dwell in the house of the Lord for ever."

I did not try to test God; in fact, I tried very hard to survive. But I had no fear for the next day. God was with me, whether I was to live or die.

The parade moved on down Main Street. From time to time I saw other men go down from the blows of the mob, and I saw other men help them up. The crowd was wild. The women took off their shoes and beat on our heads and shoulders with the one and one-half inch wooden heels. If we showed any outward hostility or aggression, we would have been killed on the spot. All of us knew that. We just had to take all they wanted to give.

But the words kept ringing in my ears. "Stand tall, you're an American." I thought of my father, Ralph Ellis Gaither, Sr. My name was his name. I don't know why that fact gave me strength, but it was important to me to carry that name well.

Occasionally, the mob would cut us off from the men ahead, and would close in to pelt us and spit on us. My head was covered with welts and bruises. More humiliating, though than all of those injuries, was the spittle running down my face and chest.

After nearly an hour I noticed that the film truck had pulled to the side. A huge crowd had formed, but we did not know why until we moved a little closer and realized that we were nearing the stadium we had started from.

There was no path through the tightly packed crowd. When the team of prisoners made it to the gate, it was opened for them and closed immediately once they were inside.

We had a hundred yards to go. The crowd was hysterical. Every person there tried to get at us with their fists and rocks and shoes and spit.

It took us fifteen minutes to make that hundred yards, and everything we had been through during the previous hour was compounded in that raging crowd, a crowd that could only be described as raving mad.

Finally, the gates opened for us.

The guards led us to a spot inside the stadium and made us sit down and place our heads between our knees. If we so much as moved our heads, the guards hit us.

The heavy fatigue spread throughout my body. My legs, arms, shoulders, neck, back, feet—all of me felt like collapsing. My head especially hurt. It was covered with bruises and bumps. Saliva covered my face and head and shoulders. The inside of my mouth was cut from the blows that had forced my cheeks against my teeth. But it was good to sit down. And better to be away from those peace-loving, harmless Vietnamese people.

Blindfolded again, we were put back on the

trucks and handcuffed. No kangaroo court. We headed back for "Briar Patch."

So let me say in closing to this City Council and Mayor, regardless of any criticism you may receive, "Stand tall. You're an American!" Let me say to our state leadership, some of whom are present, regardless of any abuse you may receive, "Stand tall. You're an American!" And may I say of those who serve us in Washington, our senators, our representatives, our president and everyone else, regardless of abuse and criticism you receive, "Stand tall. You're an American!" And may I challenge every person present as you serve to make our country a better place to live, "Stand tall. You're an American!"

AGRICULTURE RESEARCH—THE KEY TO ADEQUATE SUPPLIES AND LOWER FOOD PRICES

Mr. BENTSEN. Mr. President, the enviable record of agriculture in this country has been made possible by the unsurpassed productivity and efficiency of the American farmer, aided to a great extent by this Nation's firm commitment to agriculture research.

Increasing productivity and the hard work of our farmers has made the United States the "land of plenty." However, headlines for the last year have told not of plenty, but of shortages and feared shortages, of price freezes and freezes lifted, of angry consumers, of irritated and confused farmers, and of devaluations and balance of payment problems. This situation has brought at a minimum genuine concern and at maximum bewilderment to the minds of Americans. All of us must wonder how it has come to pass that a recent nationwide survey revealed that more than 40 percent of our people fear a serious food shortage within this decade. What has gone wrong in this land of plenty?

Mr. President, the situation is serious. For the first time in years, the percentage of the family budget being spent on food has increased. It is time that we seriously reviewed our agricultural policies toward research and development for it is these research and development programs which directly affect the level of our farm productivity and food prices.

In the past, a partnership in research and extension education programs by land grant universities and the USDA in-house research effort has greatly increased the productivity of U.S. farmers. In 1952, the average U.S. farmer produced food and fiber for himself and 16 others. However, by 1972, the average U.S. farmer had increased his productivity so as to produce for himself and 51 others. That is a great success story and well justifies the investment in R. & D. we have made to make it possible.

The salutary effects of U.S. investment in agriculture research and education are illustrated by several measures. U.S. citizens in recent years have spent less than 16 percent of their disposable income for food. This is less than any other country of the world, and it is a fact our citizens have come to expect and certainly deserve.

The 6 percent of our population who do the farming and ranching have been producing abundant supplies of food and fiber for this country while making vast amounts available for foreign trade.

From one-half to three-fourths of the U.S. wheat crop is exported, one-fifth of our corn, about one-third of our cotton, and more than one-half of our soybean crop. Indeed, our exports of farm products added \$12.9 billion to our balance of payments in the fiscal year ending June 30, 1973. These exports have played a large part in helping erase the trade deficit this country has been suffering.

Past examples of agricultural research successes are dramatic:

Through the development of hybrid corn, national corn yields have doubled in the last 15 years.

Peanut yields per acre have also doubled in the last 15 years.

Milk production per dairy cow has increased 50 percent in the last 15 years due to advances in genetic research.

The hog has been completely redesigned so that the average yield of lard per hog has dropped 27 percent while red meat has increased 11 percent.

In 1920 the rice yield per acre in China and India was higher than the yield in California. Today, thanks to effective research, Texas and California rice yields are 10 times those in China and India.

So U.S. investment in its agricultural research and development system has paid off in abundant and low cost food for consumers at home, and in commercial gains in world trade. It has paid off so well that the cooperative land-grant university—USDA research and education system is a marvel of the world. Literally thousands of foreign officials and students have come to work in and study that system.

These successes, Mr. President, have lulled this country into a warm sense of security. We have been proud to call our country the Land of Plenty. However, the recent feed grain shortages, housewife boycotts and export controls have burst that euphoric bubble of self-satisfaction. Demand has caught up with our productivity and the only feasible solution to the situation is to quickly increase our productivity.

Why has demand overcome productivity. There are two reasons:

One, increased foreign demand; and two, a dramatic decrease in emphasis on agricultural research. Everyone is familiar with our increased agricultural exports due to world demand and the opening of markets with Russia and China. Less, know, but more significant, is how this country has deemphasized agricultural research.

Mr. President, in 1955, 10.7 percent of the total USDA budget was expended in research and development. In 1973 only 2.5 percent of the USDA budget was marked for research. This is a dramatic reduction and would have been even worse had not the Congress increased the 1973 R. & D. figures over what the present administration had recommended.

Further, the administration can be faulted for its manpower cutbacks in USDA's Agricultural Research Service. The organization's personnel level has been reduced by almost 10 percent since 1970.

Thus, at the very time the demand for food and fiber has been increasing dramatically, our agriculture R. & D.

effort has been slipping miserably. At a time when we need increased productivity desperately, we do not have the proper research dollars or the manpower to produce that productivity.

Mr. President, to ignore this situation would be folly. Plentiful, inexpensive food has been at the cornerstone of our economy. Simply, put, it has left available more dollars for the purchase of housing, the payment of tuitions, and the acquisition of the products of America's industrial sector. Increase the cost of food and we are faced with demands for higher wages or a reduction in consumption. And that spells either inflation or unemployment—the terrible twin which the administration cannot seem to control.

We have the opportunity to return to the wisdom of our recent past. The new budget is now being considered. It is estimated that the USDA budget will be able to reflect over \$2 billion in savings because of reduced subsidy payments. This is an outstanding savings, and it is one which should be put to good and immediate use. A portion of these funds should be spent on agriculture research and development for the benefit of the American consumer and the American farmer; they should be spent so that America's preeminent position in world agriculture can be maintained and translated into export strength abroad and economic strength at home.

There is strong evidence that if we can increase our production technology, our farmers will respond quickly. While farmers two generations ago were slow to adopt new agricultural practices, today's commercial farmers grasp much of the new technology as quickly as it is available, and clamor for more.

As a result of this country's efficient system of transmitting agricultural technology to farmers, and the farmers' ready acceptance, the unused farm "technology pool" is very low. For example, extension agronomists in Texas agree that Texas commercial farmers are using practically all available technology in producing our State's most important crops.

Mr. President, this means that if we increase our investment in farm research and development, our farmers will respond, and we will get a good return on our investment. Farmers deserve and must be allowed proper profit levels. Consumers want abundant, low-cost food. The way to meet these two goals is to emphasize research toward reducing production costs while increasing supplies.

Mr. President, there are many areas of real research need:

Our major crop of cotton, wheat, sorghums, and soybeans are in strong demand both in domestic and foreign markets. Increased productivity is needed to meet this demand.

Domestic demand is growing for meat and eggs and research to expand animal reproduction can help meet this need. Work is underway toward induced twin births in beef cattle and more research dollars toward this effort are sorely needed to lower the cost of producing beef.

Research can improve the efficiency with which our animals turn grain into meat and eggs. If this were to come about, we would not only reduce animal production costs and consumer prices, but more grains would be available for export to less prosperous countries.

New food sources are also being found through research and more attention needs to be paid to the food value possibilities of commodities like peanuts, soybeans and cottonseed.

Plant disease and genetic vulnerability are also areas in which we must expand our research. The great corn blight which hit the midwest in 1971 and the puzzling uncontrollable witch weed of South Carolina which completely prevents the growth of corn are ominous warnings that we must not relax our research efforts in this area.

The abundance of this country's food supply and the prices we must pay for that supply are critical, immediate issues. Issues which we must face with wisdom and the best possible planning.

I call on the administration and the Congress to increase our emphasis on agricultural research and development.

We have been warned that our food supply is finite—shortages can occur. We have learned the value of surplus agriculture commodities in the balance-of-payments situation. The rising food prices in the headlines have told us all too plainly the mistake we have made by allowing our agricultural research effort to decline. If our food supply becomes inadequate, it will only be because of our lack of foresight. By reducing the expenditures for farm subsidies, we have funds available for increasing farm research. If we miss this chance to increase agricultural research and development in the coming years, we will look back with remorse and regret.

COOLING A HOT WAR BETWEEN TEXAS AND ARIZONA: THE CHILI WAR

Mr. DOMENICI. Mr. President, great wars can sometimes develop from seemingly small conflicts. Thus the alleged cutting off of Captain Jenkins' ear by a Spanish Guardacosta in 1739 ended in the War of the Austrian Succession involving every great power in Europe.

In the interests of preventing a civil war between the great and sovereign States of Texas and Arizona, over the quality of their respective chilies it would seem appropriate for New Mexico—acting in the finest traditions of international relations—to tender its good offices.

Both nature and man would seem to have dictated that New Mexico become the peacemaker. We sit between the two quasi-belligerents. Thus at present only geopolitical considerations prevent an actual invasion by Texas Chili Rangers in retaliation for the claims of the Arizona Chili Commandos.

But, even more important, the would be peacemaker must grasp the basic causes of the conflict—must have a complete understanding of the underlying reasons for a casus belli—and bring that

knowledge to bear in the peace negotiations.

Mr. President, the cause of this conflict between the two great States can be stated simply: they are brandishing soup ladles over the quality of the respective chilies for which both are justly famous.

Would that they could appeal to that "Great Chili Maker in the Sky" to settle their differences.

Unless and until His good offices are tendered, it would seem most fitting for the best chilimaker—and I refer in all due humility, of course, to New Mexico—to settle this quarrel.

New Mexico chili is so renowned, so superior, so smoothly saturated with the fiery elixirs of peppers that make great chili, as to be prized by chili aficionados the world over.

We do not boast—we need not advertise—for like a great estate wine produced in limited quantities, true connoisseurs know it, speak of it in awe, seek it eagerly, bid fantastic prices for it when we allow it to be purchased outside our borders.

In other words, New Mexico chili is numero uno—the winner of gold medals at gourmet festivals since the first Spanish explorers came to Nuevo Mexico in the 17th century.

Thus, the real issue is whether Arizona or Texas chili be designated as second best in the world—and who better can make this decision in a calm and judicious manner than the admittedly supreme masters of the cuisine de la chili?

We can be muy simpatico to the eager hopes of these talented, but rather inexperienced practitioners of the chili art. We will judge solely by comparison with our chili, and whichever comes closest—admittedly neither can come too close—will receive our benign approval and be given the silver medal. The gold medal, of course, will always remain in the sacred confines of New Mexico.

Mr. President, we have made our offer—we can do no more but hope that this will avert war between two peoples now standing at "Chilies Point" with one another.

INTERNATIONAL CANCER RESEARCH DATA BANK

Mr. PELL. Mr. President, last week, the distinguished Senator from Massachusetts, chairman of the Health Subcommittee, held a hearing on the National Cancer Act Amendments of 1974. At it, I expressed my deep concern on an important matter embraced within the congressional mandate of the National Cancer Act, and at what I believe is a failure on the part of the executive branch to properly and fully implement a portion of the act.

When the Cancer Act was passed, we foresaw a complex research effort, embracing many concurrent but separate projects. We knew that these would be carried out all over this country, and in many foreign nations, and that they would be conducted in many languages and formats. To assist the individual researcher, and to make the entire effort more efficient, I proposed, as an amend-

ment to the act, an International Cancer Research Data Bank, to "collect, catalog, store, and disseminate insofar as feasible the results of cancer research undertaken in any country for the use of any person involved in cancer research in any country."

My amendment was accepted by the Senate, and became a part of the act as it was signed into law.

After more than 2 years, however, little has actually been accomplished in this direction. The National Cancer Institute has not made substantive progress in this direction. In some respects it has made policy contrary to the explicitly required centralization of information. For example, the National Cancer Institute has been encouraging and assisting the development of a separate International Carcinogenesis Data Bank in Lyon, France. Although the collection of data is important, the goal here should be to place the data entirely within one system—and the priority devoted to building the communication linkage into the system. Furthermore, services such as patient information, registering operations, and literature, are still being developed only on a pilot regional basis in this country, rather than on an interregional sharing basis. It has also neglected the development of uniformity of access, to all men of all nations, which the Congress stressed and explicitly required in the act.

After more than 2 years under the act, this effort still does not have a home base. There is no place where all information regarding cancer research and treatment is routinely channeled from around the world, or even this Nation alone.

In their report, the National Cancer Institute's highly paid consultants say they are collecting data to "satisfy specific needs of various segments of the international cancer research community." This says to me that they are more concerned with little pieces than with a real system. They are building little rooms of information, but not any hallways to connect them. Instead, they should be building a communication link among the still unconnected efforts in other countries around the world, particularly those of Europe, the Soviet Union, and this country.

During last week's hearing, Mr. Richard J. Sullivan and Mrs. Grace Ann Monoco testified as representatives of the Candlelighters, a group of parents whose children have cancer. In their testimony, they called for a Cancer Information Clearinghouse. They testified this was needed because there is a tragic and enormous gap between what research had discovered and what is current practice, as illustrated by a lack of common knowledge about anesthetic procedure, and about current research concerning the relationship between nutrition and chemotherapy.

These parents who have been so active in the cancer research movement did not know that current law already called for such a clearinghouse; they were asking for one themselves.

Mr. President, this should be a clear indication that sufficient and reasonable

progress has not been made in this direction, even though Congress had required such efforts.

Mr. President, I certainly hope that much more substantive progress on this project will be displayed by the National Cancer Institute, when we next review its work. I am sure that many cancer patients, their families, and researchers will also be anxiously looking forward to the contributions which such a vital mechanism will certainly make.

EFFECT OF THE ENERGY CRISIS ON MARYLAND AGRICULTURE

Mr. BEALL. Mr. President, on December 27, 1973, my distinguished colleague from Maryland (Mr. MATHIAS) and I held hearings in Baltimore on the effect of the energy crisis in our State.

One of the witnesses who testified was Mr. T. Allen Stradley, president of the Maryland Farm Bureau. Mr. Stradley, outlined the problem facing agriculture, not only in Maryland, but throughout the country, and I ask unanimous consent that Mr. Stradley's remarks be printed in the RECORD for the benefit of my Senate colleagues.

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

REMARKS BY T. ALLEN STRADLEY

I am T. Allen Stradley, President of Maryland Farm Bureau, a 12,000 member organization of Maryland farmers.

I own and operate 820 acres of farm land in Kent County, Maryland.

I appreciate the opportunity of being able to discuss with you the problems that agriculture is having with the fuel crisis. If we are to keep a successful agriculture, it will be most important that we have fuel to, not only till the land, but do the feeding, harvesting, marketing and the cleaning of the feed lots and pens the year around (365 days).

Agriculture is one segment of our economy that contributes to our balance of payments in foreign trade. It is also most important that we continue to feed this great country.

It is essential that agriculture has the information ahead of time so that they can plan their programs in advance, and that we not be subjected to constant changes in government programs.

I would like to point out that it is important for all segments of agriculture to have sufficient fuel allocated to continue their operations for the full year of 1974.

I would further like to call to your attention the fact that there will be more land in cultivation in 1974 than has been in many years. As you know, Secretary of Agriculture Butz has called for all-out agricultural production. In order that the farmer may comply, his needs for fuel will be greater than those in recent years. Furthermore, weather conditions, many times, dictate fuel consumption.

With the repair part situation as it is today, he will need gasoline to round up repair parts because of their scarcity, and it is essential that equipment be kept moving.

I thank you for the opportunity to present the views of the Maryland farmers.

THE STATE OF BILINGUAL-BICULTURAL EDUCATION IN THE UNION

Mr. MONTROYA. Mr. President, within the past few days we have seen the publication of the sixth and final report of

the Mexican American education study by the U.S. Civil Rights Commission. We have also just received the proposed budget as prepared by the President and his advisers.

These two documents are not unrelated. One diagnoses a serious fault and affliction in the educational system of the Nation, and the other proposes that we decrease the amount of money and effort used to correct that fault and cure that affliction. It seems a strange way to improve the educational health of the Nation.

The U.S. Commission on Civil Rights began its study of the educational problems faced by Mexican American children in 1968 and 1969, with surveys done by HEW and by the Commission itself under the direction of Rev. Theodore Hesburgh, CSC, the chairman.

The first report, "Ethnic Isolation of Mexican Americans in the Public Schools of the Southwest," was published in April of 1971. The shocking evidence of that first study, and of the four in-depth studies which followed, did more than any other single effort to awaken educators to the need for bilingual-bicultural education in the United States. Although this study concentrated on the problems of Mexican-Americans in the Southwest, the inequalities reported are representative of the problems facing all minority children who come to school speaking a language other than English.

Recognition of the Spanish-surnamed population in the United States, the second largest minority group, has been slow in coming. The Census Bureau has finally, in January of 1974, published the data from their March 1973 report containing a corrected count of the numbers of Spanish-speaking and Spanish-surnamed Americans. That latest count shows 10.57 million Spanish-speaking people, a jump of nearly 1 million over the report in 1972. That startling increase is a result of new and better methods of collecting data, interviewing, analysis, and reporting. Even those figures will be challenged by many Spanish-speaking activist groups as being unrealistically low.

Certainly the Spanish-speaking minority in the United States is becoming more vocal, more involved in community problems, and more aware of their own needs. They understand that the education needs of this very large number of American children result primarily from cultural and lingual differences between teachers and students.

Although the tragedy of wasted lives and blunted minds has always been clear to those Spanish-speaking citizens whose children struggled to learn in our schools, it was never possible to make needed changes in the school systems without empirical evidence and professional analysis of that evidence. The Mexican American study group has now provided that evidence and analysis in their final report, "Toward Quality Education for Mexican Americans." I urge my colleagues to read all six of the study reports, and especially this final summary.

The study group has outlined 51 recommendations for action, based on three basic principles: That language and culture should be a part of the education

process, that Mexican-Americans should be represented in the educational, decisionmaking, and that Government should provide sufficient funds to implement these recommendations.

The recent Supreme Court ruling that schools must provide education in a language the child can understand gives legal support to the conclusions drawn by this study. The legislation which Senators KENNEDY, CRANSTON, and I have recently introduced to improve the Bilingual Education Act would give added impetus toward the goals set by this report. Certainly the report itself will provide educators and legislators at both the Federal and State levels the necessary background material and stimulus for action which is so necessary if we are to solve this serious problem.

I hope that every teacher who works with children who speak a language other than English, and every education administrator, will read this report and use the recommendations to begin to provide the equal educational opportunity which our schools have failed to offer in the past.

I hope that members of every State legislature will study this report and realize that the recommendations made apply equally to all minority children, whether they are Spanish-speaking, Chinese, Indian, French-speaking, or other children who speak a language other than English when they come to school.

I hope every Member of the Congress will read and study all of these reports before deciding how he will vote on the Bilingual Education Act Amendments. The Federal Government must begin to provide the guidance and assistance which local districts and States will need for effective bilingual and bicultural education.

Finally, I hope the administration and those members of the Office of Management and Budget who made education recommendations to the President will read this report.

Two weeks ago, on January 24, the President sent to the Congress his message on education. He stated at that time that—

One goal which unites all of our people is to provide each of our children with a sound basic education. No matter what race, faith or family circumstance, each child should have equal access to a good education.

Certainly no Member of either House disagreed with that statement.

However, the release of the President's budget has now made clear that for one very large group of children that goal is to be ignored. The children who enter school speaking a language other than English are to receive less support under the President's budget than even the restrictions of last year provided. Although the Congress increased the 1974 appropriation for bilingual-bicultural programs to \$53 million, the budget released this past Monday cuts that amount to \$50 million for 1974 and to \$35 million for 1975. That includes teacher-training money previously provided elsewhere.

In the struggle to provide equal educational opportunity for every American child, the light at the end of the tunnel is slowly being extinguished, and

at the rate of decrease proposed in this budget, it would disappear entirely in 7 years.

It is my earnest hope that the President and his advisers would reread the President's own education statement, paying particular attention to his remark that "we must also provide special assistance to children of families whose native language is other than English," and noting his request for the continued support of Congress for bilingual programs. Combining that rereading with the expert testimony and recommendations of the Mexican-American study group's final report, I am sure that the administration would want to urge support for the Bilingual Education Act Amendments, in S. 1539, and would want to urge full funding for this legislation when it passes.

J. MARK TRICE

Mr. FANNIN, Mr. President, I ask unanimous consent to have printed in the RECORD a statement by the distinguished Senator from New Hampshire (Mr. COTTON) and the text of a certificate of appreciation.

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

STATEMENT BY SENATOR COTTON

On the 31st of December our esteemed associate and good friend, The Honorable J. Mark Trice, retired from the service of the United States Senate after a total service of nearly 55 years. He has seen more than 600 Senators hold office in this Body. During most of the latter portion of his time here he was Secretary to the Minority, although there were also a couple of fortunate periods during which he was Secretary to the Majority and Secretary of the Senate. I know that my colleagues on both sides of the aisle wish him all the good health, good fortune and happy days he so richly deserves.

Last Tuesday a little ceremony was held among the Senators on this side of the aisle during which a Certificate of Appreciation was presented to our valued friend and mentor—and, if I may say so, colleague. The certificate was signed by every Member of the Senate on the Republican side, four former Republican Senators who happened to be available in town, the Vice President of the United States and the President of the United States.

Mr. President, it is only fitting that our feelings about Mark Trice be placed in the RECORD for all to read, and that they become a part of the permanent archives of this Body.

CERTIFICATE OF APPRECIATION—J. MARK TRICE

Whereas for more than half a hundred years the Republican Members of the United States Senate have been singularly fortunate in having the services of Mr. J. Mark Trice as page, secretary, Deputy Sergeant at Arms, Secretary to the Minority, Secretary to the Majority and Secretary to the Senate; and

Whereas said service has specifically covered a total of 54 years, 4 months and 11 days, the last 42 years and 2 months being continuous; the whole of which has encompassed an unprecedented epoch in our Nation's history in good times and bad, peace and war, success and adversity; during which Senators have come, made their contributions and departed from our Chamber, so that there is no one now in our Body among the 543 Senators in office during the service of Mark Trice who can boast of a length of service remotely approaching his; which, even contemplating only the continuous por-

tion thereof, far transcends that of nearly all others, today or anytime; and

Whereas, during all of this extraordinary period Mark Trice, our friend, confidant and mentor, has accumulated seniority, promotions, wisdom and priceless experience; yet he has nevertheless devoted himself thoughtfully, exclusively and solely to the benefit and assistance of all Senators, those on the other side of the aisle as well as those on this, thus reflecting credit upon the Republican contingent of this Body and adding much to its long-deserved reputation for comity; and

Whereas the good humor of Mark Trice has never failed him, nor have his tact, courtesy, kindness, patience and wit, so that the advice he has so frequently been called upon to give, often substantive and sometimes procedural, never stumbled into any of the many pitfalls lying in wait in such cases for the imprecise or the unwary; and

Whereas on the last day of 1973, just passed, our good friend, full of honors, encomiums and precious memories, entered retirement from the service of the Senate after nearly fifty-five years of total service—

Now therefore be it resolved that the Members of the Republican Conference of the United States Senate hereby tender to their respected associate, The Honorable J. Mark Trice, this Certificate of Appreciation for his long and faithful service to this Body to which he has devoted virtually his entire working life, and that we wish him good health and many serene years of well-earned happiness in his retirement; and

Be it further resolved that the Republican Conference, well knowing it has sustained an irreplaceable loss in the departure of Mark Trice from its councils and considerations, intends to continue to ask his advice from time to time, and bids him feel free to return, whenever he may have the inclination, to the intimate councils where so many of his hours have been spent; and to that end directs that he is to be admitted upon recognition to meetings of the Republican Conference, his service there having continued actively and valuably for more than half a century.

Done this 29th day of January, 1974, in Washington, D.C.

THE ECONOMIC PROGRAM PRESENTED IN THE STATE OF THE UNION MESSAGE

Mr. BENTSEN. Mr. President, I ask unanimous consent that the article by Hobart Rowen from the Sunday Washington Post be printed in the RECORD. It sets forth a critique of the economic program presented in the state of the Union address with which I heartily concur.

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

DESPITE RHETORIC, A RECESSION (By Hobart Rowen)

"There will be no recession in the United States of America," said President Nixon in his State of the Union address. An administration economist with whom I had been watching the speech, grimaced and covered his head: he had just been discoursing about the recession the nation faced.

CEA Chairman Herbert Stein not only joins in the disclaimer of a recession—but just to make sure, he wants to redefine it. "I have a new perfect advance indicator of recession," observed former Economic Council Chairman Arthur M. Okun, "and that's when Herb Stein starts splitting hairs about the definition. The last time he did this was in 1970."

The notion that the President could declare a recession out of bounds with the flick of his speechwriter's wrist only added to the

sense of unreality evoked by the whole address.

His glowing account of a prospering nation, busily at work, leading the other free nations in a quest for peace left me wondering what year or decade or what country Mr. Nixon was talking about.

It didn't sound much like the United States in 1974, beset with rampant inflation and growing unemployment (already up to 5.2 per cent in January from 4.6 per cent last October); with an energy crisis which so far has effectively divided the free world; with food price escalation and food shortages again on the horizon; and with little real prospect of meeting any of these problems head on.

To be brought back to earth, one has to go no farther than the Economic Report by the Council of Economic Advisers, although that document can fairly be said to be more optimistic than some private assessments of the economy.

The Economic Report notes that, "We enter 1974 in a condition of high inflation and in the early stages of a slowdown." It goes on to describe the essential elements of a mild recession while avoiding the word.

Above all, the report stresses the question marks that have been thrown into the economic outlook as a result of the energy crisis, uncertainties that could force the administration to be attempting to bail the economy out of something worse than just a mild recession.

"In view of the uncertainties facing us," the Economic Report says, "it is extremely important to be prepared with fiscal measures to support or restrain the economy if it is clearly running outside the general track described here for 1974."

"The administration is now in the process of preparing for support action. A decision to take such measures would have to be made with great caution, however, in view of the additional supply bottlenecks that might be caused by the energy shortage."

Even the President's written State of the Union Message was candid: "... unfortunately, the very mild slowdown which we anticipated for 1974 now threatens to be somewhat more pronounced because of the oil embargo, the resulting shortages, and the oil price increase."

"We expect, therefore, that during the early part of this year output will rise little if at all, unemployment will rise somewhat and inflation will be high."

So the situation is much more touch-and-go than Mr. Nixon wanted us to believe—presumably because a candid evaluation on the TV tube would have helped erode the image he was trying to convey of a successful, productive five years in office.

Mr. Nixon didn't dwell on the failures of his economic policies and forecasts of the past few years. His Economic Message claimed that last year "the real income of American consumers per capita, after taxes, rose by 8.5 per cent, also above our long-term rate."

This is the kind of slippery statistic with which the President tries to cozy people into thinking that they are better off than they are. Stein had to admit that real earnings of non-farm workers had actually declined in 1973. The per capita figure cited by the President includes all income, farm and non-farm, dividends, fringe benefits as well as pay. It has little to do with the take-home pay of the average individual.

The most recent Labor Department report shows that in 1973, real average weekly earnings were down 1.5 per cent—the effect of an 8.8 per cent increase in consumer prices against a 7.2 per cent increase in average hourly earnings.

There are plenty of things right about the State of the Union, including the fact that it has stood up so well, relatively, despite the trauma created by the Watergate scandals for which the President is responsible.

But sadly, one doesn't get a real picture of the State of the Union from the President's address. For the most part, we are served up what Nixon's men want us to believe, like the council's assertion that the "maximum employment" goal of the 1946 Act was "approximately" met last year, although the unemployment rate was 4.9 per cent, rather than 4.0 per cent.

After five years in office, the twin economic problems of high inflation and unemployment are still dominant. Mr. Nixon hasn't found the answers, although he's tried gradualism, expansion, controls and now, seemingly, gradualism all over again. The problem is now worsened by shortages of energy and food. Economic policy is made on an ad hoc basis, day by day. The only thing that is constant is the dose of reassuring rhetoric.

Mr. BENTSEN. Mr. President, Presidential rhetoric will not prevent a recession in 1974. And even if a recession in the technical sense can be avoided, we are already in a recession in the meaningful sense of higher unemployment and stagnating economic performance. The glowing guarantees of "no recession" does not fully take into account the volatility of the world economic situation, the confusion over Arab oil, or the repercussions on domestic economic growth. The situation outlined by Mr. Nixon does not sound like the world or the United States in 1974. The United States is beset by rampant inflation, unemployment has grown from 4.6 per cent in October to 5.2 per cent today, and there are shortages not only in oil but in a whole range of vital commodities and materials from asbestos to zinc.

The state of the Union address contrasts sharply with the picture outlined by the President's Council of Economic Advisers. The President's 1974 Economic Report makes clear that the U.S. economy is far from healthy, with real output remaining approximately at the same level as last year, and maybe even declining for the first half of the year. At best real growth in 1974 has been protected at only 1 per cent, inflation is expected to rise to more than 7 per cent compared to 5.3 per cent in 1973, and unemployment is projected to rise to 5.5 per cent compared to an average of 4.9 per cent in 1973. The results are a loss of potential growth for the country as a whole and a decline in personal income for many Americans.

Projections and forecasts by the President or anyone else do not offer solutions to the multiple problems with which we are now faced. Nevertheless, they do present a picture of the conditions that will have to be dealt with. The President cannot do away with recession by redefining its components, or can he eliminate inflation and unemployment by pretending they do not exist. It is policy we need, not rhetoric.

COMMUNIST MURALS

Mr. HELMS. Mr. President, like many Americans, I was shocked to learn that a mural depicting the faces of such personages as Karl Marx, Friedrich Engels, Mao Tse-tung, and Joseph Stalin—certainly not parts of our American heritage—and grotesquely parodying the face of the President of the United States, recently was allowed to be placed promi-

nently in the Washington, D.C. headquarters of the District's Bicentennial Celebration Commission.

Like many other of my fellow patriotic citizens, I seriously questioned the value of such a mural in a building dedicated to the celebration of this Nation's 200th birthday, and like others I saw no reason for it to remain there, much less the reason for it ever having been placed there in the first place.

Today, I have been informed that the offensive mural has been removed in response to the public outcry against its presence. The tragedy of the situation is that it ever was allowed to be placed there. The creator of the mural, who "guesses" that he is a Marxist, should have been scrutinized more carefully in his work and given proper direction—if, indeed, he should have been chosen for the work at all in light of his espousal of a philosophy completely alien to our system of individual liberty and freedom from oppression.

Mr. President, this situation has made me realize now more than ever the duty that we as Members of the Senate have to the American public to examine carefully each appropriation request that comes before us to insure that adequate safeguards against possible misuse of the taxpayers' dollars exist in all legislation passed pursuant to those requests.

Mr. President, two well known and respected publications recently spoke out on the matter of the mural in question. Howard Flieger, distinguished editor of U.S. News & World Report, called the mural the "Worst Joke in 200 Years;" while the weekly news magazine Human Events pointed out that "D.C. Officials, Public Stunned by Marxist Art." I ask unanimous consent that these two articles be printed in the RECORD at the conclusion of my remarks.

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

WORST JOKE IN 200 YEARS

(By Howard Flieger)

With varying degrees of originality, communities all across the nation are getting ready to celebrate the 200th anniversary of the United States in 1976.

In 1776, when the country was born, the population was 2.5 million.

Now it exceeds 210 million.

If you are one of those millions of American citizens, you have just been insulted.

The Bicentennial Center for the District of Columbia, the nation's capital, was dedicated on January 14 by the Mayor of Washington. A representative of the White House was there. So were other dignitaries.

Looking down on the occasion was a new mural, done for the Bicentennial office by an artist named H. H. Booker II.

Among the personages depicted—

Karl Marx, the father of Communism.

Friedrich Engels, Marx's associate.

Joseph Stalin of the Soviet Union.

Mao Tse-tung of the Chinese Communists.

For extra measure, the muralist included a caricature of President Nixon wearing a mustache and clad in the costume of a movie gangster. He sketched the President's daughter, Tricia Nixon Cox, with an Afro hairdo. He included a portrait of Angela Davis.

This is Americana?

Where are Washington, Jefferson, Tom Paine, Ben Franklin and the Adams family?

Where are such symbols of American culture and uniqueness as Washington Irving,

Mark Twain and Carl Sandburg? Winslow Homer, Frederic Remington and Thomas Hart Benton? Francis Scott Key and George M. Cohan? John Philip Sousa and Louis Armstrong? Samuel Gompers and Andrew Carnegie? Thomas A. Edison and Mary Bethune? Where are the pathfinders—Lewis and Clark, Charles Lindbergh and Neil Armstrong, to name a few?

The list is endless. If portraits are needed to dramatize two centuries, you can take your pick from within our own borders, including many immigrants from other lands.

Granted, the planning for the Bicentennial observance has been uneven, often halting and short of real achievement on a national scale. But hundreds of communities, many States and regions have pitched in with their own projects and are moving ahead to the anniversary with enthusiasm and pride.

Granted, too, there has been honest disagreement. One group, for example, feels that the basic aims of the American Revolution are being overlooked. But such things are legitimate dissent—which is the American way.

The mural in Washington is something else.

A member of the staff of this magazine asked an official of the District of Columbia Bicentennial Commission about the inclusion of the Communist figures. The explanation was that those people are a valid part of the American scene because "all were involved in some way with the United States over the past 200 years."

When asked what Marx, Engels, Stalin and Mao had to do with the U.S., the official, irritated, broke off the conversation.

The muralist explained to a reporter for "The Washington Star-News" that his employer told him to "make faces" on the walls, so he sketched those he considers interesting. He called it a "lot of fun" and seemed to regard the whole affair as a very clever joke.

Marx, Stalin and Mao as characters in an American panorama—this is a joke?

It is a coarse insult to the very word, a desecration of everything truly American from 1776 to today. It is high jinks of the lowest order, done in the poorest taste.

Those who had anything to do with it—whether through deliberate participation, irresponsibility, arrogance or plain ignorance—should hang their heads in shame.

DISTRICT OF COLUMBIA OFFICIALS, PUBLIC STUNNED BY MARXIST ART

For the next few weeks, at least, visitors to the Nation's Capital, as well as the local residents, can stop by the office headquarters of the D.C. Bicentennial Commission (DCBC) and feast their eyes on a mural bearing the likenesses of Mao Tse-tung in Western garb, a bald headed Joseph Stalin with muttonchop whiskers, Tricia Nixon Cox in an Afro hairdo and President Nixon wearing a striped suit, dark shirt and white tie, intended, according to the young creator of the controversial work, to show him "like a gangster." Also depicted in the mural are Communist theoreticians Karl Marx and Friedrich Engels, homegrown Red Angela Davis, comedienne Gracie Allen, Swedish-born actress Greta Garbo and the comedy duo Laurel and Hardy.

The drawings were done by H. H. Booker, II, who "guesses" he is a Marxist. He was picked for the job by the Downtown Sign Shop at a fee of \$2.75 per hour. The project took 19 hours for a total cost of \$52.25. Many of those who have visited the DCBC's nine-story headquarters (at 13th and G Streets in downtown Washington) think whoever paid for the job was cheated. In fact, one of the kindest comments on the artistic merit of Booker's work was "lousy." Most others were either far less polite or unprintable in a family publication.

Reliable sources within the DCBC said

Booker showed preliminary sketches of his mural to DCBC officials and was advised that the Communist figures should be omitted before it was reproduced on the headquarters' walls, but the bearded prankster says this is not true.

"They just said make faces," said Booker. Booker did purposely disguise the caricature of Nixon by adding a mustache and the drawing of the tyrannical Stalin with the chin whiskers to hoodwink the DCBC officials and those notables, including D.C. Mayor Walter E. Washington and a White House representative, at last week's grand opening ceremonies at the newly remodeled buildings. The opening day guests reportedly were totally unaware of the prank, which Booker called "a whole lot of fun."

Unlike the prominent guests though, others in the crowd, including reporters, were more observant, and to the chagrin of DCBC officers Booker's Red-tainted art quickly made newspaper headlines with full photo coverage of the debacle.

Mayor Washington immediately demanded to know first, if any District funds had gone to pay for the mural, and second, when the drawings would be removed under a DCBC plan calling for new decorations each month.

The mayor's assistant for the bicentennial, James P. Alexander, quickly told the mayor that no public funds went to pay for the so-called artwork. He further assured His Honor that the murals would last no longer than a month.

Alexander's explanation conflicts with that of Booker. The mayor's appointee said the murals were supposed to show world figures "known and unknown" since the District is a world, as well as national capital. He said the artwork was to include people from different phases of world history to show "the world of Washington" theme of people coming together.

"One sketch I thought was totally inappropriate," said Alexander, "and he was told to change it, even though I didn't recognize it, and that was the one of the President."

Despite Alexander's assurances that the mural would be paid for from private contributions, there are some doubts among observers. The DCBC official did not say whether the money would come from contributions earmarked specifically for the murals or from a general treasury for the commission, which would affect public funds, albeit indirectly.

Although the controversy involved only the District of Columbia bicentennial group, there has been some adverse effect on the totally separate American Revolution Bicentennial Commission (ARBC), and ARBC officials are not too happy about it. One ARBC spokesman told Human Events this is "the last thing we need."

He said the ARBC has been negotiating with the State of Virginia in hopes of borrowing the famed Houdon statue of George Washington, which has stood in the Old Dominion's Richmond Capital since the 1780s.

Angered by the DCBC mural and apparently unaware that the two bicentennial commissions are separate entities, two of Virginia's Republican lawmakers—House Minority Leader A. R. Gleson and Assistant Minority Leader Warren E. Barry—said they will block any loan of the Washington statue unless the offensive mural is removed immediately.

The State office holders are circulating a petition among their state house colleagues to be sent to Mayor Washington as a protest against the DCBC mural.

Throughout the coming bicentennial years, it is to be expected that radicals—young and old, well-meaning and ill-intentioned—are going to try to exploit the period of celebration for their own ends, just as Booker used the murals at the D.C. Bicentennial headquarters to promote his own Marxist ideology.

Groups with their own axes to grind, such as the so-called People's Bicentennial Com-

mission, headed by former anti-war activist Jeremy Rifkin, will try to use every bicentennial ceremony and event as a springboard for activism. Unfortunately, as in the case last week in the Nation's Capital, there will be officials who will inadvertently give these opportunists the opening they seek.

LITHUANIAN INDEPENDENCE DAY, 1974

Mr. PASTORE. Mr. President, the month of February is rich in days of recollection for all Americans. There are days of history like Washington's Birthday—days of humanity like Lincoln's Birthday—even days of the heart and home like Saint Valentine's Day.

Since 1918 the date of February 16 has taken its place on the calendar of history, humanity, the heart, and home.

On that day—after centuries of subjugation—the great land of Lithuania achieved its independence.

For centuries the character, the courage, and the culture of Lithuania had been Europe's buffer against barbarism.

And in her 20th century freedom—brief though it was—Lithuania in its economy, education, and the arts quickly lifted its 3 million men, women, and children to a place of respect and responsibility among the nations of the world.

Then in the throes of the Second World War, Lithuania was caught in the vise of conspiracy between Nazi Germany and Soviet Russia.

In 1940 she fell behind the Iron Curtain of Soviet savagery.

But February 16 continues to be celebrated by Lithuanians everywhere—and it continues to be observed by nations like ours who cherish freedom for themselves—and wish it for all others.

February 16 is a day of history—a day of hope—a day of help. It makes all of Lithuanian blood proud of their nation. It gives them hope of freedom renewed. It invites the help of nations like ourselves who reaffirm their vows of friendship and support.

And we ourselves draw inspiration from the unconquerable courage of the men, women, and children of Lithuania.

We are grateful for the sons and daughters of Lithuania who are our neighbors and friends in America—stalwart citizens of highest virtue and value in our communities.

We are reminded by the plight of old Lithuania of how a people's liberties can be lost. And on this Lithuanian Independence Day we pledge that America shall not surrender to any crisis of despotism, defeat, or despair.

And we pledge to the people of Lithuania that the cause of its people shall never be abandoned by this America of George Washington and Abraham Lincoln.

THE REGULATION OF CRIMINAL JUSTICE INFORMATION SYSTEMS

Mr. THURMOND. Mr. President, this week, I was pleased to join Senators ERVIN, HRUSKA, and others in introducing S. 2963 and S. 2964, bills dealing with the regulation of criminal justice information systems.

I have been concerned for some time with the necessity of protecting the right to privacy of our citizens and the need to insure that such rights are provided for in the operation of criminal justice information systems. It is essential, of course, to insure that criminal records are accurate and up-to-date and that the use of such records protects the rights of the individual while also achieving the legitimate objectives of the criminal justice system.

Mr. President, I believe that few will not agree with the fundamental objectives which these bills seek. However, there is subject for debate in both proposals. They contain features which should receive further study. I do believe that the bills have much merit and will serve as excellent vehicles for positive legislation. It is my hope that useful information will be elicited during hearings and that worthy legislation will emerge.

To this end, I should like to hear testimony concerning several issues which I would like to highlight at this time.

First, there is the question of administration. S. 2963, for example, envisions the establishment of a Federal Information Systems Board to have overall responsibility for the administration and enforcement of the provisions of the act. This proposal has merit, but I would suggest it might be expanded to consider congressionally chartering a National Law Enforcement Communications Group with representation from all of the States and with an executive board to provide day-to-day operations.

This Board could have substantial representation from the criminal justice practitioners as well as, of course, representation from citizens in the private sector. The Board could provide a policy and management-making structure to govern the interstate transmission of criminal justice information. Such a Board could operate in a fashion similar to that of the Project SEARCH group.

Second, in the area of intelligence information, I am in agreement that use of such information should be strictly limited to law enforcement purposes and subject to stronger regulations than the use and dissemination of criminal histories. However, it might be unwise to eliminate automated intelligence systems altogether.

In 1968, I supported the Omnibus Crime Control and Safe Streets Act which allowed development of information systems for collecting, storing, and disseminating information on organized crime activities. This has led to the development of manual and automated intelligence systems which have had a major impact on controlling organized crime. From this experience with the LEAA-funded systems, it appears that automated intelligence systems are vital to the effective control of organized crime.

On this broad issue, the National Advisory Commission on Criminal Justice Standards and Goals in its Report on Police stated:

Intelligence in the police sense is 'awareness.' Awareness of community conditions,

potential problems and criminal activity—past, present and proposed—is vital to the effective operation of law enforcement agencies of continued community security and safety.

A third area of concern which I have deals with the dissemination of arrest records. I support the concept of limited dissemination of arrest records. However, we must be careful not to be too restrictive in this regard and thereby hamper the legitimate needs of the law enforcement community. I urge that this provision of both bills be considered carefully.

Fourth, we must also give detailed consideration to provisions allowing any access to the Federal district courts by individuals seeking to contest action involving the use and maintenance of criminal justice information. With the already heavy workload of the Federal courts, State court action might be more appropriate. Additionally, public officials accused of violating the provisions of the act should be allowed the defense of good faith reliance on the provisions of the act in any action for damages by an individual.

Finally, there is one issue that neither bill addresses, and that is the right of the press to have access to criminal offender information. Arrests and convictions of criminal offenses are a matter of public record at the time of the arrest or conviction. Oftentimes, however, the press claims this information is needed to prepare a story for an individual when he subsequently is arrested for another offense and the only place from which it is readily available is a criminal justice information system. I feel it is essential that we elicit testimony from representatives of the press on ways of dealing with this issue in hearings on these bills. Surely, none of us would want to unduly hamper the needs of our free press.

Criminal justice has a valid purpose to serve society by the collection of information. As I have mentioned before, there is also a valid right of citizens to have their records protected. There must be a balancing of both interests.

Hearings on these bills will be forthcoming soon. It is my hope that we will approach the task before us with fairness and reason and thereby put together a properly balanced piece of legislation.

OIL AND GAS EXPLORATION IN OCALA NATIONAL FOREST

Mr. GURNEY. Mr. President, on January 9, the Department of the Interior held hearings in Ocala, Fla., with regard to their proposal to lease certain areas located within the Ocala National Forest for oil and gas exploration.

I submitted a statement at these hearings expressing my strong opposition to any such activities which would encroach upon the natural beauty and resources of this valuable area.

I ask unanimous consent that my statement in opposition to oil and gas drilling in the Ocala National Forest be printed in the RECORD.

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

STATEMENT MADE BY SENATOR EDWARD J. GURNEY ON THE PROPOSED OIL AND GAS EXPLORATION IN THE Ocala NATIONAL FOREST

I oppose oil and gas exploration in the Ocala National Forest in the strongest possible fashion.

My opposition is based on two points. First, there is a strong possibility that such drilling will jeopardize critical water resources in Florida's underground aquifer. Second, such drilling will seriously encroach upon the natural beauty and recreational use of this valuable national forest.

Nor does it appear that the oil and gas potential in this area will contribute significantly to our energy needs, urgent as they are, to outweigh the negative factors which would need to be done to accomplish the proposed oil and gas drilling.

We are in the grip of the latest crisis to appear on the national scene—the energy crisis—and we must not fall into the process of making all the panicky, poorly thought out over-reactions that have characterized other responses to recent problems.

Energy has come to be taken for granted by the American consumer because it had always been available at low cost.

The individual consumer, and industry as well, could not conceive of a situation in which they could not have all the cheap energy they wanted.

Although some segments of the energy industry continued to promote the use of more and more energy—especially electricity—there were warnings from the oil industry that things might not be so easy going in the future.

Within the past year, those somewhat dire predictions have become less prediction and more dire. The embargo on most oil exports from the Mid-East following the October Arab-Israeli war has jeopardized the oil supply of America.

Because of the tightening supply situation, the Federal Government, industry, and the American people have been willing to accept some strong medicine—such as lowered home and work temperatures, reduced speed limits, and Sunday service station closings—however, such measures do not serve as basis for the idea that we need to sink exploratory wells into every geological structure that might contain a barrel of oil.

The environmental crisis, which we have survived, left us with numerous examples of inflated rhetoric and thoughtless response.

That crisis also left us with a greater appreciation of a serious set of problems.

It would be folly of the highest sort for us to now repeat the errors of the crisis past, while forgetting the lessons which it taught. Yet, that is just what we seem to be doing.

Our new found broadened perspective of that natural world makes clear that we cannot undertake a change of local conditions without receiving some unexpected consequences in return.

The serious nature of the consequences which might follow from oil drilling operations—either exploratory or production efforts—is what leads me to strongly oppose the proposed oil operations in the Ocala National Forest.

The most disturbing possible adverse effect of this proposal is the threat posed to the important water bearing strata. This Floridian aquifer is the water barrel for most of Florida. Any reduction in the ability of this aquifer to so serve our population is much too high a price to pay for energy.

We are continually reminded that a nation which runs on energy cannot afford to run out.

We need to remind ourselves, however, that we can move without oil, but we can't live without water.

The adequacy of our water supply is not to be glibly assumed. To do so would be to repeat our experience with energy supplies—

an experience which has shown that the unlimited has a faculty for becoming limited, very quickly.

Already in areas near the Ocala National Forest, ground water levels have dropped significantly.

Growth of industry and population in this area and elsewhere in Florida will place increasing demands on this most precious resource.

If all planned sites in Marion County, for instance, are developed, the population will grow from the present level of 72,000 to nearly 350,000 in 8 to 10 years, it is estimated.

In another instance, the United States Geological Survey has reported that the Greater Orlando area by 1980 will have exceeded a 50% withdrawal of recharged ground water necessitating a new source of supply elsewhere. One suggested source for the needed supplement is the Ocala area.

Added to the evident water needs for people are the additional requirements for industry and agriculture.

Taken together, there is too much of our future well-being dependent upon the Floridian aquifer to proceed with oil drilling in the Ocala National Forest.

We must retain some degree of concern for the long-term outlook, rather than being captivated by expediences of the moment.

The threat to the Floridian aquifer, as I said, is the most disturbing element of the proposed oil enterprise in the Ocala National Forest, but there are other less spectacular environmental ills ahead if we follow the course of action.

Numerous conservationists have criticized the oil exploration program only to be informed by various agency officials that only a minuscule portion of the Ocala National Forest will be affected. In one agency response it was noted that "less than one-tenth of one percent of the forest area would be disturbed if there is a major discovery of oil or gas."

While such expressions may be technically accurate as far as surface area cleared for drilling, they ignore the esthetic impact of the operations on the surrounding forest lands.

Similarly, the threat posed by an oil spill spreading through the waters of the forest would soon affect a considerably greater portion of the lands than the one-tenth of one percent cited.

I am not in opposition to the principle of multiple use under which our national forests are operated. Certainly more than one beneficial use can be derived from these lands.

One must be able to draw a line occasionally, however, when a proposed use would too greatly impede other uses. A consumptive use is not to be ruled out, but non-consumptive uses such as recreation must be protected.

It is hard to conceive that if oil is discovered in great enough quantity that only the area mentioned in this proposal would be affected. We must consider not just the exploration but the act of drilling itself if the exploration is successful. Slowly but surely additional requests will be received by the Department of the Interior to lease more and more acres in the Ocala National Forest until we would hear from these same officials not "only one-tenth of the forest would be affected" but that "only one-tenth of the forest would not be affected."

Public input in the past has indicated a considerable interest in maintaining the unique features of this forest in its natural State. This represents a growing public demand emphasizing recreational type usage of the Ocala National Forest over natural resource development.

Between 1960 and 1970, 24 million people were added to the population of the United States, increasing the total to 203.2 million. Population projections indicate an increase of between 57 and 96 million by the year 2000. State population densities now range

from over 1,000 persons per square mile to less than 5 per square mile. Florida, as you know, leads the nation as one of the fastest growing States. As Florida grows, so does the demand by its citizens for recreational land.

Some of America's natural resources need special consideration for their high recreational potential and/or their need to be protected. These are areas of great value to outdoor recreation on which uncontrolled development could result in irreversible damage to historic, cultural, or esthetic values, or natural systems and processes.

Many areas of critical concern in Florida have been identified and classified by the State in comprehensive outdoor recreation plans. The Ocala area has been recognized for not only its recreational value but also for its representation as the last ground water recharge area in the State.

This environmental impact statement we are reviewing today states that "the Ocala National Forest is one of the oldest and heaviest used national forests in the eastern United States with over two million visitor days of recreation use each year. Millions of Americans look to this forest for outdoor recreation, where they can escape from their daily tensions of life."

The summary of this environmental impact statement points out that oil and gas operations will involve building roads, clearing land for drilling, production sites, and pipeline. The amount, size, and location of activity would depend upon the extent of the oil and/or gas discoveries. The report points out that "an accidental oil or salt water spill or well blow-out is possible during drilling or production operations. Adverse effects which could result from activities or mishaps are a reduction in the naturalness of the forest, danger to human life, danger to wildlife, danger to historic or archeological resources, and oil or water pollution."

The report fails to state, however, that there is also the possible loss of recreational opportunities. Florida needs this forest and I feel that to accept the change and permit these oil and gas explorations is unthinkable abuse of our national forest.

The proposal we are examining here denies protection of forest lands for esthetic and recreational uses.

The Ocala is already a much used forest. Multiple use in the Ocala is approaching the point of multiple abuse.

The point which we need to begin considering now is what we may do to restore the natural fabric of the Ocala forest, not what we can do to further rent it.

There is a grave risk that the energy crisis is being used as a mask for numerous damaging assaults upon the environment. The current threat to the Ocala National Forest is one of those assaults. Therefore, I suggest that the proposal to conduct oil operations in the Ocala be classified as a bad idea, rejected and forgotten.

The energy crisis will not be darkened by such a move, but the burden we place on Florida's esthetic and natural resources will be lightened.

RURAL WATER SYSTEMS

Mr. STENNIS. Mr. President, over the years I have very strongly supported increases in the funding of rural water systems. This program of the Farmers Home Administration is a vitally important element in improving the prosperity and health of our rural areas. It is an absolute essential to the revitalization and development of rural communities.

The grant program of the Farmers Home Administration is the way these communities get their water systems started, reinforced by loans which they

undertake to repay from their revenues. These little towns and their outlying rural fringes are in a depressed economic condition, which is of course why they need revitalization. A very large number of them cannot start by themselves on a loan basis entirely. The rural water and waste grant program is therefore the key to the problem.

I have been greatly dissatisfied with the support the administration gives this program, while billions are spent in other endeavors that are much less rewarding in terms of results, and have no effect on the continuing shift of population away from rural areas and toward the already distressed central city areas.

The last national survey on the needs of rural areas for water and waste systems showed that over 30,000 small American communities are without adequate water and waste facilities. The survey is now several years old, but it showed that it will require a sum of over \$11 billion to provide these facilities, and the cost would be greater now. In my State of Mississippi alone, the survey showed the costs to improve or provide these systems at an adequate standard would amount to over \$675 million. The need for these systems are very pressing, but the financial response of the Federal Government has been unrealistic in terms of the magnitude of the problem.

Congress has consistently added money for this program, only to see it impounded by the administration. This occurred each year from fiscal year 1970 through 1974. Then, a year ago, the administration announced the indefinite suspension of the grant program.

Through the first half of the fiscal year \$150 million remained frozen in budgetary reserve. I was very pleased when the administration announced on December 26, 1973 that \$30 million was being released. Coincidentally, the announcement came at the time when it was made known that several billion dollars in clean water money appropriated for the programs of the Environmental Protection Agency would not be expended.

The resumption of the grant program, even on this very modest scale, is encouraging. However, to qualify for any of the \$30 million released last month, some severe criteria must be set. The application must have been on file and waiting for grant money when the program was terminated in January 1973, and there must be conclusive evidence that it is impossible for the project to be undertaken using only loans.

I am further encouraged that the fiscal year 1974 budget contains \$20 million for the program. Nevertheless this is a very small amount, in proportion to the size of the problem. It is shown in the budget as taken from the previously impounded amounts.

Mr. President, there will remain frozen in fiscal year 1975, under the terms of the budget, \$100 million previously appropriated by Congress as grants for rural water and waste systems. That money should be released for use in fiscal year 1974 as well as fiscal year 1975, and additional amounts provided by Congress for fiscal year 1975, so

as to make a realistic approach toward meeting the needs of this very worthy program.

Further, I shall insist that as to the \$100 million already appropriated and the \$20 million in new money there be no crippling limitations of any kind, but that all applications, including those filed since January 1973 and those filed hereafter shall all be considered together on their merits regardless of when filed.

MAYOR RICHARDSON DILWORTH

Mr. HUGH SCOTT. Mr. President, a recent article in the Philadelphia Inquirer chronicles the outstanding career of Richardson Dilworth and points to those human qualities which made him more than a superb lawyer and vigorous Democratic campaigner, but a colorful and witty man. 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:

PATRICIAN POLITICIAN: HE WAS A FIGHTER AND A GENTLEMAN

(By Harold J. Wiegand)

Richardson Dilworth was once asked why he wore those double-breasted suits that had become his trademark.

When he commenced trying cases in 1927, he explained, he was 29 years old. However, he looked about 21, and he found this was a great drawback in court. "So I decided on the double-breasted suit, vest and Homburg hat in an effort to appear older."

The stratagem evidently was successful, because he was soon recognized as one of Philadelphia's outstanding trial lawyers. At the same time he was making his first tentative venture in Democratic politics.

A Democrat in Philadelphia in those days was not only a rarity but was considered downright eccentric. The party was a frail appendage of the Republican organization and thus was owned and manipulated by the Vare brothers.

Contrary to popular mythology, the Richardson Dilworth-Joseph S. Clark combat team did not spring fully armed from nowhere in the late 1940s to lead the civic reform movement.

The two patrician types had a gruelling training course in the rough game of politics and their first active role in election campaigning came with their support of Alfred E. Smith in 1928.

Smith lost, of course, but he lifted the Democratic Party in this city out of the doldrums by rolling up a substantial vote and carrying South Philadelphia, where a printer named Larry McCrossin unseated Ed Vare's widow in the state Senate.

It has been pretty generally forgotten that Dilworth and Clark were sufficiently encouraged by the Democratic turnout to run for the state Senate and City Council, respectively, only to get defeated.

By then, however, Jack Kelly and Matt McCloskey were in the process of rescuing the Democratic Party in Philadelphia from Republican subjection and making it a respectable and competitive force.

When Dilworth returned from his second war as a marine, he was picked by Democratic City Chairman Michael J. Bradley to run for mayor against Barney Samuel. That was in 1947 and it was the last time a Democrat has lost in a mayoralty election.

Dick Dilworth made a name for himself in that losing effort by his vigorous, new-style street-corner campaigning and his colorful accusations of Republican corrup-

tion at City Hall. He and his sidekick Joe Clark became the acknowledged leaders in the city's fight for reform.

In swift succession, Clark was elected controller, mayor and U.S. senator, while Dilworth gained the offices of city treasurer, district attorney and, for two terms, mayor. In between times they pushed the new City Charter to enactment. Sixty-seven years of Republican dominance in city government had come to an end.

Dick Dilworth's great ambition, however, was to be governor of Pennsylvania. He was twice denied that office at the polls, and twice additionally denied party nomination when he most probably could have gone on to win easily. In 1954 he was turned down by Bill Green and in 1958 by nearly everybody, after he had expressed the opinion—not yet fashionable—that China should be allowed admission to the United Nations.

His impetuosity in saying what he thought and hitting hard at his political antagonists won him a reputation for foot-in-mouth performance. He could laugh at his own slips of the tongue, but he saw no merit in the soft-soap approach to any battle. He was the kind of man you would like to have with you on Guadalcanal or the Andrea Doria, or in any other tight spot.

Those who knew Dick Dilworth best knew him as shy to the point of diffidence, a brilliant conversationalist, a good listener, and, when he wanted to be, very, very funny. He was a gentleman.

DIEGO GARCIA

Mr. FELL. Mr. President, it is with acute concern that I have read press reports that the Pentagon will be asking Congress for \$20 million for air and naval support facilities on the small British-owned island of Diego Garcia in the Indian Ocean. This report is now confirmed by the statement of Great Britain's Minister of Defense, Julian Amery, in the House of Commons on Tuesday.

I believe it is very much against our long-term national interest to do this as we take on the far greater responsibilities implicit in this enlargement.

What it means is that the United States, already responsible and involved in security matters in most of the globe, is now rounding out our responsibilities and seeking to take on the responsibility for international order in the one portion of the globe where we clearly did not have this involvement.

If such a request is made, it will represent a major departure from what we have been told in the past about our use of Diego Garcia. Previously, our naval facilities there have always been described as a small communications center with no ambition to expand into the traditional type of air and naval base.

The need now for such an expansion has been linked to the Middle East situation. I am reminded of the story of the nomad and the camel, in which the particularly crafty camel succeeded in parlaying a nosehold in the nomad's tent into exclusive occupancy.

I oppose this proposal for the following reasons:

First. At a time when we are trying to reduce our military presence abroad, a new base in the Indian Ocean is likely to start up a chain reaction for additional bases to support it. The proliferation process will have been set in motion:

Diego Garcia today and perhaps the Indonesian Archipelago tomorrow.

Second. The move will further stimulate a United States-Soviet naval race in the Indian Ocean and elsewhere.

Third. That, in turn, would be offensive and frustrating to the countries of the Indian Ocean who wish to keep it as demilitarized as possible.

Mr. President, the ramifications of a U.S. decision to establish air and naval support facilities at Diego Garcia have been explored in an excellent article by Victor Zorza in the Washington Post of January 29, entitled "Halting the Naval Race," and in an editorial in the Washington Post of Wednesday, January 30. I ask unanimous consent that both articles be printed in the RECORD. I also am having printed in the RECORD today's article from the New York Times confirming the fact that these negotiations have taken place.

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

HALTING THE NAVAL RACE

(By Victor Zorza)

Although the reopening of the Suez Canal is expected only later this year, it has already given a start to a naval race between the superpowers which may eclipse, in cost and intensity, all the arms races of earlier years.

It does not have to happen—but it is acquiring a mad momentum of its own, as the nuclear missile race once did. If it is not halted now, before it really gets going, the opportunity to arrest it will not recur for a good many years.

The crucial lap of the naval race begins on the small island of Diego Garcia, barely a speck on the map of the Indian Ocean, which Britain is willing to make available for a United States base in an area previously untenanted by the superpowers. The Pentagon wants the base because the Soviet Navy will now be able to use Suez to increase its presence in the area. Soviet ships will now have to spend much less time at sea on their way to the Indian Ocean—a 2200 mile journey from the Black Sea, instead of 9,000 miles from Vladivostok in the Far East.

Some spokesmen for the U.S. naval lobby say that this would enable the Russians to quadruple the number of ships on station, without actually assigning more ships to the area, but other experts dispute this claim. To match the Russians, the United States would have to increase its own strength. The Diego Garcia base, the Navy argues, would provide support facilities for both ships and aircraft which would make it less necessary to bring other vessels from far off, leaving them free for other tasks, and would make the whole operation far less costly.

The argument may make good naval sense, but it leaves out of account the politics of the arms race. The Soviet naval lobby was pressing the Kremlin last year for permission to increase its own strength in the Indian Ocean—as was evident from the cries of alarm its spokesmen were uttering in the press about U.S. intentions. But Washington publicly signalled Moscow that its intentions were entirely honorable.

Administration officials let it be known that they did not want to do anything that would push the Soviet Union into a naval race in the area, and the Kremlin allowed itself to be taken in by this—or so it would now seem to Moscow. One Moscow journal associated with the Soviet anti-arms lobby even suggested at the time that, although U.S. hawks were trying to extend the superpower confrontation to the Indian Ocean,

they would probably fail to achieve their objective.

The publication of this article in Moscow, coupled with the unprovocative Soviet conduct in the Indian Ocean, suggested, as did the signs in Washington at the time, that both powers were leaning over backward to contain the naval race in the area. All this changed during the October war, when both navies sent in powerful reinforcements and Washington announced that it would henceforth maintain an increased and "regular" presence in the Indian Ocean. Then came Henry Kissinger's successful peace effort in the Mideast, with its promise of the reopening of the Suez Canal, which strengthened Washington's resolve to go back on its implied promise to the Kremlin to keep the Navy on a leash in the Indian Ocean.

But why should the building of naval support facilities on Diego Garcia, which the Pentagon says can be done for a paltry \$20 million, be viewed in such cataclysmic terms? Because, to begin with, it would destroy the delicate balance between the naval lobby and its opponents in the Kremlin. Both the United States and the Soviet Union are now embarked on major naval construction and modernization programs, but the political leaders in both countries have so far conceded much less than the naval lobbies are demanding.

In the United States, the Navy's inordinately costly ambitions are a matter of public record. In the Soviet Union, they are to be found between the lines of articles and speeches by naval leaders. They do not ask publicly for money. But their description of the navy's tasks leaves little doubt that, if these are to be fulfilled, far more money will have to be found than the Kremlin can now be seen to be spending.

In both countries, the naval lobbies have been using the Indian Ocean, because of its proximity to the Persian Gulf oil routes, as the bogey with which to push the politicians into crossing a new strategic threshold. The decision to build a base on Diego Garcia will, if it is maintained, represent the crossing of the threshold by the United States.

The Soviet Union will follow, as night follows day, and the last quarter of the century will witness a naval race which promises—because the ship is more versatile and ubiquitous than the missile—to outdo the great missile race that dominated the third quarter of the century.

DEEPER INTO THE INDIAN OCEAN

The Pentagon, citing its concern over Soviet naval expansion in the Indian Ocean, intends to ask Congress shortly for \$20 million to build up its facilities on the little British-owned island of Diego Garcia where the United States has run a "communications center" (to contact Polaris subs) in recent years. The general idea is that, with the expected reopening of the Suez Canal, the Soviets will be able to bring ships more easily into the Indian Ocean and Persian Gulf for "gunboat diplomacy": to influence littoral states to lean the Soviet way, and conceivably in a crisis, to scare the oil producers among them to cut off oil to the U.S. or its allies.

Given the pattern of Soviet behavior these days, the Pentagon's anxieties do not seem exaggerated. The Russians have indeed expanded their naval activity and political presence in the area, increasing the number, kind and frequency of ships on station, gaining the use of port or air facilities in Iraq, Yemen, South Yemen, Somalia and India, and establishing the notion that their activity is normal. Meanwhile, the United States has been using certain facilities in Ethiopia, Iran and, until the Mideast war of October, Bahrain. Since October, the Navy has been sailing carrier task forces in and

out of the Ocean on a regular basis. To have a base at Diego Garcia—unpopulated and therefore politically uncomplicated—would make it a good bit easier for the United States to be able to project its power into the whole region.

So the issue goes well beyond spending the slight sum of \$20 million on one small island. The issue is the whole developing American role in the region. For just this reason, it is necessary to ask some hard questions before the United States commits itself to the major new strategic idea that the Indian Ocean and adjacent waters are now a fit and unavoidable arena of great-power rivalry.

First, the common view is that the Soviets are infiltrating their power and presence into an area left a "vacuum" by the British withdrawal from a patron's role there. But it can be argued that, at least in part, the Russians are merely establishing a counterweight in the form of the framework of an anti-submarine force in waters which the United States has come to use to position its missile carrying submarines. To describe an anti-submarine force as evidence of Soviet "expansionism" justifying an American response is to raise the question of whether it was equally our "expansionism" when the U.S. subs were first deployed in these same waters.

Then, the Indian Ocean has long seemed the last major basin where littoral states, rather than distant great powers, could establish the rules of the road. Is that prospect gone? The United States has no known commitments to any of the littoral states which would require it to establish a new base to serve their defense. On the contrary, it has been building up states like Iran to take responsibility for regional stability. Earlier in the Nixon administration, this was known and hailed as the Nixon Doctrine. Does this Doctrine no longer hold in and around the Indian Ocean? Has the American relationship with Moscow so altered that this Doctrine is no longer an accurate guide to American policy?

Finally, whatever happened to the Soviet feeler of 1971 to negotiate naval limits in the Indian Ocean and elsewhere? Was it just for show? Was an effort made to put it into effect? Is such an effort still feasible? We do not have categorical answers to these various questions but we believe a responsible Congress has got to ask them before the United States slips deeper into the tensions and uncertainties which are increasingly coming to mark the once-tranquil Indian Ocean.

A U.S. BASE IN INDIAN OCEAN TO BE SET UP ON BRITISH ISLE

LONDON, February 6.—A United States base is to be set up on Diego Garcia, a British island in the Indian Ocean 1,000 miles off the southern tip of India.

This was announced in the House of Commons here Tuesday by Julian Amery, Minister of State in the Foreign Office. He said that the United States had requested support facilities on the island for warships and aircraft.

Mr. Amery said that the British Government had "long felt that it is desirable in the general Western interest to balance increased Soviet activities in the Indian Ocean area." He added: "Accordingly, we welcome the expansion of the United States facilities which will also be available for British use."

The two governments, he said, will consult periodically on joint objectives, policies and activities in the area.

NEIGHBORHOOD TAX COUNSELING

Mr. CHURCH. Mr. President, last January I introduced legislation which would promote development and expansion

sion of community schools throughout the United States. In short, the community education concept meets the wasteful underuse of our country's schools and allows the neighborhood school to become a total community center for persons of all ages. I am pleased to report that the Subcommittee on Education has incorporated my community education legislation, S. 335, as part of the Elementary and Secondary Education Act. This measure will soon be considered in executive session by the Labor and Public Welfare Committee.

Just recently I also introduced S. 2868, the Older Americans Tax Counseling Assistance Act. This legislation would help to expand tax preparation assistance programs for older Americans. A major purpose of this proposal is to build upon the enormously successful tax aid for the elderly project, which is conducted jointly by the National Retired Teachers Association—American Association of Retired Persons and the Internal Revenue Service.

We do not need any more proof that this program works exceptionally well. What is needed is a genuine commitment to enlarge it and convert it into a truly national program. And, this is what my bill is designed to do.

With my keen interest in these two pieces of legislation I was especially pleased to learn that the Boise community school program is providing tax counseling assistance to members of the community by having IRS personnel in the schools in the evenings. Mr. President, I ask unanimous consent that a letter from Tom Richards, director of the Boise Community Schools, which describes the neighborhood tax counseling service, be printed in the RECORD.

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

THE INDEPENDENT SCHOOL DISTRICT OF BOISE CITY,

January 4, 1974.

Senator FRANK L. CHURCH,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR CHURCH: After hearing from Boise residents that it is difficult to get to the Federal Building and with an eye on the energy crisis, Community Schools contacted the Internal Revenue Service. We asked that they provide staff professionals to be in our Community Schools evenings to provide neighborhood tax counseling and all the various tax forms.

On Thursday, January 3, I received word that the San Francisco office has okayed funds for their staffing. Boise's Community Schools winter session will find IRS personnel offering tax aid throughout the city, therefore reducing the amount of travel necessary and providing benefit to taxpayers.

I feel the IRS national director and the San Francisco regional director and our local Boise office are to be commended for their willingness to enter a new program of tax assistance.

For your tireless efforts for our Community Education, thanks and best wishes in all your endeavors in 1974!

Sincerely,

TOM K. RICHARDS,
Director, Community Schools.

ADDITIONAL THOUGHTS ON COAL DEVELOPMENT

Mr. MANSFIELD. Mr. President, it has been 4 months since the Senate passed S. 425, the Surface Mining Reclamation Act of 1973. The House Committee on Interior and Insular Affairs is preparing to mark up companion legislation. The bill as passed by the Senate contains my amendment which, to say the least, has generated considerable discussion and debate. In simple terms, the amendment would prohibit the strip mining or open pit mining of coal in areas where the mineral rights are held by the Federal Government and the surface is held by a different party.

The amendment would not apply to situations where the minerals and surface are held by private, non-Federal interests and it would not apply where the Federal Government holds title to both the minerals and the surface. The amendment would not apply to deep mining of coal in any situation. Admittedly, it would create a checkerboard pattern in many many areas proposed for surface development. The enforcement of this amendment would give all parties, especially the people of Montana, time to fully consider the consequences of poorly regulated and expansive development of coal in the West—the success or failure of reclamation, demands on water, and the socioeconomic problems associated with the impact of coal gasification plants.

Montana and our neighboring States need not convert from an agricultural economy to a dependence on coal mining. The West need not become the utility backyard for the rest of the Nation. Proponents of greatly expanded strip mining are looking for an easy way out of the energy crisis. Coal is not going to be the single answer for the next 60 years. Let us expand and perfect deep mining of coal. This provides greater employment and little disturbance of the surface. There are many who believe that the cost of opening a new strip mine is equal to that of a new deep mine. There are far fewer employees in a strip mine operation but the equipment is heavy and very expensive. What is going to happen to the vast quantities of mineable coal in the eastern part of the United States? Will a major shift to the West bring about serious unemployment in the Appalachian region? Will there be a major shift in industrial plant relocations closer to the major sources of energy? These are questions my eastern colleagues should be considering.

As I have stated repeatedly, coal is not the only answer to the energy crisis. We should be expanding and perfecting our hydroelectric facilities. The Federal Government has a responsibility to push for greater research and development in areas such as nuclear power; utilizing the sun and wind as sources of energy; the methane process which might be most practical in my State where we are developing large feeder lot operations and creating livestock refuse problems; a crash program to prove out the MHD

process, a more sophisticated source of power which uses little water and a minimum of pollution.

As my colleagues are aware, one of the most compelling reasons for my continuing opposition to surface mining of coal is the total disregard being given to the interests of the surface owner. I firmly believe that if a rancher in Eastern Montana wants to continue to produce livestock for the remainder of his life, and that of his children, he should be able to do so. Surface mining and ranching are in no way compatible. The "owner's consent" alternative to the Mansfield amendment is being discussed.

Owner's consent is misleading in its terminology. The only owner that it protects is the one who wishes to sell at an inflated price. This is a practice with which the Federal Government and the individual taxpayer should not be associated. I understand one Montana rancher was offered as much as \$15 million for his property but he refused. The surface owner who does not want to sell does not have to but he will be plagued with off-site damage when his neighbor does lease or sell—dislocated water supplies and access routes. Coal development proposed in areas adjacent to the Northern Cheyenne Reservation will create many off-site problems for the Indians. Also the owner consent theory is subject to questions of constitutionality.

The State of Montana has enacted some strong surface mine reclamation laws, regulations governing the siting of utilities, and an exclusion of surface mining from our State's eminent domain laws. It is the latter subject I would like to discuss briefly. Montana has a very loose eminent domain law which has not been abused to date but now there is evidence that the statute is being utilized to bring about strip mining in a roundabout way.

Wally McRae, owner of the Rocker Six Cattle Co., at Forsyth, Mont., was recently threatened with the acquisition of his ranch through eminent domain by a newly formed water storage company whose major stockholders are known as coal and oil lease brokers. The announced intent of the acquisition is for water storage purposes—agricultural, domestic, industrial, irrigation, and municipal uses. The State law is ambiguous in its definitions and requirements. It would appear that the major consideration involved in this case is speculation. We know that stripping of coal for shipment does not require industrial supplies of water but the construction of coal gasification plants require vast amounts of water which is consumed and not returned to the streams. A large reservoir of water is a natural inducement to the location of a gasification plant. This same water storage company applied to the State of Montana for a beneficial water use permit for a large allocation of water from the Yellowstone River Basin. This permit application was rejected as were several others. The pressures to tie up supplies of water in eastern Montana are great and I am pleased to report that the Governor of Montana has responded in

a constructive manner in asking the legislature, now in session, to enact a 3-year moratorium on all allocations of water from the Yellowstone River Basin. I am assuming that the House and Senate will respond accordingly. This 3-year moratorium will give the State additional time to seriously consider the future of our most valued resource—water.

Mr. President, I ask unanimous consent to have the Governor's communication to the president of the Senate and the speaker of the House of Representatives in the Montana Legislature printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.
(See exhibit 1.)

Mr. MANSFIELD. Mr. President, eminent domain laws are statutes which must be guarded carefully. Their application should be severely limited to public purposes. As an extension of the eminent domain issue, one of Montana's Indian tribes, with considerable deposits of coal both on and off the reservation, proposed that the tribal authority be granted the right to take surface over mineral rights by eminent domain. The tribe was interested in obtaining title to large surface areas so as to consolidate some leases for a coal company. The surface operator has refused to negotiate to date. I would not agree to extending the right of eminent domain to any one interest—this could only mean trouble.

Earlier I indicated that the State of Montana has adopted a new law governing the siting of utilities, including coal gasification plants. This is vital if we are to protect against a proliferation of gasification units and the many problems that are associated with this kind of development. The State is to be complimented for this action but I am concerned about reports that the Department of Interior is circulating a draft of legislation which would give the Secretary of the Interior a veto power over State laws governing the location and building facilities that produce electricity. This prospect alarms me and I wish to go on record in opposition to any effort to usurp any State's authority to provide for orderly planning and development.

Mr. President, I ask unanimous consent to have a newsstory on this subject from the Washington Post, January 29, 1974, printed following the Governor's communication.

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

Mr. MANSFIELD. Mr. President, one final matter I wish to discuss is the recent report appearing in Montana that the Atomic Energy Commission was planning to become actively engaged in the research, development, and marketing of large coal deposits in Montana. This report generated considerable concern in Montana and I immediately asked the Chairwoman of the Commission, Dixy Lee Ray, for an explanation. I now have a lengthy report dated February 4, 1974. Mr. President, I ask unanimous consent to have the document printed following the Washington Post article.

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

Mr. MANSFIELD. In conclusion, Mr. President, these are some of the concerns I feel deeply about the rush westward to strip my State and others of vast deposits of low-sulfur coal. The Big Sky Country is willing to do its share in meeting any number of problems we have here at home, but we ask for some compassion and understanding for difficulties that face a large, rural State in a complex and mechanized age.

EXHIBIT 1

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, Mont., January 28, 1974.

HON. GORDON McOMBER,
President of the Senate,
Helena, Mont.
HON. HAROLD GERKE,
Speaker of the House of Representatives,
Helena, Mont.

DEAR PRESIDENT McOMBER AND SPEAKER GERKE: When I addressed the Legislature in January of 1973, I pledged that a fundamental goal of this Administration would be to ensure the continuation of Montana's increasingly unique way of life. You responded by enacting laws that brought Montanans much closer to gaining control over their own destiny.

Both the people of Montana and I are proud of your record and achievements in this regard.

But few people in January 1973 could have foretold the magnitude of the energy crisis which presently grips this nation. Nor could we have imagined the depth to which the crisis affects almost every aspect of American society—our institutions, our foreign policy, our economy, our environment.

Recognition of the impact of the crisis has led to an announced national policy of attaining energy self-sufficiency during the 1980's. Regardless of the debate currently raging over how best to achieve this goal, whether this goal is indeed achievable, whether or not a major restructuring of our society is necessary, and whether or not environmental standards should be weakened to accommodate this goal, one consequence is patently obvious:

Montana, with 43 billion tons of strippable, low-sulphur coal and an apparent surplus of water in close proximity, is becoming one important alternative to increasing dependence on foreign energy.

The value of our coal and water has not gone unnoticed by powerful private and public interests beyond our borders. Increasingly, the granting of rights to utilize these two resources are taking the decision-making authority for our future out of our hands and placing it in the hands of interests located in the financial centers of our nation, far removed from the concerns and controls of Montanans.

Today I would like to discuss one of these resources in particular—water.

It is the lifeblood of our state. It is the foundation of our billion-dollar-a-year agricultural industry. It is essential to our wild-life, forests, and rangeland. None of these could exist without sufficient water.

Yet that is the prospect we may well be facing in one of our most important rivers—the historic, free-flowing Yellowstone.

With a mean annual flow of about 9 million acre feet of water at our border, options, applications and requests have been made for approximately 3,300,000 acre feet from waters in the Yellowstone Basin. In 1972, the Bureau of Reclamation projected that 2.6 million acre feet would be needed annually for coal development by the year 2002. In less than two years, that figure has already been

far exceeded, and all indications are that this amount will grow significantly within the immediate future.

The Department of Natural Resources and Conservation, in accordance with its responsibility under the Montana Water Use Act, has become increasingly concerned with this problem during the past few months. Within the past six weeks, applications and notices of applications for almost ½ million acre feet of Montana's water from the Yellowstone have been received. Last Friday, a request to divert over 90,000 acre feet annually was received.

The effect of accommodating all these intended uses in an area that is generally described as "water short" could be staggering. The National Academy of Science has cautioned that, "... not enough water exists for large-scale conversion of coal to other energy forms..." and that, "... potential environmental and social impacts of the use of this water... would exceed by far the anticipated impact of mining alone."

The manner in which we respond, or fail to respond, to these unprecedented demands for our finite resources, and to the challenges those demands pose to our environment and society, will in large part determine the kind of state Montana will become. The shaping of our future should not be done in a piecemeal fashion. Our destiny should not be forfeited through a series of decisions made on a case by case basis, without regard to their cumulative magnitude, without thought of the full gamut of alternatives, without consideration of the overall impacts or of long-range acceptability of the action taken. Certainly these decisions should not be made until we have defined the objectives for our State, and any objective we may articulate is inextricably interwoven with and dependent on our water resource.

The Montana Water Use Act was a significant step forward in protecting this invaluable resource. Yet, under this Act the Department of Natural Resources must shortly rule on applications for new and large diversions, although it has had time neither to evaluate existing water rights nor to determine the long-range impacts of the new requests. This is unacceptable.

I am convinced that more time is needed to evaluate the water situation in the Yellowstone, and that time for deliberation and planning is critical to the public welfare. I am today presenting a bill which will buy us that time by postponing actions on applications for permits to appropriate water for three years or until the final determinations of existing rights have been made, whichever occurs first. Only those larger appropriations, for reservoirs storing over 20,000 acre feet or for flows of more than 30 cubic feet per second, would be included. Domestic municipal and agricultural developments should be unaffected. Applications relating to a utility facility for which a Certificate of Environmental Compatibility and Public Need has been issued under the Utility Siting act are also excepted. The bill further provides that reservations of water be established as rapidly as possible under the Montana Water Use Act, and that these reservations, once established, would be given preference status over the applications which will be temporarily suspended by the bill.

During that three-year period, if you approve this legislation, state agencies will be directed to speed up the compilation of information necessary for the development of alternatives which are compatible with the long-range goals and best interests of Montana. The determination of existing rights will be accelerated. Plans by which Montana's water can be put to beneficial use in line with the needs of our state will be developed.

Agricultural, municipal, recreational and wildlife reservations of water will be made.

Impacts on our economy, values, and way of life from resulting large scale diversions will be studied. The need for additional legislation will be considered.

The three years should give us the time to head the warning issued by the Senate Interior Committee in its report concerning the Southwest energy issue. The report noted that, "The present Four Corners situation reflects the cumulative effect of numerous resource management decisions, each of which was limited in the scope of its objectives and of its geographic concern." These decisions, "... were made to achieve limited and relatively short-term goals and ..." "... were made without full knowledge or adequate consideration of the full range of alternatives, the potential regional impacts, or the long-range desirability of the actions involved."

The problem is critical and urgent. We must act accordingly. This proposal will require a two-thirds vote in each House for a waiver of the rule on the introduction of bills. I know that you are already burdened by the need for consideration of other important measures. I know that you are attempting to carry out your responsibilities to the people of Montana in as short a time as is humanly possible.

But the impact this measure will have on the future of Montana's water mandates that we discard the labels of "environmental", "landowner", "developer", "rancher", and "farmer" which have divided us in the past and that we unite in support of this bill to ensure a Montana worthy of this and future generations.

Sincerely,

THOMAS L. JUDGE,
Governor.

BILL NO. —

A bill for an act entitled: "An act providing for the suspension of action on certain applications for permits to appropriate surface water in the Yellowstone River Basin for three (3) years or until existing rights have been determined, whichever occurs first; making reservations established under the Montana Water Use Act preferred uses over such permits; and providing for an immediate effective date."

Be it enacted by the legislative assembly of the State of Montana:

Section 1. Statement of legislative findings and policy. The legislature, noting that appropriations have been claimed, that applications have been filed for, and that there is further widespread interest in making substantial appropriations of water in the Yellowstone River Basin, finds that these appropriations threaten the depletion of Montana's water resources to the significant detriment of existing and projected agricultural, municipal, recreational and other uses, and of wildlife and aquatic habitat. The legislature further finds that these appropriations foreclose the options to the people of this state to utilize water for other future beneficial purposes, including municipal water supplies, irrigation systems, and minimum flows for the protection of existing rights and aquatic life. The legislature pursuant to its mandate and authority under Article IX of the Montana Constitution, declares that it is the policy of this state that before these proposed appropriations are acted upon existing rights to water in the Yellowstone basin must be accurately determined for their protection, and that reservations of water within the basin must be established as rapidly as possible for the preservation and protection of existing and future beneficial uses.

Section 2. Definitions. Unless the context clearly requires otherwise, in this act:

(1) "Department" means the department of natural resources and conservation.

(2) "Basin" means the Yellowstone River Basin.

(3) "Application" means an application for a permit under the Montana Water Use Act to appropriate surface water from any source of supply within the basin for either or both of the following purposes:

(a) a reservoir with a total planned capacity of twenty thousand (20,000) acre feet or more, or

(b) for a flow rate greater than thirty (30) cubic feet of water per second.

(4) "Reservation" means a reservation of water provided for by section 89-890 of the Montana Water Use Act.

Section 3. Suspension of action. (1) The department may not grant or otherwise take any action on an application until either of the following first occurs:

(a) three (3) years have elapsed from the effective date of this act, or

(b) a final determination of existing rights has been made in the source of supply in accordance with the Montana Water Use Act.

(2) A reservation established before such application for permit is granted is a preferred use over the right to appropriate water pursuant to the permit, and the permit, if granted, shall be issued subject to that preferred use.

Section 4. The department may suspend action on applications not meeting the definition of application in section 2 of this act if it determines, after a public hearing conducted under the contested case procedures of the Montana Administrative Procedure Act, that the cumulative impact of those applications, if granted, would be contrary to the policies and purposes of this act. If the department suspends action on such applications, the provisions of section 3 of this act apply.

Section 5. Reservations. The department may apply for reservations and shall, as rapidly as possible, assist other appropriate state agencies and political subdivisions in applying for reservations within the basin. Particular emphasis shall be given to applications to reserve water for agricultural, municipal, and minimum flow purposes for the protection of existing rights and aquatic life.

Section 6. Application of act. This act applies to applications currently pending with the department, as well as applications filed with the department after the effective date of this act.

Section 7. Utility facilities. This act does not apply to applications to appropriate water for use by a utility facility for which a certificate of environmental compatibility and public need has been granted pursuant to the Montana Utility Siting Act of 1973.

Section 8. Severability. If a part of this is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 9. Effective date. This act is effective on its passage and approval.

[From the Washington Post, Jan. 29, 1974]

WHITE HOUSE SEEKS CONTROL OF REFINERY,
POWER PLANT SITING

(By George C. Wilson)

The Nixon administration intends to ask Congress to consider everything from atomic plants to oil refineries as national energy resources that must be distributed equitably around the country—whether some states like it or not.

The controversial philosophy is spelled out in a White House bill setting forth procedures for locating and building facilities that produce electricity for the United States.

The idea is to assess the power needs of

the nation and then meet them in a hurry through regional planning under a set of federal guidelines. One provision of the bill now making the rounds of executive agencies empowers the Secretary of the Interior to approve power plants if state authorities balk.

The general philosophy of the bill—and particularly that provision—has alarmed environmentalists who have obtained copies of the measure, although it is still officially under wraps. Said Joseph Browder, executive vice president of the Environmental Policy Center, a private group championing environmental causes:

"That bill sounds like the work of people preparing a takeover—a coup. It calls for fundamental changes in the nature of government in the United States."

An administration official who reviewed the bill for his agency conceded that the federal powers in the bill would draw fire from some members of Congress. But he said the measure is a rational attempt to meet the power needs of the country.

The bill comes as a rhetorical civil war is heating up between states producing energy fuels and those consuming it. Politicians in Louisiana and Texas, for example, have complained of late that East Coast states using up Southwestern gas and oil should reciprocate by allowing offshore drilling and the construction of refineries within their own jurisdictions.

Some officials of states with unspoiled coastal zones reply that they do not want to repeat the mistakes of others and spool their states with industrialization.

Russell W. Peterson, now chairman of President Nixon's Council on Environmental Quality, took that position when as Republican governor of Delaware in 1971 he pushed through the legislature a ban on refineries and heavy industry on the Delaware coast.

Peterson said he will have no comment on the bill until he studies it.

The administration draft bill—said to be a combined effort of White House and Interior energy specialists—states that "each state is hereby directed to designate sites for energy facilities adequate to meet its share of the regional and national needs for such sites and such facilities . . ."

The bill empowers the Secretary of the Interior to take over the approval process for energy facilities if "such state has consistently failed to designate adequate sites for energy facilities over an extended period of time (at least five years) . . ."

The bill would apply to large electric generating plants, except those that use water power; petroleum refineries; coal gasification and liquefied gas plants; uranium mills and nuclear storage plants; piers and other offshore transfer facilities for tankers within the three-mile limit, electrical power lines and pipelines that carry oil, gas or coal slurry.

The bill provides that the state agency which would approve the location and construction of such facilities would be the same one that spearheaded state planning under the Federal Coastal Zone Management and Land Use Policy acts of 1973. The administration bill states that "siting of energy facilities" should be "an integral part of regional land-use planning."

Private and public energy companies would have to reveal their plans for electricity producing facilities years in advance—20 years for a nuclear plant and 10 years for a conventional one—including where they want to build and when.

Once the states had approved a power plant site, the U.S. government would try to save time by providing what the bill calls a one-stop federal approval process. The bill calls for full public participation but proposes that "limits be placed on the ability of opponents to delay" construction of approved energy plants.

ATOMIC ENERGY COMMISSION,
Washington, D.C., February 5, 1974.

HON. MIKE MANSFIELD,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MANSFIELD: Dr. Ray has asked me to reply to your inquiry of January 21, 1974. Your question concerned newspaper accounts of the Atomic Energy Commission's apparent interest in the State of Montana as a possible site for a project aimed at demonstrating effective land reclamation techniques following strip mining. I am pleased to have an opportunity to correct some of the inaccuracies contained in the news reports which led to your letter, and to provide you with the facts.

The news articles you enclosed were derived from a meeting held in Montana in January. Press accounts of that meeting were inaccurate. AEC does not plan to mine and/or market coal. In fact, no AEC plans at all exist in this regard for eastern Montana or you may be assured your office would have been advised. The facts of the matter are outlined below.

As you know, the Administration is considering ways of using today's technology to meet and overcome the present energy crisis, and to be responsive to Project Independence. As an outgrowth of Dr. Ray's December 1, 1973, report to the President on Energy Research and Development, an AEC Task Force is currently studying a number of possible concepts for energy demonstration projects in order to further define their scope and feasibility. These include regional, large-scale demonstrations of oil shale recovery techniques, and mining reclamation, liquefaction and gasification of coal. We are also looking at the possible production of methanol for use in automobiles, a large demonstration of the application of solar heating and cooling of buildings, and the desirability of nuclear power centers to reduce siting and licensing delays. If our studies indicate the concepts are both feasible and responsive to Project Independence, they will be recommended to the appropriate government agency for their consideration for further action. Under present organizational arrangements the AEC would be involved in the actual execution of only the nuclear power center project.

To accomplish these studies, several AEC task groups have sought the views of other government agencies and industry in formulating the specifics of the concepts. A demonstration of effective land reclamation in the semi-arid Western coal fields is one of the several preliminary concepts under consideration. Since we wanted to be as realistic as possible, we decided to select a specific site and study it in depth as an illustrative example. The reclamation task force identified Montana, Wyoming and North Dakota as possible sites for a demonstration. It was soon recognized that the reclamation research conducted in the State of Montana would provide the most promising techniques for an effective demonstration. The group felt it essential to visit Montana. The task group met for two days in January with a group of Montana representatives selected and chaired by Lt. Governor Christensen.

It is unfortunate that press accounts of this meeting overstated the scope of the potential project and the degree of involvement of the Atomic Energy Commission and did not reflect the progress achieved at the meeting in determining feasibility of the concept.

Under the concept being considered, the Federal government will not mine and market coal. Basically, the study contemplates a project that would encourage maximum industry participation through a government-industry cooperative arrangement to conduct a reclamation demonstration project on a commercial mine. In addition, participation

by state representatives, environmental organizations and local citizens would be actively sought and encouraged to gain the widest possible acceptance of the results and findings of the project upon completion. State suggestions for reclamation research and related studies would be supported and coordinated with the project. Such a project would provide a demonstration of the cost-effectiveness of several alternative and advanced reclamation techniques for returning the land to beneficial uses. A convincing demonstration of successful land reclamation could help mitigate land- and resource-use conflicts between surface mining and other economic activities on Federal, state and private lands. This would facilitate development of coal resources in a manner that assures both environmental quality and continued productive use of the land.

As our efforts at this very early stage only involve feasibility studies of several concepts, we did not consider it of sufficient impact to warrant contact at this time with congressional delegations. This would, of course, be done at future stages of consideration if it were determined that the projects should be pursued. However, in response to your stated interest in the reclamation project, I would be happy, along with the Project Officer of this particular study, to meet with you or your staff to discuss further details. Be assured that we will keep you informed of any further developments concerning this project.

Sincerely,

EDWARD B. GILLER,
Assistant General Manager
for National Security.

TUSSOCK MOTH—A CALL FOR CONTROL

Mr. CHURCH. Mr. President, recently the Environmental Protection Agency conducted hearings on the possible need to utilize DDT in controlling the Douglas-fir tussock moth. This insect threatens to devastate 125,000 acres and more of Idaho timberlands. The timberlands of Oregon and Washington have already suffered tremendous damage. I submitted testimony to the hearing officer on this matter and I ask unanimous consent that the testimony be printed in the RECORD.

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

STATEMENT BY SENATOR FRANK CHURCH TO THE ENVIRONMENTAL PROTECTION AGENCY

Mr. Chairman, outbreaks of the Douglas-fir tussock moth have occurred in Idaho forests in times past. On previous occasions, however, the managers of our national forests and private and State woodlands have either witnessed a collapse in major infestations or fought back by applying chemical controls, principally DDT. Today, 125,000 acres of Idaho timberlands are plagued with the tussock moth. From all available evidence, the epidemic has not subsided, yet the control agent which can prevent an outright disaster cannot be utilized.

This muzzled response to so serious a problem derives its origins from the Environmental Protection Agency which is authorized by Congress to allow or disallow the use of pesticides.

The task given the E.P.A. by the Congress is no easy job. It was never meant to be. Those of us who have witnessed the senseless deprivations done to our natural surroundings sought a means by which to prevent unnecessary scars to the Earth from being inflicted without thought or worry. The National Environmental Policy Act

(NEPA), and subsequently enacted legislation which further defines national policy, was Congress' response to a growing awareness by a citizenry who demanded some form of protection. I supported the formation of these laws. We only have one Earth and it was apparent to me that something had to counter-balance a short-sighted attitude which permitted the polluting of our streams and lakes, the defiling of the air we breathe and the erosion of our lands. I continue to support the concept from which NEPA and other such laws were derived.

However, the key to administering these laws, it seems to me, must originate from the same attitude by which Congress first enacted them. That is, a balance must be found between protection and utilization. The E.P.A., charged with finding this balance, must not, cannot, lose sight of the fact that the American people will weigh the fairness of the decisions made in the offices where you work.

If this Agency is wrong, for example, in not granting permission to utilize DDT in controlling the tussock moth, Idaho, like Oregon and Washington, could suffer tremendous damage. And, in the emotional furor which could follow so disastrous a decision, I fear we would lose much of what NEPA and subsequent legislation was designed to accomplish. Congress could, after the fact, enact legislation calling for the use of DDT and thus set a precedent for further intervention into those areas designed solely for the expertise of your Agency. I say this not as a threat but as a reminder of the basic mission mandated for the E.P.A.

Thus, in attempting to reach the balance I spoke of earlier, the decision to use DDT must be based on facts and on what is to be gained and lost.

The facts are documented. The tussock moth in the caterpillar stage damages fir trees by eating their needles. It is now estimated that some 690,000 acres in the states of Washington and Oregon and 125,000 acres in Idaho are infested with the moth. As much as 1.5 million board feet of mature Douglas and white fir trees may have been destroyed since the epidemic began in 1971. This Agency denied a request in April, 1973, to use DDT on an "if needed" basis, stating at that time that the risks in utilizing a chemical which persists in nature for a long time outweighed the benefits.

A major factor in this decision was the belief shared by the U.S. Forest Service and other Federal and State agencies that the moth population would, after three years, collapse naturally as the result of a cyclical virus. The massive outbreak of the virus needed to control the moth did not occur as expected. While there are promising methods of control on the horizon, to date, the only effective and proven method for stopping the tussock moth is DDT. Congress has appropriated additional funds for research into effective control methods but the simple fact is that the problem exists now with only one proven control.

If the epidemic continues unabated this coming spring it is estimated that more than 800 million board feet in Oregon and Washington will be killed and 35 million board feet in Idaho. An underestimated additional volume will be destroyed by defoliation and bark beetle, the tragic aftermath of such an infestation.

The Forest Service has re-applied for contingency use of DDT in controlling the insect. Every indicator now points towards a continued infestation in 1974. If, together with a final biological evaluation of the infestation, including egg mass counts and the degree of larval mortality expected from the natural virus, it is determined the epidemic will continue, then this Agency must grant appropriate relief.

Our problem in Idaho is made more seri-

ous by the fact that, for all we know, the epidemic may be in its first year in our affected counties. This means the virus is just beginning and will be of little control in Idaho forests. This situation, I believe, calls for special consideration by the Forest Service and the E.P.A. when the final decision is made. And, one point should be made very clear, the predicted collapse, which did not occur, is testimony to how little is really known about the tussock moth.

I began my discussion with a plea for rationality. If we are ever to hope for a balance between continued economic progress and protection of our natural resources, then the two cannot work at odds with one another. Indeed, I've always maintained that both can live harmoniously. An editorial by Alice Moore of the Lewiston Tribune sums up very nicely the balancing factor about which I've been talking. I would like to share her comments with you and thus, I ask that the editorial appear at the end of this statement.

There is no question that even the most careful application of DDT—and the Forest Service has already assured the public that DDT will be used only as a last resort and only under very controlled circumstances—will have some adverse effect on that which we have sought to protect. On the other hand, without the use of this chemical, there may well be nothing left to protect.

THE DEFENSE BUDGET: WHY MORE NUKES?

Mr. SYMINGTON. Mr. President, I ask unanimous consent that an article by Walter Pincus, executive editor of the New Republic, entitled "Why More Nukes" be printed in the RECORD at the close of these remarks.

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

(See exhibit 1.)

Mr. SYMINGTON. Mr. President, anyone truly interested in the worldwide defense posture of the United States and the tremendous increase in this year's defense budget request, will also be interested in this extraordinary article. It is based on facts about the military utilization of this revolutionary new force that have never before been presented to the public in any article. It dwells on some of the theoretical multibillion dollar "pipe dreams" that even a casual investigation will demonstrate are either unnecessary or unwise from the standpoint of any true national defense.

EXHIBIT 1

WHY MORE NUKES?

(By Walter Pincus)

The Defense Department is talking seriously of developing a low-yield nuclear weapon that would kill enemy troops—and anyone else in the battle area—through enhanced neutron radiation. At a congressional hearing in April 1973, Dr. Harold Agnew, director of the government sponsored University of California Los Alamos Scientific Laboratory, described what would happen to anyone who got a substantial neutron dose: "In a very short time he would become very ill and would be incapacitated; in a day or so he would be dead." The proposed neutron weapon is only one of a new generation of low-yield tactical nuclear bombs, missiles and artillery shells that government laboratories have designed or are developing for battle use. If these weapons are produced and placed in the hands of American troops in Europe, they could have a substantial impact on both the Russians and our European allies.

The current nuclear stalemate that deters a major war rests in good part on mutual fear that any initial resort to an atomic weapon would automatically trigger escalation. The argument for these new "mini-nukes" is that because they are small and accurate their use by the US or its NATO allies would not bring on a Soviet nuclear response. As Gen. Andrew J. Goodpaster, supreme allied commander in Europe and a prime supporter of these weapons said recently: "If we were to apply in a controlled way limited numbers of nuclear weapons sufficient simply to stop [a large-scale non-nuclear Soviet attack on Western Europe] and impose costs and losses on their attack echelons, my own feeling is that the probabilities would be much less than even that they would immediately carry that to all-out nuclear exchange involving their own homeland."

Who's pushing for these small nuclear weapons, and thereby seeking to change the present nuclear standoff? What discussions and debates preceded the decision to develop them? Where was Congress? What role has the public in such a decision? How is nuclear weapons policy made?

Few things are as closely held within the government and Congress as policy on nuclear weapons. In 1969 while serving as chief consultant to a Senate Foreign Relations subcommittee chaired by Sen. Symington, I learned that. Touring Europe and the Far East, investigating US military facilities and programs, I asked in each country about the presence of our nuclear weapons—what kind there were, what were their missions, who knew about them. A pattern formed itself. We had more nuclear weapons and more varieties of them than I had imagined. And they were closer to the borders of the Soviet Union and other Communist countries than I had thought. It gave me a somewhat different perspective on the US response to the threat of Soviet missiles being sent to Cuba.

Some of our nuclear weapons were mounted on fighter bombers in countries bordering Russia. The pilots were not American, but from the host country. These planes were on 15-minute alert at the end of runways, prevented from taking off only by a fence, an American guard and knowledge that without an American turning some dials on the bomb, the weapon would not be armed. Likewise in two Far East countries US-piloted F-4 fighter bombers armed with nuclear weapons stood at the end of runways on 15-minute alert. Against whom? we asked. At a secret Pentagon briefing we were told the host countries initially had permitted us to station F-4 squadrons; that F-4s could carry both conventional and nuclear weapons; that F-4s were most cost effective when nuclear armed and the most efficient mode to be so armed was on 15-minute alert. In just that offhand manner serious nuclear weapons policy was made.

A few of our ambassadors professed not to know nuclear weapons were in their areas. In one instance nuclear bombs were stored in a foreign country without the knowledge of that country's president. One US Army officer in command of a nuclear weapons depot in the Far East described joint exercises with the host country army using dummy nuclear weapons, although we had no agreement with that country on sharing such weapons. What was being done violated provisions of the Atomic Energy Act.

The information gathered on those field trips raised concern among Foreign Relations Committee members. But they were unable to follow through in any detail. At first the Nixon White House threatened to invoke executive privilege on all nuclear weapons questions. Then, after one briefing on the worldwide location of these weapons, the administration position changed. All such information would in the future only be given

to the Joint Committee on Atomic Energy. Sen Symington in 1972 became a member of that committee, and last year he was named chairman of its military applications subcommittee. Picking up the questions first raised in 1969, Symington went on to examine defense nuclear policies, publishing late last year the first declassified nuclear weapons hearings. Those hearings and another last month give us the first detailed information on nuclear weapons development. They also offer a background for understanding the new proposals.

Most discussion of nuclear weapons focuses on the ones we term strategic—Titan II, Minuteman II and Minuteman III missiles buried in launch sites within the US; the Polaris, Poseidon and the in-development Trident submarine sea launched missiles; and our fleet of B-52 and FB-111 bombers—150 of which are always on runway alert—all of them equipped to carry a mix of nuclear bombs. How much a destructive power does this represent? One of our newest nuclear bombs—the B-61—has several yields; a dial on its side lets you choose how big a blast you want. Its highest yield is over 200 kilotons. That must be compared to the 14-kiloton atomic bomb which leveled Hiroshima. One B-52 can carry four such bombs. Put another way, the weapons in our nuclear stockpile have a possible yield of several billion tons of TNT; all the bombs dropped in Europe and the Far East during World War II, except for the two atomic bombs, amounted to two million tons.

Along with what we term our strategic nuclear weapons, we have another large group—the tactical weapons. These include not only nuclear bombs such as the B-61, for fighter bombers, but also land-based mobile missile systems such as the Pershing, which can fire up to 400 miles and has a warhead with a yield over several hundred kilotons. Two other shorter range, older missile systems have nuclear warheads—the Honest John and the Sergeant. They are being replaced slowly by the Lance, which has a warhead with three different nuclear yields and a range of anywhere from about three to 80 miles.

In addition the army also has two pieces of nuclear-capable artillery—the 155-millimeter and somewhat larger 8-inch guns. Then there is the controversial atomic demolition mine (ADM), a device planted before an oncoming invader and ignited, causing enormous crater to stop tanks and land eruptions to close off mountain passes. Europeans, West Germans in particular, have not permitted any holes to be dug to plant these. There are also nuclear anti-aircraft weapons with kiloton yields, and the navy has some 2000 nuclear anti-submarine weapons including torpedoes, depth bombs and underwater rockets.

Until a few years ago the production of nuclear weapons was primarily based on high-yield technology developed almost 20 years earlier. But American military men, particularly those in Europe, have been increasingly uncomfortable with high-yield tactical nuclear weapons which they feel they could never fire. Our NATO partners for their part have always been uneasy about planning for a war in which US tactical nuclear weapons could devastate their countries.

Meanwhile laboratories run by the Atomic Energy Commission and the Defense Department have been exploring new forms for nuclear weapons. A navy developed glide bomb called the Walleye was taken by one AEC lab and provided with a limited nuclear capability. Since the Walleye was a TV guided bomb with great accuracy, the successful teaming of it with a low-yield nuclear charge began the general movement toward a new generation of weapons. The army picked up the idea for its smaller mini-nukes and shortly thereafter generated a rationale

for them. "Achievable new weapons of lower yields and of greater accuracy," Gen. Goodpaster told Symington's subcommittee last June, "could increase military effectiveness while reducing possible collateral damage, thereby increasing their utility as well as the acceptability in NATO planning and for employment in the NATO countries and the adjacent areas in which they would most likely be used." At a hearing two months earlier, Maj. Gen. Frank A. Camm, the AEC's assistant general manager for national security, was enthusiastic about the future of mini-nukes in the event of a war with the Soviet Union in Western Europe. An artillery officer who strongly believes in making new nuclear shells for the 155-millimeter and 8-inch guns, Gen. Camm stated, "... the yields of the nuclear artillery projectile are very much smaller than the bombs or missiles that we are using at longer ranges. Therefore, we are much less likely to inflict serious damage in the area we are fighting in than if we use larger yield weapons. . . . You don't leave radiation on the ground. You burst them in the air. The blast and radiation on the ground. You burst them in the air. The blast and radiation damage the target you are hitting. Then you can move right through the area immediately because they are airbursts. . . . Airburst minimizes any residual effects that might remain on the ground."

Nuclear weapons are now being discussed as if they were no different from any other weapons. At one point, Maj. Gen. Edward B. Giller argued the mininukes might be less damaging than conventional weapons: "for instance, the [conventional] artillery barrage might create more casualties on some targets than a single, small nuclear weapon."

Abetting the military in the promotion of the new nuclear weapons are the AEC laboratories that developed them. Los Alamos Laboratory director Agnew was asked why the neutron bomb that incapacitated people had not been more fully exploited. "I really don't know why people have not thought more on the use of these . . . weapons. It may be that people like to see tanks rolled over rather than just killing the occupants." But Mr. Agnew assured his questioner, "I know we at Los Alamos have a small, but very elite group that meets with outside people in the defense community and in the various think tanks. They are working very aggressively trying to influence the Defense Department to consider using these . . . weapons which could be very decisive on a battlefield, yet would limit collateral damage that is usually associated with nuclear weapons."

Dr. Carl Walske, assistant to the Secretary of Defense for atomic energy describes studies done at Los Alamos and the Lawrence Radiation Laboratories that sought to find nuclear artillery shell yield specifically for use in less populated areas of Europe. "These are somewhat spongy figures," Dr. Walske told the Symington subcommittee in setting out a range of nuclear weapon yields that he said, "can be militarily effective, decidedly effective and which can be used between villages, if you like, as you find them in the density that they occur in Europe."

In 1973 the AEC and Defense attempted to start manufacturing their first new mininukes—new artillery shells for the 155-millimeter and 8-inch guns. The program was to cost over one billion dollars. When objections were raised in Congress costs were immediately cut in half. When objections persisted it was announced that most of the expense of the new shells would be recovered by selling the uranium in old shells that would be replaced. At one point Gen. Goodpaster even suggested that nuclear "material that can be obtained from the old 8-inch shells would in fact more than pay for a one-for-one replacement."

Cost, however, was not the only congressional objection to the program. Several senators and representatives joined Symington in asking why nuclear artillery was needed at all. Sen. Pastore, chairman of the Joint Atomic Committee, became concerned about the weapons after a trip to Europe, where he saw how close they were to the border. He feared they would be quickly overrun in any Soviet attack. In response Gen. Goodpaster said that if necessary the weapons could be moved back. Rep. Chet Holifield, upon being told the artillery had a range of 18 miles said, "I think it is a dangerous thing to have this type of opportunity for provocation to start a full-scale nuclear war. I think that goes for the demilitarization bombs [ADM] too. . . . It seems to me that we are really playing chocolate soldier on some of these things."

Congress late last year knocked out \$15 million sought by the AEC to start the modernization program for nuclear shells, but the money is expected to be back in the new budget. Never at a loss for rationales, the AEC came up last month with a new one for weapons modernization security. The AEC has got a new electronic system that would immobilize a nuclear weapon if it is seized by someone unfamiliar with how it should be handled. The new system was designed in the wake of terrorist activities and a fear that someone might try to steal a weapon. We can expect the AEC to argue that old nuclear artillery shells should be replaced because they cannot be made totally secure from theft.

Next month the Symington subcommittee will break further new ground by holding the first public hearings on nuclear weapons. The focus will be Europe, the nuclear weapons the US has there and their future status. The first witness will be former Defense Department officials from the Johnson administration, who will be followed by Secretary of State Henry Kissinger and Secretary of Defense James Schlesinger. The "unthinkable" subject is finally getting publicly aired.

LITHUANIAN INDEPENDENCE DAY

Mr. NELSON. Mr. President, today commemorates the 56th anniversary of the establishment of an independent Lithuania. The very brief time—less than a quarter of a century—that the Lithuanian people enjoyed the privilege of living in independence has left an important impression on the Lithuanian people. And the years of Russian domination and German occupation have made their love of freedom all the more keen.

Lithuania has been known to history for almost a thousand years. During the middle ages, education, and religious toleration were encouraged, and as a result the people of Lithuania enjoyed more freedom than her neighbors in adjoining areas. Her people have been strong in faith and spirit surviving as a cultural and political entity during long periods of foreign domination. This spirit has repeatedly overcome outside attempts to replace Lithuanian language and culture with those of alien societies. To this day, Lithuanians have proudly resisted outside pressures and remain faithful to their language, tradition and religion.

February 16, 1918, is a proud day in Lithuanian history. On that day the Lithuanian people proclaimed independence of their state founded on democratic principles. During the period of independence, great strides were made toward the betterment of her people. Plac-

ing emphasis on improving the nation's primary occupation, agriculture, through land reform, Lithuania became a nation of small farmers. As she industrialized and expanded her railroad system, she advanced progressive social legislation including the introduction of the 8-hour day, labor control laws, and various other social measures to improve the life of her people.

Today, Lithuania is under Soviet control, but history has proven that national spirit cannot be absolutely conquered nor aspiration for freedom and basic human rights long extinguished.

In keeping with sacred principles carefully guarded, the United States continues to recognize the independent Lithuanian government and affirms her right of self-determination.

Mr. President, I take pride in joining with my colleagues today in the U.S. Senate in saluting the Lithuanian people on this important day in their history.

CREDIT FOR THE POOREST OF NATIONS

Mr. McGOVERN. Mr. President, it is my hope that the Senate can somehow come to the rescue of the poorest among the family of nations in the wake of the decision by the House of Representatives earlier this month not to fund the International Development Association of the World Bank.

This action by the House could not have come at a more inopportune time.

With the increased cost of petroleum to the less developed countries estimated at \$9 billion to \$10 billion this year, as a result of sharp increases in the price of Middle East Oil, these nations will have an urgent need for more, not less, capital.

I have met on two occasions during this past week with our Ambassador to India, Daniel Patrick Moynihan. His description of the possible impact of the world energy crisis on just that one country is chilling. The projected shortfall of nitrogen fertilizer, critical to the Indian Government's efforts to increase its country's food production, portends a shortage of cereal grains that could lead to famine on a scale we have not seen in our lifetimes.

The Nation, in its February 9 issue, published a brief editorial which describes the situation concisely. I ask unanimous consent that it be reprinted in the RECORD, and that my colleagues read it with care.

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

LET 'EM EAT GRASS

People are dying right now in India, Bangladesh and sub-Saharan Africa of malnutrition and its related scourges; sub-Saharan especially is on the verge of mass starvation. President Nixon proposed action by the U.S. Congress to aid these and others of the poorest countries through the World Bank's International Development Association. The House killed the bill by 248 to 155, with 108 Democrats voting for a measure of relief and 118 against; only forty-seven Republicans supported Mr. Nixon; 130 voted against him and the millions who are within weeks or months of starvation. Robert S. McNamara, president of the World Bank, has issued a

rare public protest against this action by the House, which contrasts with the willingness of other industrialized nations as a group to increase their "soft" loans from 40 per cent to 66½ per cent of the total aid, enabling the United States to reduce its contribution from 60 per cent to 33½ per cent.

This action, not only heartless but stupid, is taken while the United States is contributing a smaller percentage of its gross national product than are fourteen of the sixteen most prosperous countries, and while we are still contributing at least \$1 billion annually to keep Nguyen Van Thieu in office in South Vietnam. To add to the outrage, inflation has reduced the value of the World Bank's soft loans by 30 per cent in the past few years. Worse, the whole structure of international aid is endangered, since all the commitments are conditioned on other nations meeting their commitments.

For a change, media like *The Nation*, which detest Mr. Nixon for his demeaning of the Presidency, can say a good word for him, although his support of the aid measure was only lukewarm. Mr. McNamara, Dr. Kissinger and Treasury Secretary Shultz were much more vehement. They are now trying to revive the aid measure by action in the Senate. A barrage of protest fired by enlightened citizens at their Representatives would help.

WASHINGTON ENERGY CONFERENCE

Mr. KENNEDY. Mr. President, next Monday, the Secretary of State will convene an important meeting here in Washington to begin discussions on international cooperation in energy. Invitations have been sent to Canada, Japan, Norway, the nine members of the European Community, the Community's Commission, and the Secretary-General of the Organization for Economic Cooperation and Development—OECD.

This committee of 15 designed to include foreign and finance ministers plus responsible officials for energy as well as science and technology, represents the first stage in Dr. Kissinger's Energy Action Group. This is an ambitious undertaking, designed to create ways and means of planning for a new era in energy relations among all the nations in the world. If the Energy Action Group succeeds, we can look forward to a future of cooperative arrangements and shared prosperity; if it fails, we will likely see a growth of divisive competition for scarce resources, a confrontation between oil producers and consumers, and the onset of international anarchy in energy markets.

The stakes are high. As a result, the meeting next Monday, and all subsequent efforts to forge cooperation, must be carefully prepared and skillfully executed.

I have serious reservations about the approach being followed. Despite reassurances by the Secretary of State, the absence of oil-producing states from the conference will at best delay effective cooperation with them, and at worst make it more difficult to achieve. No developing countries have been invited. And no place has been set on the agenda for discussing the economic incentives needed to induce the oil-producing states to increase output and lower prices.

As I will spell out in detail, next week's energy conference should move quickly to involve the producer states in discussing four sets of economic incentives:

technical assistance for development; effective business involvement; stimulating the use of oil money as foreign aid; and encouraging oil money investments in the industrial states.

This first meeting has been limited to the major consuming nations. In itself, this is a risky approach. On December 6, I proposed the convening of a world energy conference, under the auspices of the United Nations, to include both producing and consuming nations. I did so because of the stark reality of energy markets today: That the concentration of the world's exportable oil in a handful of countries requires cooperation and forbids confrontation. Only by working with these exporting countries—not against them—can we in the oil importing states expect to gain the supplies we all so desperately need.

I have therefore welcomed Secretary Kissinger's proposal for an Energy Action Group, but have repeatedly warned that it must be directed toward relations between producers and consumers, not solely toward relations among consumers alone.

To be sure, all consuming States must work together, to avoid being played off against one another by the producers, as is happening at the moment. In the long-run, bilateral agreements to secure oil, like those entered into by Britain, France, and Japan, could require all of us to pay higher prices, and could have a divisive effect on Atlantic, Pacific, and European Community relations that are already in disarray.

But even the most comprehensive efforts at cooperation among consumers are not now likely by themselves to have a decisive impact on the price of oil in world markets. Some price reduction may take place if and when the current embargo and output restrictions end: some will take place in the future when alternative sources of energy are available elsewhere in the world. But a substantial decrease in prices is only likely to take place—if at all—if the oil-exporting nations see it in their long-term interest for this to happen. Even if today's cooperation in OPEC breaks down, there will not be enough surplus oil in world markets to force the price down as the result of trying to play one producer off against the others.

At the same time, the world's oil-importing states are concerned about the amount of oil that enters international markets. The current embargo against the United States and the Netherlands is only part of the problem. Even more serious for the health of the international economy as a whole are the restrictions that most Arab oil producing states have placed on output. Even when the embargo is lifted—even when oil is no longer used for political purposes—there will be no guarantee of increased oil production. This can only be guaranteed if it is in the self-interest of the exporting states.

The meeting next week on energy thus has two top priorities: First to gain what consumer cooperation is possible without confronting the producer states; and second, to begin providing those incentives required for the producing states to induce both lower prices and higher output. If all goes well, next week's meet-

ing may help achieve the first objective, while avoiding its pitfalls; but the agenda includes nothing that will help achieve the second—and more pressing—objective. In the reported U.S. agenda, relations with producing states have been relegated to "follow-up procedures," almost as an afterthought.

It is not surprising that grave misgivings about this meeting or its scope have already been expressed by several producer states, by the Organization of Petroleum Exporting States, and by Japan, France, and now by the European Community nations as a whole. The European Community has formally opposed the creation of a "permanent organization"—the heart of the Energy Action Group idea—in part because oil-producing states will not be immediately involved.

These misgivings show the difficulties that will face the assembled ministers, and the uncertainty that any cooperation they agree upon will have the desired effect of easing the worldwide energy crisis.

As organized, the meeting of major oil-consuming states has one other serious defect. This is the absence of any representatives from the developing world—from countries representing the majority of the world's people, who are hardest hit by the rising price of energy. India, for example, has announced plans to cut petroleum imports this year by 60,000 barrels a day—more than one-sixth of its import requirements. This means less fertilizer, less food, paralysis in economic development, and even the threat of widespread starvation. And this pattern is being repeated in country after country of the developing world.

Because of this new crisis, coming on top of already staggering problems for the poor countries, I suggested on January 10 that at least one—India—and preferably more—of the major developing countries be invited to next week's energy meeting, where they could speak for themselves about their own energy crisis and the need for international effort to resolve it. This has not been done, thereby reinforcing the image of this meeting as a "rich-man's club" that is insensitive to the needs and interests of developing nations, whether or not they have oil.

A tentative agenda for the energy conference has been reported. It provides for the setting up of working groups and consideration of six aspects of consumer-state cooperation:

- Demand restraint and conservation;
- Developing alternative sources of conventional fuels;
- Emergency allocation of energy;
- Guidelines for bilateral oil purchase agreements;
- Cooperation in research and development; and
- Intensifying economic and monetary policy cooperation to deal with the consequences of the present situation.

These are all critical items to be discussed, especially the need for each nation—including the United States—to consider sharing of energy resources in time of difficulty.

But the agenda must go much further, and consider from the outset those steps that can be taken by the world's

major industrial nations to promote the flow of oil at reasonable cost from the OPEC nations.

Despite the economic leverage that the OPEC nations have today, it is clearly not in their interests to bring on a worldwide recession—or worse—as the result of high prices and restricted oil output. Their hopes for economic development would be shattered; they would surely suffer as much as other nations if serious damage were caused to the economies of developed nations, or if one or more major developing-world economies actually collapsed.

If we in the oil-importing states wish the OPEC nations to act on this definition of their self-interest, we must be prepared to act as well. That means recognizing the new importance of the oil-producing states in world councils considering the reform of the trade and monetary systems. It means beginning a process of continuing consultations on the future of the world economy and the place that OPEC nations could play in it. It means establishing a practice of high-level exchanges of leaders between the industrial states and the oil producers, as countries like France and Japan—but not the United States—have already recognized. And it means continuing to demonstrate that the economic health of all the world's nations continues to be in our interest.

In this regard, it was regrettable that the administration recently failed to support the replenishment of funds for the International Development Association, despite painstaking negotiations on the proper role for the United States to play in this World Bank effort to help the "poorest of the poor." Because the administration turned its back on its own legislation, it was defeated in the House by a vote of 248 to 155 on January 23.

For us in the United States, this was a small piece of legislation. But for the rest of the world, it was far more significant, because it demonstrated that the administration is not committed to the kind of worldwide cooperative effort that it is expecting from the OPEC countries. Yet the evidence is clear: we cannot expect the oil producers to share responsibility for the economic fate of both rich and poor countries, if we in the United States are now going to abandon our long-standing role in aiding developing countries.

Mr. President, the United States should use this first meeting on energy cooperation to show that it does understand the need to consider producer-state interests as well as those of the rich consumer-states. It can do this by adding an important item to the agenda, and by proceeding immediately to bring OPEC states into any conference working groups or other institutions that may be chosen to work on these problems. This item involves the ways and means of promoting the flow of oil, and of convincing the oil-producers that their interests will be best served by prices that are lower than at present. To this end, four approaches should be discussed directly with the producer states, and in accordance with their interests:

First, a means to provide technical as-

sistance and training to those oil-producing states that critically need them for their economic development, even where they have no need for outside capital. This technical assistance could be organized through the World Bank Group or other institution, on a cash basis.

Second, an organized way of promoting business opportunities in the oil-producing states. This includes their being able to evaluate the opportunities presented to them, and having markets for the goods they produce as they diversify their economies. For a number of oil-producing states, entry into petrochemicals is desirable both from their perspective and from that of the rest of the world. One of the critical shortages in the world today is fertilizer—which must be produced in much greater amounts if there is to be any hope of success in the Green Revolution and in ending the threat of malnourishment—and even starvation—that is now hanging over so many of the world's people. The oil producers can make up those shortages; but they must have our help.

Third, a means of coordinating the transfer of development capital from the oil producers, both to other Arab States and to poor countries throughout the world. The OPEC nations already have development banks to achieve this purpose but still lack the appropriate means to make development assistance effective, even where they have the will to provide it.

The working groups of the Energy Action Group should also consider industrial state guarantees for oil state investments in the poor countries, in order to stimulate them to undertake investments that otherwise could entail unacceptable risks and uncertainties. And the United States must show that it, too, remains committed to the goal of economic development, as regrettably the administration did not when it failed to support IDA replenishment.

Fourth, a clearinghouse for advice and expertise needed to promote large-scale oil state investment in the industrial world, including energy research and development. The oil-producing states must also be actively engaged in devising means to handle the radical changes now taking place in the flow of foreign exchange because of rising oil prices. The system will work only if all countries involved in it have an active part in shaping it.

Mr. President, these are only a few of the steps that need to be taken by the Energy Action Group if its efforts are to have a real chance of success. Every passing day increases suspicion on both sides of debate between oil producers and consumers; every passing day increases the incentives for individual consumers to make separate deals, unmindful of the demands of the world economy as a whole; every passing day deepens the energy crisis of the developing countries, which only cooperation between producers and consumers can end.

From the point of view of the United States, next week's meeting on energy must also not be seen in isolation. The problems in our relations with Europe and Japan—which have impelled the ad-

ministration to call only the industrial states together at this time—did not begin with the energy crisis, nor will they end if that crisis is successfully resolved. For several years now, the administration has neglected our essential partnerships with the European community and with Japan. And only by once again understanding the importance to us of these partnerships—and of the economic health of our partners—can we begin to shape the world of the 1970's to our mutual benefit.

Energy cannot be isolated from monetary relations, from trade reform, from diplomacy that has emphasized relations with China and Russia without due regard for adequate consultations with old allies, or from the entire compass of U.S. foreign policy in these difficult times. Thus it will be pointless for us to host next week's energy conference, unless it represents a rebirth of concern for the other great industrial centers of the West, not in opposition to the objectives of détente and a new structure of world peace, but as an essential support for them.

Finally, we in the United States must be clear about our attitudes as we enter the search for energy cooperation. If we see this undertaking as an isolated event, designed only to tide us over a single crisis, we will find ourselves unprepared for other difficult challenges ahead, in the overall restructuring of our economic relations with the outside world.

I am particularly concerned about our attitudes toward Project Independence—the desire to return to energy self-sufficiency here in the United States. Doing what we can to be self-sufficient will be to the benefit of all nations, by reducing worldwide competition for energy resources and making it possible for the United States to share its abundant wealth of resources like coal. This is all to the good, and will be welcomed both here and abroad. But if we see Project Independence as a way of retreating from the world—as a way of erecting barriers between ourselves and the world economy—then it will be doomed to failure. For there is no more obvious fact in America's changing foreign policy than our essential involvement in the outside world. We cannot have an economic fortress America, just as we found a generation ago that we could no longer be isolated from the great political currents that were and are shaping the world.

Mr. President, if we go into these talks next week with a clear understanding of our new place in the world, and with a clear commitment to the search for genuine cooperation with energy importing and exporting states alike, we shall once again prove equal to the challenge. The rest of the world is looking to us to take the lead.

A NATIONAL ENERGY POLICY FOR AMERICA

Mr. McGOVERN. Mr. President, in view of the present energy situation, we must consider ways to improve our institutions that have as their primary purpose service to consumers of energy. One of these institutions, the rural electric cooperative, has proven to be an

effective servant of farm and rural consumers through several decades of experience.

Tony T. Dechant, national president of Farmers Union, reminds us in a recent address that now is the time to strengthen the operations of the rural electric cooperatives in the generation, transmission, and distribution of electrical energy. As he points out, the rural electric cooperative represents a private, nonprofit force in the energy field which, if strengthened with larger, Federal low-interest loans and other assistance, could serve as a more formidable yardstick and competitor to the investor-owned, private electric utilities and more indirectly, to other profitmaking corporations in the energy field as well.

Dechant presents his recommendations on electric cooperatives in the context of a broader national energy policy. As chairman of the Subcommittee on Agricultural Credit and Rural Electrification, I commend his address and ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

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

A NATIONAL ENERGY POLICY FOR AMERICA

I am delighted to be here today. This occasion gives us an opportunity to renew our common interests and aspirations, and there is no better time for a mutual sharing of views.

Of course the common interest of Farmers Union and rural electric cooperatives revolves around the hub of electrical power for farm and ranch uses. Farm families are, and will continue to be, heavily reliant upon electricity for home and agricultural uses. And our cooperatives, here in Colorado and across the country, must remain strong to supply the needs of our farm families.

While electricity is the hub which most sharply defines our mutual interests, today we must broaden our vision to encompass all of the spokes in the wheel of energy that moves the economy and social life of the United States.

Electricity cannot be considered alone. Other spokes in the wheel include petroleum and coal, as well as non-fossil sources such as geothermal, solar, and nuclear energy.

We must develop a comprehensive and coordinated national energy policy.

Such a policy must not be guided by narrow vision that is indifferent to the impact on other important values. If, for instance, we destroy thousands of acres of midwestern farmland by strip mining to produce electricity from coal, we might win the battle for electrical energy to power our farms but would lose the war for survival of the farms and the farmers themselves.

An energy policy must comprehend our need for prosperous farmers and productive farmland, not only for fossil fuels. Food, after all, and the human energy that only food can sustain, is the ultimate and unique energy source on this planet.

I, for one, am confident that we have, or can develop, sources of power for the United States adequate to meet our full needs, without sacrificing farms and other essential values. However, we cannot do it unless we have a comprehensive energy policy.

What are the elements of such a policy?

First, we must enact legislation to assure effective price controls on petroleum and petroleum products.

About one-half of the nation's crude oil supply is now exempt from price controls. About 35 percent of our total oil supply is imported, and another 15 percent is either considered "new" oil under existing price

regulations or comes from small, stripper wells. All of this oil is exempt from controls.

The other half of crude oil is not really subjected to effective controls. Because of the integrated operations of the major oil corporations, there is often no actual sale of crude oil to a refinery, where the price could be controlled. More fundamentally, lack of effective controls is due to the inadequacy and unreliability of information on the integrated oil corporations' input costs reserve stocks, and other industry data.

The profits of the major, multinational oil corporations have soared. The Wall Street Journal reports that 1973 profit gains of the major corporations average about 45 percent. Exxon has reported that its profits are up from \$1.5 billion in 1972 to \$2.4 billion in 1973 . . . a 60 percent increase.

Again, according to the Wall Street Journal, the net earnings per share of stock in Gulf Oil Corporation are up from \$2.15 in 1972 to \$4.00 in 1973 . . . an 82 percent increase.

These profits are obviously not being plowed back into new oil discovery and production. Much of the money is going into a mass media advertising blitz, designed to get the public to accept higher fuel prices as a fact of life. Some will go to stockholders . . . but mostly these are large, institutional investors including the oil corporations themselves.

There is nothing to keep the excessive earnings of the hydrocarbon conglomerates devoted to oil production at all, and to keep these earnings from being siphoned off into auxiliary operations owned by the oil conglomerates. For instance, Gulf Oil Corporation announced last week that it would acquire the 103-year-old Ringling Brothers and Barnum & Bailey Circus.

In short, it is truly to "close the barn door after the horse is out," to try to put together other pieces of an energy policy without first clamping down on prices charged for crude oil by the major, integrated oil corporations.

Second, we must defeat proposals to deregulate the wellhead price of natural gas by the Federal Power Commission. Removal of price controls by the FPC would be an open invitation for prices of natural gas to spurt upward.

Natural gas is an important feedstock in the manufacture of nitrogen fertilizer, which already has jumped in price by some 70 percent since fertilizer price controls were lifted October 25, 1973. Any increase in natural gas prices would push fertilizer prices even higher. And, of course, fertilizer is only one example of how higher natural gas prices affect farmers and other consumers.

Third, legislation must be enacted to mandate independent sources of information on petroleum and natural gas reserves and other aspects of the integrated petroleum industry.

In a real sense, access to reliable information is the foundation on which an effective energy policy must be built. It is impossible to have effective price regulations on crude oil and natural gas, unless sound data is available on the input costs of the integrated oil corporations and the petroleum and gas reserves controlled by the corporations.

The present efforts to formulate an energy policy must be compared to building sand castles at an oceanside while the tide comes in. Each time we get a bit of reliable information, it washes out basic assumptions on which policy has been formulated.

Indeed, although we know that we are depleting our fossil fuels over the longer run, we do not know whether the fuels shortage "crisis" of today is essentially actual or contrived.

That is why I have called for a full-scale, nationally-televised congressional committee investigation. This investigation must be held with the thoroughness with which the Watergate Committee proceeded.

Upon completion of its investigation, the committee would file a comprehensive report,

which would include information on reserves, integrated oil company costs and profits and other industry data. The committee would also recommend steps that must be taken to assure that the government and the American people have access to such information on a continuing basis, as well as measures necessary to make the oil industry more competitive and responsible to the public.

Fourth, legislation must be enacted to establish a Federally-owned corporation to find and develop oil, gas, and coal resources on public lands and in offshore areas.

Such a Federal corporation would be patterned after the Tennessee Valley Authority, which we all know has proved highly successful in the electrical energy field.

The Federal corporation should be authorized to carry out at least the following functions:

Explore for and develop public oil, natural gas, and coal resources to meet national fuel needs;

Develop oil and gas in ways that will have the minimal adverse impact on farmland and other elements of the environment;

Provide complete and accurate information about the actual costs of producing oil and gas;

Maintain national petroleum reserves for usage in periods of tight supply;

Provide a competitive yardstick to the privately-owned petroleum industry, comparable to the way that the TVA operates in the electrical energy field.

Fifth, in addition to the Federal corporation, we must take new initiatives to strengthen cooperatives that are engaged in energy production and distribution. I have in mind the consumer-owned rural electrical cooperatives that you represent, and cooperatives such as Farmers Union Exchange that are engaged in petroleum production and distribution.

Our cooperatives represent a private, nonprofit force in the energy field which, along with a TVA-type Federal corporation, can serve as a yardstick and as competitors to the major oil companies.

How can we strengthen our coops? Z. D. Bonner, President of Gulf Oil Corporation, recommended to a congressional committee in Washington last week the establishment of a special Federal banking institution to promote energy production. Specifically, Bonner recommended that the Federal bank make low-interest or government-guaranteed loans to the major oil companies to find and develop additional energy resources.

Mr. Bonner's suggestion makes sense in principle, provided that such government assistance is channeled not to the integrated corporations that already reap excessive profits, but to non-profit cooperatives. We of course already have such a "bank"; it is called the Rural Electrification Administration.

What is needed is more money . . . much more money . . . in the REA two percent loan program, so that rural electric cooperatives might strengthen their operations at all stages of energy production and distribution.

The five elements of a national energy policy that I have outlined to you obviously do not cover everything that is needed.

For instance, I have said nothing about the all-important mandatory fuels allocation regulations, on which we must rely to get fuel to farmers in the short run.

Nor have I mentioned the long overdue need for a massive, Federally-financed energy research and development program. Such a program has finally been enacted by Congress, and now must be fully funded if it is actually to do the job.

At the same time, I have outlined an enormous bill of goods, which will require an intensive, cooperative effort if it is to get through the Congress and implemented. My organization and your national organization, the National Rural Electric Cooperative Association, will be working together with

others toward this end. Your own involvement in that effort is required, if we are to get the job done.

Farmers Union also will work in 1974 to strengthen the 1973 Agricultural Act. We must increase the target price levels, make the escalator applicable for the 1975 crop year, and increase the feed grains paying allotment to at least 100 million acres.

In light of the runaway inflation in farm production costs, these minimal improvements must be enacted in 1974. We solicit your support for these improvements, so that we might sustain a viable agricultural economy for the rural electrical cooperatives to serve in the years ahead.

NATIONAL OCEANS POLICY STUDY

Mr. BIDEN. Mr. President, I am pleased to join my colleagues in sponsoring the national oceans policy study.

The necessity of instituting this study at this point should be beyond question. The ocean can supply us with many valuable resources—with food and recreation, with minerals and oil. All of these are in great demand and are likely to be in even greater demand as the future overtakes us. The means to satisfy real needs had best be found in a manner that will balance desires with environmental protection. Even today the desire for recreation, open space and shore preservation seems to conflict with deepwater ports and offshore drilling which some demand as necessary. Satisfactory solutions must be found. And these solutions must be rooted in more and better information. That, precisely, is what this study would provide.

The oceans also play an important role in international affairs—economically, politically, and militarily.

Economically, our lack of a clearly formulated set of oceanic policies has contributed to our balance of trade deficits, higher costs for imported goods, inflation, raw material shortages, and a number of related problems. Once again, adequate data and information are needed in order to formulate sound policies that would aim to provide viable policy alternatives to these problems.

Through this study we would hope to develop guidelines and information leading to peaceful relationships with other nations whose interest may or may not coincide with our own. We cannot afford to be selfish with information and technological ability. Any efforts can and must be aimed toward the creation of a structural, interconnected peace. As our oceans have served as natural barriers to aggression, so they should also serve as a starting point for continuing peaceful coexistence among the many nations who need the oceans services and resources.

On the domestic front, the reasons for this study are more readily apparent. For instance, our domestic catch of fish has remained constant since 1955, while demand has tripled. So now, nearly 65 percent of fish and fish products are presently being imported to meet this demand. In turn our international balance-of-payments deficit has plummeted to nearly \$1.3 billion.

The fees we pay for the use of foreign transport vessels also add to our balance-of-payments deficit, amounting to \$750

million or more. At this point, 5 percent of U.S. trade moves in U.S.-flag vessels.

Another aspect of this problem is the abundance of minerals available under the sea which we presently must import. For example, there are manganese nodules in abundance on the ocean floor, and there is evidence that they are constantly being renewed. The benefits of making use of this abundant resource are numerous, foremost of which is relieving our balance-of-trade deficit, while making this mineral more available in the domestic market.

My own State of Delaware is confronted with the problems for which this study is designed to provide some answers. Our coastal areas are being contested over by both environmentalists and industrialists; our shores are coveted by planners of deepwater ports and offshore drilling.

Delaware, much of whose border is water, is keenly in need of this study as is the Nation.

For the information and policy alternatives this study would provide, I strongly urge the Senate to support this resolution.

Mr. President, I ask also unanimous consent that an article appearing in Science magazine, entitled "Law of the Sea: Energy, Economy Spur Secret Review of U.S. Stance," be printed in the RECORD.

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

[From Science magazine]

LAW OF THE SEA: ENERGY, ECONOMY SPUR SECRET REVIEW OF U.S. STANCE

(By Deborah Shapley)

At the urging of the Treasury Department, U.S. officials preparing for the United Nations Law of the Sea conference are conducting a drastic reassessment of previously stated United States positions on issues ranging from offshore oil and gas development to international environmental policy.

The classified studies, begun last April, can best be described as an eleventh-hour reexamination of what this country stands to gain or lose economically in the conference. Officials close to the review acknowledge that it has been spurred in part by concern over the energy situation and the economic instability that has accompanied it.

This June, substantive negotiations toward an international treaty will get under way in Caracas; in fact, the Law of the Sea conference officially opened with an organizing session in New York last December. The reviews are looking at the stances put forth by the United States in preliminary negotiating sessions in New York and Geneva during the past 3 years.

The intense new examination of the economic and energy aspects of the Law of the Sea is said by several sources to have been urged principally by Treasury Secretary George Shultz and William E. Simon, Shultz's deputy secretary and the Administration's new energy czar. Officials stress that the reviews are not intended to scrap present U.S. negotiating positions and could merely turn into an exercise in "filling in the blanks" in these positions. But they do not rule out the possibility that, after close analysis, some tenets in the U.S. position could be discarded.

The Law of the Sea conference, if successful, will resolve fundamental questions of national and international jurisdiction in the oceans. The conferees are expected to extend the territorial sea, which is that narrow band of ocean along the shoreline

over which the adjacent country has complete control, from 3 to 12 miles. Doing this, however, would place under purely national control approximately 100 straits which the United States deems vital to its military and commercial interests.

The U.S. position has favored the 12-mile territorial sea only on the condition that those straits remain open.

In addition, the conference will attempt to reach a balance of national versus international rights in a wider offshore area that would be called the "coastal economic zone." This zone would start at the outer edge of the territorial sea, and extend to some still undefined limit—perhaps 200 miles offshore, perhaps to the edge of the continental shelf. The extent of coastal nation control over oil and gas resource exploitation, fishing, and scientific research is a major issue, since these zones are believed to contain most of the wealth of the world's oceans. Finally, the Law of the Sea conference will have to decide how to regulate pollution, fishing, and seabed mining in the fully international waters beyond the coastal economic zone.

The United States has tried to assume a role of world leadership in the conference since 1970, when it proposed a draft treaty for discussion. The draft, in the words of one expert, represented what was thought then to be "the best possible deal" for the developing countries, which constitute a majority of nations. Some of the provisions that were regarded as benefiting these nations, and thus came to be characterized as "internationalist," included two U.S. proposals: one, for a strong organization to control the international seas; and so-called revenue-sharing proposals that would spread the income from ocean activities among all nations. The draft treaty also tried to minimize coastal state control over the offshore economic areas—thus giving other nations more access to them—through a complicated "trusteeship" arrangement that has since been dropped.

Since 1970, these so-called internationalist proposals have been gradually eroded by the twin forces of militant nationalism among the developing countries—many of which are coastal states—and bickering among affected U.S. industries and government agencies.

The current Treasury-inspired economic reviews are part of this ongoing evaluation, and ultimately they could help kill some of the remaining "internationalist" U.S. positions. For one thing, the reviews are reconsidering the feasibility of international revenue sharing. For another, they include the question of whether a strong international organization supervising development of seabed minerals is in the U.S. economic interest. Questions like these, coming only a matter of months before the Caracas meeting, have clearly angered veteran officials who are dealing with the U.S. role in the conference.

"I think they're grossly incompetent and ill-informed," one official said of some Treasury reviewers. "They really didn't understand the kinds of things that went on in the last 3 years. When they jumped in, it turned into an education program for Treasury."

But other sources say that, in all the years of preparation, the government has never taken a hard look at the economic impact of the proposals of the United States and of other countries. Such a review, they say, is needed, especially in view of the energy situation. "We're looking at questions which just haven't been asked," said one official. "Let's face it. The world is not the same as it was in 1970."

According to sources both in and out of the Treasury, Shultz, Simon, and deputy assistant secretary Howard Worthington became aware in March of the possible economic problems that could arise from the Law of the Sea conference. They then succeeded in obtaining a place on the key steering group for the U.S. delegation, the executive committee of the 100-man Interagency Task

Force on the Law of the Sea. The one Treasury lawyer who had been working with the big task force was reassigned to other, unrelated duties. Treasury then appointed four economists to work full time on Law of the Sea, and three administrators to work part time.

The reviews themselves were ordered as a result of an early summer meeting of the committee that arbitrates interagency disputes on Law of the Sea matters, the Undersecretaries' Committee of the National Security Council.

In addition to Treasury participation, the Council of Economic Advisers, Peter Flanagan's Council on International Economic Policy in the White House, and the Office of Management and Budget are said to be involved. Also, some outside academic economists have contributed along with specialists in other federal agencies.

At first the studies were conducted publicly, like many other projects generated in connection with the conference. But sometime during the summer the chairman of the interagency task force, John N. Moore of the State Department, decided they should be classified.

One of the major issues being studied is the question of how the Law of the Sea conference could affect future U.S. energy supplies. A central dispute concerns the amount of control a nation will have over development of the oil and gas resources within the proposed coastal economic zone on the continental shelf. Although only a handful of nations have continental shelves extending beyond 200 miles, most nations, as a matter of self-interest, favor a coastal economic zone boundary of 200 miles offshore. The United States, whose continental shelf is even wider in some places, has remained ambivalent as to whether it favors a 200-mile limit or one including the entire continental shelf. Meanwhile, the Soviet Union favors an economic zone limit at a water depth of 500 meters or to a distance of 100 miles—a proposal that would favor the Soviet Union but few other countries. Some nations favor a much narrower economic zone limit—for example, one extending to only 40 miles, which would leave as much as 60 percent of the estimated offshore oil and gas reserves in international waters.

According to a recent United Nations study, the U.S. continental shelf is estimated to have approximately 400 billion barrels of potentially recoverable oil, or as much as ten times the proven reserves of the United States and three times those of Saudi Arabia. Under many of the proposals before the conference, some of those U.S. reserves could go to other nations—either through direct exploitation or through international sharing mechanisms. These are the kinds of questions under review.

A further complication is the issue of what would become of the income from offshore oil and gas development. In 1970, U.S. officials mentioned—but did not formally propose—that as much as 50 to 66 percent of the revenues from ocean resource development be directed to developing countries, in accord with the principle that the ocean's resources are the "common heritage" of mankind. Since then, U.S. officials have avoided naming percentages, but have continued to back the revenue-sharing proposal in principle.

Revenue sharing also enters into the negotiations because the United States and several other countries have said that they favor some revenue sharing from deep seabed mining activities. Although the preliminary negotiations have focused on what kind of international organization should license deep-sea development and divide up the spoils, the current economic reviews are said to be looking at revenue sharing. Treasury officials are said to be skeptical of the concept's feasibility, and to be trying to figure out how much revenue might be involved.

Should it conclude that the notion is unsound, the United States may have to

jettison an important element of its position in the conference. Hitherto the revenue-sharing proposals have helped the U.S. in its role as purported world leader; moreover, they are a bargaining chip in dealing with some developing countries who, under revenue sharing, would stand to benefit.

The list of other issues involved in the Law of the Sea is long, and the present economic review is said to cover many parts of it. Fisheries and environmental questions are said to be included. Military considerations are said not to be. Officials would neither confirm nor deny that scientific research—or some aspect of the U.S. position on that issue—is included in the reviews.

Even if the current interest of Shultz and Simon in the Law of the Sea ends with the economists altering existing U.S. positions, the reviews will have achieved one other thing. The architects* of the new Federal Energy Office, set up in response to the fuel shortage, were sufficiently aware of the conference to include a Law of the Sea office among those reporting to the FEO's Assistant Administrator for International Policy and Programs. This is a contrast to the other agencies concerned with sea law: even in the State Department, those working on the meeting operate out of a temporary branch of the legal affairs office. By and large, in other agencies, those involved are on a temporary assignment, on loan from some other, permanent office.

A less concrete but perhaps more important result of the recent burst of activity spurred by Shultz and Simon is that, in the course of it all, both these officials got their feet wet on oceans issues and became interested in the conference outcome. Even those bureaucrats who grumble about the new entrants concede that the review exercise has also drawn attention to the conference in their own agencies. "They [Treasury] took it to the top, and in the long run that will bring Law of the Sea to the attention of the other Secretaries." Among them is Henry Kissinger, who, so far, is said to have paid little attention to Law of the Sea matters.

WATERGATE QUESTIONS FOR THE PRESIDENT

Mr. WEICKER, Mr. President, since its inception, the Senate Watergate Committee has repeatedly sought a meeting—at the White House—with President Nixon. In all cases, the White House has refused to respond to these requests. In executive session on January 23, 1974, the committee unanimously agreed to submit written questions to the President.

Mr. President, I ask unanimous consent that a copy of a letter from Senator LOWELL WEICKER, Jr. to Mr. Samuel Dash; a copy of letter from Mr. Dash to Mr. James D. St. Clair, transmitting the questions to the White House; a copy of a letter from Mr. St. Clair to Mr. Dash acknowledging receipt of the questions by the White House; and a copy of the questions that were sent to the White House, all be printed in the RECORD.

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

FEBRUARY 5, 1974.

Mr. SAMUEL DASH,
Chief Counsel and Staff Director, Select Committee on Presidential Campaign Activities, Dirksen Building, Washington, D.C.

DEAR SAM: I enclose herewith questions for the President of the United States pursuant to the resolution of our Committee passed on January 23, 1974.

*Among whom were Shultz and Simon.

I would appreciate your transmitting same to the White House immediately.

With warm regards,
Sincerely,

LOWELL WEICKER, JR.,
U.S. Senator.

SELECT COMMITTEE ON PRESIDENTIAL
CAMPAIGN ACTIVITIES,
Washington, D.C., February 6, 1974.

HON. JAMES ST. CLAIR,
Special Counsel to the President,
The White House, Washington, D.C.

DEAR MR. ST. CLAIR: Enclosed are questions prepared by Senator Lowell Weicker of Connecticut.

At its meeting on January 23, 1974, the Senate Select Committee unanimously passed a motion approving the submission by any member of the Committee, questions to the President relating to matters covered by Senate Resolution 60. This action was taken as a result of the refusal of the President to meet with the Committee for the purpose of responding to questions on the record.

The Committee believed that specific questions any member of the Committee wished to put to the President for the President's response should be submitted to the President in the interest of fairness prior to the Committee's preparing and filing its report.

Sincerely,

SAMUEL DASH,
Chief Counsel.

THE WHITE HOUSE,
February 6, 1974.

Mr. SAMUEL DASH,
Chief Counsel, Select Committee on Presidential Campaign Activities, New Senate Office Building, Washington, D.C.

DEAR MR. DASH: I acknowledge receipt of your letter of February sixth with the enclosure described therein.

This material will be called to the President's attention for such action as he shall determine.

Sincerely,

JAMES D. ST. CLAIR,
Special Counsel to the President.

EXECUTIVE CLEMENCY DISCUSSIONS AS EARLY JULY 1972

Question 1: When John Ehrlichman discussed executive clemency with you¹ in July 1972,² prior to any indictment, trial, or conviction, why didn't you ask how such a matter could possibly relate to what was being called a "third rate burglary?"³

It is hard to imagine what "organizational proposition" is being referred to, or why sooner or later somebody was inevitably going to raise the issue . . . unless somebody would know they had the White House in a vulnerable position.

It is interesting to note the President's statements contradict Ehrlichman on all points. First, the President has said "It was, on occasion, suggested as a result of news reports that clemency might become a factor." (Press Conference, November 17, 1973, p. 6, emphasis added). Mr. Ehrlichman's version of the reasons for their discussion makes no mention of news report problems. The President claims to have discussed clemency offers only in July 1972. Research uncovers no news report that clemency might be a factor, as of July 1972. The President's statement also contradicts Mr. Ehrlichman by implying that clemency was "suggested."

REQUESTS FOR FBI REPORTS DURING THE FBI INVESTIGATION

Question 2: On August 29, 1972, you stated: ". . . within our own staff, under my direction, counsel to the President, Mr. Dean, has conducted a complete investigation. . . ." (Italics added)

On March 2, 1973, you stated: "I will simply say with regard to the Watergate case what I have said previously, that the investigation conducted by Mr. Dean, the White House counsel, in which, incidentally, he

had access to the FBI records on this particular matter because I directed him to conduct this investigation. . . ." (Italics added)

On April 5, 1973, you stated: "Because I asked my counsel, John Dean, to conduct a thorough investigation of alleged involvement in the Watergate episode, Director Gray was asked to make FBI reports available to Mr. Dean." (Italics added)

On October 19, 1973, one of the overt acts of the conspiracy to which John Dean pleaded guilty was: "4. In or about July and October, 1972, John W. Dean, III requested L. Patrick Gray, acting Director of the FBI, to provide him with reports of information obtained during the FBI investigation."

In light of your August 29, 1972, March 2, 1973, and April 5, 1973, statements that you directed the Dean investigation, what is the difference in your measure of responsibility from that of John Dean?

UNETHICAL CONDUCT IN THE HANDLING OF THE DEMOCRAT'S CIVIL SUIT

Question 3: When you were told on September 15, 1972,⁵ about private contacts between CRP lawyers and the judge in the democrat's civil lawsuit,⁶ what steps did you take to ascertain the truth of such highly unethical conduct?⁷

A lawyer is entitled only to being informed about the status of the case in open court, formal in-chambers proceedings, or inquiries to the clerk. Clearly such routine proceedings, which are the only proper ways of discussing the progress of a case, would never merit the characterization of being kept "abreast of what was happening." That implies an initiative by the Judge and/or a type of unilateral briefing—a Judge doesn't keep a lawyer abreast of what is happening; rather, a lawyer keeps his client abreast of what is happening.

On August 24, 1972, the Judge pressed for a rapid resolution: "I think there is . . . a suggestion implicit in all of this that if something is not done by the courts to rapidly bring this situation to a head one way or the other, by way of a settlement or trial that the integrity of the courts may become subject to question. . . ." (The Evening Star and Daily News, p. A-1, August 24, 1972).

On September 12, 1972, the Judge ordered a halt to further depositions: "United States District Court Judge Charles Richey today ordered a halt in the taking of depositions in the Democrats' \$1 million "Watergate caper" civil suit until September 20, when he promised to rule on all motions in the case." (The Chicago Tribune, p. 11, September 13, 1972).

On September 22, 1972, the case and depositions were suspended until after the Watergate criminal trial could take place: "Federal District Judge Charles R. Richey gave up his efforts yesterday to bring civil suits in the Watergate case to trial before the November 7 election.

"Mr. Califano (lawyer for the Democrats) lavished praise on Judge Richey for an "absolutely extraordinary attempt" to try the case before the election." (The Baltimore Sun, p. A-7, September 22, 1972).

DENIALS OF NEWS REPORTS ABOUT SEGRETTI'S ACTIVITIES

Question 4: News reports of Mr. Segretti's activities in mid-October 1972 were called "hearsay, character assassination, innuendo or guilt by association."⁸ Even though your press staff of Ziegler, Buchanan, and Moore⁹ knew those news reports were substantially correct—were they covering up the truth on your instructions, or on their own initiatives?

THE CLAIM THAT A NEW INVESTIGATION WAS BEGUN ON MARCH 21, 1973

Question 5: You claim that on March 21, 1973, you "personally ordered those conducting the investigation to get all the facts and report them directly to me,"¹⁰ and yet no-

body has testified to receiving such an order¹¹—has somebody committed perjury?

Mr. Haldeman's conclusion that "in effect, (the President) had stopped dealing with (John Dean) after the 23rd," is particularly interesting in light of the President's own statement of August 23, 1973, that "on March 23, I sent Mr. Dean to Camp David, where he was instructed to write a complete report."

Mr. Dean's report could hardly be called an investigation, according to Mr. Haldeman's testimony of the March 22 discussion: "in order to avoid the problem that had been discussed earlier of the committee hearings resulting in the facts coming out piecemeal, one witness at a time, and being the subject of a major news story, there should first be a complete report put out by the White House prepared by Dean covering all of the facts so that what all of us would say would already be known in one place. . . ." (Committee Transcript p. 2900).

CONDUCT AS TO JOHN DEAN AFTER MARCH 21, 1972

Question 6: When John Dean told you on March 21st that he was involved in possible crimes, why, the very next day, did you discuss his being given a position of trust as liaison with the Senate Watergate committee?¹²

FOLLOW-UP TO THE MARCH 21, 1973 MEETING

Question 7: You heard what you have termed "serious charges,"¹³ on March 21st. When you met as part of your "investigation"¹⁴ with Messrs. Mitchell, Ehrlichman, Haldeman, and Dean the next day to "discuss the whole matter,"¹⁵ why didn't you seek refutation or corroboration of those charges?¹⁶

DISCLOSURE OF INFORMATION RECEIVED MARCH 21, 1973

Question 8: When you learned of Watergate crimes on March 21st, the law required you to turn this evidence over "as soon as possible" to "a judge or person of civil authority,"¹⁷ not Mr. Dean or Mr. Ehrlichman— which judge or law enforcement official did you contact?¹⁸

DISCLOSURE OF THE ELLSBERG BREAK-IN

Question 9: When you learned of the Ellsberg break-in crimes on March 17, 1973, the law clearly required you to inform a judge or law enforcement official "as soon as possible"—under what authority did you withhold that information from appropriate officials until after April 17, 1973?¹⁹

FAILURE TO REMOVE THE FBI DIRECTOR WHO HAD BURNED HUNT'S FILES

Question 10: Why didn't you ask for acting FBI Director Gray's resignation, when testimony indicates that as early as March 1973 you no longer supported his nomination,²⁰ and by April 15th you knew from Justice Department officials²¹ and a phone call to Mr. Gray²² at which you were present that he had destroyed evidence from Mr. Hunt's safe?

REASONS FOR INATTENTION TO WATERGATE CRIMES

Question 11: How do you explain your repeated statements that one reason you knew nothing about Watergate or its cover-up was that you were busy with affairs of state²³—with prominent mention of Russia, China, and Vietnam—and yet your daily logs for June and July 1972 show literally hundreds of meetings with principal Watergate figures, while only minutes were spent with individuals such as Dr. Kissinger.²⁴

FOOTNOTES

¹ The Presidential Statement of August 15, 1973, confirms that there was such a discussion with Mr. Ehrlichman in July 1972: "Indeed, I made my view clear to Mr. Ehrlichman in July 1972, that under no circumstances could Executive clemency be considered for those who participated in the Watergate break-in." (p. 3).

² Mr. Ehrlichman's testimony is a little more explicit:

"Mr. DASH. Did you at any time meet with the President and discuss Executive clemency?"

Mr. EHRlichman. Yes.

Mr. DASH. When?

Mr. EHRlichman. In July 1972.

"We had a long walk on the beach on that particular day and we talked about a lot of subjects and this was one of the subjects we talked about." (Committee transcript p. 2848-2849).

Mr. Ehrlichman's identification of the beach would place the date of this conversation on July 8, 1972. A reference to his logs shows that to be the only beach conversation in July 1972:

July 8, 1972

12:45-2:05 p.m., President met with Ehrlichman; President and Ehrlichman to patio adjacent office.

2:14-2:29 p.m., President motored to Red Beach with Mr. Ehrlichman.

4:41-5:03 p.m., President met with Mr. Ehrlichman. San Clemente Red Beach to San Clemente Residence (Ehrlichman logs).

There would be no tapes of such a conversation. Nevertheless, Mr. Ehrlichman's explanation for raising the subject is interesting:

"Mr. EHRlichman. Because it seemed to me as an organizational proposition that sooner or later somebody was going to raise this issue and I thought it would be a very good idea to talk it through with the President before it came up in any specific context, and find out exactly where we stood." (Committee transcript p. 2848).

³ As of July 8, 1972, the most notable comment direct from the White House was Press Secretary Ronald Ziegler's statement of June 20, 1972:

"I'm not going to comment from the White House on a third-rate burglary attempt."

⁴ This was a plea to an Information, instead of by indictment made on October 19, 1973, as to a Conspiracy to Obstruct Justice and Defraud the United States of America. (U.S. v. Dean, D.D.C., No. 886-73).

⁵ The Democratic Party had brought a \$1 million civil suit against the Watergate defendants and other election officials, charging a conspiracy to commit political espionage. As of September 15, there was great concern that depositions and/or a trial before the election might be very damaging to the President and the Re-election Committee.

⁶ John Dean's testimony as to what he told the President on September 15, 1972, indicates a clear explanation of ex parte contacts (unethical, out-of-court meetings) with the Judge:

"The President then asked me about the civil cases that had been filed by the Democratic National Committee and the Common Cause case and about the counter suits that we had filed. I told him that the lawyers at the Re-election Committee were handling these cases and that they did not see the Common Cause suit as any real problem before the election because they thought they could keep it tied up in discovery proceedings. I then told the President that the lawyers at the Re-election Committee were very hopeful of slowing down the civil suit filed by the Democratic National Committee because they had been making ex parte contacts with the judge handling the case and the judge was very understanding and trying to accommodate their problems. The President was pleased to hear this and responded to the effect that, "Well, that's helpful." (Committee Transcript p. 958).

Testimony by Mr. Haldeman, who had listened to the September 15 tape before testifying, confirmed that the matter had been discussed:

"There was some discussion about Judge Richey hearing the civil case and a comment that he would keep Roemer McPhee (the

Committee lawyer) abreast of what was happening." (Committee Transcript p. 2889).

⁷ Canon 7 of the Code of Professional Responsibility, Ethical Consideration 7-35 states:

"All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides. . . ."

⁸ This comment was made by Press Secretary Ziegler on October 16, 1972.

⁹ Mr. Dean, who had interviewed Mr. Segretti and had helped White House officials prepare for FBI interviews on Segretti, testified as follows:

"On Friday, the 13th, I had left Washington to go to Florida to spend several weeks on a honeymoon, but was abruptly called back to Washington on Sunday, October 15, because of the cascading leaked stories regarding Segretti. When I returned, I went to the White House where a meeting was in session in the Roosevelt room. In attendance at the meeting were Ehrlichman, Ziegler, Buchanan, Moore, and Chapin. The purpose of the meeting was to prepare Ziegler for his press briefings on the Segretti-related stories. For a reason that I cannot explain, a secretary to Mr. Chapin was present and taking notes during parts of the discussions and hypothetical questioning and answering of Mr. Ziegler. I believe this is one of the rare occasions where the preparation of a Ziegler briefing was actually recorded and I have submitted to the committee a copy of the notes recording parts of that session." (Committee Transcript, p. 965).

With respect to the October 15th briefing, Mr. Moore testified:

"Senator WEICKER. You have indicated it was obviously necessary to go into some of the background of these matters, is that correct?"

Mr. MOORE. Right.

Senator WEICKER. Did you have occasion to talk to either Mr. Chapin or Mr. Segretti?"

Mr. MOORE. I have never met or talked to Mr. Segretti.

Senator WEICKER. I see, and Mr. Chapin?"

Mr. MOORE. Yes.

Senator WEICKER. And specifically about these matters?"

Mr. MOORE. Oh yes.

Senator WEICKER. So it is fair to say that insofar as the Segretti aspect of what confronts this Committee, you are knowledgeable to some extent in October 1972, is that not correct?"

Mr. MOORE. Knowledgeable from the standpoint of White House connection, not Segretti's operations." (Committee Transcript p. 2031).

¹⁰ Address by the President, April 30, 1973:

"* * * As a result, on March 21, I personally assumed the responsibility for coordinating intensive new inquiries into the matter, and I personally ordered those conducting the investigation to get all the facts and to report them directly to me, right here in this office."

¹¹ Mr. Mitchell, Mr. Haldeman, and Mr. Ehrlichman who were not asked directly about receiving such an order, did not testify that they were ordered to conduct an investigation on March 21, 1973. Among those who were "conducting the investigation", Mr. Gray (p. 3489-3490), Mr. Kleindienst (p. 3596-3597), and Mr. Petersen (p. 3652) all denied receiving such an order.

As to the possibility that Mr. Dean was given the assignment to get all the facts, Mr. Haldeman's testimony indicates that the only assignment Dean was given was to prepare a report for the public:

"So, as I recall, Dean was told at that meeting on the afternoon of March 22, to prepare a full written report for public release. . . ." (Committee Transcript p. 2900).

This is even more interesting in light of a later comment by Mr. Haldeman:

"By the 30th, Dean had not delivered any report and he said he had not been able to write one; and the President stopped dealing with Dean. In effect, he had stopped dealing with him after the 23rd." (Committee Transcript p. 2902).

In a statement during the August 22, 1973, Press Conference, the President stated that: "I gave the responsibility to Mr. Ehrlichman on the 29th of March to continue the investigation." That appears to be the first personal order for an individual to conduct an investigation, although it was not directed to someone who was "conducting the investigation."

¹² John Dean, in testifying about the March 22, 1972, meeting with the President, Mr. Mitchell, Mr. Ehrlichman, and Mr. Haldeman, related the following discussion:

"At that point the President turned to me and said 'John, I think that you ought to go up and discuss with Senator Ervin the parameters of executive privilege' and I said to the President, 'I thought that would be very unwise. . . .'" (Committee Transcript p. 1549).

Mr. Mitchell confirms that the subject was discussed: "There was also the discussion, as I said, of having somebody provide liaison with the committee up here. Dean was discussed and apparently rejected, and then Ehrlichman, and, as I think the record will show, and I think I can bear out Mr. Dean's recollection of it, the President called Mr. Kleindienst on the subject matter while we were there." (Committee Transcript p. 1888).

¹³ The topics of the March 21, 1973 meeting with John Dean have not only been termed "serious charges," but also "troubling" allegations, and "disturbing information:"

"On March 21st, as a result of serious charges which came to my attention. . ." (Statement by the President, April 17, 1973).

"These allegations were very troubling, and they gave a new dimension to the Watergate matter. . ." (Statement by the President, August 15, 1973).

"When I received this disturbing information on March 21st. . ." (Statement by the President, August 15, 1973).

¹⁴ On August 22, 1973, the President stated that the meeting on March 22, 1973, was an indication of the extent of his own investigation:

"I met at great length with Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, and Mr. Mitchell on the 22nd. I discussed the whole matter with them. I kept pressing for the view that I had throughout, that we must get this story out, get the truth out, whatever and whoever it is going to hurt, and it was there that Mr. Mitchell suggested that all the individuals involved in the White House appear in Executive Session before the Ervin Committee. We never got that far, but at least that is an indication of the extent of my own investigation." (Press Conference, August 22, 1973).

¹⁵ The President has stated: "I met at great length with Mr. Ehrlichman, Mr. Haldeman, Mr. Dean, and Mr. Mitchell on the 22nd. I discussed the whole matter with them." (Press Conference, August 22, 1973).

¹⁶ Mr. Mitchell:

"Mr. DASH. At that meeting was there any discussion by the President, by you or by Mr. Dean, concerning the Watergate, either cover-up or who may be involved in indictment or anything like that on the 22nd? Mr. Mitchell: None whatsoever." (Committee Transcript p. 1635).

Mr. Ehrlichman:

"Senator GURNEY. . . . then there is another meeting between the three of you and Mitchell, and then you join the President, which, of course, is the next day. (March 22, 1973) Did not the President say at any of these meetings, 'Now, listen fellows, here I have heard all about this from John Dean, what gives here, what are we going to do now, what plans do you have, who is going to

get this out? We have got to do it.'" No discussion of that?"

Mr. EHRlichman. Senator, I have great difficulty in believing that the President was told what Mr. Dean says he was told because of the President's approach to this, which I saw in these two meetings." (Committee Transcript p. 2746).

Mr. Haldeman:

"The next step was the meeting of Mitchell, Ehrlichman, Dean, and myself the next day (March 22, 1973) with the President."

"The four of us met in the morning in my office and had some discussion of Dean's report to the President, although not in any detail. Most of the discussion was regarding approaches to dealing with the situation rather than a review of the facts of the situation."

"We met in the afternoon in the EOB office with the President and that, too, was a discussion of how to handle the situation rather than any further exploration of the facts." (Committee Transcript p. 2989-2990).

Mr. Dean:

"The meeting was almost exclusively on the subject of how the White House should posture itself vis-a-vis the Ervin Committee hearings. There was absolutely no indication of any changed attitude and it was like one of many, many meetings I had been in before, in which the talk was to strategies for dealing with the hearings rather than any effort to get the truth out as to what had happened both before June 17 and after June 17." (Committee Transcript p. 1002).

¹⁷ Title 18, United States Code, section 4, requires:

4. Misprision of felony.

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined not more than \$500 or imprisoned not more than three years, or both.

¹⁸ Mr. Kleindienst, the nation's top law enforcement official, has testified as follows:

"Senator ERVIN. You stated, as I understand your testimony, that the President indicated by his conversation, when you reported what you knew about the Watergate affair to him. . . . (on April 15, 1973) that he was ignorant about the Watergate affair?"

Mr. KLEINDIENST. I would gather from my meeting with the President that he had no such knowledge until immediately prior to my meeting, Mr. Chairman." (Committee Transcript P. 3579-3580).

Mr. Petersen, the chief Prosecutor, has testified:

"Mr. DASH. Was it at that time that you and Mr. Kleindienst gave a complete briefing? (April 15, 1973)

Mr. PETERSEN. Yes, sir.

Mr. DASH. To the President?

Mr. PETERSEN. Yes, sir.

Mr. DASH. Can you tell the Committee what the reaction of the President was at that time?"

Mr. PETERSEN. Well, I guess the reaction of the President was one of concern when I remember remarking to Mr. Kleindienst how I admired his calm." (Committee Transcript p. 3628)

¹⁹ Mr. Petersen has testified as follows:

"Mr. DASH. On April 16, did you receive a memorandum from Mr. Silbert concerning the Ellsberg psychiatrist's break-in?"

Mr. PETERSEN. Yes, sir; I did.

Mr. DASH. Was that the first time you learned of that break-in?"

Mr. PETERSEN. To be precise I ought to correct that. The memorandum was dated April 16. I think I received it on the 17th, Mr. Dash.

I advised the President of that and kind of in response to his, well, what's new, and I

told him that we had received this information.

Mr. DASH. Did he indicate that he knew anything about that break-in when you told him about it?

Mr. PETERSEN. No; he did not." (Committee Transcript p. 3630-3631).

Mr. Kleindienst has testified as follows:

"Mr. DORSEN. When did you first learn . . . that White House employees burglarized the office of the psychiatrist of Dr. Daniel Ellsberg?"

Mr. KLEINDIENST. I learned that amazing bit of information some time in the morning of Wednesday, April 25, 1973." (Committee Transcript p. 3574).

It is important to note that the break-in at issue constituted a number of possible crimes, completely aside from whether it produced material that could improperly influence the trial of Dr. Ellsberg. For example, there is a possible illegal (and unauthorized, according to the President) breaking and entering, a conspiracy to interfere with the civil rights of a citizen, as well as a number of other possible conspiracies.

The transcript of a phone call on March 7 or 8, 1973, referring to the Gray nomination hearings that were experiencing difficulty in the Senate, reads as follows:

"EHRlichman. Well, I think we ought to let him hang there. Let him twist slowly, slowly in the wind.

DEAN. That's right. I was in with the boss this morning and that's exactly where he was coming out. He said I'm not sure that Gray is smart enough to run the Bureau the way he's handling himself." (Committee Transcript p. 2787).

Mr. Ehrlichman has testified as follows: "Senator WEICKER. What was the purpose of your phone call on April 15 to Mr. Gray?"

Mr. EHRlichman. I explained it was the result of the President's conversation that day with the Attorney General and Mr. Petersen, in which the question of these documents came up

Senator WEICKER. In other words, the enforcement agencies had been working prior to April 15?

Mr. EHRlichman. Oh sure. . . . we were operating with what the Attorney General and the Assistant Attorney General had told the President, which the President recalled of the conversation and was imparting to me." (Committee Transcript, p. 2678).

Mr. Ehrlichman has also testified: "Senator WEICKER. After you received the word from Mr. Gray, which I believe was on April the 15th, did you transmit that information to the President?"

Mr. EHRlichman. Yes, sir. Senator WEICKER. On what day was that? Mr. EHRlichman. He was sitting right there." (Committee Transcript, p. 2678).

Address by the President, April 30, 1973: ". . . Looking back at the history of this case two questions arise:

How could it have happened?

Who is to blame?

Political commentators have correctly observed that during my 27 years in politics I have always previously insisted on running my own campaigns for office.

But 1972 presented a very different situation. In both domestic and foreign policy, 1972 was a year of crucially important decisions, of intense negotiations, of vital new directions, particularly in working toward the goal which has been my overriding concern throughout my political career—the goal of bringing peace to America and peace to the world."

Press Conference, November 17, 1973:

"I could stand here before this audience and make all kinds of excuses, and most of you would probably understand because you are busy also. Seventy-two was a very busy year for me. It was a year when we had the visit to China, it was a year when we had the visit to Moscow and the first limited nuclear ban on defensive weapons you recall as well as some other very significant events.

It was a year too, when we had the very difficult decisions on May 8, the bombing and mining of Haiphong and then the negotiations and then in December, of course, the very, very difficult—perhaps the most difficult—decision I made of the December bombing, which did lead to the breakthrough and the uneasy peace, but it is peace with all the Americans home.

Now, during that period of time, frankly, I didn't manage the campaign. I didn't run the campaign. People around me didn't bring things to me that they probably should have because I was frankly just too busy trying to do the nation's business to run the politics."

The following schedule indicates meeting with principal advisors only:

MEETINGS WITH NIXON

June 20, 1972:

10:25-11:20, Ehrlichman.
11:26-12:45, Haldeman.
2:20-3:30, Colson.
4:35-5:25, Haldeman.

June 21, 1972:

9:30-10:38, Haldeman.
10:12-10:16, Butterfield.
10:13-10:38, Colson.
1:24-3:11, Haldeman.
2:12-3:11, Ziegler.
4:00-5:15, Colson.

June 22, 1972:

9:40-11:25, Haldeman.
10:20-10:21, Strachan.
11:10-11:11, Kehrl.
3:44-4:04, Haldeman, Ziegler.
4:03-4:06, Butterfield.
4:36-5:30, Haldeman.
5:02-5:17, Ziegler.
5:04-5:20, Colson.
5:14-5:19, Butterfield.

June 23, 1972:

10:04-10:39, Haldeman.
10:33-10:39, Ziegler.
1:04-1:13, Haldeman.
2:20-2:45, Haldeman.
2:40-2:43, Ziegler.

June 24, 1972:

2:29-4:35, Haldeman.

June 25, 1972

12:00-1:40, Haldeman.

June 26, 1972

9:50-10:00, Woods.
9:50-10:45, Haldeman.
10:59-11:06, Ehrlichman.
12:08-12:18, Haldeman.
12:11-12:12, Ziegler.
12:35-1:25, Haldeman.
2:25-3:00, Haldeman.

June 27, 1972

9:37-9:42, Ziegler.
9:40-9:58, Haldeman.
9:58-10:06, Ehrlichman.
12:03-1:50, Haldeman.
12:06-12:10, Butterfield.
12:56-1:12, Kissinger.
1:26-1:27, Ziegler.
1:27-1:29, Woods.
1:41-1:43, Ziegler.
3:35-4:40, Haldeman.
3:40-4:40, Colson.

June 28, 1972

11:16-1:55, Haldeman.
11:18-12:50, Colson.
2:30-3:09, Ehrlichman.

June 29, 1972

2:40-3:50, Haldeman.
2:50-2:52, Butterfield.
3:00-3:20, Kissinger.

June 30, 1972

8:06-8:50, Haldeman.
12:17-12:44, Haldeman.
12:21-12:44, Colson.
12:55-2:10, Haldeman.
12:55-2:10, Mitchell.

3:24-4:06, Kleindienst.
3:24-4:22, Haldeman.
4:30-5:52, MacGregor.
4:48-6:16, Haldeman.

July 1, 1972

8:50-10:05, Colson.
9:05-9:10, Butterfield.
9:45-10:04, Haldeman.
9:47-9:59, Hoopes.
12:16-1:04, Haldeman.
12:31-12:37, Woods.
12:53-1:00, Ziegler.
4:55-6:16, Haldeman.

July 6, 1972

8:41-9:08, Ehrlichman.
8:58-8:59, Butterfield.
10:11-12:05, Ehrlichman.
10:18-10:22, Kissinger.
10:40-12:05, Malek.
10:40-12:06, Haldeman.
10:40-12:06, MacGregor.
10:44-11:01, Timmons.
11:00-11:01, Ziegler.
12:39-2:36, Ehrlichman, Haldeman.
1:33-1:38, Ziegler.
1:37-2:23, Woods.

July 7, 1972

8:22-9:35, Ehrlichman.
8:35-8:37, Butterfield.
9:08-9:10, Butterfield.
9:38-10:27, Ehrlichman.
10:30-10:50, Ehrlichman.
10:38-10:40, Ziegler.

July 8, 1972

12:45-2:05, Ehrlichman.

July 10, 1972

10:30-10:35, Ehrlichman.
11:05-12:12, Ehrlichman.

July 13, 1972

9:07-9:14, Butterfield.
9:10-11:05, Haldeman.
10:50-10:51, Butterfield.
10:59-11:41, Kissinger.
11:15-12:45, Haldeman.
12:50-12:51, Haldeman.
1:15-2:12, Haldeman.
6:30-7:01, Connally, Haldeman (dinner).

July 14, 1972

9:24-9:33, Ehrlichman.
2:56-3:30, Haldeman.

July 16, 1972

7:05-9:17, Ehrlichman, Haig, Kissinger, Ziegler (dinner).

July 17, 1972

11:08-11:09, Ehrlichman.
11:10-11:31, Ehrlichman.
1:19-2:10, Colson.
1:45-1:55, Ziegler.
5:11-6:50, Colson (reception, dinner, walk).

July 18, 1972

10:20-10:35, Haldeman.
1:00-2:05, Colson.

July 19, 1972

9:45-9:50, Butterfield.
9:48-11:33, Haldeman.
11:13-11:17, Ziegler.
12:44-1:51, Ehrlichman.
2:00-2:25, Colson.
2:40-3:45, Colson.
3:27-5:53, Haldeman.

July 20, 1972

8:42-8:59, Haldeman.
9:33-9:45, Butterfield.
9:39-10:38, Colson.
10:34-10:36, Butterfield.
2:05-2:47, Woods.
2:46-5:30, Haldeman.
4:27-5:30, Colson.
4:55-5:25, Kissinger.
5:40-6:15, Ehrlichman.

July 21, 1972

10:11-10:14, Butterfield.
10:13-10:16, Haldeman.
10:45-11:35, MacGregor.
10:45-11:39, Dole.

10:45-11:39, Haldeman.
11:43-12:07, Schultz.
11:43-1:02, Haldeman.
2:01-3:11, Mitchell.
2:02-2:36, Haldeman.
2:04-3:11, Agnew.
2:37-3:11, Haldeman.
4:20-4:59, Kissinger.
4:40-5:59, Haldeman.
4:55-4:57, Butterfield.
4:56-4:58, Woods.
6:05-10:45, Colson.
6:20-6:29, Connally.
6:25-10:45, Haldeman.

July 24, 1972

10:14-10:37, Haldeman.
1:03-1:25, Connally.
1:04-2:24, Haldeman.

July 25, 1972

11:14-1:33, Haldeman.
12:01-1:30, Ziegler.
12:41-1:01, Kissinger.
2:29-3:04, Ehrlichman.
3:39-5:13, Haldeman, Colson, Staff.
5:27-5:45, Woods.
5:28-6:34, Haldeman.
5:41-5:54, Ziegler.
5:55-6:24, Buchanan.
5:57-6:24, Kissinger.
5:58-6:24, Woods.

July 26, 1972

9:02-10:08, Colson.
9:02-11:05, Haldeman.
10:05-10:06, Higby.
10:40-10:45, Butterfield.
12:22-12:45, Ziegler.
12:26-1:48, Haldeman.
12:36-1:12, Woods.
3:10-4:16, Haldeman.
3:28-4:16, Colson.
3:42-3:53, Ziegler.
4:15-4:16, Ziegler.

July 27, 1972

9:34-10:50, Haldeman.
9:35-10:38, Ziegler.
3:45-4:36, Haldeman.
3:46-4:03 and
4:07-4:36, Ziegler.
4:42-4:45, Colson.

July 28, 1972

10:03-11:04, Haldeman.
10:04-10:06, Kissinger.
10:30-10:33 and
10:36-10:37, Butterfield.
10:35-11:00, Ziegler.
11:15-11:37, Ehrlichman.
11:56-12:09, Ehrlichman.
1:43-1:45, Haldeman.
2:00-2:09, Haldeman.
2:04-2:07, Kissinger.

July 31, 1972

9:25-10:15, Haldeman.
2:15-2:40, Haldeman.
5:38-6:35, Connally.
6:13-6:40, Haldeman.

OUR DEPENDENCE ON FOREIGN-TRAINED PHYSICIANS: IS IT FAIR?

Mr. MUSKIE. Mr. President, one of our most pressing health needs is adequate health manpower—adequate not only in numbers to meet our health needs, but also distributed throughout our central cities and rural areas in such a way that our medically "underserved" can get good health care.

One important resource for America in meeting both of those goals has been the foreign-trained physician. Today, there are almost 60,000 foreign-trained physicians in the country, estimated to make up about 20 percent of doctors in America. The foreign-trained physician has made an important contribution to American health care in all areas.

But our reliance on foreign-trained

physicians raises a number of important questions. We must ask why we do not have sufficient health manpower training resources in our country to meet our own health needs. And second, we must ask whether it is fair for the United States to attract from foreign countries, by virtue of our high level of compensation and support for physicians, doctors who might be even more needed elsewhere in the world.

These questions were discussed more thoroughly in an article last April in the American Journal of Psychiatry, by Dr. E. Fuller Torrey and Dr. Robert L. Taylor. I ask unanimous consent that this article, together with more recent articles on the same subject from the Washington Star-News and the Washington Post be printed in the RECORD.

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

CHEAP LABOR FROM POOR NATIONS

(By E. Fuller Torrey, M.D., and Robert L. Taylor, M.D.)

A recent issue of *Psychiatric News*, the official newspaper of the American Psychiatric Association, contained a remarkable letter. It was from a psychiatrist who advocated increasing the loopholes for using nonlicensed foreign doctors in state mental hospitals. The rationale given was that the only American psychiatrists he had been able to recruit had turned out to be alcoholics, drug addicts, or otherwise seriously disturbed and therefore that foreign doctors were certainly to be preferred (1).

This letter affords a capsule summary of a serious problem facing American medicine in general and American psychiatry in particular. It is the problem of having to import large numbers of foreign doctors to staff our hospitals for the mentally ill. There are indications that these doctors are used primarily to staff public institutions, that some of them may not provide as high a level of care as their American-trained counterparts, and that they are badly needed in the countries of their origin. This paper discusses the problem and offers some solutions.

While there are no absolute figures on the number of foreign medical graduates being used in American psychiatry, there are some indicators. In American medicine generally it is known that approximately 8,500 foreign medical graduates enter the United States each year; since 1967 the number entering annually has been greater than the total number of doctors graduating from U.S. medical schools (2, 3). It is also known that in 1970 there were 3,016 foreign medical graduates who were given licenses to practice permanently in the United States; these constituted 33 percent of all newly licensed physicians. In 1971 foreign medical graduates comprised over half of all new licensees in 13 states, and in two (Maine and Delaware) they were more than 90 percent of all new licensees (4).

Specifically in regard to psychiatrists, it is known that during 1970, 34 percent of all psychiatric residents (1,370 out of 4,040) were foreign medical graduates (5). Of the 186 residency programs that were active, 28 were completely filled by foreigners. In fact, there were more psychiatric residents in American hospitals who had graduated from the medical schools of the University of Havana (77) or from the University of Santo Tomas in Manila (74) than there were graduates of any American or Canadian medical school (5).

One of the largest groups of foreign-trained doctors in American psychiatry rarely shows

up on official statistics. These are the unlicensed doctors who practice in state hospitals using temporary permits issued by a state and valid only for state institutions. All but seven states have loopholes in their licensing laws that allow such temporary licensing. The permits are renewable yearly for an unlimited number of years. In New York and Ohio, 40 percent of the physicians in the state mental hospitals are unlicensed (6-8). In West Virginia it is over 90 percent (4). If 40 percent is a representative average for the United States, there would be approximately 3,100 unlicensed foreign doctors staffing state mental facilities in this country. One AMA spokesman estimated that the number is more like 7,500 (4).

FOREIGN PSYCHIATRISTS AS "CHEAP LABOR"

Foreign-trained psychiatrists work predominantly in those institutions which American psychiatrists consider the least desirable. Thus they are found in large numbers in city and state hospitals, prison hospitals, and institutions for the mentally retarded. Elmhurst City Hospital in New York City had 35 psychiatric residents in 1970, all of whom were foreign trained (5). State mental hospital residency programs depend very heavily upon them, as table 1 shows. Less than five percent of foreign-trained psychiatrists are in private practice in this country (9), in contrast to the more than 50 percent of U.S.-trained psychiatrists who are (10).

TABLE 1.—FOREIGN MEDICAL RESIDENTS IN SELECTED STATE HOSPITAL SYSTEMS, 1970¹

State	Number of residency programs	Total number of psychiatric residents	Foreign medical residents	
			Number	Percent
New York.....	18	211	198	94
Rhode Island.....	1	11	10	87
New Jersey.....	5	38	33	87
Massachusetts.....	7	51	41	80
Connecticut.....	3	46	37	80
Ohio.....	5	86	67	78
Maryland.....	3	22	17	77

¹ University hospitals that are State supported are not included in the calculations since they usually do not accept patients for long-term care.

Theoretically foreign medical graduates are in residency training programs for training. But in fact such programs are often so burdened by the service needs of the state institutions that little time remains for any formal training. If the foreign graduate is unlicensed, he may be confined to the state system that has granted him his temporary permit until he can pass the state licensing examination. Some states also use psychiatric residency slots as administrative mechanisms for hiring foreign doctors at a lower salary than a full staff position would require, or when no full staff positions are available. This may help to explain why in 1971 at least five foreign-trained psychiatric residents were over the age of 60; two of these were 69. Such residents can presumably receive both a stipend for training and Social Security retirement benefits simultaneously.

Because of their concentration in public institutions, patients who cannot afford private psychiatric care are more likely to be treated by foreign-trained psychiatrists. Table 2 indicates this pattern. The cost of hospitalization in an institution like the Columbia Psychiatric Institute in New York or Timberlawn Hospital in Dallas may be as high as \$3,000 a month; the state hospital is of course free if the patient has no money. This is consistent with other aspects of American psychiatry and can be summarized by Arnold Rogow's observation: "Perhaps the only firm conclusion is that Americans, in general, receive the psychiatrist and the psychiatric treatment not that they deserve, but that they can pay for. . ." (11).

References at end of article.

TABLE 2.—Percentage of Foreign-Trained Psychiatric Residents in Selected Psychiatric Hospitals with Private Patients and with Public Patients

State	Hospitals with private patients	Psychiatric residents			Hospitals with public patients	Psychiatric residents		
		Total number	Foreign trained Number	Percent		Total number	Foreign trained Number	Percent
Connecticut	Yale-New Haven Medical Center	88	8	9	Norwich State Hospital	15	14	93
	The Institute of Living	27	6	22	Fairfield State Hospital	19	15	79
Georgia	Emory University Hospital	34	2	6	Central State Hospital	15	13	87
Illinois	Michael Reese Hospital	23	3	13	Illinois State Psychiatric Institute	41	25	61
Iowa	University of Iowa Hospital	15	6	40	State Mental Health Institute	11	10	91
Maryland	Johns Hopkins University Hospital	35	4	11	Spring Grove State Hospital	8	6	75
Massachusetts	Boston University Medical Center	15	0	0	Medfield State Hospital	8	8	100
	McLean Hospital	25	4	16	Metropolitan State Hospital	10	7	70
Michigan	University of Michigan Hospital	45	12	27	Northville State Hospital	16	14	88
Missouri	St. Louis University Hospital	9	1	11	Missouri Institute of Psychiatry	37	35	95
New York	State University (Kings Co.) Hospital	45	7	16	Brooklyn State Hospital	15	14	93
	Columbia Psychiatric Institute	44	5	11	Manhattan State Hospital	23	20	87
	University of Rochester Hospital	39	9	23	Rochester State Hospital	10	9	90
Ohio	University of Cincinnati Hospital	49	5	10	Rollman State Psychiatric Institute	29	19	66
	University Hospital of Cleveland	18	2	11	Fairhills State Psychiatric Institute	22	20	91
	Ohio State University Hospital	22	1	5	Columbus State Hospital	13	11	85
Oregon	University of Oregon Hospital	15	1	7	Oregon State Hospital	5	3	60
Pennsylvania	University of Pennsylvania Hospital	42	3	7	Philadelphia State Hospital	13	8	62
Texas	Timberlawn Psychiatric Hospital	10	0	0	Terrell State Hospital	6	4	67
Virginia	Medical College of Virginia Hospital	11	2	18	Central State Hospital	7	7	100
Washington	University of Washington Hospital	39	5	13	Western State Hospital	5	4	80
Wisconsin	Marquette University Mental Health Center	11	0	0	Winnebago State Hospital	3	3	100

THE QUALITY OF CARE

The majority of great ideas and advances in psychiatry have come from foreign-trained psychiatrists. Kraepelin, Freud, Jung, Adler, and many others not only were trained in foreign institutions but made their major contributions in foreign countries. Thus there is nothing inherently inferior (or superior) in being foreign-trained; rather, it depends solely upon the individual psychiatrist and his specific training experience.

It is likely that many leaders of American psychiatry will emerge from among the large influx of foreign psychiatrists coming to the United States. However, there are also indications that among the foreign-trained group there are some whose level of psychiatric expertise is not up to generally accepted American standards. This is seen most readily among a few of the unlicensed doctors, such as the doctor in a New York State mental hospital who was successfully sued for neglecting a fatal subdural hemorrhage (12) or the alleged doctor in an Illinois mental hospital who was recently charged with reckless conduct for the treatment of three patients who died (13).

The majority of foreign medical schools offer little or no psychiatric teaching to medical students. When they graduate, these doctors often arrive in the U.S. for a psychiatric residency with less knowledge of psychiatry than most American trainees at the same level. If the residency is in a hospital with a heavy service commitment, such as a state hospital, the resident will find it even more difficult to catch up.

Language difficulties compound the problem. Psychiatry, in contrast to radiology or pathology, is the medical specialty in which communication between the doctor and the patient is absolutely essential for adequate diagnosis and treatment. Equally important are possible cultural differences and the lack of a similar world view between doctor and patient. Imagine the difficulty, for instance, of a psychiatric resident from Korea trying to assess the mental problems of a drug-abusing American adolescent who is undergoing an existential crisis. In the light of such communication barriers a statement made by the director of mental hygiene in Ohio is slightly odd. In announcing special basic English courses for doctors in the state mental institutions he said: "I hasten to point out that we seldom hear a complaint that our foreign doctors are not providing adequate care and psychiatric treatment for their patients. The complaints center only around the inability to communicate." (14).

There are objective indicators that American psychiatry may not be attracting the best

of the foreign medical graduates. One such indicator is the examination of the Education Council for Foreign Medical Graduates (ECFMG), an examination offered to medical graduates all over the world as a measure of their medical knowledge. It is made up in such a way that 98 percent of American medical graduates taking it for credit pass it. When it is given to medical graduates all over the world, only 40 percent of them pass it. Looking specifically at the pass rate for the eight foreign medical schools that contributed the greatest number of residents to American psychiatry in 1970, only two attained the worldwide average of 40 percent or higher (2). The two medical schools contributing the most psychiatric residents (the University of Havana and the University of Santo Tomas) had pass rates of only 20 and 13 percent, respectively. Similarly, on state licensure examinations the graduates of these two schools scored below the average pass rate of 63 percent for all foreign medical graduates. This in turn is considerably below the pass rate of 91 percent for American medical graduates (2). Four foreign medical graduates actually failed state board examinations for the 13th time during 1970. Between failures, such individuals may remain employed in state hospitals in most states on temporary permits.

In order to fully assess the quality of care offered by psychiatrists who have been trained abroad, a careful clinical examination would have to be given. At present, this has not been done. In fact, it is quite conceivable for a foreign medical graduate to come to the United States and become fully licensed to practice psychiatry without ever being tested on his psychiatric knowledge. The examinations that he must pass (the ECFMG and a state board) have very few questions on psychiatry, and his residence program may never examine him formally.

THE "BRAIN DRAIN"

The other major consequence of using large numbers of foreign psychiatrists as cheap labor for the United States is the effect this has on the countries from which the foreign doctors come. This has been referred to as the "brain drain."

The countries that contributed the greatest number of psychiatric residents to the United States in 1970 (15) were the following: the Philippines—149 residents, India—136, Korea—107, Cuba—95, Argentina—55, Colombia—46, Iran—39, Mexico—25, Egypt—19, and Pakistan—19. This list corresponds with the frequently cited estimate that 85 percent of our imported medical manpower comes from underdeveloped countries.

While it is often said that the Philippines produces more doctors than it needs, this is

not true. Only Manila and the other large cities are oversupplied with physicians; the remainder of the country has a low doctor-population ratio (18). Yet Filipino doctors are continuing to come to the United States in large numbers. The number of medical graduates taking the ECFMG in Manila is now so large that a football stadium has to be used to accommodate them for the examination (3).

Korea is another country that has been hit especially hard by the flow of trained doctors to the United States. In the past 20 years 23 percent of its physicians have departed, and only 3 percent have returned (17). Recently 90 percent of the graduates of one Korean medical school left Korea for U.S. internships; this same year there were 65 vacant internships in Korea. Korea, it should be noted, has a doctor-population ratio outside the capital of 1 to 17,000; the United States has a ratio of 1 to 700.

Overall it is not known how many of the foreign medical graduates who come to the United States for psychiatric training return to their homelands, but it is agreed that the returnees are a minority. A study of psychiatric residents from Mexico in the United States showed that 46 percent of them eventually returned to Mexico (18). A director of a training program staffed predominantly with foreign residents found the return rate to be much lower: only two of his 34 foreign psychiatric residents from developing countries had ever returned to their homelands to practice (19). Furthermore, even for those who do return, it may be questioned whether the quality of their training experience has been appropriate for their country's needs on their return home.

It is known that taking this medical manpower from other lands saves the United States a large amount of money. If the 3,016 foreign doctors who were permanently licensed in the United States in 1970 had to be trained in the United States, they would require the addition of 30 new medical schools. To build a medical school costs at least \$50 million and to operate one for a year averages \$3.8 million (3). Thus the total amount needed to replace the foreign-trained doctors who were permanently licensed last year would be \$1.6 billion. This is the equivalent of over half of the total U.S. foreign aid program. When this amount is added to other aspects of the brain drain, it may well be that our foreign aid program is in effect canceled altogether.

HOW THE PROBLEM CAME ABOUT

It is useful to inquire in retrospect how it developed that the United States is finding it necessary to import large numbers of psychiatrists from poor nations to staff our

public mental institutions. Understanding the roots of the problem may be an initial step toward correcting it.

First it should be noted that a conscious conspiracy to take doctors from poor countries does not exist. Conspiracies imply planning, and anyone familiar with the inner workings of American psychiatry knows that this degree of planning simply does not exist. It is, in fact, the absence of planning that is closer to the root of the problem.

Who, then, is responsible for the absence of planning? Certainly not the foreign doctors themselves, who are only availing themselves of the best opportunities to further their careers and their livelihood. Indeed, how many American psychiatrists can say that they would not move to Manila to practice if they were offered a salary ten times what they are making here? Nor can public mental hospital administrators be held responsible, they are just trying to carry out their mandate to secure psychiatrists for their staffs.

Planning for the needs of American psychiatric manpower theoretically rests with the federal government (through the National Institute of Mental Health and the Bureau of Health Manpower Education) and with the professional associations (the American Medical Association and the American Psychiatric Association). We believe that none of these organizations has done a satisfactory job of planning; this is the root of the problem.

The National Institute of Mental Health has supported the training of psychiatrists since World War II, until recently at a rate of \$40 million a year. Yet during this time it has made virtually no effort to ascertain what the psychiatrist was doing once he was trained. If it had gathered such data, it might have instituted a period of mandatory public service for psychiatrists who had been trained with public money. This would have ensured some psychiatric manpower for public institutions rather than allowing the psychiatrists to go immediately into private practice.

Similarly, the Bureau of Health Manpower Education has concentrated too much attention on increasing the total number of doctors and too little on the geographical distribution of the doctors. The myth has been that if the total number is increased sufficiently, there will be enough to go around. This is apparently not true. In the Philippines, for instance, there is an excess of doctors in the capital city, but the excess doctors have been found driving taxis and taking other jobs rather than leaving the capital to practice medicine in rural areas, where they are badly needed. It may well be that the United States already has enough doctors (and particularly psychiatrists) for its overall needs, if they were distributed more evenly. Our 25,000 psychiatrists constitute almost one-third of the world's total. Certainly many European countries are providing superior public psychiatric services with a far lower psychiatrist-population ratio than we have.

The American Medical Association has been doubly shortsighted. For many years this organization denied the existence of an impending doctor shortage. More recently it has acknowledged that there is a shortage, but has reacted only by trying to increase the absolute numbers without attempting to affect the geographical or specialty distribution. The American Psychiatric Association has made these same errors and has assumed that increasing the number of psychiatrists would somehow improve public service.

Both of these professional organizations may also be faulted for rigidly upholding outmoded standards that require a person with a medical license (i.e., a psychiatrist or other physician) for many jobs in public mental institutions that could just as satisfactorily be done by a person without a medical license

(i.e., a psychologist, social worker, or nurse). Similarly, it is the combination of these two organizations that has accredited the state hospital residency "training" programs, which are training in name only and really are means of obtaining service personnel.

The U.S. Immigration Service and the State Department have compounded the problem of foreign doctors coming to this country. The liberalized immigration laws enacted in 1962, 1965, and 1970 made it increasingly easy for doctors to both come to and remain in this country. These liberalizations in the laws were made despite hearings warning against them in the Senate in 1967 (before the Senate Subcommittee on Immigration) and in the House of Representatives in 1968 (before the House Committee on Government Operations). Even prior to that (in 1966) Senator Walter Mondale raised his voice on the Senate floor and called the brain drain "a national disgrace" (20). Simultaneously the State Department was compiling a report attempting to deny that any brain drain problem existed (21).

The problem is also due to lack of planning in the developing countries themselves. By not setting up training facilities in their own hospitals, by often retaining a promotion system based on seniority rather than ability, and by permitting their doctors to leave before they have repaid their public-subsidized medical training with public service, the developing countries have encouraged their doctors to permanently emigrate to the United States and other countries.

SOME SUGGESTED SOLUTIONS

The problem of having to import large numbers of doctors from poor nations to staff our public mental institutions is a very serious one; it demands a solution. The following are suggested directions that could be pursued:

1. *Functional job analysis.* Psychiatry is going to have to do some hard thinking and functional job analysis on the tasks that psychiatrists are currently doing. Exactly what kind of training does one actually need to treat persons who are mentally ill? Do we really believe that an Iranian or a Korean psychiatrist, because he is a psychiatrist, is more effective than an American clinical psychologist in treating an American patient who is mentally ill?

2. *Public service.* American psychiatrists who are trained with public money should be expected to repay their debt with a period of public service and not just go directly into private practice. A loan system to replace present stipends would be one way to bring this about.

3. *Accreditation.* A system of mandatory accreditation is needed for every psychiatrist and psychiatric training program. This would help screen competent psychiatrists from those who are not competent (22).

4. *Separation of training and service.* In order to make all psychiatric residency training programs into true training programs, they must not be based on service needs. The service needs of public mental institutions must be filled apart from any training programs taking place there. Until this is done it is inevitable that some training programs will be merely facades for delivering services through the use of less expensive personnel. And if the trainees themselves are allowed to define how they want to achieve their training goals, one has the beginning of a true system of education (23).

5. *Improved training abroad.* It is possible to improve the training of doctors in their home countries so as to obviate the necessity for many of them to come to the United States on what become one-way trips. For instance, television and communications satellites will soon be available for long-distance teaching. Another possible use of modern technology would be to hook up computer outlets in other countries to an infor-

mation and retrieval system in the National Library of Medicine.

6. *Specialized training programs.* There should be specialized training programs in which psychiatrists from abroad would come here to learn specialized skills and then return to their own countries. These programs would emphasize aspects of psychiatry that are appropriate for the developing countries. An excellent example of what can be done along these lines is the program for Indonesian psychiatrists set up at the University of Hawaii under Dr. John McDermott.

7. *Changes in the immigration laws.* Finally there would have to be changes in the immigration laws so as to make it more difficult for foreign doctors to stay in the United States.

We recognize that solutions which include such things as obligated public service in exchange for public training and mandatory accreditation for individual psychiatrists are in conflict with the inclinations of many American psychiatrists. These are, it is said, contrary to the free enterprise model. We do not think that this is necessarily so. Benjamin Rush was both the father of American psychiatry and a signer of the Declaration of Independence. It is doubtful whether he saw a free enterprise system as meaning the freedom to take manpower from poorer countries in order to provide public services in wealthier ones.

We also recognize that these solutions are not simple. But then, neither is the problem. American medicine in general, and American psychiatry in particular, are currently so dependent on foreign doctors that to suddenly remove them would precipitate a collapse of the whole system.

Solutions must be found. We should move rapidly toward a point when no longer would one find vignettes like one recently published in *The Washington Post* on conditions at the state prison in West Virginia. The article described the need for professional help for the inmates and mentioned that there is one psychiatrist "but he is a Cuban and does not speak English" (24). American psychiatry should be able to do better than this.

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DISCUSSION

(By Robert Cserr, M.D.)

MEDFIELD, MASS.—To begin with a very unambiguous statement regarding this paper, the authors have portrayed the problem of foreign-trained physicians very accurately. They are telling it as it currently is, although I wonder at their figure of 50 percent of American psychiatrists being engaged in full-time private practice. The impressions that foreign-trained psychiatrists work in settings (usually institutional) that U.S. psychiatrists consider the least desirable and that "training" for them is often really a euphemism for "service work" because of the absence of real supervisory concern for their assimilation of knowledge are unfortunately very accurate in many instances.

Certainly, as the authors point out, there is no reason to feel that the quality of care per se delivered by a foreign-trained psychiatrist need be inferior to that delivered by his U.S.-trained counterpart. But with the two-class system of psychiatric training supported in this country, this frequently represents reality. What seems to prevail for foreign physicians, therefore, is: 1) their use (or misuse, as the case may be) as primary service-deliverers, although they are said to be in training, and 2) their general inadequacy, because of the lack of special attention to their needs, for the American psychiatric scene.

I would like to discuss these two issues and the specific approaches we have undertaken at Medfield State Hospital to deal with them; some of our work seems very much in consonance with the spirit of this article. First, to insist that only physicians are capable and effective in the areas of evaluation and treatment is unmitigated foolishness. At Medfield we have been able to remove all residents in training from the area of primary delivery of services by creating a cadre of clinical case administrators (paramedical professionals and preprofessionals), through whom the service needs of the patients are met. Supervision of these case administrators is by a group of experienced professionals, including psychiatrists. Residents have a bona fide training program; the service they give, although frequently extensive and valuable, is incidental to and a part of their training. This approach has indicated to us quite unequivocally the direction in

which we must move to increase the extent and quality of services—namely, the training and employment of these other professionals and preprofessionals.

Second, special attention must be paid to the background and needs of the physicians-in-training from developing nations. There must be a flexible curriculum that includes subjects relevant to their needs, so that they can function as psychiatrists both in the U.S. setting and in their own nations after their training is completed.

The New England Psychiatric Society recently surveyed the problems concerning foreign-trained psychiatrists in our area. Dr. N. S. Mittel, Medfield's director of residency training, headed a task force that developed a recommendation to create an ombudsman to help foreign medical graduates get through the developmental crisis that confront them in adapting to American society and psychiatry. The ombudsman would also attempt to ameliorate the numerous irrational harassments facing these physicians.

I would now like to comment on the author's proposed solutions of the problems concerning foreign medical graduates; I agree with some but disagree philosophically with others.

Certainly far too much public money has been spent on training psychiatrists who immediately move into the private sector with little recognition of their obligation to the public sector for subsidizing their training. But the attraction, both in terms of financial reward and in the opportunity to work with relatively more gratifying and less troublesome patients, is an overwhelming inducement. However, this is only one factor. I shall discuss another—the negative attitude prevailing in many state hospitals—shortly.

Surely some arrangements can be made incorporating the concept of universal conscription for a limited period of time for those trained at the public expense; this could even include the military as a "public institution" in which professionals could meet their obligations. However, I would strongly disagree with any plan that would definitively and perhaps permanently deprive any person, including a physician, of the freedom to practice his profession or trade where he wants. Such a policy would ultimately have devastating effects on the quality of the trade or profession. Although the authors do not say so explicitly, I am left with the uncomfortable feeling that, in their frustration, the authors are suggesting that, in order to ameliorate the situation in which foreign physicians are impressed into "slave-service" labor in public hospitals, U.S. psychiatrists should be treated in the same repressive way then all would be equitable. This would hardly be a solution; in fact, I would expect this approach to compound the already indefensible situation present in so many of our public institutions. I would like to recall the approach I mentioned earlier: the greater use of other professionals and preprofessionals, which seems very much in accord with the authors' ideas.

In addition, I want to stress a very important issue that the authors seem to have neglected—namely, the conditions in and attitudes of many public institutions, which allow and indeed encourage poor care and care givers. Certainly the feudal attitudes on the part of the administrators of many public institutions hardly provide an incentive to anyone to find newer and better ways of rendering service. A dismal attitude on the part of professionals in public service, and in the private sector as well, has been shared for a long time by the community, which makes the job of change far more difficult but at the same time far more challenging and potentially rewarding. No amount of "quota-ing," in-country or out-of-country, is going to solve what is essentially a philosophical and attitudinal problem; only the

people in charge of the institutions can begin to do that. Public institutions, including state hospitals, must change their philosophies and attitudes drastically so that an air of rejuvenation rises from the old edifice, so that it becomes an exciting place to be rather than a warehouse, so that its considerable resources are deployed in active treatment, not as a home for the persona non grata. In the process of this transformation, improved training, both abroad and in this country, perhaps subsidized by both governments, can be developed. The obligations to their own country and to the United States that must be met by the resident-in-training can be specified. Rather than using the U.S. society as a prototype, the specific needs of developing nations might be considered in the training that foreign psychiatrists receive, both in the United States and in their own countries.

But the development of all this will have to be based on a change in attitude, not on military discipline. Many of the problems relating to foreign-trained physicians in second-class settings, where they are employed as "cheap labor" while ostensibly in training, would cease to exist if the second-class settings themselves moved with conviction toward becoming first-class. In addition to the resources currently available to them, they would need a great deal of imagination and daring and much more hard work. This is the approach we are using at Medfield State Hospital; it seems to be working.

It would be well for me to point out in conclusion that there are many paths for a career in psychiatry; that public and private service can and ought to coexist and that working with severely deprived or ego-damaged individuals is quite different from working with gifted individuals to further develop their considerable potential. (The two poles seem, at times, to be equated with public service and private practice, respectively.) Certainly both of these tasks are important; I will not debate which is more valuable to our society as a whole, although the latter will continue for a time to be compensated better, both financially and in terms of prestige, until some effective counter-compensations emerge. These counter-compensations are what I alluded to when I talked about change as a foundation for a public institution program. Psychiatry must become aware of the reality of the position it is finding itself in today with regard to the demands for and expectations of service. It must not move to either extreme—to the public sector at the expense of the private or to the private sector at the expense of the public. Either extreme, as with human beings and their behavior, brings forth trouble, which we call pathology. Certainly psychiatry should be able to reconcile the disparate elements of its feelings and behavior better than that, and further both public and private programs without resorting to extremism.

HEW STUDY SAYS 20 PERCENT OF U.S. DOCTORS ARE FOREIGN TRAINED

(By Stuart Auerbach)

One out of every five doctors in America graduated from a foreign medical school where he most likely received a substandard education, according to a study commissioned by the federal government.

Moreover, the study shows that the immigration of doctors to America is foreign aid in reverse and often hurts other nations who consider doctors a valuable resource.

The number of foreign medical graduates here has doubled in the past 10 years, and most of the foreign-trained doctors work in American hospitals, where they make up one-third of the medical staff.

"Available evidence indicates that foreign manpower has been imported to serve specific roles, particularly in hospitals, rather than

to fill a general manpower need," the report states.

"The fact that many foreign physicians have stayed in the United States is largely a secondary result of this primary activity. Nevertheless, the cold facts remain that 63,391 of the 334,028 physicians in the United States in 1970 received their primary medical education outside the United States.

"This education represents a huge net gain to this country in terms of value received for medical education."

The study, commissioned by the Department of Health, Education and Welfare, was finished one year ago by Rosemary Stevens and Joan Vermeulen of the Yale University Medical School. It was, however, just released this month by HEW.

HEW sources say the report was held up because of possible embarrassment to the government and was released after congressional inquiries as to its status.

It shows that more foreign trained doctors (10,540) entered the United States in 1971 than graduated that year from American medical schools (8,974).

While 25,000 of the foreign-trained doctors were educated in Europe, 21,000 of them came from underdeveloped countries in Asia, principally the Philippines, India and Korea.

"There are more Thai graduates in New York than there are serving Thailand's rural population of 28 million," the report says.

"Iran produces 600 medical graduates a year; on the average there are at least 100 (members) of the graduating classes from 1960 through 1969 now in the United States. Many, if not most, will stay; in 1970 alone, 806 Iranian medical graduates sat for American licensing examinations. Similar statements can be made for many, if not most, third-world nations."

Despite the loss to other nations, there are signs that the American government considers the migration of foreign-trained doctors a plus for this country.

For example, HEW Secretary Caspar W. Weinberger told the House health subcommittee this year that there is no need to spend more federal funds on American medical schools to increase the number of doctors they graduate since so many foreign-trained doctors are coming to this country.

But the HEW-commissioned study concludes that foreign medical graduates are not as well trained as American-trained physicians.

"Indications are," the study says, "that foreign medical graduates continue to perform less well than their American counterparts even after several years of American graduate training."

For instance, 37 per cent of the graduates of foreign medical schools failed to pass their tests for American licenses, compared to 9 per cent of the graduates of American medical schools.

The same is true for the performance of foreign-trained doctors on specialty board examinations.

Many foreign-trained doctors working in hospitals do not need licenses. If they are residents or interns, they are considered doctors in training, and if they are fulltime employees of the hospital they may be considered to be working under the supervision of a licensed physician.

If it were not for foreign-trained doctors, many hospitals would not be able to fill their slots of interns and residents who, although they are supposed to be receiving training, often provide the bulk of patient care.

American hospitals offer more than 15,000 internships to recent medical school graduates; only 8,213—about half—are filled by graduates of American medical schools.

As a rule, the American medical graduates go to the best hospitals where they will get best training, leaving the rest for the foreign graduates. Many foreign-trained doctors

are hired by city and state hospitals because American-trained physicians will not work for the low wages paid there.

FOREIGN MEDICAL GRADUATES

(By Judith Randal)

Which of the following statements is correct?

Of the some 63,000 physicians practicing in this country who were not trained in either the United States or Canada—usually referred to as Foreign Medical Graduates or FMGs—the most recent arrivals are:

(1) More numerous than their predecessors of 10-15 years ago.

(2) More likely to be natives of underdeveloped nations whose need for doctors is even greater than our own.

(3) Also more likely to be second-class citizens professionally.

All these statements are correct and their implications both domestically and internationally are disturbing. It is bad enough to have this happen at a time when only an estimated 34 percent of those who apply to U.S. medical schools have a chance of getting in (down from the approximately 50 percent that it was until recently). Even worse, it threatens to intensify what already is a serious drawback of the nation's health care system: uneven quality.

When most doctor immigrants were European graduates of top-notch schools they frequently were of an age or professional stature to become professors or researchers or to join the staffs of major teaching hospitals for the best and most sophisticated training. Now, however, the typical new M.D. arrival is likely not only to be younger and to have come from India, the Philippines, South Korea, Pakistan or Thailand, but also to be recruited for positions which, because of the shortage of American graduates, would otherwise go begging.

Specifically, about half of all the doctors now being licensed in this country are FMGs, and in some eastern states, particularly, the percentage is far higher. They are to be found in disproportionate numbers in state mental institutions and in hospitals in inner-city and rural areas that are isolated from the mainstream of what is best in medicine, as well as in hospital emergency rooms and among those specialties such as anesthesiology and pathology which are the least attractive to Americans.

"Foreign Trained Physicians and American Medicine," a Department of Health, Education and Welfare publication from which most of this data is taken, points out (and correctly) that their backgrounds are so varied that neither a wholesale indictment nor a wholesale endorsement of FMGs is possible.

Yet it also is true that many state licensure boards have had to lower their passing grades in order to permit a sufficient number of FMGs to qualify; that numerous state mental institutions are largely staffed by FMGs for whom licensure has been waived or modified, and that—because remedial opportunities are limited—relatively few of these men and women ever make up for whatever professional shortcomings they may bring with them from abroad.

Small wonder, then, that since FMGs are disadvantaged, many of their patients in one way or another are, too. It is hardly accidental that the people whose health care is least likely to be provided by American medical graduates do not belong to metropolitan upper-income groups.

Many people would argue that any doctor is better than no doctor at all. Another way to look at it, however, is that much of what physicians can do can be done as well or better by well-supervised technicians and that to continue to drain other countries of their doctors instead of reorganizing the system to take advantage of this is wasteful and costly.

Furthermore, the United States trains far more of certain kinds of doctors—notably surgeons—than the population warrants, one result being that unnecessary operations help to create the seeming shortage of some of the very categories of supporting specialists—such as anesthesiologists—that we now import.

Thus, even if we continue to deny the entry of many qualified applicants to medical school, it should be possible to get a handle on overproduction in some specialties and underproduction in others, either by government intervention of some sort or by tightening health-insurance payment mechanisms for patient care which now indirectly subsidize most doctors who go on for further training after earning an M.D. degree.

A final note: The money the governments of underdeveloped nations have spent and are spending to train doctors who then leave for the U.S. amounts to billions of dollars' worth of foreign aid in reverse. Unintentionally given by those who can least afford it, it is resented even more intensely than assistance provided by the "haves" to the "have nots."

MORGAN GUARANTY TRUST'S RESPONSE TO DISCLOSURE OF CORPORATE OWNERSHIP

Mr. METCALF. Mr. President, last month the Committee on Government Operations published the committee print, "Disclosure of Corporate Ownership." This study has evoked lively interest in an important subject.

A principal conclusion of the study, as stated by Senator MUSKIE and me in our introductory remarks, as chairmen of the two subcommittees participating in the study, is as follows:

Neither companies nor ordinary stockholders have information which they need, to protect their own interests, regarding stock ownership and the personnel and business relationships between portfolio companies and institutional investors, principally banks. The Federal Government does not have sufficient information in these areas upon which to base reasoned public policy. Much of the information collected by Federal agencies regarding stock ownership, displayed in public files and shared with State agencies and the public, is meaningless or misleading despite the clear policy stated in the Federal Reports Act of 1942 that information collected by Federal agencies should be tabulated so as to "maximize the usefulness of the information to other Federal agencies and the public."

The information needed regarding the several levers of corporate control is held by a few institutional investors, principally six superbanks headquartered in New York. These institutional investors have the capacity to report their holdings quickly and fully. Similar reports on personnel and business relationships with portfolio companies would be even easier to make.

Congress and some Federal commissions have on occasion established limits on institutional levers of corporate control, principally regarding stockholders. But neither the Congress, nor the commissions, nor the executive branch can fully evaluate the total effect of concentration—the impact of the several levers of corporate control exercised by banks and other major investors throughout industry groups and the economy as a whole.

Meanwhile, the portfolio companies in which a few banks have substantial influence make many decisions affecting public policy. Oil companies deal with foreign nations regarding oil supply and cost. Pipeline com-

panies deal with the Soviet Union for natural gas. Utilities exercise the right of eminent domain. Milling companies and the Soviet Union arrange grain sales which sharply affect domestic price, supply, transportation, and storage. These are momentous public issues in which Federal officials play a minor role, much of it after basic decisions have been agreed upon by American companies and foreign governments.

Recently I received a letter regarding the study from the chairman of the board of Morgan Guaranty Trust, Ellmore C. Patterson. He shared his letter from some Members of Congress and the press. Inasmuch as persons who received his letter, and others, may be interested in my response, I ask unanimous consent to print in the RECORD my February 4 letter and the enclosures I sent to him.

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

JANUARY 23, 1974.

Senator LEE METCALF,
Chairman, Subcommittee on Budgeting,
Management and Expenditures, Committee
on Government Operations, U.S.
Senate Office Building, Washington, D.C.

DEAR SENATOR METCALF: I am writing to you to express my concern over the manner in which the Senate Subcommittee on Budgeting, Management, and Expenditures recently announced to the Press the publication of a report titled "Disclosure of Corporate Ownership."

The release states that the listing of nominees in official corporate ownership reports hides from government regulators the fact that institutional investors, especially banks, hold the stocks which are registered in the nominees' names. That is simply not true, as even a cursory reading of your remarks printed in the Congressional Record of April 25, 1972, would have made obvious to whoever prepared the press release. As you noted in those remarks (and as the report itself notes), bank nominees and the banks they represent are identified in the "Nominees List" published annually by and readily available from the American Society of Corporate Secretaries.

Nominee registration is used by banks to speed and simplify the transfer of stock, to minimize paperwork in the receipt of dividends and the crediting of them to the parties for whom stock is held, and in general to achieve efficiency and economy in performing the various services which banks offer the public in connection with investment in stocks.

There is not and has not been for decades any real misunderstanding by anyone in government about nominees. In 1933 the draftsmen of the Securities Act were able to distinguish clearly between persons owning stock of record and persons owning stock beneficially. You yourself have been discussing the use of nominees at least since 1971, and in 1972 Professor Gerald C. Fischer of Temple University published an article in the Banking Law Journal which clearly explained the use of nominees and which noted that such use had been specifically authorized by the legislatures of virtually every state. A copy of that article, which I commend to your attention, is enclosed with this letter.

The press release implies that various government agencies have been receiving (from issuing companies, not from banks) reports as to stock holdings which are in some way rendered misleading by the fact that nominees' names are included among the holders shown. If the agencies concur in that view, it would take merely a very simple amendment of their regulations to require that reporting companies indicate, when giving

the name of a nominee, the name of the bank or other institution with which it is associated.

Besides completely misrepresenting the effect of nominee registration, the press release begins by referring to "control of many large corporations by a few banks" as if such control were an established and unquestioned fact. Actually, not a shred of evidence is presented in the entire report on which the press release is based to support the thesis that any bank exercises control of the corporations discussed.

Banks are forbidden to own corporate stock for their own account, except in such unusual circumstances as stock acquired in an effort to recover on a defaulted loan. Banks hold stocks on behalf of clients and of trusts for which they are trustee. Their fiduciary obligations require them to act solely in the interests of their clients and trusts, not for purposes of gaining or exercising control of any company.

The charge in the press release, quoting from the report, that the use and reporting of nominee registration results in "a massive coverup" of institutional holdings of stock is particularly distressing to me because Morgan Guaranty Trust Company for the past two years has published and widely distributed reports listing all of the publicly traded stocks in which its holdings for trust or investment clients had market value of \$1,000,000 or more. These reports were furnished two months ago to the staff of your Subcommittee, but I enclose copies with this letter in case you have not seen them. A number of other banks, especially ones with large trust departments, also make significant disclosures of their holdings.

For some time we at Morgan Guaranty, recognizing that the growing institutionalization of savings and investment in the American society carries with it important considerations of public policy, have tried to encourage reasoned discussion and analysis looking to constructive decisions taken in the public interest. In publications, in speeches, and in governmental contacts we have attempted to contribute to such discussion and analysis. It is most discouraging to now encounter the approach to the subject embodied in the Subcommittee's press release, which unfortunately but predictably resulted in highly misleading stories in many newspapers and over many radio and television stations.

I am sending copies of this letter to Senator Muskie and to other members of Senate and House committees most directly concerned with the subject and to a number of newspapers which carried stories based on the Subcommittee's press release.

Respectfully yours,

ELLMORE C. PATTERSON,
Chairman of the Board.

FEBRUARY 4, 1974.

Mr. ELLMORE C. PATTERSON,
Chairman of the Board, Morgan Guaranty
Trust Co. of New York, New York, N.Y.

DEAR MR. PATTERSON: I have your 23 January letter in which you express your concern about the release of information regarding the committee print, "Disclosure of Corporate Ownership".

You are distressed by the reference to a "massive coverup" of institutional holdings, through use of nominees, citing your own recent compilations, provided to me last November, as evidence of significant disclosure.

You disagree with the contention in the release, and the study upon which it was based, that use of nominees in corporate ownership reports to government regulators hides the concentration of stockholdings in banks.

You contend that names of nominees and associated banks are readily available.

You state that there is not a shred of

evidence in our study to support the thesis that any bank exercises control of the corporations discussed.

You state that there has not been, for decades, any real misunderstanding by anyone in government about nominees.

Two of the compilations you sent me, dealing with Morgan's voting rights to stock in major broadcast companies and air carriers, do constitute significant disclosure. I compliment you for it. I hope that you will provide the Subcommittee (or include in your own public reports) similar information regarding Morgan's voting rights to stock in other companies which are required to submit ownership data to Federal regulatory agencies, such as the Federal Power Commission, Interstate Commerce Commission and Securities and Exchange Commission.

I would like to review for you the deficiencies, from a regulatory view point, of the annual reports of your trust and investment division, which you sent me, and of ownership information filed with government agencies by companies in which you hold stock. I believe this review may help you and your bank better understand and assist in correcting the deficiencies in the present systems.

Your annual reports on holdings do not enable the reader to distinguish between holdings which your bank is empowered to vote and those in which the bank has no voting rights. Separation of holdings into the three voting categories (sole, partial and none) would provide the information requested by regulators and needed by your portfolio companies in order to comply with regulatory requests. It would also diminish unjust criticism of banks whose holdings include large custodial accounts in which the bank has no voting interest.

Secondly, except for those companies in which your bank holdings exceed \$150 million, your annual report on holdings does not state the amount of stock held in a company, in either dollar or share terms. Congress and commissions have set forth in laws and regulations various stock ownership percentages at which control of a company is presumed. (That is one of the reasons why our study did not dwell on the exercise of control.) Your listing of, for example, only the names of more than one hundred companies in which Morgan has holdings with market value of \$10 million to \$50 million, is therefore insufficient for regulatory purposes.

The format which you used in the separate, unpublished compilation of voting rights to stock in major broadcast companies and air carriers, if used in your public report on all holdings above \$1 million, would in my opinion constitute adequate disclosure, and relieve some of the burden and expenditure of the tax-financed regulatory commissions.

The fact that I have been discussing nominees since 1971, and that Professor Fischer wrote an article about them for the Banking Law Journal in 1972, has not, alas, clarified the subject within government. And as recently as last summer the president of a firm in which your bank has holdings in excess of \$1 million testified that his and other medium-size and small companies are unable to break through the maze of nominee accounts to communicate directly with their beneficial shareholders.

As understanding of the nominee system increases it becomes increasingly clear that the system, while of possible benefit to bankers and traders, presents substantial problems for the Congress and the regulatory commissions it established, and for portfolio companies and many of their stockholders.

Our study includes abundant evidence regarding the contribution of nominees to the understating of bank holdings in major industries. To illustrate the point, I cite exam-

ples involving your own bank, using current data filed with regulatory commissions.

Enclosure A is the report on "Security Holders and Voting Powers" filed last year, with the Federal Power Commission by Florida Power Corporation, in which you report holdings of between \$10 million and \$50 million. You will note that three of the top ten security holders are nominees for your bank—Schmidt & Co., with 450,032 shares, Stawis & Co., with 154,753 shares and Carson & Co., with 142,481 shares.

Please also note that Chase Manhattan, the National Bank of Detroit, Northwestern National Bank of Minneapolis and Wilmington Trust are listed along with their nominees. Morgan, however, is nowhere mentioned in this ownership report. The addresses of two of your nominees is "Box 1508, Church St. Station, N.Y." The address of the other is Box 491 at the same Church Street Station.

The Nominee List, published by the American Society of Corporate Secretaries, is more available since I placed it in the Congressional Record, after the Society refused to make it available to the Federal Power Commission, an attorney in a rate case and an editor. If Florida Power Corporation knew about the Nominee List, why did it not identify Morgan in its ownership report? Your bank holds more than seven percent of the company's stock in those three nominee accounts.

The answer to that question should come from Florida Power Corporation. However, as chairman of the bank whose holdings in the company are veiled by three nominees, you too have an interest in this inadequate disclosure.

When the chairman of another large bank commented to me on our study, I sent him similar information regarding his bank, whose nominees were listed as three of the top stockholders in another electric utility which did not mention the name of his bank. The bank chairman checked his records and found out that his bank had stock in the company listed in eight other nominee accounts, in addition to the three that were listed among the top ten. His comment to me was:

"I certainly agree that, in terms of voting control, the current Federal Power Commission form does not provide for a full or meaningful report."

You too may wish to inquire within your trust department to see whether Morgan has other accounts in the Florida Power Corporation, and advise me of your findings.

Enclosure B is the "Security Holders and Voting Powers" report filed last year with the FPC by Southern California Edison. You

will note that your bank is the only institutional investor not named among the ten top stockholders. Chase, Citibank, United California, Savings and Trust, Prudential and Equitable Life Assurance Society are all identified. But your account is listed as: "Douglass & Co., Box 2010, Church St. Station."

Enclosure C is Long Island Lighting's "Security Holders and Voting Powers" report to the FPC last year. Here again large holders—Chase, Citibank, Manufacturers Hanover and Merrill Lynch, are identified by name. And here again, your account is listed simply as "Douglass & Co., Box 2010, Church St. Station."

The same situation applies to Duke Power Company in North Carolina. Morgan is the only bank among the top ten stockholders which is not identified except by nominee, in this instance "Powers & Co., Box 1479, Church St. Station."

Why is it that utilities from California to Florida and New York, while identifying other institutional investors, do not identify Morgan on their ownership reports?

I note that, in response to our request, Morgan chose not to identify its thirty top security holders, although three other major New York banks did. I note too that Morgan declined to provide the Library of Congress with requested information on interlocks with closely held companies, foreign corporations, and subsidiaries and other affiliates of domestic corporations. Furthermore, regarding interlock information which Morgan did supply the Library, your bank omitted names, indicating only interlocking positions.

The Federal Government and your portfolio companies have enough problems these days without having to play games with an extraordinarily powerful institution whose disclosure practices do not provide adequate and meaningful information regarding ownership and interlocks. I hope that you personally will review our study in the light of these comments, and provide the subcommittee and the public generally with the requested information.

Very truly yours,

LEE METCALF,

Subcommittee on Budgeting, Management and Expenditures.

FLORIDA POWER CORP.—SECURITY HOLDERS AND VOTING POWERS
(For Year Ending Dec. 31, 1972)

1. (A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes

which each would have had the right to cast on that date if a meeting were then in order. If any such holder held in trust, give in a footnote the known particulars of the trust (whether voting trust, etc.) duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or list of stockholders not compiled within or list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest. Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent, including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any officer, director, associated company, or any of the ten largest security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: Stock Book not closed in 1972.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, 9,620,376. By proxy, 9,620,376.

7. Give the date and place of such meeting: March 30, 1972, St. Petersburg, Fla.

Voting securities—Number of votes as of Dec. 5, 1972

Name and address of security holder (a)	Total votes (b)	Common stock (c)	Preferred stock (d)	Other (e)
1. Total votes of all voting securities	10,573,959	10,573,959		
2. Total number of security holders	20,855	20,855		
3. Total votes of security holders listed below	2,910,253	2,910,253		
4. Cudd & Co., Chase Manhattan Bank, Box 1508, Church St. Station, New York	681,082	681,082		
5. Schmidt & Co., Box 1479, Church St. Station, New York, N.Y.	450,032	450,032		
6. Trussal & Co., Trust Dept., National Bank of Detroit, Detroit, Mich.	334,422	334,422		
7. Cede & Co., Box 20, Bowling Green Station, New York, N.Y.	308,156	308,156		
8. Perc & Co., Northwestern National Bank of Minneapolis, Minn.	300,000	300,000		
9. Dean & Davis, Wilmington Trust Co., Wilmington, Del.	206,715	206,715		
10. Thomas & Company, 55 Wall St., New York, N.Y.	168,328	168,328		
11. Stawis & Co., P.O. Box 1479, Church St. Station, New York, N.Y.	156,720	156,720		
12. Kane & Co., Chase Manhattan Bank, P.O. Box 1508, Church St. Station, New York	154,753	154,753		
13. Carson & Co., P.O. Box 491, Church St. Station, New York, N.Y.	142,481	142,481		
Total (A) 10 largest security holders	2,902,689	2,902,689		

SOUTHERN CALIFORNIA EDISON—SECURITY HOLDERS AND VOTING POWERS

(For year ending December 31, 1972)

1. (A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes which each would have had the right to cast on that date if a meeting were then in order. If any such holder held in trust, have in a footnote the known particulars of the trust (whether voting trust, etc.), duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or a list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest.

Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent,

including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any officer, director associated company, or any of the ten largest security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: December 5, 1972, on three classes of stock for payment of dividends; on balance of stock for compilation of certain statistical data.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, 58,786,905. By proxy, 58,780,652.

7. Give the date and place of such meeting: April 20, 1972, Edison Building, 2244 Walnut Grove Avenue, Rosemead, California 91770.

Name and address of security holder (a)	Voting securities—Number of votes as of Dec. 31, 1972			
	Total votes (b)	Common stock (c)	Preferred stock (d)	Other (e)
Total votes of all voting securities as of Dec. 31, 1972.....	70,765,377	43,484,883	*5,229,900	.....
Total number of security holders as of Dec. 31, 1972.....	148,027	109,995	22,050,594	.....
Total votes of security holders listed below on pages 107, 107A, 107B, 107C, 107D and 107E as of Dec. 31, 1972.....	9,949,550	6,629,556	38,032	.....
1. (A) See pp. 107 and 107A.			*144,080	.....
1. (B) See pp. 107B, 107C, 107D, and 107E.			3,175,914	.....
2. No other securities have voting rights.				.....
3. Col. (c): Common stock—1 vote per share. Col. (d): *Original Preferred Stock, \$100 cumulative preferred stock and preference stock—1 vote per share. Col. (e): Cumulative preferred stock—3 votes per share.				.....
4. No options, warrants or rights were outstanding at the end of the year.				.....

Name and address of security holder (a)	Total votes (b)	Common stock (c)	Preferred stock (d)	Other (e)
I. (A) LIST OF 10 LARGEST STOCKHOLDERS				
The Equitable Life Assurance Society of the United States, 1285 Avenue of the Americas, New York, N.Y.....	2,034,775	130,000	1,904,775	.....
Hep & Co., care of United California Bank, P.O. Box 3667, Terminal Annex, Los Angeles, Calif.....	1,214,567	1,214,567		.....
Kane & Co., care of The Chase Manhattan Bank, P.O. Box 1508, Church Street Station, New York, N.Y.....	1,193,359	1,184,146	9,213	.....
Cede & Co., P.O. Box 20, Bowling Green Station, New York, N.Y.....	1,142,443	1,142,443		.....
Stuart & Co., care of First National City Bank, 20 Exchange Place, New York, N.Y.....	856,640	855,536	1,104	.....
Sabat Co., care of Savings Banks Trust Co., 200 Park Ave., New York, N.Y.....	765,250	44,700	103,750	.....
Thomas & Co., First National City Bank, 20 Exchange Place, New York, N.Y.....	763,840	763,840	616,800	.....

Name and address of security holder (a)	Total votes (b)	Common stock (c) ¹	Preferred stock (d) ²	Other (e)
Cudd & Co., (c/o Chase Manhattan Bank post office box 1058, Church St., Station, New York, N.Y.).....	720,456	702,171	*7,500	.....
The Prudential Insurance Co., of America, Prudential Plaza, Newark, N.J.....	634,890		10,785	.....
Douglass & Co., post office box 2010, Church St. Station, New York, N.Y.....	570,000	550,000	634,890	.....
Total votes, 10 largest stockholders.....	9,896,220	6,587,403	*140,463	.....
			3,168,354	.....

¹ Common stock—1 vote per share.
² Cumulative preferred stock—3 votes per share.

³ Original preferred stock, \$100 cumulative preferred stock and preference stock—1 vote per share.

LONG ISLAND LIGHTING CO.—SECURITY HOLDERS AND VOTING POWERS
(For Year Ending Dec. 31, 1972)

(A) Give the names and addresses of the 10 security holders of the respondent who, at the date of the latest closing of the stock book or compilation of list of stockholders of the respondent, prior to the end of the year, had the highest voting powers in the respondent, and state the number of votes which each would have had the right to cast on

that date if a meeting were then in order. If any such holder held in trust, give in a footnote the known particulars of the trust (whether voting trust, etc.), duration of trust, and principal holders of beneficiary interests in the trust. If the stock book was not closed or a list of stockholders not compiled within one year prior to the end of the year, or if since the previous compilation of a list of stockholders, some other class of security has become vested with voting rights, then show such 10 security holders as of the close

of the year. Arrange the names of the security holders in the order of voting power, commencing with the highest. Show in column (a) the titles of officers and directors included in such list of 10 security holders.

(B) Give also the voting powers resulting from ownership of securities of the respondent of each officer and director not included in the list of 10 largest security holders.

2. If any security other than stock carries voting rights, explain in a supplemental statement the circumstances whereby such

security became vested with voting rights and give other important particulars concerning the voting rights of such security. State whether voting rights are actual or contingent and if contingent describe the contingency.

3. If any class or issue of security has any special privileges in the election of directors, trustees or managers, or in the determination of corporate action by any method, explain briefly.

4. Furnish particulars concerning any options, warrants, or rights outstanding at

the end of the year for others to purchase securities of the respondent or any securities or other assets owned by the respondent, including prices, expiration dates, and other material information relating to exercise of the options, warrants, or rights. Specify the amount of such securities or assets so entitled to be purchased by any other director, associated company, or any of the ten large security holders. This instruction is inapplicable to convertible securities or to any securities substantially all of which are outstanding in the hands of the general public

where the options, warrants, or rights were issued on a prorata basis.

5. Give date of the latest closing of the stock book prior to end of year, and state the purpose of such closing: See attached schedule.

6. State the total number of votes cast at the latest general meeting prior to the end of year for election of directors of the respondent and number of such votes cast by proxy: Total, see attached schedule.

7. Give the date and place of such meeting: See attached schedule.

Voting securities (number of shares as of Dec. 31, 1972)

Name and address of security holder (a)	Total common shares (b)	Common stock (c)	Preferred stock (d)	Other (e)
Total shares of all voting securities.....	22,273,258	(1)	(1)	(1)
Total No. of security holders.....	92,063	(1)	(1)	(1)
Total shares of security holders listed below.....	3,261,839	(1)	(1)	(1)
Kane & Co., care of Chase Manhattan Bank, Church Street Station, Box 1508, New York, N.Y.....	1,118,374	(1)	(1)	(1)
King & Co., First National City Bank, 22 William St., New York, N.Y.....	365,764	(1)	(1)	(1)
Merrill Lynch, Pierce, Fenner & Smith, Inc., 70 Pine St., New York, N.Y.....	1,355,965	(1)	(1)	(1)
Gertach & Co., care First National City Bank, 20 Church St., New York, N.Y.....	226,524	(1)	(1)	(1)
Vanneck & Co., 100 Park Ave, New York, N.Y.....	215,443	(1)	(1)	(1)
Douglass & Co., Box 2010, Church Street Station, New York, N.Y.....	214,600	(1)	(1)	(1)
Sigler & Co., care of Manufacturers Hanover Trust Co., 40 Wall St., New York, N.Y.....	213,199	(1)	(1)	(1)
Cudd & Co., care of Chase Manhattan Bank, Church Street Station, Box 1508, New York, N.Y.....	205,581	(1)	(1)	(1)
Abraham & Co., 120 Broadway, New York, N.Y.....	192,512	(1)	(1)	(1)
Loeb Rhodes & Co., 42 Wall St., New York, N.Y.....	153,877	(1)	(1)	(1)

¹ See attached schedule.

² Includes 177,520 shares registered in the name of Ceder and Co.

³ Shares registered in the name of Cede and Co.

⁴ Includes 146,819 shares registered in the name of Cede and Co.

Mr. METCALF. Mr. President, reference is made in the preceding correspondence to two compilations which Mr. Patterson provided me regarding his bank's voting rights to stock in major broadcast companies and air carriers. I

complimented him for this disclosure, and suggested that the bank make similar information available regarding Morgan's voting rights to stock in other two compilations provided by Mr. Patterson, dealing with his bank's voting

rights to stock in major broadcast companies and air carriers.

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

MORGAN GUARANTY TRUST CO. OF NEW YORK, TRUST AND INVESTMENT DIVISION, OCTOBER 26, 1973

FCC ISSUES	Outstanding shares	Shares held	Percent of outstanding shares	Percent of outstanding shares voted			
				Sole	Partial	None	Total ¹
American Broadcasting.....	17,392,000	734,832	4.2	3.9		0.2	4.1
American General Insurance.....	22,868,000	5,060					
American General Insurance \$1.80 conv. pfd.....	5,696,000	932					
American Television & Communications.....	2,859,000	240,200	8.4	8.4			8.4
American Television & Communications \$2.50 pfd. B ²	116,625	40,000	34.3	34.3			34.3
American Television & Communications \$2.75 conv. Pfd. A ³	49,000	45,000	91.8	91.8			91.8
Athena Communications Corp.....	2,000,100	9					
Avco Corp.....	11,497,000	1,000					
John Blair & Co.....	2,592,000	102,650	4.0		4.0		4.0
Burnup & Sims Inc.....	7,692,000	634,600	8.2	7.7		.4	8.1
Capital Cities Communications.....	7,074,000	379,530	5.3	4.6	.1	.6	5.9
Columbia Broadcasting Systems.....	28,044,000	303,207	1.0	.3	.7		1.8
Combined Communications.....	3,436,000	5,400	.1			.1	.8
Continental Cablevision Inc. ⁴	264,586	1,425	.5			.5	1.1
Cox Cable Communications Inc.....	3,560,000	211,800	5.9	5.8			5.3
Downe Communications.....	5,352,000	150,000	2.8	2.8			2.0
Dun & Bradstreet Cos.....	26,096,000	1,657,330	6.3	4.5	.3	1.3	6.1
Evening News Associations ³	494,500	9,600	1.9	1.5	.4		1.5
Gannett Co.....	20,327,000	189,350	.9	.1		.8	.9
General Cinema Corp. V/T/C.....	5,488,500	467,150	8.5				
General Cinema Corp.....	5,588,500	2,000					
General Electric Co.....	183,105,000	1,194,117	.6	.1	.2	.2	.5
General Instruments Corp.....	6,790,000	1,168					
General Tire & Rubber.....	20,651,000	4,232					
Harcourt Brace Jovanovich, Inc.....	3,869,000	313,841	8.1			8.1	8.1
Jefferson-Pilot Corp.....	24,098,000	431,176	1.7	1.7			1.7
Kaiser Industries.....	27,487,000	477,064	1.7		1.4	.2	1.6
Kaufman & Broad, Inc.....	15,984,000	188,700	1.1		.9	.2	1.1
Knight Newspapers.....	10,313,000	24,150	.2			.2	.2
Liberty Corp.....	6,760,000	990					
Lin Broadcasting Corp.....	2,341,000	100,000	4.2	4.2			4.2
McGraw-Hill Inc.....	23,384,000	122,256	.5		.5		.5
Media General Inc.....	3,272,000	2,000					
MLT Corporation.....	34,200,000	189,866	.5	.4	.1		.5
New York Times Co. "A".....	10,571,000	12,860	.1			.1	.1
New York Times Co. "B".....	803,000	9,000	1.1			1.1	1.1
Providence Journal Co. V/T/C.....	14,319	208	1.3				
RCA Corp.....	74,527,000	136,291	.1	.1			.1
Reavas Telecom Corp.....	2,375,000	1,000					
Rollins Inc.....	12,858,000	118,000	.9		.9		.9
Rust Craft Greeting Cards, Inc.....	2,366,000	40,000	1.6	.8		.8	1.6
Schering-Plough Corp.....	52,792,000	3,251,585	6.1	3.9	.5	1.7	6.1
Scripps Howard Broadcasting Co.....	2,589,000	2,000					
Signal Companies.....	22,454,000	206					
Signal Companies \$2.20 conv. pfd.....	991,000	1,275	.1		.1		.1
Taft Broadcasting Co.....	4,071,000	135,000	3.3	3.0		.2	3.2
Teleprompter Corp.....	15,989,000	800					
Time Inc.....	7,298,000	121,946	1.6	.8	.3	.5	1.6
Times-Mirror Co.....	30,790,000	1,281,478	4.1		.3	3.6	3.9

	Outstanding shares	Shares held	Percent of outstanding shares	Percent of outstanding shares voted			
				Sole	Partial	None	Total ¹
Transamerica Corp.	66,561,000	1,222					
Travelers Corp.	45,145,000	1,288,566	2.8	2.7			2.7
Tribune Co. ²	7,695	177	2.3	1.2		1.0	2.2
Twentieth Century Fox Film Corp.	8,562,000	100					
Viacom International Inc. V/T/C	3,931,000	222,489	5.6				
Viacom International Inc.	3,931,000	25,956	.6	.2	0.4		.6
Warner Communications \$.05 conv. pfd. C	4,645,000	81					
Warner Communications \$1.25 conv. pfd. D	1,684,000	82					
Washington Post 'B'	3,993,257	561,265	14.0	.1	6.7	7.2	14.0
Westinghouse Electric Corp.	88,235,000	3,094,724	3.5	3.2		.1	3.3
WHDH Corp.	589,000	1,421	.2		.2		.2
CAB ISSUES							
Air Express International Corp.	1,701,000	400					
Air Express International Corp. class B		76,374				.2	.2
American Airlines Inc.	28,846,000	934,787	3.2	3.0		.1	3.1
Baker Industries Inc.	6,100,000	349,358	5.7	2.0	.1	3.4	5.5
Burlington Northern	12,438,000	1,740					
Burlington Northern 5.50 cum. pfd. nonvoting	3,081,000	85					
Consolidated Freightways Inc.	11,849,000	895,000	7.5	3.5	.9	3.1	7.5
Del Monte Corp.	12,044,000	4,089					
Delta Airlines	19,866,000	12,325					
Eastern Air Lines Inc.	19,043,000	16,442					
Emery Air Freight Corp.	7,772,000	381,620	4.9	2.9	1.2	.6	4.7
Flying Tiger Corp.	13,130,000	3,217					
GAC Corp.	7,213,000	1,700					
Mississippi River Corp.	9,081,000	500					
National Airlines Inc.	8,555,000	24,600	.2	.2			.2
Northwest Airlines Inc.	22,150,000	441,240	2.0	2.0			2.0
Overseas National Airways Inc.	2,427,000	3,510	.1			.1	.1
Ozark Air Lines Inc.	6,783,000	1,000					
Pan American World Airways Inc.	40,358,000	88,100	.2	.1			.1
Santa Fe Industries Inc.	25,271,000	9,280					
Transcon Lines	3,114,000	5,800	.1	.1			.1
Trans World Airlines Inc.	12,301,000	25,000	.2	.2			.2
UAL Inc.	20,923,865	483,570	2.3	2.3			2.3
Western Airlines Inc.	13,927,000	332,905	2.3	2.3			2.3

¹ Totals may not agree with percent of outstanding shares due to rounding.

² Indicates not publicly traded.

THE FUEL SHORTAGE—HOW SERIOUS?

Mr. PELL. Mr. President, one of the most frustrating aspects of the energy crisis has been the lack of adequate information regarding the extent of the fuel shortage and the impact of that shortage on various regions. Because of the lack of hard facts, the administration may have overstated the seriousness of the problem prompting decisions by the Federal Energy Office as well as business and industry that have resulted in a general economic slowdown and left thousands of individuals affected by economic disruptions across the country.

This uncertainty and confusion over the extent of the shortage has been pointed out very well in recent weeks by conflicting reports released from highly reliable Government and independent sources. The Federal Energy Office in their weekly petroleum situation report issued January 25, reported a supply deficit for January 1974, of 2.5 million barrels a day with crude oil stocks down to 230.8 million barrels, their lowest position since 1968. The report further stated that stocks of residual oil, most critical for New England, were at 49.1 million barrels—down more than 5 percent from the 55 million barrels on hand a year ago, according to the American Petroleum Institute.

On the other hand, a report by several reporters of the Philadelphia Inquirer, presented a more optimistic picture of available global petroleum supplies. According to this report based upon an examination of oil supplies in Europe as well as an assessment of the impact of the oil embargo in Europe, oil stockpiles were at record levels across Europe, and the east coast of the United States

and the wholesale prices of oil products were declining dramatically across Western Europe. This assessment was confirmed by the authoritative Platt's Oilgram Price Service. Furthermore, in regard to heavy fuel oil used by utilities and some industry, the report cited a reduction in price of more than 30 percent in recent weeks. Similar assessments were reported recently in the New York Times and Business Week.

I ask unanimous consent that these reports be printed as exhibits at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. PELL. Mr. President, I believe the conflicting information above points out well the frustration many of us in Congress have had in trying to assess the severity of this fuel shortage and more importantly in trying to develop legislation to deal with the problem with the least adverse impact upon the lives of Americans. This uncertainty points out the absolute necessity for a reporting system by the oil industry that will answer these questions regarding pricing and supplies. To help achieve this goal, I support fully legislative efforts to require full disclosure of all information necessary to construct a national energy policy. Only with basic information can the Congress and the Federal Energy Office hope to present a believable, accurate picture to the public and thus restore public confidence.

The Energy Emergency Act (S. 2589), now being considered by the Senate, includes reporting requirements that would provide basic energy data vital to an effective national energy program. That is one reason I support this legislation.

EXHIBIT 1

PETROLEUM SITUATION REPORT FOR WEEK ENDED JAN. 18, 1974—PETROLEUM SCORECARD

FORECAST SUPPLY DEFICIT

January 1974	2,500,000 barrels per day
1st quarter 1974	2,700,000 barrels per day

APPARENT DEMAND (MILLION BARRELS PER DAY)

	Week ended Jan. 18, 1974	Jan. 1 to date
Forecast demand	20.1	20.1
Apparent demand	17.6	17.7
Indicated savings	2.5	2.4

PERCENTAGE SAVINGS BY FUEL TYPE

Gasoline	9.8	4.2
Jet fuels	13.6	22.9
Distillate fuel oil	5.6	10.0
Residual fuel oil	13.7	16.4
Total, 4 products	9.8	10.2

IMPORTS (MILLION BARRELS PER DAY)

Forecast, with fully effective embargo	4.9
Actual	5.0
Increase over forecast	.1

HIGHLIGHTS

Crude oil imports continued to decline this week, falling 173,000 barrels per day below a week ago. Total imports, crude and products, for the week were 4,982,000 barrels a day, only a small increase from prior week. Year to date total import averaged 5,118,000 barrels per day, only 186,000 barrels a day above forecast embargoed rate.

Crude runs to stills, at 11,425,000 barrels per day for week ended January 18, were at lowest rate since January 1973.

Crude oil stocks: API report shows reduction of 8.6 million barrels during the week, but calculated reduction, based on reported

supplies and crude oil use, was only 0.8 million. See crude oil section.

Demand for all products, for the period since January 1, was 2.4 million barrels per day below forecast. Demand for each of the four major products was lower than expected, for both the current week and the month to date.

Weather in the Northeast was colder than normal during the week. In most other parts of the country the weather was much warmer than normal.

CRUDE PETROLEUM REVIEW

[Thousands of barrels per day]

	Week ended Jan. 18	January forecast	Jan. 1 to date	
			Actual	Variance from forecast
Production.....	9,152	9,023	9,123	+100
Imports.....	2,171	2,425	2,333	-92
Stock change.....	1-113	-187	-182	-5
Crude runs.....	11,425	11,635	11,628	-7

¹ Calculated by Federal Energy Office from production, imports, crude runs to stills, and direct use.
² Revised to exclude unfinished oils.

CRUDE OIL

Domestic production of crude oil continues to average slightly more than 100,000 barrels above one monthly forecast of 9,023,000 barrels.

Reported crude oil stocks were decreased by 8.6 million barrels, the largest single week drop over the past several years. The current reported level of 230.8 million barrels is the lowest stocks have been since at least 1968. The greatest impact of the drawdown is in the West Coast, where stocks decreased 3.8 million barrels and are 11.9 million below last year.

Crude runs to stills for the week ended January 18 averaged 194,000 barrels per day under last week's. This week's rate (11,425,000 barrels per day) marks the lowest level of any week in 1973 and 1974. The decline was again attributed to both lack of crude oil and refinery shutdowns for repairs and maintenance. With the most recent decline, the month to date daily rate is 7,000 barrels per day below the January forecast.

There is, however, a major discrepancy between the reported stock change and the 0.8 million barrel stock reduction of reported crude oil supplies and use. The reason for this significantly large discrepancy has not yet been identified. FEO believes the calculated stock change to be the more indicative of the current week's performance.

IMPORTS

Imports of crude and refined petroleum products totaled 4,982,000 barrels per day for the week ended January 18. The small net increase from last week (23,000 barrels per day) was the result of increases in refined products of 199,000 barrels per day, offset by a decline in crude imports. Major products showing increases were gasoline and distillate fuel oil.

Year to date figures continue to decline and the accumulated rate of 5,118,000 barrels per day is only 186,000 above the daily level of 4,932,000 barrels forecast for January under embargoed conditions.

JET FUEL

Production of jet fuel this week was 719,000 barrels a day, about 18 percent lower than the previous week. Imports were up slightly, but stocks were drawn down 1,770,000 barrels, or 252,000 barrels a day. Demand calculated for the week was 1,160,000 barrels a day, almost 14 percent less than the forecast demand for January. The cumulative production is 9,000 barrels a day less than forecast; imports are 17,000 barrels a day higher than forecast; stocks were reduced 7,000 barrels a day more than forecast.

DISTILLATE FUEL OILS

Since the beginning of the year, demand for distillate fuel oils has been 10 percent lower than expected. Production, at 3.0 million barrels, is about 270,000 barrels per day above forecast. Imports, at 370,000 barrels per day, are 130,000 barrels per day above forecast. As a result, stocks have been drawn down at a daily rate of only 850,000 barrels, far less than the forecast withdrawal rate of 1.5 million barrels a day.

Inventories are now at 188.7 million barrels, a level which assures a comfortable cushion for colder-than-normal late winter weather, or alternately, an opportunity to substitute distillate fuel for supply-short residual fuel, providing home heating oil customers continue their commendable conservation practices.

RESIDUAL FUEL OIL

Since January 1, demand for residual fuel oil has been 16.4 percent below forecast, while domestic refinery production and imports have been close to their expected rates, giving consideration to the oil embargo. Inventories, however, have been reduced more rapidly than was anticipated. Stocks are at 49.1 million barrels, 3.6 million barrels below a year ago.

GASOLINE

Refinery output of finished gasoline decreased this week by about 1 percent. This is the third successive week of reduced production. However, imports were up and stocks increased by almost 2.2 million barrels. Calculated daily demand was 5,764,000 barrels, which is almost 10 percent less than the forecast demand of 6,390,000 barrels.

The cumulative year to date demand is 6,120,000 barrels a day, about 4.2 percent less than forecast. The other cumulative figures indicate that production of gasoline is 139,000 barrels a day less than forecast, imports are 27,000 barrels a day greater and stocks have been reduced 17,000 barrels per day as compared to an anticipated January stock buildup at a rate of 594,000 barrels a day.

[From the Philadelphia Inquirer, Jan. 20, 1974]

TANKS BULGE, EUROPE'S FUEL PRICES CUT (By Donald L. Barlett and James B. Steele)

The wholesale prices of oil products—from gasoline to jet fuel and home heating oil—are declining dramatically across Western Europe.

The reason: European countries, which have been stockpiling record quantities of crude oil and petroleum products, have run out of storage space.

"Storage tanks are, in fact, full to the brim in Northwest Europe, the East Coast of the United States and in Italy" at the same time consumption has been cut back, said Platt's Oilgram, a daily price reporting service that monitors the worldwide activities of the oil industry.

The Platt's report confirms findings first published by The Inquirer in a continuing series of reports:

There are record stockpiles of oil products in the United Kingdom, The Netherlands, Italy and other European nations as well as the United States—and no serious oil shortages.

The effects of the Arab embargo and the severity of the oil shortage in the United States have been grossly exaggerated by the Nixon Administration.

Of the Arab embargo, Platt's Oilgram quotes a European oil trader as saying that the last three months have shown the "Arabs either cannot, or really didn't want to pull off their embargo."

"Even singled-out Holland has ended up

with the fullest tanks of any of us. In short, the panic factor has ironed out the market."

In Rotterdam, the largest oil port in Europe, Platt's reports that prices for jet fuel and heavy fuel oil used by electric utilities have declined more than 30 percent in recent weeks.

At the first of the year, the price of heating oil there ranged between \$150 and \$175 a ton, says Platt's. It now is selling for \$107.50 and the price is still falling.

There have been four offerings of jet fuel at terminals in Italy and Spain—but no buyers, says Platt's. And a Platt's report from Italy says that the once frequent calls from the United States for jet fuel have ended.

In a dispatch from Milan, Platt's reported: "Deadness of the market is the main topic of conversation in Italian oil circles. Buyers are a rare breed."

"A trading company reports at least five Italian refiners are in the market offering products from gasoline down to gas oil (heating oil)."

"This broker gives a picture of full tanks at refineries and no takers of the oil. A trader notes the entire market has made a complete turnaround from two months ago."

Indeed, in Genoa, Italy's largest oil port, Antonio Orlando, press officer for the Genoa Port Authority, told an Inquirer reporter:

"There is no shortage of oil. In my opinion, the oil companies played a great deal on the Arab embargo to close off the taps of petroleum and get an increase in prices."

Statistics for the Genoa port, gathered by The Inquirer, show that oil imports for the last three months of 1973 were up 19 percent over the same period a year earlier.

And in December—the month when Arab production cutbacks should have been felt in a busy port such as Genoa—a record 5.1 million tons of crude oil was unloaded, the most for any month in 1973.

Thus, despite the fact that Italy is heavily dependent on Arab oil. In 1972, the latest period for which complete figures are available, 71 percent of all the oil imported into Italy came from the Arab nations, largely Libya, Saudi Arabia and Kuwait.

The large increase in oil imports into Genoa has some significance for other European countries, for Italy exports about 25 percent of the crude oil it receives.

Oil unloaded in Genoa is carried by pipeline to refineries in Switzerland, Germany and other Italian cities.

Even though Italy is receiving plenty of crude oil, the country has been hit with sporadic shortages of some oil products.

Indeed, there were scattered shortages of gasoline, diesel fuel and home heating oil in Italy and on for months before the Arabs announced their reduction in oil production.

The problem, an Inquirer survey found, appears to stem more from government price control policies and hoarding than from anything else.

Last week, the Italian government charged an independent oil refiner in Genoa with fraud and hoarding petroleum products, confirming the suspicions of any oil industry observers that there is substantial hoarding of petroleum.

The government has contended that the refiner is withholding its products from the market to get a higher price.

The Italian government, as part of its inquiry, said police had seized dozens of telegraph messages in a Rome refinery that were sent to oil tankers bound for Italy.

The messages, according to the government, indicated that the tankers being urged to go elsewhere because there was no more storage space for crude oil in Italy.

The Italian government said it also is questioning the officials of a number of other oil companies about their stockpiling practices.

The companies being quizzed include at least one American oil company, Chevron, a subsidiary of Standard Oil Company of California.

A spokesman for Standard Oil Company of California, at the company's headquarters in San Francisco, had no comment, saying the company had not heard from its affiliate in Italy concerning the matter.

The purpose of the probe by the Italian government is to determine whether some oil companies refused to refine crude oil last year and thus helped create product shortages.

The Inquirer survey of oil supplies in Italy produced about the same results as its survey in the Netherlands and United Kingdom.

As The Inquirer has disclosed over the last two weeks, the Arab cutbacks have had little effect on Europe's two largest oil ports—Rotterdam in the Netherlands and Milford Haven in the United Kingdom.

In Rotterdam, for example, a port official said that oil was flowing into the port at a steady rate, even though the Netherlands was the only country besides the United States hit with a total embargo by the Arab states.

Prior to the embargo, about 70 percent of all oil shipments into Rotterdam came from Arab states. After the embargo, major oil companies diverted supplies of non-Arab oil to the Dutch.

The companies shipped Arab oil, which once was intended for the Netherlands, to countries the Arabs considered more sympathetic to their views, such as France and Britain.

While The Inquirer's continuing probe into the worldwide movement of oil has indicated that production is indeed down in from Arab states, there is little evidence to suggest that overall production has been slashed to the levels publicly announced by the Arabs.

In addition, oil production has been stepped up in a number of other countries, including at least one Arab state (Iraq), as well as Iran and Indonesia.

So it is, then, that the Italians, like the Dutch and the British, are more concerned with the spiraling retail prices of oil products than with the supply—which is considered adequate.

In the United States, on the other hand, the new Federal Energy Office and the Nixon Administration have expressed more concern over alleged oil shortages. This has tended to divert attention from steeply rising prices.

While there is a squeeze between supply and demand for oil products in this country, The Inquirer has pointed out, beginning last month, that the Federal Government has consistently overstated the severity of the problem.

FUEL-OIL SCARCITY IS BEING DOUBTED BY MANY DEALERS

(By Michael C. Jensen)

While the Government warns that the nation still faces a "critical" heating-fuel situation, many dealers and distributors who provide fuel oil to homes in the Northeast say their storage tanks are full and the threat of a shortage this winter has been all but eliminated.

As a result, some companies are reducing their prices, while others are increasing the amounts of fuel oil they allow their customers to buy. In one such action yesterday, the Getty Oil Company (Eastern Operations), Inc., said it was increasing customer allocations of heating fuel on Friday from 73 per cent of 1972 levels to 100 per cent. Getty sells to distributors in New Jersey and sections of New England.

Because of the large supply of fuel oil, prices of newly arrived tanker cargos have plunged by more than 50 per cent since the beginning of the month.

A combination of unusually warm weather and conservation by homeowners has lowered demand for fuel oil by about 25 per cent, oil executives said. The result has been a massive buildup in inventories throughout the area.

DOWN 6 CENTS A GALLON

"I don't see any problem in supply for the rest of the heating season," said Peter J. Carini, president of the Ace Fuel Oil Corporation, a major retailer of home-heating fuel in the New York area.

Mr. Carini said his company was selling fuel oil for 32.75 cents a gallon after having charged customers 38.5 cents during December. The price probably will decline by another cent or more in February, he said.

Ironically, however, some homeowners face additional price increases in the weeks ahead. That is because the major fuel suppliers, whose price increases have been more restrained than the independent dealers, will be allowed by the Government to pass along for the first time higher costs incurred in January.

The more-than-ample supply of heating fuel in the Northeastern part of the United States mirrors a condition that has developed in Europe. Light heating oil in the Rotterdam market, which influences the level of prices throughout Europe, has fallen more than 50 per cent from the high of early December.

The rapid shift in the market also has caught large numbers of speculators holding inventories of expensive fuel, which they had hoped to unload at inflated prices.

POLICY REVERSAL EXPECTED

The Federal Energy Office said earlier this week that it would decide soon whether to reverse its current emphasis on production of heating fuel, a middle distillate, at the expense of gasoline. Such a reversal is widely expected in the industry.

At the same time, William E. Simon, the Federal Energy Administrator, when asked by Senator Edmund S. Muskie, Democrat of Maine, whether the nation was over the heating oil crunch, said:

"No sir, we are not, or we would have already started shifting production back from middle distillates to gasoline. We have still got a critical distillate situation."

Even though current supplies of heating fuel are high, some Federal officials say they fear that a relaxation of conservation, coupled with a prolonged siege of cold weather, could reduce inventories and leave the nation at a disadvantage in building supplies for next winter.

For that reason, they are not eager to proclaim an end of the shortage of home-heating oil.

Prices that homeowners have been paying for fuel oil have skyrocketed since last winter. Some customers who paid only 20 cents a gallon to fill their tanks a year ago now are paying more than 30 cents. Others who buy from dealers supplied by independent refineries, have paid double that amount.

Now that the shortage situation seems to be reversing itself, however, some prices are coming down.

NORTHVILLE CUTS PRICE

The Northville Industries Corporation, a major independent oil distributor, said yesterday it had lowered the price it charged dealers for home-heating fuel by 1 cent a gallon.

It was able to take the action, Northville said, because it had received "large supplies" of domestically produced heating oil from three of its suppliers under orders from the Federal Energy Office.

The Government has initiated a program to insure that independent distributors who have been dependent on expensive imported oil also get some of the cheaper domestic products so that they can lower their prices.

The Exxon Corporation said its stocks of home-heating fuel were "unusually high." Earlier this month, the company said it had 19.5 million barrels (there are 42 gallons in a barrel) of fuel oil available. A year earlier, it had only a 15.2 million-barrel inventory.

Exxon's "rack" price, which it charges customers who resell the fuel, currently is 21.5 cents a gallon, up nearly 70 per cent since September. The increase, an Exxon spokesman said, reflected higher costs. The price to homeowners normally is 10 cents higher.

William F. Kenny, chairman of the Meenan Oil Company, Inc., in New York, said his company's studies indicated that Meenan customers had saved about 16 per cent to 17 per cent on fuel consumption by turning down their thermostats and that warmer weather had accounted for a saving of 7 per cent to 8 per cent more.

One reflection of price weakness is the sharp decline in the amount charged for newly arrived cargos of heating fuel. After hitting a high of 72 cents a gallon in the first week of January, the spot price now has plummeted to 32 cents, according to Howard Ross, president of the Howard Fuel Corporation of Maspeth, Queens.

Most oil is not bought at the spot price but rather on long-term contracts. However, the spot price acts as a barometer of current supply-and-demand conditions. Spot prices rise or decline sharply depending on the current market for fuel oil and the outlook.

In Boston, John G. Buckley, vice president of Northeast Petroleum Industries, Inc., said Northeast was one of a number of companies that had reduced prices slightly.

He said homeowners who bought fuel from independent suppliers were likely to see gradually declining prices, while those buying from the major companies, which are charging much less, would probably see their prices rise somewhat.

Mr. Buckley said the spread between the prices charged by the independents and the major companies probably would gradually narrow and finally disappear sometime in March.

A number of oil dealers warned that an unusual cold snap would tighten the situation, as could a relaxation of conservation efforts. "As long as people think there's a crisis, there isn't one," Mr. Buckley said. "If they think there isn't one, there is."

However, others concluded that, no matter how severe the rest of the winter became, there was plenty of oil on hand to meet the demand.

"I foresee President Nixon having to go on television with his sleeves rolled up and his tie loosened to tell the nation that he has turned up the thermostat in the Oval Office to 90 degrees," one industry analyst said. "He'll ask them to do the same thing because we need to burn up the heating fuel to make space to store something else."

EUROPE: A GAS OIL "SHORTAGE" TURNS INTO A GLUT

Speculative buyers who scrambled to snap up oil products in the limited "spot" market late last year are watching those prices come tumbling down all over Europe. The reason is simply that oil shortage tanks from Rotterdam to Milan, and probably even as far away as the U.S. East Coast, are brimful. Says a London-based oil executive: "The market is flooded with oil products right across the barrel."

The upshot is that prices in the spot market, which accounts for 10% to 15% of European oil, are now only a little above those set by the major oil companies for the rest of the market. And at midweek, the majors boosted their oil prices in Germany even closer to spot market prices.

The spot market's price plunge is showing

up mostly in gas oil, an oil product used primarily for heating. Gas oil prices, which spiraled from the pre-Yom Kippur War level of \$85 a ton to \$240 a ton in mid-December, are back down to \$115 a ton. And they could go lower. A Milan broker tells of an Italian refiner who offered him a cargo of gas oil for \$152 a ton f.o.b. on Jan. 4. The broker, unable to find a buyer, declined the offer. Five days later the refiner was back trying to unload his cargo for \$135 a ton.

Behind the price slump lies the growing realization in the oil industry that the European oil crisis stems more from Arab price hikes than any real shortage. Saudi Arabian oil minister Sheikh Ahmed Yamal brought the point home last week when he noted that the 15% production cutbacks combined with the embargo on sales to the U.S. and the Netherlands mean that the non-boycotted European countries are now getting more oil than they were last September. What's more, a mild winter and the energy-saving measures instituted throughout Europe have kept demand down.

TRYING TO UNLOAD

First to realize that a glut was developing were the major oil companies that were buying regularly in the spot market to buttress their own supplies. The majors stopped buying in mid-December. The price was supported a while longer by speculators and by Germany's independent importers, who buy heavily in spot markets.

But by early January, the speculators were sitting with full oil tanks, and began to realize that the shortage was not materializing. So now the speculators are trying to unload their oil without knocking the bottom out of the market. Even so, they are finding that the few interested buyers knock off \$5 a ton and then start to negotiate. Barring any further production cutbacks, the soaring prices caused by the panic buying of late 1973 appear to have been reined in and spot prices are now likely to move up at a more leisurely pace.

VOLUNTARY DISCLOSURE OF INCOME, ASSETS, AND TAXES PAID

Mr. CHURCH. Mr. President, on May 18, 1964, the day I first inserted in the CONGRESSIONAL RECORD a voluntary disclosure of my income and assets, I expressed the hope that Congress would soon enact legislation or adopt procedural rulesmaking such a disclosure mandatory for all its Members, Congressmen and Senators, alike.

I said then, that—

When we insist, as we often do, that a man nominated to a Cabinet post must, as a condition to his confirmation, make a full disclosure of his business interests and private holdings, we in Congress ought to be willing to do likewise . . . I have kept hoping that this regrettable shortcoming of ours might be remedied.

Three years later, on May 4, 1967, no such corrective action had been taken, so I again filed a voluntary account, observing once more that Congress "could help restore popular confidence by adopting a code of ethical standards, including a uniform rule, applicable to all Members, requiring the full disclosure of personal assets."

Two years and four months later, I published and circulated another accounting of my income and holdings. In the interval, Congress had contrived for itself a curious form of partial disclosure,

which did more to distort than to reveal, and has, therefore, done more to arouse, than to allay, public suspicion. I regarded this tell-part-but-not-all arrangement as a hoax on the public. I said so at the time, and refused to hide behind it. Nevertheless, it appeared to me that Congress was moving—albeit slowly and grudgingly—toward eventually adopting a tell-it-all principle. So I was moved to comment that—

Prospects seem to be improving for legislation which will one day require all high officials of the Federal Government, both elected and appointed, to make a periodic disclosure of their income and assets. I personally feel that the enactment of such a comprehensive disclosure statute, applicable to the Executive, Legislative, and Judicial Branches of the Government, is long overdue.

Well, as it turned out, I was overly optimistic. Another 4 years have elapsed—this last year, 1973, fraught with financial scandals—yet Congress has still to pass a comprehensive disclosure statute. To its credit, the Senate has adopted, as an amendment to its election reform bill, a provision which would require all Members of Congress, along with their opponents at election time, to make a complete disclosure of their income, business interests, and property holdings. I was the author of this disclosure amendment, and the motion to defeat it in the Senate failed by a vote of 16 to 64.

Nonetheless, as of this date, there is no assurance whatever that the House of Representatives will find my amendment acceptable, nor that it will be retained in the final version of any election reform measure on which both Houses of Congress might agree.

Under these circumstances, I am again obliged, some 10 years after my first accounting, to publish and distribute to every Idaho constituent on my mailing list, a full and complete voluntary disclosure of my income and assets. I do this for the fourth time in the continued expectation—and determination—that such a practice will yet be mandated by law for all elected Federal officeholders, including the President, Vice President, Senators, and Congressmen, along with the candidates who oppose them at election time.

In saying this, I want to acknowledge that many Members of Congress hold strong personal feelings against making public their private business affairs. They argue that they are as much entitled as any other citizen to own business interests, stocks, bonds, notes or mortgages, and that their personal dealings should not be regarded as the public's business.

I can sympathize with their argument, but it really misses the point. Naturally, Members of Congress need not, indeed should not, refrain from making private investments. But Representatives and Senators do differ from other citizens in one important respect: they make the laws that affect business; they write the taxes that corporations, as well as individuals, must pay. Since Members of Congress must regularly vote on legislation which reaches—often in varying ways—every segment of the economy, there is a very legitimate reason for

making their private holdings a matter of public record.

Complete disclosure would allow the voter, or anyone having doubts to resolve, to compare the Member's voting record in office with his financial portfolio, and determine for himself whether the Member has voted his private pocket-book interest or the general public interest, in the discharge of his official duties.

Moreover, if periodic disclosures were to reveal an accumulation of wealth without satisfactory explanation, or income which is out of line with listed sources, the public would be alerted to possible misconduct in office, bearing further investigation.

This is a commonsense test, with respect to which I have no doubt that the good judgment of the people can be trusted. The fact that there are other Senators and Representatives who feel as I do is borne out by the growing number who have adopted a similar practice. Since I made my original declaration nearly 10 years ago, I am advised by the Library of Congress that of the Senators and Members of the House of Representatives now in office, 29 Senators and 64 Representatives have made voluntary public disclosures of their income and assets. Though this represents less than one-fifth the total membership, the number is increasing, the trickle may yet become a tide.

So, Mr. President, the following statement brings up to date my last disclosure, which was published in the CONGRESSIONAL RECORD on September 12, 1969. Now, as then, I hold no interest in any private business; I own no stocks in any corporation; I am not a member of any law firm; and have not engaged, directly or indirectly, in the practice of law since my election to the Senate over 17 years ago.

My principal source of income is my salary, which amounts to \$42,500 a year. I supplement my salary with earnings from lecture fees and published articles. Since 1969, this supplementary income has averaged just under \$10,500 a year.

My wife, Bethine, derives separate income from an insurance annuity that her father, the late Judge Chase A. Clark, left her. It comes to \$51.34 a month. In addition, Bethine has received each year, since 1970, the sum of \$10,000, as the annual installment due her on the sale of the Robinson Bar Ranch, near Clayton, Idaho. She was given an undivided one-half interest in the ranch by her father, who homesteaded it prior to World War I. Three generations of the Clark family—uncles, aunts, and cousins—knew the ranch as a summer home, so it was not easy to part with. But Robinson Bar was also operated as a business, a guest ranch located between the Sawtooths and the White Clouds. Legislation was being considered in Congress to authorize the creation of a national recreation area in this region, and I, as the senior Senator from Idaho, would participate in any ultimate decision reached. Therefore, Bethine and I agreed that she should divest herself

of all ownership in a business property in these mountains to which anyone could later point as a possible conflict-of-interest.

The installment payments from the sale of the ranch have enabled us to augment our savings, raising them from \$30,000, as reported in my last disclosure, to \$50,000 over the past 3 years. All of our savings are invested in State and municipal bonds, again for the purpose of avoiding any possible conflict of interest. The bonds, issued in \$1,000 denominations, yield us approximately 6 percent in annual interest. These earnings constitute the fourth and final source of our income.

During my tenure in the Senate, Bethine and I have acquired an equity in a brick-and-frame, split-level dwelling house, located in Bethesda, Md., against which there was originally a \$30,000 mortgage in 1957. As of December 31, 1973, our payments had reduced the principal still owing to \$8,305.75. We own the furnishings in the house, together with two automobiles, a 1972 Chevrolet station wagon and a 1965 Mustang. I carry the usual insurance coverage, including medical insurance for my family, and I make a monthly contribution to build my entitlement in the Senate's retirement fund. As for Bethine, she has title to the Clark family residence at 109 West Idaho Street in Boise. She owns the house, free and clear of encumbrances, and we pay the taxes on the property. It produces no income.

Two other trust accounts remain to be mentioned. Judge Clark set up separate college accounts for our two sons, Forrest and Chase, his only grandchildren. One of the accounts has long since been spent, as Forrest is now a graduate student working on his master's degree at the Harvard Divinity School; the other one remains intact, in the amount of \$10,000 and is invested in municipal bonds. It cover part of Chase's college education when the time comes.

As for debts, aside from the remaining balance on the mortgage on our house in Bethesda, we owe nothing to anyone, and we aim to keep it that way.

I wish that this report might end here. Publishing a full statement of income and assets is as far as I ever felt it necessary to go before.

But circumstances have changed in the course of the past year. The financial wrongdoing exposed by the Watergate investigations has cast a cloud over all politicians. Vice President Agnew has resigned for income tax evasion. The President, himself, acknowledges the payment of only \$792.81 in Federal income taxes on \$262,942.56 earned in 1970; the payment of \$878.02 on \$262,384.75 of earned income in 1971; and the payment of \$4,298.17 on an income of \$268,777.54 in 1972. Unsurprisingly, serious doubts have been raised in the public mind concerning the taxes paid by other elected officials.

Accordingly, I have listed below the income taxes my wife and I have paid to the Federal Government and the State of Idaho for the 3 years since my last

accounting. I also have listed our real estate and excise taxes, along with the tax we have paid into social security for the same period.

	1970	1971	1972
Federal income tax.....	\$13,091.77	\$13,103.95	\$13,457.85
Social security tax.....	641.88	697.32	787.32
Idaho income tax.....	2,337.51	2,554.25	3,223.36
Property and excise taxes.....	1,579.73	1,591.62	1,706.20
Total.....	17,650.89	17,947.14	19,174.73
Total as percentage of income.....	30.09	29.80	31.73

It should be apparent that taxes, like inflated living costs these days, place too heavy a burden on persons of limited income. Not only that, but as I have long advocated, our tax laws need to be reformed, so that everyone will pay his fair share. Bethine and I like to feel that we have been doing our part, along with the vast majority of American taxpayers—and willingly, too—for the privilege of living in a great, free country like the United States of America.

RECENT DEVELOPMENTS IN THE FIELD OF AGING

Mr. BEALL. Mr. President, on January 1, 1974, the supplemental security income program became effective, thus guaranteeing a minimum income to a nation's aged, blind, and disabled citizens. I recently received a memorandum from the Honorable James B. Cardwell, Commissioner of Social Security, relative to the progress made in implementing the SSI program.

Mr. President, I ask unanimous consent that the text of this memorandum and the attached material be printed in the RECORD at the conclusion of my remarks.

In addition, the Special Committee on Aging, of which I am a member, issued a memorandum outlining recent changes in legislation affecting senior citizens. I ask unanimous consent, Mr. President, that the substantive portions of this memorandum be also printed in the RECORD at the conclusion of my remarks.

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

SOCIAL SECURITY ADMINISTRATION,
Baltimore, Md., January 28, 1974.
Memorandum for Members of the Senate.
Subject: Progress report—Supplemental Security Income For The Aged, Blind, and Disabled.

As you know, the Supplemental Security Income Program—which was part of P.L. 92-603, passed by Congress and signed by the President on October 30, 1972, and amended on July 9 and on December 31, 1973—took effect on January 1.

The big initial job called for by this legislation was for us to transfer about 3 million aged, blind and disabled persons from the State welfare rolls to the Federal system and send checks to them at the beginning of January. The recipients are needy people and it was of obvious importance that the job be done as promptly and effectively as the circumstances would allow. It required a tremendous amount of cooperation and innovation on the part of the State and local

welfare offices and of the Social Security Administration.

I am pleased to be able to report that the checks did get delivered during the first few days in January to all but a very small proportion of those entitled to payment; that we have made substantial headway during the month in clearing up problem situations; and that new payments are being certified each week to thousands of newly eligible persons.

To put the January SSI implementation in perspective:

We certified over 3 million payments to Treasury, and checks were issued amounting to a total of \$345 million.

We have identified specific problems in about 200,000 cases (about 6 percent of the total).

Of these problems, it appears that about 100,000 involved people who claimed they were due a payment, but did not receive one or did not get it on time (about 3 percent of the total).

We had to expect some problems in an operation of this size and complexity, and they did occur. We knew, for example, that the delicate timing involved was such that some of the recent accessions to the welfare rolls could not be properly converted in time, and that some incidence of error existed in State or local records. Also complex systems, brand new to the Social Security Administration, had to be created and, because of the time frame allowed, issuance of the January checks constituted the first "live test" of these systems.

The difficulties that did occur were widely scattered, though centered mainly in certain large metropolitan areas. Some of these problems could be alleviated by issuing an advance payment of up to \$100 in our local offices. Others were solved by the States and counties making temporary payments. Many jurisdictions were cooperative in this regard, particularly where the problem was the result of faulty conversion data. Some of the difficulties arose in cases where our records showed a check had been mailed but the addressee stated that he had failed to receive it. Expedited procedures have been designed to handle cases of alleged non-receipt.

During January, checks were newly certified or reissued to about 150,000 persons, including a substantial number for whom there were address corrections or adjustments of amounts. We have had the benefit of the Treasury Department's unstinting efforts and cooperation in identifying and re-directing undeliverable checks and in issuing emergency payments. We have already been able to correct our master records in many of the cases involving incorrect conversion data, and we have worked vigorously to avoid similar problems in the preparation and delivery of February checks.

Needless to say, the Social Security Administration's 1,200 local offices, backed up by our regional offices and managers in our headquarters, are giving very high priority to servicing the new workload. The initial impact of the Supplemental Security Income traffic in a number of our local offices was heightened by numbers of people who were not eligible for the new program but who were seeking information of Medicaid, or wanted general assistance, social services, or food stamps. In some areas these people had been improperly referred from one source or another. We have taken steps to track down the sources of improper referral. We have made quick, temporary shifts of the Social Security Administration staff to our local offices having the heaviest traffic and have taken other steps to assure service to the continuing influx of persons wishing to file social security claims or to transact other business. Social Security Administration field installation will be taxed to the limit of capacities for some months. Nonetheless, our

purpose is to see that people with potential entitlement know about rights and receive all necessary assistance in order to have their claim considered.

Simultaneously, we have the big tasks in the Supplemental Security Income and social security programs of putting into effect the increases provided for by P.L. 93-233. As you know, prior to enactment of that statute, basic payment levels for Supplemental Security Income were set at \$130 a month for an individual and \$195 for a couple, with these amounts to be increased effective July 1974 to \$140 a month and \$210 a month. P.L. 93-233 made these Supplemental Security Income increased amounts effective for January 1974 and provided for a further increase to take effect in July 1974. We are now not only "converting" the payments for all the three million persons to the higher Supplemental Security Income amounts but are making arrangements to give eligible recipients the retroactive increase for January.

Although I did not think it in order in this letter to go deeply into the technical details of the new Supplemental Security Income program, I do want to emphasize one very important fact. In addition to the basic Federal payment, States are required to make, or have the Federal Government make on their behalf, whatever supplementary payments are necessary to their former assistance recipients to assure that they suffer no loss of income because of conversion to the new program. Besides these mandatory supplements certain States have also elected to make various optional supplementary payments. States also have the option of deciding whether to pass along the increases provided by P.L. 93-233.

A high proportion of both types of State supplementary payments are, at the option of the individual State, being administered by the Social Security Administration as part of a process which assures delivery of a single SSI check. In States which have chosen not to combine their supplement with the amount payable under the Federal program, you may hear of special State problems in the early months of the program that result from the difficulties of timing and interchange of data needed by them in order to take Federal amounts into account when making their own payments.

In summary, despite the difficulties I have described, the preeminent fact is that the vast majority of SSI recipients are getting their checks properly and on time. On balance, therefore, I believe the new program is off to a very good start. Our hope is to make it as responsive to individual needs as the other SSA-administered programs have been through the years.

I am enclosing for your convenience a fact sheet that gives a number of details about the new Supplemental Security Income program. Your constituents can get complete information and apply for supplemental security income at any social security office. If you or your staff want information about a specific case or about the content or operation of the Supplemental Security Income program, you may obtain it in the same way that you and your staffs secure information on other programs we administer.

JAMES B. CARDWELL,
Commissioner of Social Security.

SUPPLEMENTAL SECURITY INCOME HIGHLIGHTS INFORMING THE PUBLIC

In cooperation with other Federal and State agencies and private organizations, the Social Security Administration has been conducting both national and local public information activities to assure that people get the information they need about SSI. Welfare recipients were reassured through direct mail that they would keep getting checks after December 1973 so that their

total income level, consisting not only of their assistance payments but also any other income they may have, should be at least what it was for December 1973. In situations where the State is administering its own supplementary payment program, the recipient may get two checks each month, one from the Federal Government representing the basic Federal payment and another from the State representing the additional amount the State is providing.

SSA continues its extensive public information programs to make people aware of the SSI program. Centrally, regionally, and at the local level, we are working with organizations, media, and welfare departments to provide public informational material tailored to their needs and the needs of their clientele. Items on SSI, some in Spanish, were carried prior to January 1, 1974, in more than 1,300 newspapers and on local radio and T.V. stations, and leaflets have been distributed to thousands of potentially eligible people.

SSA and the Administration on Aging are cooperating in Project SSI Alert, a volunteer effort to reach people who may be eligible for SSI. SSI Alert is organized around a working group with representatives from SSA, Administration on Aging, American Red Cross, and national organizations concerned with the aged, blind, and disabled. Other Federal agencies will also provide assistance. Volunteers are being used to explain the SSI program; to make referrals to social security offices, including arrangements for transportation or home visits; and to help secure information and verification needed to establish SSI entitlement.

CONVERSION

The major task of transferring about 3 million current recipients from State to Federal rolls is complete. SSA worked closely with the more than 1,152 State and local agencies to accomplish the conversion, using State and local records, staff, facilities, and other resources as much as possible. After January 1974, SSA will continue to work with the States in areas of supplementation, referral of applicants for social services, and Medicaid eligibility.

NEW CLAIMS

SSA began taking applications in July 1973 from potential eligibles. Among the people who are applying for the new program are those who are also newly filing for social security retirement or disability insurance payments and whose benefits under these programs are low enough to permit some supplemental security income payment. Other people who are applying now are those who could have been receiving welfare but who did not apply because of State welfare laws which required the State to place liens against the titles to their homes or regulations which required close relatives to contribute to the support of the recipient. We have begun a screening program of the social security records to identify people who are potentially eligible for payment under the new program. As these people are identified, the local offices are contacting them to see if they are interested in applying for payment.

STATE SUPPLEMENTATION

The payment levels under SSI are higher than those under the grant-in-aid programs in about half of the States. Under the original SSI legislation, States with payment levels higher than the Federal amounts were expected, but not required, to make up the difference. The law was amended on July 1, 1973, by Public Law 93-66, and assured that former welfare recipients who were transferred to the new program would receive as much as they did in December 1973. In addition, the States had the option to make additional payments, not only to recipients who were on State rolls, but also to people who were not eligible for State assistance pro-

grams, but who were to be eligible for SSI. More than half the States elected to provide these additional amounts. Under both mandatory and optional State payments, the Federal Government will hold the State harmless against any increase over its 1972 expenditures for public assistance payments caused by a larger caseload. This provision is available to States which elect to have the Federal Government administer the State payments at Federal expense.

SSI BENEFIT INCREASE IN P.L. 93-233

The maximum Federal payments when the SSI program began on January 1 were \$130 a month for an individual with little or no other income, and \$195 for a couple. Public Law 93-233 increases these amounts to \$140 for an individual and \$210 for a couple effective January 1974. These amounts will be further increased in July 1974 to \$146 and \$219 respectively.

Since the January checks were already in the mail at the time of enactment, the increase for both January and February will be added to the February checks.

Most recipients in the 23 States which have no optional supplement will automatically receive increased monthly payments because of the Federal SSI payment increases provided under P.L. 93-233. Across the country, however, and especially in the States whose public assistance payments have been highest, there are many people who receive a State supplement to the Federal payment. Although the law provides that former welfare recipients will receive as much as they had been receiving under the old public assistance program, it does not require the States to "pass along" the Federal increase to people who are already receiving, at State expense, more than the Federal amount.

For example, if a couple with no other income had been receiving \$240 a month under public assistance, they should have received \$195 early in January from the Federal Government and \$45 from the State, to continue their payments at the same level. The new law increases the Federal payment to \$210, but does not require the State to continue to pay \$45. The State may decide to reduce its payment to \$30. If it does so, the couple will continue to get \$240 a month.

PAYMENT PROCESS

SSA and the Treasury Department have worked together to assure a responsive SSI payment process. Procedures have been developed for making advance payments to applicants who are apparently eligible and who are faced with a financial emergency; the rapid replacement of missing checks; and the use of a distinctive gold-colored U.S. Government check to facilitate the rapid identification of SSI checks, so the Treasury Department can quickly resolve problems of missing checks.

SOCIAL SERVICES

Under the new Federal law States will continue to provide social services. The Social Security Administration, the Social and Rehabilitation Service, and State welfare organizations are working to increase the effectiveness of the linkages between the SSA offices and State and local service agencies. One objective is to meet recipients' needs through mechanisms which minimize the referral of individuals from place to place. In this connection, State social service personnel will be stationed in selected social security district offices in order to determine the effectiveness of such an arrangement, particularly in terms of how well it equips us to find assistance for the critical and immediate social service needs of SSI applicants.

MEDICAID

The Federal law assures that those people who are eligible for Medicaid in December 1973 will continue to be eligible after they are converted to SSI provided there is no

change in their eligibility status. The law also permits Medicaid eligibility for people who are newly eligible for SSI, but gives States the option to use their own eligibility criteria for these recipients. Thus, in determining Medicaid eligibility for its recipients, a State can elect either to apply the Federal SSI criteria or to apply any of its own more restrictive criteria. However, these can be no more restrictive than the State's eligibility criteria in effect for January 1972. Most States have decided to abide by the SSI criteria. In doing so, they can elect to have the Federal Government make the Medicaid eligibility determinations for any SSI recipient or for any recipient of a Federally administered State supplementary payment. If the State chooses to apply its own criteria, however, it must determine eligibility for all Medicaid recipients.

FOOD STAMPS

The bill repeals the provisions of present law which would make some SSI recipients ineligible to participate in the food stamp or surplus commodities programs. Thus, SSI recipients can participate if they qualify under the provisions of the food stamp or commodities programs, except that for a 6-month period ending June 30, 1974, SSI recipients in any hold-harmless State will be ineligible to participate unless the State removes the bonus value of food stamps from its adjusted payment level; at the end of the 6-month period, the provision of present law allowing for inclusion of the bonus value in the adjusted payment level would be repealed by the bill.

CONGRESS RAISES SOCIAL SECURITY BENEFITS, SALVAGES SOME AMENDMENTS

(Memorandum of the Special Committee on Aging, U.S. Senate, December 26, 1973)

House-Senate deadlock on Social Security legislation was broken on December 21 with a measure which would (1) authorize an 11 percent benefit increase during 1974; (2) assure Medicaid and Food Stamp eligibility for participants in the new Supplemental Security Income Program due to begin in January; (3) suspend until December 31, 1974 regulations that would have severely restricted services available under the Social Security Act; and (4) make a further increase in SSI payments.

The compromise provisions were passed as part of H.R. 11333 by a 301-13 House vote and a 65-0 Senate vote. (As of this writing President Nixon had not yet signed the bill.)

Two-Step, 11 Percent Increase: More than 29 million Social Security beneficiaries would receive a two-step, 11 percent increase: the first stage would be an interim seven percent raise (effective for March 1974) which would be a partial advance payment on a permanent 11 percent increase (effective for June 1974). This action—together with three other across-the-board raises since December 1969—means that Social Security benefits would be boosted by 68.5 percent in a 4½ year period. Of special significance, H.R. 11333 would help remove an estimated 800,000 Americans from the poverty rolls, including 500,000 in the 65-plus age category. In terms of individual monthly benefits, H.R. 11333 would have the following impact:

	Before 7 percent increase	After 7 percent increase	After 11 percent increase
Average monthly benefits:			
Retired worker alone.....	\$162.00	\$173.00	\$181.00
Retired couple.....	277.00	296.00	310.00
Aged widow alone.....	158.00	169.00	177.00
Monthly benefits for other beneficiaries:			
Minimum, retired worker alone.....	84.50	90.50	93.80
Minimum, retired couple.....	126.80	135.80	140.70
Maximum, retired worker.....	274.60	293.90	304.10
Maximum, retired couple.....	411.90	439.70	457.40

Special Minimum Monthly Benefit: Under present law, the special minimum monthly

benefit is equal to \$8.50 multiplied by the number of years of covered employment in excess of 10 years but not greater than 30 years. H.R. 11333 would increase the multiple from \$8.50 to \$9.00 in March 1974.

Cost-of-Living Adjustment Improvements: The automatic escalator provision would be improved by measuring the increase on the basis of the change in the Consumer Price Index from the first quarter of one year to the first quarter of the following year (rather than from the second quarter in one year to the second quarter in the following year). An exception would be made for the first automatic increase (effective for June 1975), which would be based upon the rise in the CPI between the second quarter in 1974 and the first quarter in 1975. Additionally, the effective date for the cost-of-living adjustment would be in June, instead of January. These two changes would reduce from seven months to three months the lag between the end of the calendar quarter used to measure the rise in the cost-of-living and the payment of the resulting Social Security increase. Moreover, the automatic benefit raise would be payable the month that the Supplemental Medical Insurance premiums would be revised, thus providing the opportunity to make both adjustments in benefit checks in the same month.

Supplemental Security Income Standards: Monthly income standards for the new Supplemental Security Income program (scheduled to become effective in January) would be raised from \$130 to \$140 for eligible individuals and from \$195 to \$210 for qualifying couples. A further increase would be provided in July 1974: to \$146 for single persons and \$219 for couples.

Financing: The maximum wage base would be boosted in 1974 from \$12,600 (under present law—Public Law 93-66) to \$13,200. However, the contribution rate would continue at 5.85 percent (the same as in 1973).

LABOR-HEW FUNDING BILL CLEARS CONGRESS, SIGNED BY THE PRESIDENT

A second conference report on the fiscal 1974 Labor-HEW appropriations bill (H.R. 8877) was approved by the House (December 5) and the Senate (December 6), clearing the measure for the President, who signed it on December 19. H.R. 8877 is approximately \$1.4 billion above the Administration's budget requests for fiscal 1974. The House had previously voted to recommit the first conference report because it objected to language governing the method of allocating funding under Title I of the Elementary and Secondary Education Act. To avert a possible veto, a compromise was worked out to permit the President "To withhold from obligation and expenditure up to \$400 million." These cutbacks are limited to appropriations exceeding the Administration's budget request. Moreover, they cannot exceed 5 percent for any activity, program, or project. Even with the five percent reduction provision, the funding level for programs under the Older Americans Act would be \$212.1 million—\$9.5 million above the Administration's budget request.

OLDER AMERICANS ACT APPROPRIATIONS

(Millions of dollars)

	Budget request	Conference agreement	Effect of 5 percent reduction
Title III:			
Planning and operations.....	12.0	12.0	12.0
Model projects.....	16.0	16.0	16.0
Area planning and social services.....	68.0	68.0	68.0
Title IV:			
Research.....	7.0	7.0	7.0
Training.....	0.0	10.0	9.5
Title VII:			
Nutrition program.....	99.6	104.8	99.6
Total.....	202.6	217.8	212.1

Funding for ACTION's two major programs for the elderly—Foster Grandparents (\$25 million) and the Retired Senior Volunteer Program (\$15 million)—would be unaffected by the five percent reduction, since the conference agreement and budget estimate figures were identical. Under the conference agreement, appropriations for aging research and training at the National Institute of Child Health and Human Development would be boosted from \$11.838 million (as requested by the Administration) to \$15.985 million. With the five percent cutback, funding would be reduced to \$15.155 million.

AGING RESEARCH AND TRAINING ACTIVITIES AT NICHD

(In thousands of dollars)

	Budget request	Conference agreement	Effect of 5 percent reduction
Research grants.....	5,771	9,093	8,513
Fellowships.....	125	230	215
Training grants.....	1,165	1,485	1,425
Labs and clinics (intramural program in Baltimore).....	3,452	3,677	3,577
Contracts.....	600	750	700
Biometry and epidemiology.....	95	95	95
Research, management, and program services.....	630	655	630
Total.....	11,838	15,985	15,155

H.R. 8877 would also provide a \$4 million appropriation for the Senior Opportunities and Services Program (under the Economic Opportunity Act). The five percent reduction measure would trim funding by \$200,000—from \$4 million to \$3.8 million. For fiscal 1974, the Administration requested no funding for SOS, proposing instead that the program be continued as a local option (see February 5 Memorandum).

SUPPLEMENTAL APPROPRIATIONS INCLUDES \$10 MILLION FOR COMMUNITY SERVICE

A supplemental Appropriations bill (H.R. 11576)—cleared by Congress on December 21—would provide \$10 million to launch the Older American Community Service Employment program. At the urging of Senators Kennedy and Church, the Senate had previously approved \$40 million for the new program. However, the funding level was cut back to \$10 million in conference committee on December 17. The Older American Community Service Employment program is designed to convert the Mainstream pilot projects (e.g., Green Thumb and Senior Aides) into permanent, ongoing national programs. For fiscal 1974, \$20 million has been budgeted by the Administration for Mainstream.

The conferees also deleted a Senate amendment (sponsored by Senator Percy) to provide \$7.5 million for Multidisciplinary Centers of Gerontology. This program would support (1) training personnel in the field of aging; (2) research on work, leisure, and education of older Americans; (3) innovative multidisciplinary efforts in teaching, research, and demonstration projects related to aging; and (4) other efforts.

President Nixon is expected to sign the bill into law.

VETERANS' PENSION BILL SIGNED INTO LAW

A ten percent increase in nonservice-connected disability and survivor pensions for veterans, their widows and children was signed into law (Public Law 93-177) on December 6. The new Act would also provide an average ten percent raise in dependency and indemnity payments to dependent parents. Approximately 2.6 million pensioners are expected to receive an additional \$240 million during 1974 under this legislation.

INCREASED FEDERAL CONTRIBUTION FOR HEALTH INSURANCE APPROVED

A conference report on legislation (H.R. 9256) to increase the Federal contribution for employee and retiree health insurance premiums (from 40 to 50 percent in 1974

and then to 60 percent in 1975) was approved by the House on December 18, clearing the measure for the White House. The bill would also permit employees who (1) retired before January 1, 1960 and (2) received health insurance under the Retired Federal Employees Benefit Act, to elect coverage under the regular Government Employees Health Insurance program. The latter provides more comprehensive coverage. H.R. 9258 was approved by the Senate on December 7.

MINIMUM CIVIL SERVICE ANNUITY APPROVED BY HOUSE

By a vote of 270 to 95 on December 7, the House passed H.R. 9107, which would provide a minimum pension for civil service retirees equal to the minimum Social Security benefit (now \$84.50 a month). It would also increase annuities for retirees who had retired before October 20, 1969, by \$240 annually for the pensioner and \$132 for surviving spouses. A similar bill (S. 1866) passed the Senate on September 11. The differences in the two bills are expected to be resolved early next year.

MANPOWER BILL INCLUDES PROVISIONS FOR OLDER WORKERS

Congress took final action on December 20 to approve S. 1559, the Comprehensive Employment and Training Act. As passed, the bill included a number of measures of direct importance for middle-aged and older workers, including:

Provisions for employment and training of mature workers;

Placement and recruitment services in communities where there is large-scale unemployment because of plant shutdowns or other permanent reductions in the work force; and

Funding for nonprofit voluntary agencies for securing part-time or temporary employment for middle-aged and older workers.

The amendments were incorporated from the Middle-Aged and Older Workers Training Act, which was sponsored by Senator Jennings Randolph.

COMMUNITY EDUCATION BILL CLEARS SENATE EDUCATION SUBCOMMITTEE

The Senate Subcommittee on Education of the Labor and Public Welfare Committee tentatively agreed on December 6 to incorporate the basic elements of Senator Frank Church's Community Education legislation (S. 335) as part of the Elementary and Secondary Education Act of 1973. The basic purpose of the Church proposal is to develop, expand, and maintain community schools in order to provide recreational, educational, and a variety of other community social services. A similar amendment has also been included in the Elementary and Secondary Education Act of 1973 by the House Education and Labor Committee. Both House and Senate Committees are expected to continue their mark up of the ESEA package (H.R. 69 and S. 1539) in early 1974.

WILLIAMS HOUSING PACKAGE APPROVED BY BANKING COMMITTEE

The Housing Subcommittee of the Senate Banking, Housing and Urban Affairs Committee voted on December 5 to incorporate several housing measures for the elderly (sponsored by Senator Williams) into an omnibus housing package (S. 2182). Among the major provisions:

Establishment of an Office of Security at HUD with funding for security programs in HUD-assisted housing (from S. 2180—the Housing Security Act);

Extension of the section 202 Housing for the Elderly and Handicapped program with an increased authorization level (from S. 2185);

Creation of a new National Elderly and Handicapped Housing Loan Fund, which combines the existing 202 revolving fund

with new authority for the Secretary of the Treasury to borrow money for loans (from S. 2179). The Committee is not expected to complete its mark up of the bill until early in 1974.

CONGRESS APPROVES FIRE SAFETY LOANS TO NURSING HOMES

On December 17, the House of Representatives passed and sent to the President S. 513 (as introduced by Senator Moss), which authorizes FHA insured loans to nursing homes for the purchase of fire safety equipment (sprinkler, alarm, and detection systems). The Secretary of HUD is authorized to establish interest rates and mortgage conditions. (As of this writing, the President had not yet signed the bill.)

B-1 PROGRAM STATUS

Mr. McINTYRE. Mr. President, the B-1 program is one of major interest to the Armed Services Committee and to the Senate as a whole. It is one of the largest dollar programs in the Defense budget for fiscal year 1975, and \$499 million has been requested.

The Armed Services Committee was highly critical of this program in its action on the fiscal year 1974 request, and cut \$100 million out of the amount requested. Through subsequent actions of the Congress, \$75 million ultimately was restored, but the Air Force was charged with taking a hard look at the program.

The Air Force responded by setting up an ad hoc committee under the chairmanship of Dr. Raymond Bisplinghoff, Director of the National Science Foundation, to conduct an independent and comprehensive review of the B-1 program.

The report of that committee, together with comments and a letter of transmittal from the Secretary of the Air Force has just been received by me as chairman of the Research and Development Subcommittee. I request unanimous consent to have these documents printed in the RECORD following my remarks for the interest of all the Members.

These documents will be given the fullest consideration in the review of the proposed B-1 program for fiscal year 1975, and in committee recommendations on the fiscal year 1975 request.

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

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., February 6, 1974.

HON. THOMAS J. McINTYRE,
Chairman, Subcommittee on Research and Development, Committee on Armed Services, U.S. Senate.

DEAR MR. CHAIRMAN: Shortly after assuming our new responsibilities last July, General Brown and I appeared before your Committee for a special hearing on the B-1 program. During that hearing, you and other members of the Committee expressed concern regarding the management and adequacy of the B-1 development program. Since that time, the entire program has been assessed by various levels of management using a number of techniques. An initial report on the results of these activities was provided you in my letter of October 6, 1973.

On August 22, 1973, I also informed you of the independent review of the B-1 undertaken by a group of technical and management experts under Dr. Raymond Bispling-

hoff, Deputy Director of the National Science Foundation. A copy of their report and our comments on it are attached. In summary, the Committee found no major technical problems which would preclude the successful development and production of the B-1. However, the Committee noted that the existing rephased program plan would make completion of development effort and successful transition to the production phase unlikely within the cost and time schedules of the rephased program.

In addition to the review conducted by the Bisplinghoff Committee, other methods for assessing the program have been pursued. I, and other senior Air Force managers, have undertaken an intensive review of the program, including on-site evaluations of each contractor's process. Further, a new B-1 Program Manager has been appointed and I have had the benefit of his independent evaluation.

I am pleased to report that significant progress has been made since the Bisplinghoff Committee completed its review last October. At Rockwell, all major assemblies of A/V #1 have been mated with the exception of the crew module, which is planned to be incorporated in the next few weeks. The manufacture and assembly of A/V #2 is taking less man-hours than planned, demonstrating significant progress in the manufacture and assembly process. Good progress is also evident at General Electric, where the 60-hour endurance run of the F-101 engine Preliminary Flight Rating Test was completed last week. Similar progress towards avionics integration is evident in the Systems Demonstration Laboratory at Boeing.

However, we agree with the Bisplinghoff Committee's observations that the July 1973 program plan incurs an undesirable discontinuity between development and production. You will recall that the B-1 program as originally presented to the Congress and placed on contract in 1970 provided for a production decision date six months after first flight date of the first aircraft. In December 1970, this period was increased to 12 months concurrent with the decision to carry forward the development program with three aircraft. Moreover, as may be anticipated in a program of this scope and technical complexity, certain milestone changes occurred which have resulted in an extension of the time between first flight and a production decision to 24 months. The milestone changes were made to accommodate offensive avionics flight testing and the additional time required to design, manufacture, and assemble the first aircraft.

As a result of these revisions to the program, I have concluded that work on the #4 aircraft should begin in FY 75 and possibly a #5 aircraft in FY 76. These aircraft will serve to sustain the contractors' critical skills and know-how, which could not be reconstituted after a lengthy discontinuity without incurring unwarranted technical risks and unnecessary costs to the program. These aircraft also would be used to introduce engineering refinements into the aircraft configuration and should make a very substantial contribution to our test program by providing valuable flight test data 12 to 18 months earlier than previously planned. Although they ultimately would be assigned to the operational inventory, we plan to fund them with RDT&E funds.

In consonance with our fly-before-buy management principle, the B-1 is expected to have undergone about two years of flight testing and will have achieved critical milestones before a production decision is made. Under the proposed program plan, this decision could be made in November 1976. However, we believe sufficient test data will have been accumulated to justify long load funding in the FY 1976 budget for the first increment of production aircraft, which funding would preserve program continuity

without prejudging the decision on B-1 production.

General Brown and I have both devoted extensive efforts during the past several months reviewing the B-1 development status and evaluating various alternatives to improve the program. The schedule adjustments we propose do not change the total number of aircraft in the program. There would be an increase in RDT&E costs to fund these additional test air vehicles although, as previously stated, they would be assigned ultimately to normal SAC duties.

We believe these management changes are prudent and necessary and that they merit the careful consideration of the Congress. We seek your agreement with the recommended program and enlist your continued strong personal support for the B-1.

Sincerely,

JOHN L. McLUCAS,
Secretary of the Air Force.

AIR FORCE COMMENTS ON THE AD HOC MANAGEMENT COMMITTEE REVIEW OF THE B-1

The Air Force is grateful to Dr. Bisplinghoff and the other members of his committee for their time and dedicated effort in reviewing the technical and management aspects of the B-1 program. Their comprehensive review and perceptive comments provided a valuable contribution to Air Force planning for this important program in FY 75 and beyond.

In summary, the Committee found no major technical problems which would preclude the successful development and production of the B-1. However, the Committee noted deficiencies in the program plan which would make completion of the development effort and a successful transition to the production phase difficult within the then-existing cost and time schedules of the program. The Committee recommended the program be restructured to provide for completion of the development effort and to provide a realistic transition into the production phase. The principal deficiency cited by the Committee is the lack of continuity of contractor effort between the development and production phases. Projections of contractor manpower levels during the flight test period prior to beginning production indicate a severe loss of critical skills and know-how needed during transition to the production phase.

Based on the recommendations of the Committee as well as other initiatives undertaken by the Secretary, the Air Force proposes to rephase the follow-on production program in a manner which will advance the work on a small number of aircraft. Accordingly, work will begin on a fourth air vehicle in FY 75 and possibly on a fifth air vehicle in FY 76. Under this plan a production decision could be made in November 1976. The plan also provides for including in the FY 76 budget long-lead funding for the first increment of production aircraft to preserve program continuity without prejudging the decision on B-1 production. Design improvements for cost reduction and producibility will be introduced starting with air vehicle number four similar to the manner suggested by the Committee.

This adjustment in program structure will solve a number of concerns which were highlighted by the Committee. The recommended program will create the option to move efficiently and economically towards production without implying a commitment to production before acquiring sufficient flight test experience.

Considerable progress has been made in the program since the Committee conducted its review last September. At Rockwell all major assemblies of A/V #1 have been mated with the exception of the crew module, which is expected to be mated in the near

future. The manufacture and assembly of A/V #2 is taking less manhours than planned, demonstrating significant progress in the manufacturing and assembly process. Similar progress has been recorded at General Electric in the engine program and at Boeing in the Avionics integration program.

Detailed point-by-point comments on the Committee report follow.

OBSERVATIONS AND CONCLUSIONS

1. Complexity and austerity of the development program

The Committee agreed that there are no major technical problems which preclude the successful development and production of the B-1 aircraft. However, the Committee believes that the program is so success-oriented and austere in funding and schedule that there will be difficulty in transitioning from the development to the production phase as the program is now structured.

The Air Force concurs with the Committee's findings. Since going on contract in 1970, milestone changes caused by several reasons have created program imbalances and less than optimum development phasing. The FY 75 program adjustments being recommended to Congress will provide continuity and permit an orderly, efficient transition from development to the production phase.

2. Three B-1 development aircraft insufficient

The Committee believes that their past experience has shown that three aircraft are not sufficient to complete development of a program of this complexity and allow the final development aircraft to reflect accurately the initial production aircraft.

The content of the program placed on contract in June 1970 was deliberately restructured in December 1970 to provide only the minimum test data sufficient for a production decision. The number of development aircraft was reduced at that time from five to three. The remaining development program was deferred to and is not on contract. The program envisioned a production decision 12 months (vice 6 months under the original contract) following first flight, and that the first four production aircraft would be used initially for additional flight testing. Since then, the schedule has been adjusted to accommodate the fly-before-buy policy and to reflect the time required to manufacture A/C #1. The impact of these schedule adjustments has been to extend the time between first flight and production decision from the initial 6 to 24 months, thus delaying the availability of the additional aircraft and causing a severe program discontinuity between development and production. The program recommended in the FY 75 budget recognizes the need to repair this discontinuity to the extent resources will permit.

3. Probable delays and increased costs of the development program

The Committee was charged by the Secretary with assessing the probability of achieving the cost and time schedules of the July 1973 rephased development program. While the Committee found it difficult to make quantitative judgments in the time available, their best judgment was: Two or three months delay in the first flight of A/V #1; eight to 10 months delay in the testing program; six to 12 months delay in completion of the total rephased development program; and, at least \$300 million additional cost for execution of the present (July 1973) development program.

The Air Force generally agrees with the Committee's assessment. Additional experience in the assembly of AV #1 and the reduction in FY 74 funding have shown there will be some schedule delays and that some additional funds likely will be required to complete development.

The December 31, 1973 Selected Acquisition Report to the Congress contains our latest cost and schedule estimates. Although the adjustments we propose in the FY 75 budget do not increase the total program cost estimates, they will provide funds earlier in the program so as to accomplish deferred engineering improvements and ease the transition to production.

4. Probability of meeting the Air Force performance estimates

The Committee was also charged by the Secretary with assessing the probability of meeting the performance parameters of the Air Force development estimate within the cost and time schedule of the rephased development program. To convey the range of uncertainty which exists, the Committee presented their assessment as *Possible*, *Most Probable*, and a *Reasonable Adverse Limit*. The Committee did not attempt to comment on the acceptability of the reduced performance values.

The Air Force has conducted a thorough analysis to investigate the utility of a B-1 aircraft with the full range of deviation in performance parameters as estimated by the Committee. The analysis identified feasible operational trades which can be made, if necessary, to offset deviations in performance. The results of this analysis has been evaluated by the Secretary of the Air Force, the Chief of Staff, and by the Commander-in-Chief, Strategic Air Command. In their judgment, the analysis confirms the B-1 would be operationally effective even with the adverse range of possible deviations in performance as presented by the Committee's assessment; and that significant adjustments to the program solely to regain performance are not necessary.

5. Propulsion system

The Committee believed that the propulsion system development was unusually good at this point of time compared to past programs, that it has an excellent opportunity to meet the cost and schedule objectives, and with a few minor exceptions, the technical goals. Assuming that no special provision for IR suppression would be incorporated, the Committee believed that the engine would be deficient by 3% in SFC and that the remainder of the propulsion system would be deficient by an additional 5% equivalent SFC in the subsonic mission but would meet goals in the supersonic mission.

The Air Force is pleased with the Committee's comments on the engine program. While minor problems are being encountered with the development hardware, as normally anticipated in engine are being encountered, they are being pursued aggressively by the contractor and his response to date has been satisfactory. The Committee's estimate of deficiencies in SFC was included in the performance deviations analysis undertaken by the Air Force and was considered by senior Air Force officials in their evaluation as stated in the Air Force response to No. 4 above.

6. Weight

The Committee believed that the aircraft will weigh more than anticipated and suggested that the significance of this be assessed by the Air Force and the necessity of any design change should be carefully considered in view of the cost and schedule impacts to the program.

Based on the Air Force analysis of the performance deviations, no design changes are planned solely to regain performance. Current estimates indicate air vehicle #4 will weigh less than air vehicles one through three.

7. B-1 program at its most critical stage

At the time of this review last October, the Committee noted the normal "work around" situation in the manufacture and assembly of A/V #1. Although the program exhibited the expected appearance at this critical

stage, the committee felt that contractor management controls had not been adequate. However, the Committee noted that new management controls were being implemented and were having a favorable impact.

During the summer of 1973 the Air Force worked with the contractor to upgrade his controls. New management controls have been instituted by Rockwell as were noted by the Committee. The control system now in use is a considerable improvement but close surveillance is continuing.

8. Program flexibility

In general, the present development program is designed for success and there is little financial reserve or margin for error in the remaining funding. Additional reserves will very likely be required to handle the unforeseen problems which will materialize in such a complex undertaking.

With the benefit of the additional visibility gained over the past 6 months, including the Bisplinghoff Committee's efforts, the Air Force agrees that the financial reserves are very austere and that additional flexibility is needed. The program recommended in the FY 75 budget and the plan for following years will provide additional flexibility.

9. SPO management team

The Committee, based on its very brief survey, was generally satisfied with the Air Force organization. However, the Committee was left with the opinion that the Air Force lacks individuals on its management team with solid manufacturing experience.

Also, the Committee noted that the project manager was required to spend a significant percentage of his time, justifying the program to higher echelons of the Department of Defense and to the Congress. While the need for some action of this kind was recognized, the Committee expressed its belief that the program itself would benefit if more in the way of project justification and status could be left to the project manager's superiors, thereby allowing him to spend a greater amount of his time managing the program.

General Phillips, Commander, AFSC, has placed additional emphasis on obtaining personnel with solid manufacturing experience. Effective 1 February 1974, the SPO formed a new Directorate of Production and is seeking qualified personnel with manufacturing experience to fill these new positions.

The Air Force notes the program manager's past requirement to be present in the Washington area frequently. To alleviate this requirement in the future, a B-1 office, headed by a Major General, has been established in the Pentagon directly under the Chief of Staff.

10. Contractor management

The Committee stated its satisfaction with the contractor's senior personnel and noted many senior management changes at Rockwell since the inception of the program, some of which were heavily influenced by SPO desires. The Committee felt that further changes in key Rockwell personnel should be made with caution and only after careful consideration. The Committee noted the need for a comprehensive schedule of engineering objectives, accomplishments and expenditures coupled with a tracking of each. The Committee also noted that the morale at Rockwell was low.

The Air Force is aware of the effect of changes in the senior management personnel at Rockwell and is generally satisfied that the best available people have been placed in the critical positions. The Air Force is also aware of the morale among Rockwell personnel. Decreasing manpower requirements in the fall of 1973, uncertainty over program funding in FY 74 and schedule imbalances, all had an influence on the morale of contractor personnel.

However, the program structure proposed

for FY 75 should help to correct any residual problems in this area.

11. Reduction in contractor personnel

The Committee considered unrealistic the planned rate of reduction in Rockwell personnel required to match the program funding schedule considering the required tasks yet to be accomplished.

The Air Force is also concerned over this reduction in Rockwell personnel, and the program proposed for the FY 75 budget will adjust the planned rate of reduction in Rockwell personnel to provide continuity and an orderly, efficient transition into a production phase.

12. Contractor cost and schedule control system

The Committee believed that Rockwell's cost and schedule control system was not fully developed to provide timely and effective responses of program status.

The contractor's cost and schedule control system has been carefully reviewed by two separate Air Force agencies. These agencies concluded that Rockwell's cost control system is adequate but that the primary problem was a lack of management attention to trend data. This data is now receiving the close attention of top corporate personnel and considerable progress has been made in understanding these trends.

13. Production aircraft significantly different from development models

The Committee believed that significant design change of the development aircraft will be required to meet producibility and an acceptable unit cost for the production version. They believed that these design change activities will have a significant impact on both the cost and schedule of the production aircraft. The Committee noted that the B-1 program as presently structured assumes the availability of production dollars prior to the completion of the developmental program. Early availability of production dollars is logical and important to avoid the loss of know-how and skills most needed for the transition to production. However, in the Committee's judgment, significant additional funding, over that presently planned, will be required to get the program to a true production status.

The Air Force agrees with the Committee's assessment that significant design changes should be introduced between the first three R&D aircraft and the production aircraft. These design changes, being typical of a transition from R&D to production, can be made confidently and will reduce production costs and enhance the producibility of production aircraft. This design effort is already underway as a part of the current program and will be reflected in the Design Verification fatigue test specimen which will begin fabrication late this calendar year. The program proposed in the FY 75 budget will provide funds earlier than previously planned and thereby assure continuity in the contractor know-how and skills, which as the Committee emphasizes, is needed for the transition to production.

14. Flight test program

The Committee noted the minimal flight test program prior to production decision and the dependence on the first airplane throughout the first 15 months of flight test. The Committee believed that there was little probability of accomplishing the maximum speed, low altitude flight test prior to a production decision, unless a real time system for reducing and processing flight test data is used.

The Air Force is aware of the austerity of the flight test program. Such a program evolved from deliberate decisions to reduce R&D expenditures to a minimum prior to a production decision. However, a real time

flight test data reduction system has been approved. This system will be operating initially as a back-up data collection system. As experience and confidence are gained with the real time data reduction system, it will become the primary mode of data processing. When fully implemented, the real time data reduction system will allow several points in the flight envelope to be tested during one flight instead of one point per flight. This will greatly improve the probability of meeting the test program objectives in the time available.

15. Overwing fairing and nacelle

The committee noted that the overwing fairing and sealing presented a difficult design problem and that there is a high probability that some reconfiguration will be required.

The Air Force also recognizes that designing an optimum overwing fairing before actual flight test data becomes available is difficult. The approach taken is similar to that used on the F-14 and F-111 programs in which the final design will evolve from flight test results. The initial design for flight test is structurally conservative. After loads are determined in flight tests, design changes will be made, if necessary, to preserve structural integrity while improving the aerodynamic flow.

16. Primary structure

The Committee felt that the present program will provide an airworthy structure with a conservative design but that it will be heavy and costly compared to program objectives. The Committee did not feel that sufficient funds or time are provided in the present program to accomplish the design changes and verification for significant reduction in weight and cost before the production decision date.

Inasmuch as the range of estimated performance deviations do not require it, the Air Force does not plan aircraft design changes solely to reduce weight. However, the program recommended to the Congress in the FY 75 budget will provide funds earlier in the program to begin production engineering design refinement. These refinements are for the purpose of reducing cost and enhancing producibility, but are expected to reduce some aircraft weight as a by-product. They will be incorporated in the fourth and subsequent aircraft.

17. Aircraft electrical/electronic system

The Committee believed the electrical multiplex (EMUX) system represented an area of grave concern and that it may be one to six months late for "power on", thus affecting the first flight of A/V No. 1.

Adjustments have been made to allow aircraft "power on" with preliminary EMUX equipment. The preliminary equipment has been received and is in check-out at Rockwell. Testing of the EMUX equipment is planned to be completed in time to support first flight. The EMUX problem highlighted by Dr. Bisplinghoff's group was eased by the adjustment in first flight from mid-1974 to late-1974, following the reduction in FY 74 funds. However, EMUX remains an item which will receive continuing and close attention.

18. Impact of fiscal year 1974 budget reductions

At the time the Bisplinghoff Committee conducted its review, deliberations on the FY 1974 budget request were going on. While much of what the Committee commented on has been superseded with the passage of the FY 74 budget, it made the point that the development program is marginally funded and that if it cannot be funded at least to this marginal level, then it should be terminated.

The Air Force believes that the B-1 is

vital to our national security. Funding of the proposed FY 75 program will provide a well structured and cost effective approach for continued development of the B-1 and for a smooth transition into a production phase.

RECOMMENDATIONS

1. Reemphasize Air Force commitments to the B-1

The Air Force recognizes that the projected deep valley in program effort in 1976-1977 under the July 1973 program combined with the then-potential reduction in FY 74 funds did not support a positive outlook by the contractor employees. However, the strong Air Force commitment to the B-1 is evident by the program recommended to Congress in the FY 75 budget. The Air Force believes that the recent moves at Rockwell to strengthen management and financial controls, together with the program proposed for FY 1975, will result in a healthy and efficient transition from the current development program to the production phase.

2. Recognize realistic uncertainties in present R. & D. program

In the Committee's judgment, the Air Force should recognize that the present R&D program plan is highly success-oriented and assumes minimum unforeseen problems and difficulties. Recognition should be given to the probability that the development program will take six to twelve months longer than planned, and will cost at least \$300 million more than projected.

The Air Force recognizes the July 1973 program is austere and success-oriented, the result of previous decisions to minimize program expenditures as much as possible prior to production decision. Based on the visibility gained subsequent to the program rephasing in July 1973, the program adjustments proposed by the Air Force will provide further flexibility for meeting unforeseen problems and difficulties.

3. Restructure the total program

The Committee recommends that the total program be restructured to provide for a realistic transition from development to the production phase. The Committee suggested a "block" approach which would allow completion of development and incorporation of changes for cost reduction and producibility; and, to diminish the presently projected deep valley in program effort in 1976-1977, with the associated cost and inefficiency.

The Air Force agrees with the Committee's recommendation and has proposed adjustments to the program to start work earlier on air vehicle four beginning in FY 75, as outlined earlier. The Air Force believes the adjustments it proposes will provide program continuity, allow completion of the development program and ease the transition into the production phase.

4. Timely reporting system

The Committee recommends that monthly EACs (Estimate at Completion) and weekly trackings should be put into effect by Rockwell International as quickly as possible.

Rockwell is tracking manpower and direct manufacturing costs on a weekly basis, and provides a monthly EAC to the program office updated to reflect accrued cost experience. A detailed "grass roots" EAC which reviews the extent of effort required to complete the contract is conducted quarterly by Rockwell and becomes the basis for the next monthly updates. In addition, the Air Force conducts its own EAC on a quarterly basis, independent of the contractor's estimate.

On a temporary basis the Air Force placed a team of cost control specialists working directly with the contractor to improve the depth of cost control. These actions have been effective in gaining precise cost control which relates directly to the latest detailed schedules.

5. Crew escape module

The Committee recommended that:

a. Rockwell should establish an overall project manager for the Crew Escape Module Program.

In September 1973 the Rockwell management organization was changed to establish a crew escape capsule program manager with authority to integrate all participating disciplines.

b. The service life of propellant devices should be extended from the current three year limit to ten years.

Tests of F-111 components similar to those in the B-1 module and a comprehensive surveillance test program planned for B-1 components should raise the replacement time for propellant devices from the present three year life to a maximum of six years. Further life extension would require component design change.

c. The Air Force should reassess performance versus cost before any major design change is undertaken to increase the performance envelope of the crew escape module.

The Committee's recommendation is consistent with Air Force direction to limit initial qualification of the crew escape module to 450 kts. Configuration changes to qualify the capsule at higher speeds will be made only when the cost effectiveness of such changes can be demonstrated.

6. Compatibility test station (CTS)

The Committee recommends that consideration be given to restoring preinstallation integrated testing by transferring the "Compatibility Test Station" (CTS) from Los Angeles to Palmdale before integrated testing of A/V No. 1 begins.

The B-1 Systems Program Office has re-evaluated the need for an expanded avionics integration test facility. Accordingly, it is now planned to provide the capability for ground integration of offensive avionics components as well as integration of offensive and defensive components.

The possibility of moving the compatibility test station to Palmdale to accomplish this purpose was explored in detail. It was found that the CTS was very dependent upon the facility in Los Angeles and consequently the cost and schedule impact of moving it to Palmdale was not justified.

7. Avionics system

The Committee recommends that the defensive subsystem flight test be deferred until A/V No. 4.

The Air Force concurs with the Committee's recommendations. The program adjustments proposed by the Air Force provide for flight test of Defensive Avionics on A/V No. 4, which would be delivered to flight test about 12 months earlier than previously planned.

8. Testing of unusual voltage components

Since the voltage system used in the B-1 is unusual for an airborne system, the Committee recommends more complete testing than now planned.

Much of the technology required by the double voltage system used in the B-1 had been developed previously and was flight tested at altitudes similar to those expected by the B-1. In addition, all B-1 electrical equipment is being subjected to tests for arcing. These tests, most of which have been completed, are being conducted at both sea level and maximum altitude.

9. Single-point safety-of-flight failures

The Committee recommends that an independent review of single point safety-of-flight failures should be made by a selected group of flight test operations experts.

The Commander, Aeronautical Systems Division, appointed a team to review single point safety-of-flight failures. This team is composed of competent flight test opera-

tions personnel, including members of the Scientific Advisory Board and NASA experts. The team will be independent of the B-1 SPO and the contractors, and should complete its review this summer.

10. Alternate windshield

Because the B-1 windshield requirement pushes the state-of-the-art, the Committee recommended a backup windshield be developed for possible use in flight tests of A/V No. 1 and A/V No. 2 to ensure meeting the flight test schedule.

Since the Committee met, Rockwell has received two sets of windshields which are of acceptable quality for the early test vehicles. In addition, Rockwell has let a backup contract for one set of glass outer ply windshields that have improved optical qualities.

REPORT OF AD HOC MANAGEMENT REVIEW COMMITTEE ON THE B-1, TO THE AIR FORCE SECRETARY JOHN MCLUCAS

INTRODUCTION

At the request of the Secretary of the Air Force, John L. McLucas, an Ad Hoc Committee on the B-1 program met during the period from September 4, 1973, to October 4, 1973, to review the program. The purpose of the review was to make a broad, objective management and technical assessment of the recently rephased development program of both the Rockwell International Corporation and the Air Force in terms of meeting the presently projected cost and time schedules and technical objectives of the B-1 aircraft.

To a lesser degree, the aircraft engine status and its Contractor (General Electric) was also reviewed. The review also included recommendations for technical, cost and/or schedule trades which, in the general appraisal of the committee, could improve the overall effectiveness of the program in meeting its goals.

A letter from Secretary McLucas establishing the Committee is reproduced in Appendix B and the schedule which was followed by the Committee in carrying out its work is outlined in Appendix C.

The overall direction of the Committee was provided by the Chairman, Raymond L. Bisplinghoff, and the Vice Chairman, Allen E. Puckett. The work was carried out by dividing the total committee into two panels, a Management Panel and a Technical Panel. The Management Panel was chaired by Barry J. Shillito and the Technical Panel by Ira G. Hedrick. Each panel consisted of experienced specialists covering the various facets of the B-1 review and drawn primarily from industry and government. Appendix D lists the total membership of the Committee broken down into the Management and Technical Panels. The latter panel was broken down further into the subpanels of Design and Weights, Airframe and Dynamics, Aero Performance, Propulsion, Avionics and Crew Capsule.

Principle findings of the Committee are outlined in the sections of the report entitled Observations and Conclusions. Recommendations are also included as a separate section of the report.

OBSERVATIONS AND CONCLUSIONS

1. Complexity and austerity of the development program

There is agreement in the Committee that there are no major technical problems which preclude the successful development and production of the B-1 aircraft. However, the B-1 is not a simple aircraft. In several areas, it extends beyond the limits of service experience in this country; for example, a 4,000 PSI hydraulic systems, multiplexing of the electrical power supply, and the system that coordinates the airplane CG with wing sweep. In view of the advanced nature of the vehicle, the development program, except for

wind tunnel testing and propulsion system development, tends to be unrealistically austere in dollars and time as to provisions made for testing and the iteration of the design as a result of testing. The program is so success oriented and austere in funding and schedule that there will be difficulty in transitioning from the development to the production phase as the program is now structured.

2. Three B-1 development aircraft insufficient

Past experience has shown that three aircraft are not sufficient to complete development of a program of this complexity and allow the final development aircraft to reflect accurately the initial production aircraft. It is to be noted that early program planning called for a larger number of development aircraft, but the number was reduced to minimize costs prior to the production decision. Significant redesign for production, more than presently planned in the B-1 program, will be required for transition to production.

3. Probable delays and increased costs of the development program

The Committee was charged with assessing the probability of achieving the cost and time schedules of the rephased development program. Within the time available, it was difficult to make such a judgment in a quantitative way. However, the best judgment of the Committee is summarized by the following:

a. Two or three months delay in the first flight of AV-1. The AV-2 first flight date may be met with some delay in AV-3.

b. Eight to 10 months delay in the testing program.

c. Six to 12 months delay in completion of the total rephased development program.

d. At least \$300 million additional cost for execution of the present development program.

4. Probability of meeting the Air Force performance estimates

The Committee was also charged with assessing the probability of meeting the performance parameters of the Air Force development estimates for the B-1 aircraft within the cost and time schedule of the rephased development program. Based on the data presented by the B-1 SPO and Rockwell International, the Committee assessed the realizable performance of the current design. The results of the Committee's assessment are given in Table I which shows estimated percent variations from the Air Force estimates. In order to make the assessment of Table I in the limited time available, it was necessary to rely heavily on the judgment and past experience of the Committee members. To convey the range of uncertainty that the Committee feels exists in their assessment, three values are given: *Possible*, *Most Probable*, and *Reasonable Adverse Limit*. A study of the table shows several significant percentage departures of most probable numbers from the Air Force estimates. These include empty weight, range, take-off distance, thrust margin and refueled altitude. The Committee did not attempt to comment on the acceptabilities of the reduced performance values since this judgment must rest with the Air Force.

TABLE I.—ESTIMATED PERCENT VARIATIONS IN PERFORMANCE PARAMETERS FROM AIR FORCE DEVELOPMENT ESTIMATES

Performance parameter	[In percent]		
	Possible status	Most probable status	Reasonably adverse
Takeoff weight.....	+10	+10	+10
Empty weight.....	+15	+19	+26
Maximum refueled weight..	+8	+9	+11

Performance parameter	Possible status	Most probable status	Reasonably adverse
Range:			
Subsonic-variable.....	-4	-11	-20
Subsonic-constant.....	-6	-18	-29
Supersonic-variable.....	-4	-9	-14
Takeoff distance:			
Standard day.....	+15	+15	+15
Hot day.....	+13	+13	+13
Landing distance.....	+6	+6	+6
Thrust margin.....	+6	-9	-14
Refueled altitude.....	-12	-15	-21

5. Propulsion system

The Committee felt that the propulsion system development was unusually good at this point of time compared to past programs. The engine has an excellent opportunity to meet the cost and schedule objectives, and with a few minor exceptions, the technical goals.

Assuming that no special provision for IR suppression will be incorporated, the Committee felt that the engine compared to qualification test goals would be deficient by 3% in SFC and that the remainder of the propulsion system would be deficient by an additional 5% equivalent SFC in the subsonic mission but would meet goals in the supersonic mission. These estimated reductions in SFC have been incorporated in the performance assessments given in Table I.

6. Weight

The aircraft will weigh more than anticipated as illustrated by the assessments in Table I. The effect of increased weight is included in the performance parameters shown in Table I. The significance of these performance decrements should be assessed by the Air Force and the necessity of any redesign should be carefully considered in view of the cost and schedule impacts to the program.

7. B-1 program at its most critical stage

Most of the drawings have been completed, practically all materials are on order with a significant percentage of materials received and on the floor; manufacturing is now having to live with the work of engineers, the normal "work around" situation is taking place, the normal appearance of disarray is readily apparent, new management controls are being implemented and are having their impact. A peaking out of people is taking place and morale problems are developing as layoffs increase. Although the program exhibits an expected appearance at this critical stage of its life, the Committee feels that it has probably not been adequately controlled. However, at the time of the review, new management controls were being implemented and were having a favorable impact.

8. Program flexibility

In order to minimize cost in a complex development program, significant flexibility must be allowed with regard to schedule and performance. There have been trade-offs to reduce cost in the development programs, but the B-1 program has not had all the trade-off flexibility necessary to stay within its budget. Trade-offs at this date will have comparatively little cost saving impact on the total development cost required. In fact, many trade-offs at this point in the program, while benefiting production costs, could significantly increase the costs of the development program. In general, the present development program is designed for success and there is little financial reserve or margin for error in the remaining funding. Additional reserves will very likely be required to handle the unforeseen problems which will materialize in such a complex undertaking.

9. SPO management team

The Committee believes that the SPO Management Team has been hard working,

dedicated, energetic, and has enjoyed excellent key people continuity. While the Committee, based on its very brief survey, was generally satisfied with the Air Force organization to manage the program and the capability of the Air Force personnel as the capability of the Air Force personnel assigned to it, the Committee was left with the opinion that the Air Force lacks individuals on its management team with solid manufacturing experience. This leads to a tendency to review paper systems rather than hardware.

The project manager is required to spend a significant percentage of his time justifying the program to higher echelons of the Department of Defense and to the Congress. While it is recognized that the project manager must do a lot of this type of "program explaining," it is believed that the program itself would benefit if more in the way of project justification and status could be left to the project manager's superiors, thereby allowing him to spend a greater amount of his time managing the program.

10. Contractor management

The Committee was satisfied, based on its brief survey, with the contractor senior personnel assigned to the program. It did not have sufficient time to develop an adequate judgment on many persons below senior management. The Contractor's B-1 Division has undergone many senior management changes since the inception of the program. Some changes have also taken place at the second tier level. The Division President, VP Eng, VP Mfg, VP Finance, have all been changed. Recently an Executive VP and two additional Associate Managers have been added. These changes were heavily influenced by SPO criticism and are indicative of RI's efforts to respond to the SPO's desires. Further key contractor personnel changes should be made with caution and only after careful consideration. The program has not had, and greatly needs, a comprehensive schedule of engineering objectives and accomplishments and of engineering expenditures, coupled with a complete tracking of each.

It was apparent during the September time period of this report that morale was bad at the lower levels. There were hardcore militant workers. Grievances had gone up as the number of layoffs increased, and since the UAW master contract ties solely to seniority, the attrition is heavy in young people with needed skills who are reluctant to stay with the program until the time of their inevitable layoff arrives. It is apparent that a real "first line supervision" management challenge exists.

11. Reduction in contractor personnel

As the development program moves into its later phases, the planned rate of reduction in RI personnel required to match the funding schedule of the rephased program appears to the Committee to be unrealistic in terms of performing the required tasks.

12. Contractor cost and schedule control system

The Committee believes that the contractor cost and schedule control system has not fully developed. Status information is not sufficiently current to allow for the initiation of timely and effective responses and the projected status is questionable. However, the contractor is taking actions to correct this and the Committee believes that an adequate system will evolve from these actions.

13. Production aircraft significantly different from development models

Redesign of the development aircraft will be significant in order to meet producibility and acceptable unit cost of the production versions. The production aircraft should more logically reflect design-to-cost engineering efforts than the development models. These redesign activities will have a signifi-

cant impact on both the cost and schedule of the production aircraft. The B-1 program as presently structured assumes the availability of production dollars prior to the completion of the developmental program. This is logical and important to minimize the loss of know-how and skills most needed for the transition to production. However, significant additional funding over that presently planned will be required to get the program to a true production status.

14. Flight test program

The Phase One flight evaluation will be minimal (265 flight hours) and will be used primarily for a qualitative evaluation of the potential of the airframe and offensive avionics system to perform a useful mission. The most tenuous part of the Phase One flight plan is its complete dependence on the first airplane throughout the first 15 months of the plan. The probability is low that the Phase One flight test requirement of maximum speed at low altitude will be accomplished by completion of Phase One (June 1976). The probability could be improved by utilizing real time reduction of flight test data.

15. Overwing fairing and nacelle

The overwing fairing and sealing continue to present difficult design problems. The present configuration is a complex compromise between aerodynamics, structural and mechanical requirements. Because the engine nozzles lie directly in the wake of the overwing fairing, the contours as deflected in cruise flight could adversely affect the total thrust minus drag of the airplane and consequently mission range. The Committee feels that there is a high probability that some reconfiguration will be required in this area.

16. Primary structure

The Committee feels that the present program will provide an airworthy structure with a conservative design but that it will be heavy and costly compared to program objectives. In some areas, a saving in weight and/or costs can be realized by redesign. As in other aircraft, the key to structural integrity of the B-1 will lie in the adequacy of details that can only be verified by static, fatigue, and flight tests. As mentioned in Sections 2 and 3, the Committee does not feel that sufficient funds or time are provided in the present program to accomplish the redesigns, and their verification before the production decision date, required for significant reductions in weight and cost.

17. Aircraft electrical/electronic systems

In reviewing the electrical and electronic systems, the Committee found two major innovations to large military aircraft. These are the 230/400 volt electrical system and the use of electrical multiplexing (EMUX). The EMUX represents an area of grave concern to the Committee. It may be one to six months late for "power on" and may consequently so affect the first flight of AV-1.

18. Impact of FY 1974 budget reductions

The possibility of a reduction in the FY 74 B-1 authorization will require special attention by the Air Force. The presently proposed Air Force and DoD budget for FY 1974, consistent with the present Air Force RDT&E plan, calls for a total B-1 authorization of \$473M. Of this, \$318M is allocated to the airframe system (Rockwell International) contract. In present planning, Rockwell International also intends to undertake additional commitments of \$38M beyond this budget, and presumably in excess of the Limit on Government Obligations, in the interest of expediting the program at this critical phase, thus resulting in a total planned RI expenditure of \$356M for DoD FY 1974.

The RI projected actual operating cost and fee through November 1973 is \$180M. An additional \$16M is obligated in non-cancellat-

ble commitments, for a total of \$196M "spent," leaving \$160M to carry the RI program from December 1, 1973, through the remainder of the fiscal year. Of this, about \$41M is planned for material and subcontracts, leaving \$119M for RI operations in that period.

The original version of the Senate authorization bill specified a reduction of \$100M in the FY 74 B-1 program, from \$473M to \$373M. If this cut were to remain, the Air Force would allocate \$60M of the cut to the RI contract. In these circumstances, it is possible that the RI management would not make available the \$38M additional commitment mentioned above, on the basis that it becomes an unacceptable financial risk. The net effect therefore is that the RI program would be reduced by a total of \$98M for the last six months of DoD FY 1974 assuming the funds involved were made available 1 January 1974.

Noting above that the total planned Government FY 74 funds remaining on December 1 for RI operations are \$119M, the effect of this cut is easy to see. The total head count at RI on December 1 will be approximately 9,000. Of these, about 8,000 would be discharged, including perhaps 2,000 engineering and technical personnel. This cannot be regarded as a viable program—the effect is equivalent to cancellation. Even if it were intended to resume operations at an effective level at a later time, the cost and inefficiencies resulting from such a stop-start operation would argue strongly for total cancellation.

If a congressional budget cut in any amount less than \$100M were imposed, the effect can be projected roughly on a pro-rata basis. For example, a cut of \$50M would result in the discharge of approximately 4,000 employees instead of 8,000. We must still question the viability of the program at this level.

The conclusion from this discussion is that a decision should be made either to continue the R&D program at its planned (and marginal) level, providing some practical demonstration of the capabilities of the B-1, or to terminate the program.

RECOMMENDATIONS

Based on the observations and conclusions described above, the Committee proposes the following recommendations:

1. Reemphasize Air Force commitments to the B-1

The Air Force wants the B-1, and Rockwell International is the company the Air Force is depending on to do the work. Therefore, the Air Force should do everything possible to assist the company with its management problems, including the severe morale problem mentioned earlier. The benefits of such assistance could be significant as far as the end product is concerned.

2. Recognize realistic uncertainties in present R&D program

No program of this scope and complexity has ever been predictable, even at its midpoint, in final cost and schedule to an accuracy of a few percentage points. Cost, schedule and performance can be estimated with a high degree of accuracy only after a few initial items have been produced. It should be recognized that the present R&D program plan is highly success oriented and assumes minimum unforeseen problems and difficulties. Recognition should be given to the probability that the present rephased development program will take six to twelve months longer than planned, and will cost at least \$300M more than projected.

3. Restructure the total program

In view of the very difficult and undefined program which now exists in the transition from development and production, it is recommended that the total program be restructured along the following lines:

a. Continue the present rephased development program with existing schedule and dollar pressures, recognizing that it will not in fact provide for completion of all development required prior to production.

b. Provide for a realistic transition from the rephased development program and an orderly transition to a rephased production program. This might include a "Block II" phase of three or four aircraft which will allow completion of development, and which could be designated "preproduction" aircraft. The next "block" or phase could be designated "pilot production" allowing improvement of tooling, as well as incorporation of corrections and cost-saving improvements. Finally, the initiation of production should be at a build-up and rate within acceptable total budget levels.

Two aircraft per month, rather than four per month would appear to be logical in view of the present budgetary constraints.

A realistic rephasing would diminish the presently projected deep valley in program effort in 1976-77, with the associated cost and inefficiency. It would not in any way eliminate the decision option at that point, based on flight test results or other factors, to terminate or postpone production. It would create the option to move efficiently and economically toward production if so desired.

4. Timely reporting system

Monthly EAC's (Estimate at Completion) and weekly trackings should be put into effect by Rockwell International as quickly as possible. The problems and actions to resolve the establishment of a brief weekly "flash" reporting system should be solved.

5. Crew escape module

The B-1 Engineering Department operates as a functionally oriented entity within the B-1 Division of Rockwell International. The crew module draws from many disciplines within Engineering. There is no Project Manager with authority and responsibility for the entire crew escape module. However, the module must be considered as a separate air vehicle within an air vehicle. The crew escape module would be less likely to be a time restraint to first flight if it were managed more like an independent system by an Associate Program Manager within the B-1 program.

The Committee believes that periodic refurbishment costs of the crew module pyrotechnics can be reduced by designing and qualifying components to maximum installed life, say, up to ten years instead of the current requirement of three years.

After the limiting envelope of the crew module has been established by test, a trade-off of cost, complexity and risk versus improved performance should be made before any major redesign of the system is initiated.

6. Compatibility test station

The Committee recommends that consideration be given to restoring preinstallation integrated testing in a facility such as the Avionics Engineering Development and Integration Facility (AEDIF). The costs of such a test facility and its operation may be more than offset by a reduction in the integration support which would be required to integrate this complex subsystem on the air vehicle itself and to accommodate flight-test indicated fixes. This could be accomplished by transferring the "Compatibility Test Station" from Los Angeles to Palmdale before integrated testing of AV-1 begins.

7. Avionics system

The Committee believes that the performance requirements established by the Air Force for the offensive avionics subsystem will be met, the schedule for delivery to AV-3 will be met, and barring unforeseen difficulties, the subsystem costs will be reasonably close to those projected. However, the integration of this subsystem into AV-3 will

probably require at least twice the time presently allocated to the integrating function with a corresponding cost increase. The schedule/cost impact could be reduced by putting the integration facility at Palmdale (both for RI's equipment and for Boeing) and deferring the defensive subsystem until AV-4. There are other reasons for recommending delaying the defensive subsystem. These include:

a. It is not required for flight tests of AV-3.
b. The design should be tied to the latest threat environment.

8. *Testing of unusual voltage components*
Since a 230/400 volt, 3 phase AC system is unusual for an airborne system, the Committee recommends more complete testing than now planned (particularly altitude testing) on both the subsystems and their connectors and on the cables and their penetration into equipment compartments.

9. *Single-point safety-of-flight failures*

The Committee recommends that an independent review of single-point safety-of-flight failures should be made by a selected group of flight test operations experts.

10. *Alternate windshield*

The Committee believes that operationally suitable optics is beyond the current state of the art for the windshield design currently committed to the aircraft. The windshield may therefore be a constraint on the flight test program. For this reason, it is recommended that a back-up monolithic polycarbonate or acrylic windshield be developed now for use in flight tests of AV-1 and AV-2 to ensure meeting the flight test schedules with an optically satisfactory windshield.

APPENDIX A

DEPARTMENT OF THE AIR FORCE,
Washington, D.C., August 9, 1973.

Dr. RAYMOND L. BISPINGHOFF,
Deputy Director,
National Science Foundation,
Washington, D.C.

DEAR RAY: As we discussed in our meeting of August 7, 1973, I would like you to organize and chair a management review of the B-1 program. What I have in mind is a broad, objective assessment which would center around an examination of the management aspects of the recently rephased program, to include a complete review and appraisal of the adequacy of the contractors' organization and management policies—as well as the interrelated Air Force activities—to meet the stated requirements and technical specifications of the B-1 aircraft. This review should include recommendations for any cost and schedule trades which could improve the overall effectiveness of the program.

I visualize full-time members of the ad hoc review group would be drawn from industry, the Air Force Scientific Advisory Board, other governmental agencies and retired military and civilian U.S. Government employees. Of course, we will make available the full resources of active Air Force military and civilian employees as special advisors or part-time consultants as you may find useful during the course of your review. Also, results of previous B-1 studies will be provided for the review group's use.

During our discussions I was pleased to find that you shared my view as to the importance to the Air Force and to the nation of an objective review of this vital program.

I am grateful to you for accepting this challenging task. I would appreciate it if you would draw up for my review a proposed charter and modus operandi for the group, and discuss them with me along with proposed membership within a week or ten days.

Sincerely,

JOHN L. McLUCAS.

APPENDIX B

CHARTER FOR B-1 PROGRAM AD HOC COMMITTEE

I. Purpose: The purpose of the B-1 Program Ad Hoc Committee is as follows: a. an in-depth review of the management policies, practices, procedures, and effectiveness of major Air Force and contractor organizations involved in the program; b. an appraisal of the technical aspects of the total program to include design, probability of performance achievement, and schedule risk analysis; and c. a general assessment of overall program progress, status, and prospects for the future.

II. Background: Engineering development of the B-1 was initiated in June 1970 so that the US would have the option in the latter half of the 1970s of maintaining its strategic nuclear deterrent posture beyond the foreseeable future.

Because of the great importance of the B-1, the Air Force has placed much emphasis on the program, utilizing the best management and scientific and technical expertise available. Nevertheless, designing, developing and fabricating this complex and sophisticated aircraft has proved to be more time-consuming and somewhat more costly than originally anticipated as evidenced by the recent rephasing of the program. It is therefore appropriate that an independent assessment be made of the program.

III. Scope: The Ad Hoc Committee should devote its efforts to assessing the ability of management to consummate the rephased program and to the appraisal of the program technical aspects. To facilitate completion of this review in a reasonable period, the following guidance is provided:

A. *Overall Program Assessment:* In the process of evaluating the major management and technical aspects of the B-1 Program, the Ad Hoc Committee will acquire a thorough insight into cost and schedule. Therefore, without conducting an in-depth review in these areas, but rather relying on the collective broad experience, technical expertise, and intuitive judgment of the individual members, the Ad Hoc Committee should make a general assessment of the overall program progress, status, and future prospects of meeting the needs of the Air Force for the B-1 system.

B. *Management:* In this area, the Ad Hoc Committee should focus its attention primarily on the activities and relationships of the B-1 System Program Office (SPO); the B-1 Division of Rockwell International Corporation (RIC), to include subcontractors; and the Air Force Plant Representative Office (AFPRO) at the RIC Los Angeles facility. As a minimum, the following subjects should be addressed:

1. The adequacy and timeliness of program planning in all areas by the above agencies should be evaluated.

2. The adequacy and effectiveness of SPO/AFPRO and RIC Management Information Systems—both formal and informal—in the cost, schedule, and technical areas should be determined. In the latter, in particular, the aircraft weight and aerodynamic drag management systems should be evaluated.

3. The effectiveness and adequacy of formal and informal arrangements and relationships between the SPO, AFPRO, and RIC should be evaluated. Additionally, Associate Contractor arrangements and relationships—particularly, the RIC-Boeing avionics interface—should be considered.

4. The timeliness, accuracy and completeness of progress/problem reporting from the Contractor and AFPRO to the SPO (and vice versa), and from the SPO upwards in the Department of the Air Force should be evaluated.

5. The adequacy and timeliness of guidance/direction/authority from top Air Force levels downward to the SPO, and from the SPO to the AFPRO and Associate Contractors should be evaluated.

6. The use and effectiveness of ad hoc and/or permanent advisory groups and consultants by both the SPO and RIC should be considered. Particular attention should be paid to the incorporation of "lessons learned" from other programs.

7. Special attention should be paid in all areas to the timely management identification of problems, including subcontracting, the adequacy of planning and evaluating alternative solutions, and the follow-up processes.

8. The skill, experience, and adequacy of key management personnel in all organizations should be evaluated.

C. *Technical:* As a minimum, the following technical areas should receive Ad Hoc Committee attention. If, as the review progresses, other technical aspects surface which appear fruitful for investigation, Committee review is encouraged.

1. The current and projected weight and drag status, to include its impact on expected air vehicle performance, should be assessed. Potential trade-off areas should also be identified.

2. The adequacy and effectiveness of the Air Vehicle structural test program approach should be evaluated.

3. The basic structural design approach should be reviewed in depth with regard to the probability of long and reliable air vehicle inventory life attainment.

4. The adequacy of the entire avionics system including the flight test approach should be assessed.

5. Examine the current design approach for producibility to evaluate the requirements and to identify potential candidates. The Committee should evaluate or identify the degree of flight hardware demonstration necessary and should assess the planned use of composite materials.

6. Consideration of the adequacy and effectiveness of infrared suppression design and techniques is required.

IV. *Organization:* The Chairman and full-time members of the Ad Hoc Committee will be recruited from the Air Force Scientific Advisory Board, scientific and/or educational institutions, appropriate Government agencies (active and/or retired ranks), and industry with the approval of the Chief of Staff and Secretary of the Air Force. As necessary, appropriate special advisors and/or part-time consultants may be appointed and utilized by the Committee Chairman. The structure and modus operandi of the assessment team will be determined by the Committee Chairman and subject to approval by the Secretary of the Air Force and CSAF.

V. *Reporting:* A verbal draft final report (e.g. formal briefing) is desired not later than 5 October. In the management and technical areas, specific Committee conclusions and recommendations are desired for any activities that could be done better (and how) and/or any activities or techniques to include potential cost/schedule/performance trades which might enhance the program and are not presently being done. In the overall program assessment, identification should be made of specific current areas or activities on which more emphasis or effort should be placed as well as future areas or activities which should receive additional emphasis. Additionally, Committee identification of problems and/or recommendations for improvements in any problem are solicited.

VI. *Administrative support:* Full-time administrative support services will be provided by the Scientific Advisory Board, Air Staff, Air Force Systems Command, Aeronautical Systems Division or the B-1 SPO as required by the Ad Hoc Committee. Travel expenses will be appropriately funded by the Scientific Advisory Board and the Aeronautical Systems Division.

APPENDIX C

SAB Ad Hoc COMMITTEE ON THE B-1 PROGRAM
SCHEDULE OF ACTIVITIES

Sept. 4. Planning Session of the Technical Panel of the Ad Hoc Committee on the B-1 Program at WPAFB.

Sept. 10-11. Full Committee Meeting at RI/LA for planning and initial briefings.

Sept. 14. Technical Sub-Panels report findings of Sept. 10-11 meeting to G. Hedrick by 1200 EDT.

Sept. 17. Technical Sub-Panels conduct working sessions at RI/LA.

Sept. 18. Committee fact finding visits and report writing session at RI/LA.

A.M. Technical panel prepares preliminary report.

2:00 P.M. Technical panel presents preliminary finding to Management Panel.

Sept. 19. Management Panel receives briefing at RI/LA on Independent Cost Estimates, DCP Thresholds, to identify other "loose ends," and drafts management report.

Sept. 24. Technical panel report writing session at RI/LA to prepare final draft of Sub-Panel reports.

Sept. 26. Final Technical Sub-Panel reports in hand of G. Hedrick by 1200 EDT.

Sept. 27. Management and Technical Panel report writing session at RI/LA to prepare final reports.

Oct. 2. R. Bisplinghoff, A. Puckett, B. Shillito, G. Hedrick meeting at RI/LA: Reports of the Management and Technical Panels presented to committee chairman and vice chairman.

Oct. 3. R. Bisplinghoff, A. Puckett meet in LA to prepare final report.

Oct. 4. R. Bisplinghoff, A. Puckett, B. Shillito, G. Hedrick meet with Secretary McLucas in Washington, D.C. to present committee findings.

APPENDIX D

USAF SCIENTIFIC ADVISORY BOARD Ad Hoc
COMMITTEE ON THE B-1 PROGRAM

Chairman, Dr. Raymond L. Bisplinghoff, Deputy Director, National Science Foundation.

Vice Chairman, Dr. Allen E. Puckett, Executive Vice President and General Manager, Hughes Aircraft Company.

MANAGEMENT PANEL

Chairman, Mr. Barry J. Shillito, President, Teledyne Ryan Aeronautical.

MEMBERS

Dr. William F. Ballhaus, President, Beckman Instruments, Inc.

Mr. Carl Covington, Technical Advisor, Teledyne-CAE.

Dr. George Low, Deputy Administrator, National Aeronautics and Space Administration.

Mr. Donald Malvern, Executive Vice President, McDonnell Aircraft Company.

Mr. J. C. Maxwell, Vice President and Assistant General Manager, Military Systems Group, Boeing Aerospace Company.

Mr. Fred W. Randall, Technical Director & Principal Assistant to the Deputy Assistant Secretary for Production Engineering & Material Acquisition OSD (I&L).

Mr. William Rieke, Executive Vice President, Lockheed Aircraft Corporation.

TECHNICAL PANEL

Chairman, Mr. Ira G. Hedrick, Senior Vice President, Grumman Aerospace Corporation.

DESIGN AND WEIGHTS SUBPANEL

Chairman, Mr. William C. Dietz, Director, YF-16 Engineering, Convair Aerospace Division, General Dynamics Corporation.

MEMBERS

Mr. John H. Best, Chief Project Engineer Subcontract Program, Vought Systems Division, LTV Aerospace.

Mr. Billie B. Coker, Dept Manager, General Weight & Value, Lockheed-Georgia Company.

Mr. Robert L. Johnson, Manager, Project Strength Engineering, McDonnell Aircraft Company.

AIRFRAME AND DYNAMICS SUBPANEL

Chairman, Mr. Richard R. Heldenfels, Assistant Director for Structures, NASA Langley Research Center.

MEMBERS

Mr. William D. Buntin, Convair Aerospace Division, General Dynamics Corporation.

Mr. William L. Gray, The Boeing Company.
Mr. Howard J. Siegel, Manager of Materials & Process Development, McDonnell Aircraft Company.

AERO PERFORMANCE SUBPANEL

Mr. William T. Hamilton, Manager, Research & Engineering Division, Boeing Aerospace Company.

MEMBERS

Mr. Carl P. Hellsten, Chief of Aerodynamics, Grumman Aerospace Corporation.

Mr. Edmund B. Maske, Jr., TACT/TART Program, Convair Aerospace Division, General Dynamics.

Mr. Mark R. Nichols, Chief, High Speed Aircraft Division, NASA Langley Research Center.

PROPULSION SUBPANEL

Chairman, Mr. Harry Drell, Division Manager, Acoustics Dept., Lockheed Aircraft Corporation.

MEMBERS

Mr. Warren E. Anderson, Research Scientist, NASA Ames Research Center.

Mr. Stuart G. Harvie, Manager, Flight Sciences, Engineering Department, Grumman Aerospace Corporation.

Mr. Eiling Tjonneland, Senior Group Engineer, Boeing Commercial Airplane Company.

AVIONICS SUBPANEL

Chairman, Dr. George E. Mueller, Chairman and President, System Development Corporation.

MEMBERS

Mr. Robert A. Duffy, President, Charles Stark Draper Laboratory, Inc.

Mr. John E. Goode, Vice President, Systems Technology, Convair Aerospace Division, General Dynamics Corporation.

CREW CAPSULE SUBPANEL

Chairman, Mr. C. R. Sierra, Structures & Design Project Officer, Convair Aerospace Division, General Dynamics Corporation.

MEMBERS

Mr. J. Kirby Hinson, Chief, Mechanical Analysis Section, Johnson Space Center, National Aeronautics and Space Administration.

Mr. James H. Hosman, Jr., Assistant Project Engineer, F-15, McDonnell Aircraft Company.

Brig. Gen. James A. McDivitt (USAF Ret.), Senior Vice President, Consumer Power Company.

TRADE AGREEMENT BETWEEN THE
UNITED STATES AND THE UNION
OF SOVIET SOCIALIST REPUBLICS

Mr. CASE. Mr. President, under the Case Act the Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States, but in no event later than 60 days thereafter. On October 18, 1972, the United States and the Soviet Union signed a trade agreement as a followup to summit meetings between the two countries. This agreement was not transmitted to Congress and some of its provisions were not made public. Since it was not transmitted, Congress assumed it had not entered into force.

It now appears that parts of the trade agreement have indeed entered into force

and congressional deliberation on granting credits to the U.S.S.R. has been bypassed by an executive agreement that extends credits at a preferred rate to the U.S.S.R.

Congress was not asked what its views were or whether the terms of the agreement were prudent and consonant with our foreign policy or with economic conditions. Neither the Congress nor the taxpayer has been told the extent of the obligation to extend subsidized credit to the U.S.S.R. Certainly the decision to take these actions restricts the freedom of Congress to decide on the advisability of trade with the Soviets.

In late November, after I was advised that the full trade agreement was not known to Congress, I asked the staff of the Senate Foreign Relations Committee to request submission of the entire document.

The State Department complied with the request, stating that while the overall trade agreement is "not yet in force," parts of the agreement "are now being applied" and are being transmitted pursuant to Public Law 92-403, the Case Act.

A part of the agreement the executive branch had been applying for some time, although Congress was not told, was an agreement made between the U.S. Export-Import Bank acting on behalf of the U.S. Government and the Vneshtorgbank of the U.S.S.R. acting on behalf of the Soviet Ministry of Foreign Trade. In essence, this agreement provided for the extension of long-term credits at 6 percent on a case-by-case basis to the U.S.S.R.

As the fourth numbered paragraph of the agreement put it:

This means that interest rates, maturities, grace periods, and other conditions will not be less favorable than those usually extended to other purchasers in similar transactions.

No maximum amount is set by the agreement for subsidized loans to the Soviet Union, although a working paper prepared by the Commerce Department states:

Henry Kearns of Eximbank has indicated to the Soviets that unless the Soviet Union is forthcoming with financial information meeting Eximbank criteria, Eximbank would not extend credits beyond a certain amount. This ceiling is about \$500 million.

How was the \$500 million "ceiling" arrived at? Many questions come to mind in regard to this so-called ceiling. What justification was there for any amounts less than this to be lent without the necessary financial information being submitted? Will this requirement of financial data be enforced for credits in excess of \$500 million? How much more than \$500 million is contemplated to be lent? Has the U.S.S.R. submitted the necessary financial data?

Former Secretary of Commerce Peterson, writing in August 1972, before any agreements were formally concluded between the United States and the U.S.S.R., looked at the proposed projects the Soviet Union planned and argued:

Clearly, Eximbank could not undertake financing on the scale of the Soviet projects without substantially changing its historical practices and perhaps even the nature of the institution.

He went on to say:

Perhaps we will need to develop wholly new types of credit institutions.

So far Eximbank has lent the U.S.S.R. \$119 million of the \$500 million already committed to be lent to the Soviet Union. Pending final approval is \$180 million mainly for the Occidental fertilizer complex for the U.S.S.R. and \$49 million for gas exploration.

But far more is involved, as Secretary Peterson advised. For example, the anticipated fertilizer complex and gas explorations could, according to the Commerce Department, cost \$8 billion. An agreement, currently being worked out by the Control Data Corp. with the Soviet State Committee for Science and Technology for cooperation in the design of computer memories based on large volume removable magnetic disc packs and integrated circuits could cost \$500 million according to the Soviet Business and Economic Report. And other ventures, in combination with other trading nations, are also in the works involving huge sums.

To what extent will our foreign policy be shaped by the trade program now apparently in full swing? Why did the State Department fail to transmit vital agreements to the Congress pursuant to law?

At my request, the chairman of the Senate Foreign Relations Committee has asked the Secretary of State for a full explanation of this matter. I welcome the chairman's action and I look forward to a full airing of the situation.

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

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

DEPARTMENT OF STATE,

Washington, D.C., November 23, 1973.

To the Chairman of the Senate Committee on Foreign Relations:

We have today transmitted copies of the enclosed documents to the President of the Senate in accordance with Public Law 92-403, "An Act To require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof".

Although the enclosed Agreement between the Government of the United States of America and the Union of Soviet Socialist Republics regarding trade signed at Washington October 18, 1972 has not yet entered into force in accordance with its provisions, a number of the arrangements made in connection with that agreement are now being applied and copies thereof are enclosed.

CHARLES I. BEVANS,

Assistant Legal Adviser for Treaty Affairs.

Agreement Between the United States and the Union of Soviet Socialist Republics Regarding Trade, Signed at Washington October 18, 1972, Not Yet in Force, Together With Annexes, and with the Following Related Arrangements, All Signed at Washington October 18, 1972

The Government of the United States of America and the Government of the Union of Soviet Socialist Republics,

Considering that the peoples of the United States of America and of the Union of Soviet Socialist Republics seek a new era of commercial friendship, an era in which the

resources of both countries will contribute to the well-being of the peoples of each and an era in which common commercial interest can point the way to better and lasting understanding,

Having agreed at the Moscow Summit that commercial and economic ties are an important and necessary element in the strengthening of their bilateral relations,

Noting that favorable conditions exist for the development of trade and economic relations between the two countries to their mutual advantage,

Desiring to make the maximum progress for the benefit of both countries in accordance with the tenets of the Basic Principles of Relations Between the United States of America and the Union of Soviet Socialist Republics signed in Moscow on May 29, 1972,

Believing that agreement on basic questions of economic trade relations between the two countries will best serve the interests of both their peoples,

Have agreed as follows:

ARTICLE 1

1. Each Government shall accord unconditionally to products originating in or exported to the other country treatment no less favorable than that accorded to like products originating in or exported to any third country in all matters relating to:

(a) customs duties and charges of any kind imposed on or in connection with importation or exportation including the method of levying such duties and charges;

(b) internal taxation, sale, distribution, storage and use;

(c) charges imposed upon the international transfer of payments for importation or exportation; and

(d) rules and formalities in connection with importation or exportation.

2. In the event either Government applies quantitative restrictions to products originating in or exported to third countries, it shall afford to like products originating in or exported to the other country equitable treatment vis-a-vis that applied in respect of such third countries.

3. Paragraphs 1 and 2 of this Article 1 shall not apply to (i) any privileges which are granted by either Government to neighboring countries with a view toward facilitating frontier traffic, or (ii) any preferences granted by either Government in recognition of Resolution 21 (II) adopted on March 26, 1968 at the Second UNCTAD, or (iii) any action by either Government which is permitted under any multilateral trade agreement to which such Government is a party on the date of signature of this Agreement, if such agreement would permit such action in similar circumstances with respect to like products originating in or exported to a country which is a signatory thereof, or (iv) the exercise by either Government of its rights under Articles 3 or 8 of this Agreement.

ARTICLE 2

1. Both Governments will take appropriate measures, in accordance with the laws and regulations then current in each country, to encourage and facilitate the exchange of goods and services between the two countries on the basis of mutual advantage and in accordance with the provisions of this Agreement. In expectation of such joint efforts, both Governments envision that total bilateral trade in comparison with the period 1969-1971 will at least triple over the three-year period contemplated by this Agreement.

2. Commercial transactions between the United States of America and the Union of Soviet Socialist Republics shall be effected in accordance with the laws and regulations then current in each country with respect to import and export control and financing, as well as on the basis of contracts to be concluded between natural and legal persons of the United States of America and

foreign trade organizations of the Union of Soviet Socialist Republics. Both Governments shall facilitate, in accordance with the laws and regulations then current in each country, the conclusion of such contracts, including those on a long-term basis, between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics. It is understood that such contracts will generally be concluded on terms customary in international commercial practice.

3. Both Governments, by mutual agreement, will examine various fields, in which the expansion of commercial and industrial cooperation is desirable, with regard for, in particular, the long-term requirements and resources of each country in raw materials, equipment and technology and, on the basis of such examination, will promote cooperation between interested organizations and enterprises of the two countries with a view toward the realization of projects for the development of natural resources and projects in the manufacturing industries.

4. The Government of the Union of Soviet Socialist Republics expects that, during the period of effectiveness of this Agreement, foreign trade organizations of the Union of Soviet Socialist Republics will place substantial orders in the United States of America for machinery, plant and equipment, agricultural products, industrial products and consumer goods produced in the United States of America.

ARTICLE 3

Each Government may take such measures as it deems appropriate to ensure that the importation of products originating in the other country does not take place in such quantities or under such conditions as to cause, threaten or contribute to disruption of its domestic market. The procedures under which both Governments shall cooperate in carrying out the objectives of this Article are set forth in Annex 1, which constitutes an integral part of this Agreement.

ARTICLE 4

All currency payments between natural and legal persons of the United States of America and foreign trade and other appropriate organizations of the Union of Soviet Socialist Republics shall be made in United States dollars or any other freely convertible currency mutually agreed upon by such persons and organizations.

ARTICLE 5

1. The Government of the United States of America may establish in Moscow a Commercial Office of the United States of America and the Government of the Union of Soviet Socialist Republics may establish in Washington a Trade Representation of the Union of Soviet Socialist Republics. The Commercial Office and the Trade Representation shall be opened simultaneously on a date and at locations to be agreed upon.

2. The status concerning the functions, privileges, immunities and organization of the Commercial Office and the Trade Representation is set forth in Annexes 2 and 3, respectively, attached to this Agreement, of which they constitute an integral part.

3. The establishment of the Commercial Office and the Trade Representation shall in no way affect the rights of natural or legal persons of the United States of America and of foreign trade organizations of the Union of Soviet Socialist Republics, either in the United States of America or in the Union of Soviet Socialist Republics, to maintain direct relations with each other with a view to the negotiation, execution and fulfillment of trade transactions. To facilitate the maintenance of such direct relations the Commercial Office may provide office facilities at its location to employees or representatives of natural and legal persons of the

United States of America, and the Trade Representation may provide office facilities at its location to employees or representatives of foreign trade organizations of the Union of Soviet Socialist Republics, which employees and representatives shall not be officers or members of the administrative, technical or service staff of the Commercial Office or the Trade Representation. Accordingly, the Commercial Office and the Trade Representation, and their respective officers and staff members, shall not participate directly in the negotiation, execution or fulfillment of trade transactions or otherwise carry on trade.

ARTICLE 6

1. In accordance with the laws and regulations then current in each country, natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics may open their representations in the Union of Soviet Socialist Republics and the United States of America, respectively. Information concerning the opening of such representations and provision of facilities in connection therewith shall be provided by each Government upon the request of the other Government.

2. Foreign trade organizations of the Union of Soviet Socialist Republics shall not claim or enjoy in the United States of America, and private natural and legal persons of the United States of America shall not claim or enjoy in the Union of Soviet Socialist Republics, immunities from suit or execution of judgment or other liability with respect to commercial transactions.

3. Corporations, stock companies and other industrial or financial commercial organizations, including foreign trade organizations, domiciled and regularly organized in conformity to the laws in force in one of the two countries shall be recognized as having a legal existence in the other country.

ARTICLE 7

1. Both Governments encourage the adoption of arbitration for the settlement of disputes arising out of international commercial transactions concluded between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics, such arbitration to be provided for by agreements in contracts between such persons and organizations, or, if it has not been so provided, to be provided for in separate agreements between them in writing executed in the form required for the contract itself, such agreements:

(a) to provide for arbitration under the Arbitration Rules of the Economic Commission for Europe of January 20, 1966, in which case such agreement should also designate an Appointing Authority in a country other than the United States of America or the Union of Soviet Socialist Republics for the appointment of an arbitrator or arbitrators in accordance with those Rules; and

(b) to specify as the place of arbitration a place in a country other than the United States of America or the Union of Soviet Socialist Republics that is a party to the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards.

Such persons and organizations, however, may decide upon any other form of arbitration which they mutually prefer and agree best suits their particular needs.

2. Each Government shall ensure that corporations, stock companies, and other industrial or financial commercial organizations, including foreign trade organizations, domiciled and regularly organized in conformity to the laws in force in the other country shall have the right to appear before courts of the former, whether for the purpose of bringing an action or of defending themselves against one, including but not limited to, cases arising out of or re-

lating to transactions contemplated by this Agreement. In all such cases the said corporations, companies and organizations shall enjoy in the other country the same rights which are or may be granted to similar companies of any third country.

ARTICLE 8

The provisions of this Agreement shall not limit the right of either Government to take any action for the protection of its security interests.

ARTICLE 9

1. This Agreement shall enter into force upon the exchange of written notices of acceptance. This Agreement shall remain in force for three years, unless extended by mutual agreement.

2. Both Governments will work through the Joint US-USSR Commercial Commission established in accordance with the Communiqué issued in Moscow on May 26, 1972, in overseeing and facilitating the implementation of this Agreement in accordance with the terms of reference and rules of procedure of the Commission.

3. Prior to the expiration of this Agreement, the Joint US-USSR Commercial Commission shall begin consultations regarding extension of this Agreement or preparation of a new agreement to replace this Agreement.

In witness whereof, the undersigned, duly authorized, have signed this Agreement on behalf of their respective Governments.

Done at Washington in duplicate this 18th day of October, 1972, in the English and Russian languages, each language being equally authentic.

For the Government of the United States of America:

PETER G. PETERSON.

For the Government of the Union of Soviet Socialist Republics:

ANNEX 1 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS, REGARDING TRADE

PROCEDURE FOR THE IMPLEMENTATION OF ARTICLE 3

1. Both Governments agree to consult promptly at the request of either Government whenever such Government determines that actual or prospective imports of a product originating in the other country under certain conditions or in certain quantities could cause, threaten or contribute to disruption of the market of the requesting country.

2. (a) Consultations shall include a review of the market and trade situation for the product involved and shall be concluded within sixty days of the request unless otherwise agreed during the course of such consultations. Both Governments, in carrying out these consultations, shall take due account of any contracts concluded prior to the request for consultations between natural and legal persons of the United States of America and foreign trade organizations of the Union of Soviet Socialist Republics engaged in trade between the two countries.

(b) Unless a different solution is agreed upon during the consultations, the quantitative import limitations or other conditions stated by the importing country to be necessary to prevent or remedy the market disruption situation in question shall be deemed agreed as between the two Governments.

(c) At the request of the Government of the importing country, if it determines that an emergency situation exists, the limitations or other conditions referred to in its request for consultations shall be put into effect prior to the conclusion of such consultations.

3. (a) In accordance with the laws and regulations then current in each country, each Government shall take appropriate

measures to ensure that exports from its country of the products concerned do not exceed the quantities or vary from the conditions established for imports of such products into the other country pursuant to paragraphs 1 and 2 of this Annex 1.

(b) Each Government may take appropriate measures with respect to imports into its country to ensure that imports of products originating in the other country comply with such quantitative limitations or conditions as may be established in accordance with paragraphs 1 and 2 of this Annex 1.

ANNEX 2 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING TRADE

THE STATUS OF THE COMMERCIAL OFFICE OF THE UNITED STATES OF AMERICA IN THE UNION OF SOVIET SOCIALIST REPUBLICS

Article 1

The Commercial Office of the United States of America may perform the following functions:

1. Promote the development of trade and economic relations between the United States of America and the Union of Soviet Socialist Republics; and

2. Provide assistance to natural and legal persons of the United States of America in facilitating purchases, sales and other commercial transactions.

Article 2

1. The Commercial Office shall consist of one principal officer and no more than three deputy officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Commercial Office, wherever located, shall be an integral part of the Embassy of the United States of America in Moscow. The Government of the Union of Soviet Socialist Republics shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the United States of America of suitable premises for the Commercial Office.

3. (a) The Commercial Office, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the United States of America in Moscow. The Commercial Office shall have the right to use cipher.

(b) The principal officer of the Commercial Office and his deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the United States of America in Moscow.

(c) Members of the administrative, technical and service staffs of the Commercial Office who are not nationals of the Union of Soviet Socialist Republics shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the United States of America in Moscow.

ANNEX 3 TO THE AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS REGARDING TRADE

THE STATUS OF THE TRADE REPRESENTATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS IN THE UNITED STATES OF AMERICA

Article 1

The Trade Representation of the Union of Soviet Socialist Republics may perform the following functions:

1. Promote the development of trade and economic relations between the Union of Soviet Socialist Republics and the United States of America; and

2. Represent the interests of the Union of Soviet Socialist Republics in all matters relating to the foreign trade of the Union of Soviet Socialist Republics with the United States of America and provide assistance to foreign trade organizations of the Union of Soviet Socialist Republics in facilitating purchases, sales and other commercial transactions.

Article 2

1. The Trade Representation shall consist of one principal officer, designated as Trade Representative, and no more than three deputy officers and a mutually agreed number of staff personnel, provided, however, that the number of officers and staff personnel permitted may be changed by mutual agreement of the two Governments.

2. The Trade Representation, wherever located, shall be an integral part of the Embassy of the Union of Soviet Socialist Republics in Washington. The Government of the United States of America shall facilitate in accordance with its laws and regulations the acquisition or lease by the Government of the Union of Soviet Socialist Republics of suitable premises for the Trade Representation.

3. (a) The Trade Representation, including all of its premises and property, shall enjoy all of the privileges and immunities which are enjoyed by the Embassy of the Union of Soviet Socialist Republics in Washington. The Trade Representation shall have the right to use cipher.

(b) The Trade Representative and his deputies shall enjoy all of the privileges and immunities which are enjoyed by members of the diplomatic staff of the Embassy of the Union of Soviet Socialist Republics in Washington.

(c) Members of the administrative, technical and service staffs of the Trade Representation who are not nationals of the United States of America shall enjoy all of the privileges and immunities which are enjoyed by corresponding categories of personnel of the Embassy of the Union of Soviet Socialist Republics in Washington.

2. EXCHANGE OF LETTERS DATED OCTOBER 3, 1973, REGARDING THE KAMA PURCHASING COMMISSION

OCTOBER 3, 1973.

His Excellency N. S. PATOLICHEV,
Minister of Foreign Trade,
Moscow.

DEAR MR. MINISTER: I have the honor to refer to your letter of June 24, 1973 in which you requested the continuation of the work of the temporary Kama Purchasing Commission, and to my reply of August 9, 1973.

I am pleased to inform you that the United States hereby agrees to the following changes in the terms for the establishment of the Kama Purchasing Commission as set forth in the attachment to the letter of Secretary Peterson to you dated October 18, 1972:

(1) The term of the Temporary Purchasing Commission is extended for the additional period of one year, that is, until October 18, 1974;

(2) The Temporary Purchasing Commission shall be authorized to concern itself with both the Kama River Truck Complex and the chemical production complex dealt with in the Agreement which the Occidental Petroleum Corporation signed in Moscow on April 12, 1973; and

(3) The authorized number of personnel of the Temporary Purchasing Commission is increased to 21 persons at the present time, including technical personnel. This number may be changed by mutual agreement.

I should be most grateful if you will confirm your agreement with these arrangements.

Sincerely yours,

GEORGE P. SHULTZ.

OCTOBER 3, 1973.

Mr. G. P. SHULTZ,
Secretary of the Treasury of the United States of America.

DEAR MR. SECRETARY: I confirm the receipt of your letter of this date, which reads as follows:

(QUOTE)

I have the honor to confirm my agreement to these arrangements.

Accept, Mr. Shultz, assurances of my highest consideration.

N. S. PATOLICHEV,
Minister of Foreign Trade.

MOSCOW.

3. PROTOCOL RELATING TO A TRADE REPRESENTATION OF THE USSR IN WASHINGTON SIGNED AT MOSCOW OCTOBER 3, 1973.

PROTOCOL

Recalling the undertaking of the United States of America and the Union of Soviet Socialist Republics in the Agreement Regarding Trade signed on October 18, 1972, to cooperate in the expansion and improvement of their commercial facilities in Moscow and Washington, and their undertaking in the Protocol signed on June 22, 1973, to open a Trade Representation of the U.S.S.R. in Washington and a Commercial Office of the U.S.A. in Moscow as soon as possible.

Both Governments welcome the inauguration on October 3, 1973, of a Trade Representation of the U.S.S.R. in Washington and a Commercial Office of the U.S.A. in Moscow and agree that the number of authorized personnel of each of these offices, including the principal officer and his deputies, shall be 25 at the present time. This number may be changed by mutual agreement.

Done at Moscow this 3rd day of October, 1973, in two copies, in English and Russian, both texts being equally authentic.

For the Government of the United States of America:

GEORGE P. SHULTZ,
Secretary of the Treasury.

For the Government of the Union of Soviet Socialist Republics:

N. S. PATOLICHEV,
Minister of Foreign Trade.

(A) EXCHANGE OF LETTERS REGARDING EXPORTS

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV,

Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: I have the honor to refer to our recent discussions relating to Article 3 and Annex 1 of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade to be signed today. In accordance with those provisions and discussions, and consistent with current United States laws and regulations concerning exports, it is understood that the United States Government will meet its obligations under paragraph 3(a) of Annex 1 with respect to limitations or conditions established pursuant to a request of the Government of the Union of Soviet Socialist Republics under paragraphs 1 and 2 of Annex 1 by making available to United States exporters information regarding the quantities or conditions stated by the Government of the Union of Soviet Socialist Republics in its request, or as otherwise established following consultations provided for under Annex 1.

I further understand that the Government of the Union of Soviet Socialist Republics will limit or establish conditions on exports of any product from the Union of Soviet Socialist Republics to the United States if requested to do so in accordance with Annex 1.

I would appreciate receiving your confirmation of the foregoing understandings on behalf of the Government of the Union of Soviet Socialist Republics.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(B) EXCHANGE OF LETTERS REGARDING TRADE REPRESENTATION OF THE U.S.S.R. IN WASHINGTON

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV

Minister of Foreign Trade of the Union of Soviet Socialist Republics

DEAR MR. MINISTER: I have the honor to confirm, as was stated by my delegation in the course of the negotiations leading to the conclusion today of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade, that while the Trade Representation of the Union of Soviet Socialist Republics in Washington established pursuant to Article 5 of said Agreement, its officers and staff members may engage in appropriate activities to promote trade generally between the two countries for the purposes of said Agreement, as is customary in international practice, United States legislation in force, i.e., Title 22 of the United States Code, Sections 252-254, makes it inappropriate for the Trade Representation, its officers and staff to participate directly in the negotiation, execution or fulfillment of trade transactions or otherwise carry on trade.

I have the further honor to confirm that at such time as the United States of America shall have become a party to the Vienna Convention on Diplomatic Relations, dated April 18, 1961, and its domestic legislation shall have been revised to accord fully with the terms of Articles 29 through 45 of said Convention, regarding diplomatic privileges and immunities, my Government will be prepared to give favorable consideration to amending the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade by deleting the second and third sentences of paragraph 3 of Article 5, thus permitting officers and members of the administrative, technical and service staffs of the Commercial Office of the United States of America in Moscow and the Trade Representation of the Union of Soviet Socialist Republics in Washington to participate directly in the negotiation, execution and fulfillment of trade transactions and otherwise carry on trade.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(C) EXCHANGE OF LETTERS REGARDING TRADE ORGANIZATIONS AND FACILITIES, INCLUDING THE KAMA PURCHASING COMMISSION, WITH ATTACHMENT

WASHINGTON, D.C.,
October 19, 1972.

Mr. N. S. PATOLICHEV,

Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: This is in response to your request pursuant to Article 6 of the Agreement Between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics Regarding Trade for information on policies and procedures applicable to foreign trade organizations and nationals of the Union of Soviet Socialist Republics seeking to establish business facilities in the United States for the conduct of commercial activities, and with respect to assistance that

might be given by the Government of the United States of America in that regard to such organizations and persons.

From our many discussions, I am satisfied that both sides accept the principle of expansion of business facilities in each other's country as an adjunct for substantially expanded trade.

Both sides have reasons that may, in some cases, make it necessary not to honor all requests for expanded facilities and new organizations. However, we are both committed to expanding such facilities.

Where there is a clear need established for such added facilities, I will assure you that the Government of the United States will sympathetically consider such requests.

As I have told you, I believe it is important that we select examples of certain kinds of organizations and facilities that are likely to be needed in the future in order to expand trade and commerce substantially.

As one example, we recognize that certain very large projects may require from time to time purchasing organizations in the United States to coordinate such activities on those projects. We believe the Kama River Purchasing Commission is a good example of our mutual desire to improve trade between our two countries and to provide necessary facilities and organizations to achieve that objective. Thus, I am pleased to tell you the terms set out in the attachment for the Temporary Purchasing Commission for the procurement of equipment for the Kama River Truck Plant are acceptable.

As another example, the Government of the United States of America recognizes the need for the Union of Soviet Socialist Republics to stimulate more exports to the United States, and will cooperate to promote such exports where appropriate. Accordingly, if in the next few months the Soviet Government submits a request that demonstrates a clear need for a particular export facility or organization to stimulate Soviet exports to the United States, we will view such a request sympathetically.

Sincerely yours,

PETER G. PETERSON.

(D) EXCHANGE OF LETTERS REGARDING ACCREDITATION OF OFFICES OF FOREIGN COMPANIES

THE SECRETARY OF COMMERCE,
Washington, D.C., October 18, 1972.

Mr. N. S. PATOLICHEV,
Minister of Foreign Trade of the Union of Soviet Socialist Republics.

DEAR MR. MINISTER: I have the honor to acknowledge the receipt of your letter of this date, with attachments, which reads as follows:

"Mr. PETER G. PETERSON,
Secretary of Commerce of the United States of America.

"DEAR MR. SECRETARY: This is in response to your request for information on the procedures established by the Ministry of Foreign Trade for the accreditation of offices of foreign companies including United States companies, and on the facilities made available to such companies once accreditation has been approved.

"United States companies will receive treatment no less favorable than that accorded to business entities of any third country in all matters relating to accreditation and business facilitation. Applications by United States firms for accreditation will be handled expeditiously. Any problems arising out of these applications that cannot readily be resolved through the regular procedures shall be resolved through consultation under the Joint US-USSR Commercial Commission at the request of either side.

"As you have been advised, the USSR Chamber of Commerce and Industry and the State Committee of the Council of Ministers of the USSR for Science and Technology are establishing a large trade and economic ex-

position center which will include display pavilions of the various participating countries. The United States has been invited to have such a pavilion. Further, to meet the growing interest of foreign firms in establishing a permanent residence in Moscow, we have decided to construct a large trade center containing offices, hotel and apartment facilities and are asking United States companies to make proposals for and cooperate in the development and building of the trade center. The trade center will be used for, among other things, housing and office facilities for accredited United States companies.

"Prior to the availability of these facilities, however, office facilities of an appropriate size in buildings accessible to trade sources will be made available as soon as possible once a United States company is accredited. The facilities to which such firms shall be entitled are explained in the attached information.

"It is recognized that from time to time United States businessmen may have problems regarding such facilities which they are unable to resolve through discussions with various foreign trade organizations or other organizations. In such cases officials of my Ministry, as well as those of the State Committee of the Council of Ministers of the USSR for Science and Technology, shall be available through their respective protocol sections for assistance in resolving these problems.

"Please accept, Mr. Secretary, the assurances of my highest consideration.

"Sincerely yours,

N. PATOLICHEV."

I have the further honor to inform you that I have taken cognizance of the contents of the above letter and its attachments.

Please accept, Mr. Minister, the assurances of my highest consideration.

Sincerely yours,

PETER G. PETERSON.

(E) AGREEMENT OF FINANCING PROCEDURES AND RELATED EXCHANGE OF LETTERS WITH ATTACHMENT

AGREEMENT ON FINANCING PROCEDURES

This Agreement is made and entered into this 18 day of October, 1972, by and between the Government of the United States of America, acting through the Export-Import Bank of the United States (Eximbank), an Agency of the United States Government, in conformity with its statutory authority and in conformity with the Presidential Determination made by the President of the United States on October 18, 1972, and the Government of the Union of the Soviet Socialist Republics, acting through the Ministry of Foreign Trade of the U.S.S.R. pursuant to the authority of the Government of the Union of the Soviet Socialist Republics.

Witnesseth:

Whereas, it is the desire of the Government of the U.S.S.R. to finance through Eximbank the purchase of goods and services of U.S. manufacture or origin which are being sold to entities in the U.S.S.R. and it is further the desire of the Parties hereto to establish certain procedures which will simplify and expedite such financing, and

Whereas, an agreement on procedures for requesting the issuance of Preliminary Commitments and Final Commitments with respect to credits and guarantees from Eximbank will assure the orderly and expeditious arrangement of such financing, and

Whereas, such agreement will facilitate exports and imports and the exchange of commodities between the United States of America and the Union of the Soviet Socialist Republics;

Now, therefore, the Parties hereto, in consideration of the premises, procedures, undertakings and commitments hereinafter set forth, agree as follows:

1. The Government of the U.S.S.R. hereby certifies that the Bank for Foreign Trade of the Union of the Soviet Socialist Republics (Vneshtorgbank of the USSR) is authorized to receive credits from Eximbank in U.S. Dollars and to repay those credits in U.S. Dollars in the United States in accordance with the repayment schedules to be set forth in the respective credit agreements.

2. Vneshtorgbank of the USSR will submit to Eximbank applications for Preliminary Commitments for financing from Eximbank to support purchases by entities in the U.S.S.R. of goods and services of U.S. manufacture or origin. The submission of any application for a Preliminary Commitment by Vneshtorgbank of the USSR will constitute assurance to Eximbank that Vneshtorgbank of the USSR has obtained all necessary approvals from the properly authorized bodies of the U.S.S.R.

3. It is expected that Vneshtorgbank of the USSR will submit applications for Preliminary Commitments to Eximbank prior to the time that purchase contracts with U.S. suppliers are concluded.

4. Upon receipt of an application from Vneshtorgbank of the USSR for itself or on behalf of other authorized bodies of the U.S.S.R. for a Preliminary Commitment, Eximbank will examine the information submitted in that application as it relates to the proposed transaction under the criteria then applicable to similar transactions involving buyers of U.S. goods and services wherever Eximbank financial support is available. This means that interest rates, maturities, grace periods and other conditions will not be less favorable than those usually extended to other purchasers in similar transactions. Upon determination of Eximbank's Board of Directors that financing through a combination of Eximbank's direct lending and financial guarantee facilities is appropriate, a Preliminary Commitment, describing the amount and kinds of financing support, repayment terms and general conditions under which Eximbank financing would be available, will be issued or transmitted to Vneshtorgbank of the USSR. There is no cost or obligation to Vneshtorgbank of the USSR for this Preliminary Commitment.

5. Eximbank will not issue Preliminary Commitments directly to U.S. suppliers but will refer their inquiries to Vneshtorgbank of the USSR in the event a Preliminary Commitment has not previously been issued by Eximbank with respect to a proposed transaction. However, Eximbank reserves the right to deliver, upon request, to U.S. suppliers copies of Preliminary Commitments which have been issued to Vneshtorgbank of the USSR.

6. It is understood that upon receipt of Eximbank's Preliminary Commitment, Vneshtorgbank of the USSR shall inform appropriate entities of the U.S.S.R., which then will undertake to conclude purchase contracts with U.S. suppliers of goods and services for the purchases desired.

7. At any time during the period of effectiveness of the Preliminary Commitment, Vneshtorgbank of the USSR may apply to Eximbank for final approval and formalization of the financing upon the terms, conditions and amounts set forth in the Preliminary Commitment.

8. In any application for financing, whether for a Preliminary Commitment or a Final Commitment, Vneshtorgbank of the USSR shall submit to Eximbank, among other matters, the necessary information as specified in the Exhibit attached hereto and incorporated herein by reference.

9. The Government of the U.S.S.R. will unconditionally guarantee in a separate document that repayment will be made of any loans extended or guaranteed by Eximbank pursuant to its final approval of such financing. This guarantee will be a condition precedent to Eximbank's financial support. The

Parties hereto may enter into a continuing guarantee agreement covering all financing commitments issued to Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. by Eximbank during a specified period of time. Any guarantee agreements entered into between Eximbank and the Government of the U.S.S.R. shall be in the English language.

10. In accordance with usual Eximbank procedures, credit agreements entered into between Eximbank and Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. or another U.S. bank and Vneshtorgbank of the USSR or other authorized bodies of the U.S.S.R. which are guaranteed by Eximbank shall be in the English language and shall be subject to the laws of a State or the District of Columbia of the United States of America.

11. Whenever possible, Parties to this agreement will send communications through telex; Eximbank's telex number is 89-461 and Vneshtorgbank of the USSR's telex number is 551.

This agreement is executed in duplicate in two counterparts in the English and Russian languages, each language being equally authentic.

Duly executed in Washington, District of Columbia, United States of America, this 18th day of October, 1972.

For the Government of the United States of America:

HENRY KEARNS,

President and Chairman of the Board,
Export-Import Bank of the United States.

For the Government of the Union of the Soviet Socialist Republics:

VLADIMIR S. ALKHMIMOV,

Vice Minister for Foreign Trade of the
Union of Soviet Socialist Republics.

EXHIBIT TO AGREEMENT ON FINANCING OF
OCTOBER 18, 1972

1. Name and address of sponsor or ultimate beneficiary of the Eximbank financing and a description of the sponsor's functions and areas of responsibility in the context of the Soviet Union's industrial programs, including a brief history of the sponsor.

2. A description of the project, including a statement of the kinds and quantities of products to be produced, the facilities required to achieve that production, and the likely markets for the production (domestic and/or export, and, if for export, the countries likely to be served).

3. Financing required for total project or purchase, including U.S. dollars and other currency components.

a. A statement of the financing requested from Eximbank, including cash payment proposed, total amount of financing required, and proposed terms of repayment.

b. A statement of the arrangements made or proposed to finance requirements not covered by Eximbank financing.

4. A list of proposed purchases of U.S. goods and services to be supported by Eximbank financing and, if known, the U.S. suppliers of those purchases.

5. A proposed time schedule for the project such as planning, award of contracts, designing, construction, delivery of equipment, and start-up.

6. An indication of the date when final approval of financing arrangements will be required to meet the time schedule in the above Item 5.

PRINCIPAL CONDITIONS OF CREDITS FOR
FINANCING SOVIET EXPORTS

Credits are extended by the Bank for Foreign Trade of the Union of Soviet Socialist Republics (Vneshtorgbank of the U.S.S.R.) and by the Soviet foreign trade organiza-

tions. In general, credits with maturities of up to five years are extended by the Soviet foreign trade organizations while credits for longer maturities are extended by the Bank for Foreign Trade of the U.S.S.R.

The general procedures and conditions which govern the provision of such deferred credits include the following:

1. FORM OF SALES CONTRACTS

There is no single standard form for contracts for the sale of Soviet goods on deferred payment conditions. Repayment provisions in the contracts of Soviet foreign trade organizations for the sale of goods on conditions of deferred payment are analogous to those which are widely used in international practice.

2. CREDIT TERMS AND CONDITIONS

Credit terms and conditions conform with those in general use in international commerce and for U.S. purchases will be no less favorable than the financing available from Government and commercial sources in the U.S. for comparable export transactions notwithstanding the statements of current terms and conditions set forth below in this section 2.

Interest rates, the amount of cash payment, the schedule of payments, and other relevant credit terms and conditions are decided between the Bank for Foreign Trade of the U.S.S.R. or the Soviet foreign trade organizations, as the case may be, and the purchaser or commercial bank, as the case may be, during the course of negotiations, taking into account usual international practices in the trade of the given product. The agreed-upon terms are included in the contract of sale. Except for cases in which credits are extended directly to the purchaser, the purchaser makes arrangements with a commercial bank which will provide financing under a credit line extended to such bank by the Bank for Foreign Trade of the U.S.S.R.

Maturities—The period for repayment of credits extended by the Bank for Foreign Trade of the U.S.S.R. is currently 8-10 years after delivery of completed equipment, with repayment commencing 6 months after the last shipment of equipment. Soviet foreign trade organizations currently extend credits with repayment terms of up to five years.

Interest Rates—The interest rate on individual credits is fixed by agreement of the contracting parties.

Schedule of Payments—Repayment of principal and payment of interest generally commence six months after final delivery of complete machinery and equipment and are made by approximately equal semi-annual payments of principal with interest payable on outstanding principal.

Cash Payment—In accordance with international practice, cash payments currently cover from ten to twenty percent of the amount of the contract, depending upon the type of goods being sold. Cash payments are made at appropriate intervals in accordance with a negotiated sales contract. For example, five percent may be paid 30 days after signing; ten percent upon delivery of goods against shipping documents; and five percent after completion of deliveries, testing, and satisfactory start-up or performance.

Currency of Payment—The currency of payment for cash payments, principal and interest will be any freely convertible currency, including U.S. dollars.

Form of Payment and Guarantees—Soviet foreign trade organizations generally require a Letter of Credit form of payment for amounts to be paid in cash. Deferred payments are generally to be made by drafts guaranteed by first-party commercial banks.

Submission of Financial Information—For the purpose of insuring timely repayment of deferred credits, the Soviet foreign trade

organizations generally require a guarantee of buyer repayments by a first-class commercial bank.

3. Form of Promissory Notes and Related Documents

As regards credit instruments, forms, or documents, the Soviet foreign trade organizations rely on existing international practices and do not require nor impose any special or mandatory forms, instructions or guidelines for foreign importers wishing to purchase Soviet goods on deferred payment terms.

4. Insurance and Shipping Requirements

There are no special conditions of shipment and insurance on deferred credit sales. However, deferred payments generally do not cover the value of shipping and insurance. Deferred credits are granted, as a general rule, on the basis of the value of the goods F.O.B. U.S. purchasers will, however, be extended no less favorable treatment than the financing available from Government and commercial sources in the U.S. for comparable export transactions.

5. Compliance with Government Regulations

The contracts of Soviet foreign trade organizations generally stipulate that the contracting parties must have received all necessary licenses and permits prior to the loading of the goods. It may be stipulated that, among other shipping documents, exporters will provide copies of duly validated export licenses and permits, if required. If evidence of compliance with U.S. regulations by U.S. purchaser is required, certification of such compliance by the purchaser would be satisfactory.

6. Credit and Related Definitions

The Soviet Union subscribes to the ICC "Uniform Customs and Practices for Documentary Credits," and is listed in the roster of subscribing countries. The U.S.S.R. has not joined "Incoterms." However, transportation and shipping terms used by the Soviet foreign trade organizations in general conform to those in general use in international commerce and may be described in detail in sales contracts if considered appropriate by the buyer or seller.

JANUARY 21, 1974.

HON. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: The Committee on Foreign Relations, pursuant to PL 92-403, approved August 22, 1972, has received from the State Department, under cover of a letter dated November 28, 1973, copies of various international agreements between the United States and the Soviet Union, other than treaties, which were transmitted only after a specific oral request was made for them by the staff of the Committee on Foreign Relations.

The transmittal letter accompanying these agreements states that the overall agreement is "not yet in force," but, since parts of the agreement "are now being applied," it is transmitted in accordance with PL 92-403.

Under attachment (e)—Agreement on financing procedures and related exchange of letters with attachment—credits and promises of credit have been extended to the U.S.S.R.

I would appreciate learning from you at your earliest convenience the full details of transactions between our two countries which have been concluded as of this date. We have a particular interest in learning the number and terms of credits which may have been advanced by the Export-Import Bank of the United States under agreement 1(e).

Inasmuch as attachment (e) and other sections of the Trade Agreements are, in

effect, self-executing, why were they not submitted to Congress pursuant to PL 92-403?

I agree fully with Deputy Secretary Rush's letter of September 6, 1973, where he states:

"I would also note that neither the form in which an agreement is expressed nor the fact which an agreement is of a subordinate or implementing character in itself removes the agreement from the requirements of the Case Act or of the law regarding the publication of international agreements (1 U.S.C. 112a)."

I am concerned that this rule was not followed in this instance and I would appreciate receiving a full explanation of the circumstances surrounding the failure to transmit these agreements to Congress.

Sincerely yours,

J. W. FULBRIGHT.

PUBLIC LAW 92-403 92ND CONGRESS, S. 596
An act to require that international agreements other than treaties, hereafter entered into by the United States, be transmitted to the Congress within sixty days after the execution thereof

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title 1, United States Code, is amended by inserting after section 112a the following new section:

"§ 112b. United States international agreements; transmission to Congress

"The Secretary of State shall transmit to the Congress the text of any international agreement, other than a treaty, to which the United States is a party as soon as practicable after such agreement has entered into force with respect to the United States but in no

event later than sixty days thereafter. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President."

SEC. 2. The analysis of chapter 2 of title 1, United States Code, is amended by inserting immediately between items 112a and 113 the following:

"112b. United States international agreement; transmission to Congress."

Approved August 22, 1972.

EXPORT-IMPORT BANK OF THE UNITED STATES

Buyer	Item	U.S. value	Exim loan (thousands)	Approved
Approved credits—U.S.S.R.:				
Mashinoimport	Submersible electric pumps	\$25,937	\$11,672	Feb. 21, 1973
Stankoimport, Techmashimport	Plant to produce tableware and dishware	6,893	3,102	Mar. 5, 1973
Avtopromimport, Metallurgimport, Stankoimport	Kama River truck plant	192,120	86,450	Do.
Technopromimport	250 circular knitting machines	5,620	2,529	Sept. 6, 1973
Stankoimport	Second tableware plant	21,833	9,825	Nov. 26, 1973
Stankoimport	2 assembly lines for manufacturing pistons	14,358	6,461	Do.
Mashinoimport	38 gas reinjection compressors	26,252	11,813	Dec. 20, 1973
Mettalurgimport	Iron ore pellet plant	36,000	16,200	Do.
Stankoimport	Machining friction drums	6,000	2,700	Do.
Stankoimport	Transfer line for manufacturing pistons	15,722	7,075	Do.
Total		350,735	157,827	
Pending credits applications:				
Techmashimport/Promsyrioimport	Chemical complex	400,000	180,000	
Avtopromimport/Metallurgimport/Stankoimport	Additional equipment for Kama River truck project	150,000	67,500	
Total		550,000	247,500	

Number	Buyer	Applicant	Project	U.S. dollar content	Loan	Guaranty	Expiry
U.S.S.R.—Outstanding preliminary commitments:							
2577	Stanko import	Vneshtorgbank	Automotive component manufacturing processes	\$46,000	\$20,700		Mar. 31, 1974
2583	Techmashimport	do	Acetic acid plant	40,000	18,000		Do.
2646	Traktorexport	do	Canal building machinery	6,600	2,970		Feb. 28, 1974
2647	Stankoimport	do	Valve making machinery	4,700	2,115		Do.
2689	U.S.S.R. Chamber of Commerce and Industry Moscow City Council	do	International Trade Center	80,000	36,000	\$36,000	Do.
Total				177,300	79,785	36,000	

No.	Buyer	Applicant	Project	U.S. dollar content	Loan
U.S.S.R.—Pending preliminary commitment applications:					
2607	Ministry of Geology	Vneshtorgbank	Yakutsk exploration phase	\$110,000	\$49,500
2745	Machine import	do	Oil pipeline pressure regulators	10,000	4,500
Total				120,000	54,000

IMPACT OF FUEL CRISIS ON EDUCATION

Mr. JAVITS. Mr. President, in response to my request, New York State Commissioner of Education Ewald B. Nyquist has submitted to me a report on the impact of the fuel crisis on the State's schools and New York's effort in this crisis.

Commissioner Nyquist points out that fuel conservation measures, necessitated by shortages, have resulted in reducing extracurricular and community activities in the schools.

With respect to sharply rising fuel costs, the commissioner has observed that even with fuel conservation measures resulting in 15- to 30-percent savings in consumption, school districts are

finding their fuel budgets completely inadequate to meet their needs. He concluded that—

Deficit financing which must occur because of fuel oil increases as well as the cost increases in other commodities and services will be reflected in large tax rate increases for new school budgets this year.

Illustrative of these sharply increased fuel costs are the situations in New York City and Buffalo. New York City's current year's school budget figure for fuel oil is \$9.5 million. Due to price rises it is now estimated that the appropriation for 1974-75 will have to rise to almost twice that amount, \$18 million, even in the face of cutbacks in consumption.

In Buffalo, where the weather is colder and the heating season longer, and

thus the impact is greater, the price of No. 2 fuel oil has risen 70 percent from 18.7 to 31.9 cents. The cost of No. 6 fuel oil has risen even more precipitously from 12.15 cents at the start of the school year to a current price of 30.8 cents, an increase of 148 percent to date. It is estimated, for example, that the current year's budget figure of \$224,000 for just this grade of fuel oil will rise to \$776,000 in the coming year, an increase of more than a half million dollars that could well be spent for direct educational needs such as textbooks and the hiring of teachers.

A survey of 25 typical school districts throughout all parts of New York State indicates an estimated 80.6-percent rise in fuel oil budgets for the coming year

and an increase of 54.2 percent in gasoline budgets, primarily used for school-buses.

I ask unanimous consent that the report which I received from Commissioner Nyquist be printed in the RECORD as part of my remarks.

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

THE STATE EDUCATION DEPARTMENT,
Albany, N.Y. January 23, 1974.

HON. JACOB K. JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your recent inquiry concerning the impact of the fuel crisis on the schools in New York State. Enclosed for your information is a summary report of our activities to date and the impact of rising fuel costs on school budgets.

Fuel conservation has had its impact, reducing extra-curricular and community activities in the schools. Even with fuel conservation measures resulting in 15 to 30 percent savings, school districts are finding their fuel budgets completely inadequate to meeting dramatically rising fuel costs. As noted in the enclosed report, No. 6 fuel oil costs in New York City Public Schools have increased 149 percent since the beginning of the school year to this mid-point in the heating season. The deficit financing which must occur because of fuel oil increases as well as the cost increases in other commodities and services will be reflected in large tax rate increases for new school budgets this year.

I urge early Congressional attention to this fuel/fiscal crisis which is upon us.

Faithfully yours,

EWALD B. NYQUIST.

THE ENERGY CRISIS AND ITS IMPACT ON SCHOOL BUDGETS

In recognition of the oncoming fuel crisis, Commissioner Ewald B. Nyquist designated a Task Force on Fuel Allocation and Energy on November 1, 1973 in order that the leadership potential of the Education Department might be fully effective in this area of national concern. Headed by Associate Commissioner Stanley L. Raub, the Task Force included representatives of all elements of the education community—elementary and secondary schools, both public and private; postsecondary institutions; libraries and museums.

Since its appointment, the Task Force has undertaken a number of projects which have helped to insure that every school and other educational institution has made an effort to participate effectively in the national effort to save fuel. These projects have included a statewide conference in Albany dealing primarily with management of the heating plant. Supplementing the conference, a publication entitled, "Energy Usage Guidelines—Educational Institutions" was distributed to every school district in the State by mail. Four special Task Force bulletins have been similarly distributed, providing recommendations in fuel economy—both gasoline and heating oil, information as to the Federal-State Allocation Programs and statements of Department policy with respect to the fuel and energy problem.

In addition to the above-mentioned activities, the Task Force prepared early in this heating season a Department plan for meeting the energy crisis. This contained a three-phase sequence of measures to meet three levels of seriousness in the fuel situation. Phase I recommendations, which called for energy conservation measures and minor program adjustments, were passed along to the

institutions for immediate implementation. Reports received through the district superintendents of the State indicate that the public schools generally are saving between 15 and 30 percent of normal fuel consumption through implementation of Phase I, augmented by local innovative steps.

The Education Department policy for Phase I economies was expressed in Task Force Bulletin No. 3:

"The Regents have urged educational institutions to set an example of willing cooperation in the national effort to adjust to energy shortage. This cooperation should take the form of implementing all those measures which save energy and which, at the same time, will not seriously impair the vital public services rendered by such institutions."

In addition, Bulletin No. 3 provided 13 suggestions for incorporation into a Phase II contingent plan to be developed on a regional basis. For the purpose of developing such a plan, the 47 district superintendents of the State were asked to call area meetings of school officials and to report to Commissioner Nyquist by January 2. A total of 45 superintendents reported as requested indicating that the area meetings had been held and that the Phase II plans had been or were in the process of being developed. At the direction of the Department, such plans did not call for reducing the annual session below the legally required 180-day annual session. The Phase II plans, as such, will be considered contingent plans for implementation only if the energy shortage worsens.

Phase III, a Department plan which has much more serious implications for education, would become effective in case of extreme emergency in the fuel crisis. It involves closing schools for a prolonged period and other drastic measures. At this time, it seems most unlikely that Phase III will have to be implemented in the foreseeable future.

While few, if any, educational institutions have had to close as a result of the fuel shortage, a related problem is coming to the fore. The prices of fuel oil and gasoline have risen astronomically, not only offsetting the saving which results from reduced consumption, but creating substantial budgetary deficits.

The purchasing situation is nothing short of chaotic. The Federal Allocation Regulations speak of "Force Majeure" under which any contractual agreement is rendered invalid if it conflicts with the Federal Regulation. School districts which have been securing their fuel and gasoline requirements from a company which did not supply them in the "base year" find that their existing contracts are not valid. When district officials seek formal bids from the base year supplier they receive none. The problem of no bids in situations where the New York State General Municipal Law requires sealed bids is widespread, to the degree that the State Comptroller has issued a formal statement on the matter. In Opinion 73-874, he has concluded that "Where a city has in good faith advertised for bids for fuel oil and, in addition, notified vendors over a large area of its fuel needs and requested bids, but receives none, the city may purchase its fuel oil in the open market."

In an attempt to spot-check cost increases for fuel oil and gasoline in a telephone survey, Department personnel have uncovered some startling facts:

New York City Public Schools purchased No. 6 fuel oil at the start of the 1973-74 school year at 13.45 cents per gallon. The price has since risen to 32.21 cents, a 149 percent increase midway through the heating season. This has required an increase of \$2 million in the current year's budget figure of \$9.5 million. It is currently estimated that the appropriation for 1974-75 will have to rise to \$18 million.

The City of Buffalo Public Schools use both

No. 2 and No. 6 fuel oil. The price of No. 2 has risen from 13.70 cents to 31.90 cents, representing a 70 percent increase. The current year's budget appropriation of \$243,744 will rise to \$818,400, according to estimates provided by district officials. The cost of No. 6 has risen even more dramatically, from 12.15 cents at the start of the school year to 30.08 cents at the current time, an increase of 148 percent to date. It is estimated that the current year's budget figure of \$244,000 for No. 6 oil will rise to \$776,000 in the coming year.

In our survey, 25 school districts of varying types and sizes, and representing all parts of the State, were contacted. Four items of information with respect to both fuel oil and gasoline were requested. These items included:

- Initial 1973-74 price per gallon;
- Current price per gallon;
- Budget appropriation for 1973-74; and
- Estimated budget appropriation for 1973-74.

It should be noted that the price increases in the per gallon figures shown below reflect the situation through the midpoint of the 1973-74 heating season. Budget estimates for 1974-75, are, in some cases, based on an assumption that further increases will take place before the end of the current school year.

Only two of the 25 districts contacted had experienced no increase in the price of fuel oil during the current school year. In one of these districts, the existing contract calls for implementation of an escalator clause starting February 1. In the other district, the contractor is still honoring his agreement to supply the district at the rate of 18.5¢ per gallon.

Fuel oil prices per gallon¹

Initial price (in cents).....	17.09
Current price (in cents).....	27.31
Percent increase to date (in percent).....	59.8

Fuel oil budget appropriations²

1973-74 appropriation.....	\$90,152
1974-75 appropriation estimate.....	\$162,871
Percent increase in 1974-75 budget (in percent).....	80.6

Gasoline prices per gallon³

Initial price (in cents).....	15.85
Current price (in cents).....	23.81
Percent increase to date (in percent).....	50.2

Gasoline budget appropriations⁴

1973-74 appropriation.....	\$24,523.
1974-75 appropriation estimate.....	\$37,830.
Percent increase in 1974-75 budget (in percent).....	54.2

¹ Averaged for 25 districts and including —2, —4 and —6 oil.

² Averaged for 20 districts.

³ Averaged for 21 districts.

⁴ Averaged for 21 districts.

The results of this survey, used to supplement other available information, lead to certain inevitable conclusions. First is the fact that many districts, already on tight budgets, are being forced to resort to deficit financing which generally involves borrowing.

Repayment of budget notes issued in 1973-74, plus payment of interest costs, will impinge on tax levies for the coming year and raise tax rates accordingly. When added to all of the other cost increased for commodities and services, the financing of deficits from the prior year will aggravate a serious problem of financing our educational institutions.

Mr. JAVITS. Mr. President, Commissioner Nyquist's report covers elementary and secondary schools in New York State. A report in the January 28 issue of the Chronicle of Higher Education in-

dicates that colleges and universities face a similar impact. The fuel bill for Columbia University, in New York City, has risen from \$940,000 to \$1,926,000. The heating bill at the University of Vermont, for example, has doubled since last year and its electricity bill has increased by 13 percent. Yale University spent \$675,000 a year for fuel 40 months ago; its current expenditures are \$4.7 million. And decreased consumption is not averting sharply increased costs for institutions of higher education throughout the Nation.

I ask unanimous consent that the Chronicle article to which I have referred be printed in the RECORD as part of my remarks.

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

[From the Chronicle of Higher Education, Jan. 2, 1974]

SHARP RISE IN HEATING COSTS ALARMS COLLEGES

(By Karen J. Winkler)

When the energy crisis first broke, the immediate concern of colleges and universities was whether their fuel supplies would be adequate to meet their operation costs. Recent federal regulations, allocating heating-fuel users nearly 100 per cent of the amount of oil they consumed last year, have, at least temporarily, lessened these fears.

But new worries have taken their place. As the energy crisis unfolds, many institutions of higher education are looking with dismay at the skyrocketing costs of fuels and utilities.

The question for them now is: Even if they get enough fuel, will they be able to afford it?

Geography is one of the major factors determining costs, with the problem worst in the Northeast, difficult on the West Coast, and moderate to slight in parts of the Midwest, South, and Southwest.

Institutions in the Northeast depend mainly on the most expensive kinds of fuel oil to generate their heat and air conditioning. In addition, most electric power companies in the area are also run by oil, and pass on their high operating costs to consumers.

A NASTY CRUNCH

"We're in a very nasty crunch," reports Wayne Patterson, executive vice-president of the University of Vermont. "I'm working through the local energy czar just to get oil, and I've been told I'll have to pay for it at any premium asked."

Vermont's heating bill has gone up 100 per cent since last year, its electricity bill by 13 per cent.

The story is the same at many other institutions in the area:

Yale University is facing an increase in its fuel bill from \$675,000 a year 40 months ago to \$4.7-million now.

The University of Maine is currently paying \$925,000 annually for oil, compared to the \$475,000 it spent last year. For the future, the university expects a cost of \$1.3-million, despite an almost 20-percent reduction in fuel consumption.

Mount Holyoke College's oil bill has risen from \$100,000 to \$173,000 in the course of a year.

Columbia University's bill has gone from \$940,000 to \$1,926,000.

To escape these spiraling costs, a few institutions, like New York University, where oil prices have doubled since August, are attempting to convert, at least in part, from oil to cheaper natural gas heat.

Natural gas is less expensive because it is frequently supplied to large users on an in-

terruptible basis; the surplus remaining after customers who have firm contracts are supplied is sold at a much lower rate to commercial users like universities. But when a cold snap that depletes that surplus comes, the "interruptible consumer" can be left with no gas.

MIDWEST GAS SUPPLY ADEQUATE

In a natural gas belt stretching roughly from Indiana to Western Pennsylvania, and including some states in the South and Southwest, interruption is not often a problem, explains Robert S. Green, chairman of Ohio State University's energy conservation committee. "The big lines and the major storage reserves" in this area insure adequate supply, he says.

Because Ohio State has been able to stay on natural gas, consumption cutbacks have been able to "bring about a turnaround in escalating costs," Mr. Green says.

Similarly, John Perovich, vice-president for business and finance at the University of New Mexico, says that because the state has two large gas fields, "we're very fortunate and haven't been cut off."

However, he predicts, the very availability of cheap gas may drive its price up as more and more oil-starved areas begin to bid for it. While costs have been stable for about 15 years, he says, they could go up by as much as 80 per cent soon.

Nevertheless, he admits, even with these increases "we'll still pay less than we would on oil."

Some universities close to the major natural gas areas cannot get full allocations of gas because of local restrictions. Butler University consumes 50 per cent oil and 50 per cent gas. Even at that ratio, "all in all, we aren't sitting too badly," says Arthur Lindberg, director of the physical plant there.

WEST COAST HARD HIT

The universities which have been hardest hit by the interruption of their gas supplies tend to be in areas, like the West Coast, where natural gas must be brought in from large distances.

That is the plight of Portland State University. In the normal year, the institution pays about \$100,000 for heating and cooling. But without gas—which it hasn't had since October—the bill will be close to \$135,000.

Similarly, the University of Wisconsin at Milwaukee and the University of California at Los Angeles report that cutbacks in gas will cause fuel prices to rise to such a degree that the increases will more than offset any saving through reduced consumption.

Another inexpensive fuel is coal. In areas like Kentucky, and in parts of Pennsylvania, Wyoming, and Montana, where coal is plentiful, universities do not expect drastic increases in the price of fuel, says Karl J. Warming, business vice-president at Berea College. Not only does the use of coal cut down heating costs, but, because it powers electric companies, it also reduces the cost of electric power.

However, in the 1960's, many universities moved away from coal because of Environmental Protection Agency requirements forbidding the amount of dust it often produced. "Those who dragged their feet in complying are glad now that they didn't convert," says Mr. Warming.

The University of Minnesota was just about to change over, for environmental reasons, from coal to more natural gas when the energy crisis hit. Plans have been delayed, since the price of coal is more stable than that of either gas or oil, explains Warren Soderberg, director of the physical plant there.

Indeed, most colleges and universities are finding it hard to make concrete plans to cope with rising oil, gas, or coal prices, because the increases are so rapid the future is simply unpredictable.

So far, however, those institutions which

rely on natural gas or coal hope they will be able to get by by reducing the amount of energy they consume. Or, like the University of Minnesota, they may defer maintenance on some facilities—waiting a while to repaint or rebuild a new roof, and hoping the energy situation will get better before the roof caves in.

DRASTIC FISCAL MEASURES

Those who count on oil are looking at more drastic fiscal measures. The University of Maine is asking the state legislature for \$1.5-million to cover energy costs. "If we don't get it through the legislature," says Herbert L. Fowle, Jr., vice-chancellor for business affairs, "I'm sure it will be reflected in tuition increases next year. We only have two sources of funds—the state and the student."

Some private institutions may have to dip into their endowments. "We'll have to pay bills by eating into our endowment," says John Embersits, director of operations at Yale....

Mr. JAVITS. Our Nation's schools, beset already with financial difficulties, can ill afford the deficit financing and new borrowing which mounting fuel prices impose upon them.

This fuel cost problem is not limited to schools and colleges. It is impacting on every purchaser of home heating oil and residual fuel oil in the Northeast, because the northeast region is heavily dependent on imported product. This situation is plainly at odds with both administration and congressional policy, enunciated in the Mandatory Petroleum Allocation Act, to foster an equal sharing of the burdens of the energy crisis among the people of the Nation.

At the very least, the duly elected representatives of the American people should formally consider FEO's proposed No. 2 fuel oil price regulations by urging that it be expanded to No. 4 and No. 6 fuel oils and that the imbalances be corrected on a national basis. Only by such action can it be said that the inflationary burdens of this national energy emergency are being equitably distributed.

I have called for a meeting with Federal Energy Office officials to discuss these regional price disparities. This meeting will be held today. I urge the support of my colleagues in the Senate for my proposal to the FEO to take action on these unfair and discriminatory price differences, which are forcing budget deficits for school districts, colleges and universities, increased utility rates, and severe price squeezes for landlords and housing authorities.

The Federal Energy Office's action on this problem to date has been minimal and inadequate. On Monday, FEO published for comment proposed regulations that would have the effect of evening out price disparities in No. 2 fuel oil—home heating oil and diesel fuel—in the Eastern States. This is only a small part of the problem. It is outrageous that buyers in Eastern States should have to pay up to twice the price for heating oil and residual fuel than purchasers in other areas of the country. It violates one of the principal objectives of the mandatory allocation program. Prices must be evened out nationally—not regionally—and all fuel products should be included in the price equalization—not just No. 2 fuel oil.

It is time that the rhetoric about shar-

ing the burdens of the energy crisis be converted to meaningful administrative action. If this is our avowed policy, let us begin to put it to work. Because this policy has already been explicitly spelled out in legislation, I do not propose further laws. Rather, I call for administrative action to implement the policy of enacted legislation.

FROM PHASE I TO PHASE OUT

Mr. HUMPHREY. Mr. President, the Nixon administration's discredited wage and price control programs have been through phase I to phase IV. Yesterday we learned that they will soon be entering their final stage, "Phase Out."

The scrapping of a system of supposed wage and price controls that resulted in the greatest inflation in 26 years, a \$15 billion profit "grab bag" for big business, and succeeded only in holding down the wages of our workers, will be greeted with a sigh of relief by most Americans.

However, I am deeply concerned that the dropping of these ineptly administered wage and price controls by the President, with no alternative suggested to keep prices in check, also marks the administration's surrender in the battle against inflation.

The President has decided not only to throw out controls, but also to give up setting voluntary standards for price and wage stability. This decision will cost American consumers dearly. If Congress allows the administration to completely abandon its fight on inflation, price rises will be even worse in 1974 than they were in 1973.

We need an income policy in our Nation to keep the destructive forces of inflation under control. This policy, if effectively administered, can assure that a reasonable level of economic stability is maintained by keeping wage and price increases, in general, at levels justified by rising productivity and real production cost increases. The mismanagement of wage and price controls, by an administration openly hostile to such a program from its inception, is no test of the value on an incomes policy.

The failures of the Nixon administration economic policy this past year also clearly point to the need for a long-term economic policy and analysis organization within the Federal Government.

Such an agency could anticipate basic changes in the economy that may cause inflation, bring these to the attention of the President and Congress, and participate in developing policies to head them off.

It seems to me far better than we plan for the future and avoid controls and not be forced into controls by our failure to plan ahead.

This is the minimum that can be done immediately to protect our consumers in the months and years to come.

DOLLAR-A-LOAF BREAD FORECASTS PREPOSTEROUS

Mr. HRUSKA. Mr. President, in the past few weeks we have heard a great deal of talk about a possible wheat short-

age in this country. In fact, the talk has reached such proportions that some have forecast the price of bread going to \$1 a loaf. When that starts happening, it is time to set the record straight.

There is only one word to characterize a statement about dollar-a-loaf bread: preposterous. Right now there is about 5 cents worth of wheat in a loaf of bread. If bread prices were to skyrocket to \$1 a loaf, the price of that wheat would have to go from around 5 cents to between 65 and 70 cents. As any American consumer could acknowledge: "Who would eat it?"

Such price increases are not going to occur. A simple course in economics would point that out. As an editorial in one of the Nebraska papers stated:

Anyone trying to feed that to the American people would pump air into their bread loaves, too.

I was pleased to see that earlier this week the Subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Senate Committee on Agriculture and Forestry held hearings on the subject of the wheat and feed grain shortage. It is a good time to determine the facts regarding possible shortages and export commitments, while clearing the air of otherwise outlandish statements.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Lincoln Evening Journal.

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

[From the Lincoln Evening Journal, Jan. 11, 1974]

A LOAF OF BALONEY

Is there no end to the hoaxes that Big Business is ready to perpetrate on the American public?

This is the totally legitimate reaction to the hobgoblin of dollar-a-loaf bread being conjured up by the nation's baking industry. This will happen unless the government curtails exports of U.S. wheat, according to the chairman of the American Bakers Assn., Bill Mead.

This has to be unadulterated baloney—and not the kind served on whole wheat.

The truth of the matter is that if rising costs of wheat are going to drive bread prices to \$1 a loaf, foreign buyers are going to get out of the market long before it ever reaches that amount, just as U.S. consumers are, too.

Calling the dollar-a-loaf talk "an irrational statement," which certainly is a polite understatement, Asst. Agriculture Secretary Carroll G. Brunthaver figures wheat will have to go to \$60 a bushel before an ordinary loaf of bread would be forced up to a dollar. A University of Nebraska agricultural economist, Mike Turner, sets \$45 a bushel as the wheat price for dollar bread.

Any way you slice it, the point is that there presently is less than five cents' worth of wheat in a loaf of bread selling for 35 or 40 cents. If the price of wheat is going to drive the bread price up 60 or 65 cents—to a dollar—then the cost of the wheat in that loaf is going to go from less than five cents to somewhere around 65 or 70 cents—a 12- or 13-fold increase in wheat price.

With wheat now selling at \$5 a bushel, the \$60 projection of Brunthaver is not out of reason at all.

To imagine \$60 wheat is wholly outlandish. Before that would happen, every square foot

of land anywhere would be growing the stuff and most of us would long since have quit eating it.

The bakers might be taking a page from the book of the oil producers in softening consumers up so that if the price hike is only to 50 cents a loaf (covering increased amounts for profits and everything else that goes along with wheat to make bread dough), sandwich munchers will think they have a bargain.

Or maybe the bakers remember the soybean experience of last summer. Climbing prices prompted the government to ban exports and the market price plummeted to the point that domestic processors could pick up their supplies much cheaper than if they had to compete with other buyers.

The price of wheat might well climb to some more if American bakers have to compete in the world market. But to \$60 a bushel? Never!

Anyone trying to feed that to the American people would pump air into their bread loaves, too.

THE ATROCITY RACKET

Mr. CHURCH. Mr. President, I bring to the attention of my colleagues a pertinent piece from U.S. News & World Report with regard to Palestinian terrorist atrocities. Columnist Howard Fieger's article entitled "The Atrocity Racket" accurately describes these dealers in death and destruction as "cold blooded killers who wrap themselves in the raiment of patriotism."

A political peace settlement in the Middle East would be a severe blow to Palestinian terrorists. "Peace puts the terrorists out of business," writes Mr. Fieger, all the more reason then for the parties to the present peace talks keep at their important work, whether it be in Jerusalem, Cairo, Amman, Damascus, or Geneva.

I ask unanimous consent that the article be printed in the RECORD.

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

THE ATROCITY RACKET

(By Howard Fieger)

Now and then somebody attributes lofty, idealistic, patriotic motivation to the so-called "Palestinian" terrorists.

Rubbish!

They are not dedicated guerrillas devoted to justice and peace. They are just as much enemies of the Arab governments (although some help finance them) as they are of Israel.

The last thing in the world they want is peace in the Middle East. They'll go to unbelievable extremes to prevent it—as they have demonstrated at the Olympic Village in Munich, on the searing Sahara Desert, in Paris, Rome, Vienna, Baghdad, Athens, Beirut and many other places.

It is as simple as this: Peace would put these gunmen out of business, just as the repeal of Prohibition put the bootlegging gangsters out of business in the 1930s. If they lose their "cause," they lose their jobs. Who would want to hire an unemployed terrorist?

These are bands of cold-blooded killers who wrap themselves in the raiment of patriotism. And that's all they are.

It is folly to pretend that they represent the three million Palestinians of the Middle East. They do not speak for the Palestine refugees who were uprooted by the Arab-Israeli wars. Neither do they speak for the Palestinians who live under Israeli occupation.

When you come right down to it, nobody really represents all Palestinians—a people

shorn of their national identity and living out their lives in refugee camps or scattered through a dozen or so Arab countries.

Most of them feel abandoned by their fellow Arabs, and with good cause. A few—very few, relatively—have prospered. But that is another story. The subject at hand is the terrorists, not the Palestinians they have used for years as their sole reason for being.

Not only do these assassins not speak for all Palestinians. They don't even speak with one voice among themselves. They are divided by internal rivalries (it would be going too far to call them "power struggles," since they have no real power).

You noticed, for example, that when plane hijackers in Rome announced they would kill off hostages systematically unless Greece freed two terrorists arrested last August, the latter, according to the first Athens announcement, refused to go. They didn't want the hijackers to get credit for their release. Obviously, rival bands were involved and there was some internecine politicking at work.

The terrorists like to be known as "Palestinian guerrillas" or "commandos" or "freedom fighters"—all honorable titles for militant dedication to a patriotic goal. They are none of these things.

They are plain, ordinary killers working for a living at the atrocity racket. They know the value of shock publicity. It keeps the money coming in—from extremists and others on the fanatic fringes of Arab nationalism. Nobody knows for sure how well the terrorists are financed, but they always seem to have money enough to keep supplied with firebombs to blow up unarmed airplanes and weapons to kill off innocent bystanders.

They have set an impossible target—the elimination of Israel—and they know it. Most of Israel's Arab neighbors are ready to accept the fact of a Jewish state. The days when the rallying cry was "throw the Jews into the sea!" are long gone.

What blocks a Middle East peace now is terms—the issue of real estate. No longer is an Arab-Israeli settlement regarded by either side as something utterly unthinkable.

But it is unthinkable to the terrorists. An agreement, no matter how tenuous or fragile, would mean a peace of sorts. And peace puts the terrorists out of business. They would rather have anything than that.

DÉTENTE AND ITS MEANING FOR OPPRESSED PEOPLES OF THE WORLD

Mr. HRUSKA. Mr. President, it is the custom of the Senate each year to pause and pay tribute to the peoples of the small Baltic State of Lithuania. In the past I have joined my colleagues in their tributes and am pleased to have the opportunity to do so again.

February 16 will mark the 56th anniversary of the establishment of the Republic of Lithuania. How odd it is that the anniversary of Lithuanian independence falls between two very important dates on America's calendar. I refer, of course, to the birthdays of two of our country's greatest men, Abraham Lincoln and George Washington.

The coincidence is indeed somber. In America we set aside 2 days in February to commemorate the lives and ideas of the two men who perhaps more than any other Americans embody the essence of freedom and human decency upon which our country was founded. Yet, between our two holidays, is the anniversary of the birth of another republic, one

founded with similar hopes and ideals that were left shattered by the forceful occupation of the Soviet Union.

On February 16 Lithuanian Americans will celebrate that anniversary. Their friends and relatives in Lithuania can only mark the occasion in quiet resignation.

Freedom-loving peoples throughout the world cannot help but be saddened when they look at the countries of Eastern Europe. Those of us who take pride in our ancestral ties to the region will no doubt have a special feeling of regret.

These are not times of despair, however. The world is a far different place than it was 5 years ago. In large measure that is due to the skilled diplomacy of President Nixon.

One hears the word "détente" often these days. It is a one-word description of the new relationship built between the United States and the Soviet Union. It has not been easily achieved. To wash away decades of fear, mistrust, and hatred is no easy task. It must be carefully nurtured and constantly modified.

Our countries are as different as night is to day. We do not sanction repression. We do not condone violation of human rights. We still carry the banner of freedom in the world. Yet, we cannot escape the fact that we, the United States and the Soviet Union, occupy space on one small planet. Any effort at cooperation and understanding, no matter how insignificant it may at first appear, is bound to have positive effect for those who share that planet with us.

That is what "détente" is all about. It is not to be feared by smaller nations. Rather, it should be viewed as an opportunity. A world at peace is a safer world. When the Soviets feel secure, then perhaps they will no longer feel the necessity to rule the peoples of the Baltic States and Eastern Europe with an iron hand.

When ideas can begin to flow between the United States and the Soviet Union, then perhaps they can begin to trickle throughout the Communist world.

In this regard, I noted with great interest that Dr. Kissinger will be traveling to the Soviet Union next month to make advance preparations for a visit by President Nixon. This is a good sign. It shows that improved Soviet-American relations are still very much on track. This, despite the troublesome period that accomplished the Middle East crisis of last year.

So it is that we can look to a brighter future as we celebrate the 56th anniversary of Lithuanian independence. A brighter future for Soviet-American relations can mean a brighter future for all peoples of the world.

SENATOR RANDOLPH COMMENDS STAR-NEWS FOR REASONED ASSESSMENT OF TRUCKERS' STRIKE

Mr. RANDOLPH. Mr. President, the Washington Star-News of Wednesday, February 6, contained a penetrating and thought provoking editorial on the independent truckers' strike.

Although an agreement has been

reached between the truckers and Federal officials, I believe that the comment in the Star-News should be brought to the attention of Senators. We share in the hope that the agreement will be accepted by the truck operators and that very soon vitally needed goods will be moving on the highways of our country.

The issue has been of critical concern to the Members of Congress and to the public, generally. There have been abuses, intolerable incidents, and severe hardships which have resulted from the stoppage by independent truckers of this country and those who are in sympathy with them. It is my belief that the editorial conveys the thoughts of many Members of this body.

It was at my urging that the House-Senate conference committee on Tuesday called William Simon, Administrator of the Federal Energy Office, to appear before the conferees and provide a briefing on the truck stoppage. I have worked with the able chairman of the Senate Commerce Committee (Mr. MAGNUSON) in the movement of that committee's legislation to expedite the Interstate Commerce Commission's final order. This would bring the reimbursement to truck owner-operators for fuel price increases. I have assigned staff who participated in the conferences in Washington over the weekend and through the week. I know of some of the critical factors involved in this issue. It is my belief that the Star-News highlights these factors.

Mr. President, I ask unanimous consent that the Star-News editorial be printed in the RECORD.

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

THE TRUCKERS' REVOLT

Two major points should be made about the revolt of the truck drivers: They have some legitimate complaints; they don't have a right to resort to violence.

Hardly any occupation is more directly tied to the supply and price of fuel than the trucking business. The truckers justifiably are concerned about their livelihood. They have a right to protest the shortage of fuel and the skyrocketing price of it. An independent trucker with mouths to feed at home and large payments to meet on his expensive rig can ill afford to see his profits disappear in increased operating expenses, even for a month.

Yet truckers cannot expect preferential treatment in the energy crisis. This is not a problem for them alone. They cannot expect lower fuel prices for themselves and higher ones for everyone else. They cannot expect higher speed limits for themselves and lower ones for everyone else.

But they can expect government to be concerned about their problems. It is unfortunate that nothing much moves Washington except in a state of crisis. The administration should have been able to foresee the trucking crunch coming; indeed, it was plainly visible in the smaller tieups during the past few months, which should have spurred federal officials to action. Things have come to a pretty pass when the governor of a state has to take the initiative in convening a meeting in Washington to see what can be done about a nationwide truck tieup.

The administration appears to have decided that the best way to handle gasoline shortages is to let prices move up until supply

and demand coincide. That being the case, it finally recognized that it must allow the truckers to pass on their increased fuel costs, and legislation to permit this is being rushed through the Congress. Until this legislation is enacted, the administration has agreed to a temporary freeze on diesel fuel prices, but the truckers say this is not enough, and the walkout goes on.

Hopefully, the trucks will be rolling soon as a result of the Washington negotiations. The nation, which already is beset by shortages of one kind and another, cannot tolerate a lengthy shutdown of the trucking industry. Already panic buying is cleaning off the shelves of stores in some areas.

Nor can the nation tolerate the violence that has come to be associated with trucker protests. If recollection serves correctly, truckers in past political campaigns have been among the most vociferous champions of such slogans as "love it or leave it." If this country stands for anything, it stands for protection of individual freedom. The killing of a truck driver in Pennsylvania and another in Delaware because they refused to go along with the walkout makes a mockery of the right to life, liberty and the pursuit of happiness—a right that truckers so loudly proclaim. Are the truckers, when the current revolt is ended, going to restore life and liberty to them?

THE FISCAL 1975 BUDGET AND THE ELDERLY

Mr. CHURCH. Mr. President, on February 4 the administration offered its proposed budget for fiscal 1975—a budget which would raise Federal spending to \$304.4 billion.

All in all, the administration's budget projects a \$29.8 billion increase in spending, including a \$6.3 billion boost for the Pentagon.

Ironically, the largest military spending request in our history—\$85.8 billion—comes shortly after the President declared in his state of the Union message:

For the first time in 12 years, a President of the United States can report to the Congress on the state of a Union at peace with every nation of the world.

During the next few months, it will be incumbent upon every Member of this Chamber to scrutinize this budget closely and to make important judgments on spending priorities.

In this regard—as chairman of the Senate Committee on Aging—I have called upon the committee staff to make a detailed analysis of the impact of the fiscal 1975 budget upon programs affecting older Americans. This analysis should be printed as a committee document within the next 2 weeks.

However, a preliminary analysis clearly indicates that the new budget offers little assistance for new initiatives in the field of aging. In many respects the fiscal 1975 budget is characterized by retrenchment or "standpatism," at a time when inflationary pressures are driving up the operating costs of service programs for the elderly.

The classic example is the Older Americans Act. For fiscal 1975, the administration proposes to reduce funding by \$15 million below the present appropriation, the sharpest reduction in the history of the act. And, it also proposes to cut the heart out of essential programs such as the title IV training pro-

gram. For the second consecutive year, no funding is requested.

A little less than a year ago, the Congress called for a substantially stepped-up commitment in the field of aging with the enactment of the Older American Comprehensive Services Amendments, after a struggle spanning 3 years. Two major purposes were spelled out in that legislation:

First. To improve the quality of services to the elderly; and

Second. To help meet the critical shortages of adequately trained personnel for programs in the field of aging.

But without a funding commitment for training, these two objectives could easily be hamstrung.

On other fronts the budget also deals serious blows to the field of aging:

No funding is recommended for the title IX Older American Community Service Employment Act, although the energy crisis has already substantially increased unemployment among older workers.

A \$2.1 million cutback in appropriations is urged for aging research and training at the National Institute of Child Health and Human Development.

No funding is proposed for senior opportunities and services, even though the Congress made a last minute effort last year to rescue this effective program for the elderly poor.

Age bias activities will continue at the same level, although "ageism" is still a very real and serious employment problem today.

The administration continues to reject the most effective housing program ever enacted for the aged, the section 202 housing for the elderly and handicapped program.

There are, however, a few bright spots in the administration's budget for older Americans. ACTION's aging programs—foster grandparents, the retired senior volunteer program, service corps of retired executives, and the active corps of executives—will be boosted by \$4 million.

But as things now stand, the disappointments in the new budget greatly outweigh the benefits for older Americans.

PRESIDENT'S HEALTH PROPOSAL

And, this is intensified by the announcement of the administration's new national health insurance program, which is essentially an earlier discredited proposal couched in new language.

Last year it was the budget that brought us the bad news for the elderly in the form of proposed increased costs under the Medicare program. This year it is the proposal for national health insurance which would increase coinsurance and deductible charges. We have more "cost sharing" again which is nothing but an attempt to cut budgetary expenditures by making old and sick people pay more.

Today, Medicare beneficiaries pay an \$84 deductible before hospital charges are paid by the program. There is no coinsurance charge until after 60 days of hospitalization.

The administration's proposal would require a \$100 deductible and 20 percent coinsurance for all covered hospital

services. In an analysis of the proposal the National Council of Senior Citizens has estimated that under the administration's plan the cost of the average hospital stay of 12 days for Medicare beneficiaries would be quadrupled—rising from the present \$84 to \$342.

Nor is that all. The monthly premium now paid for supplementary medical insurance would increase by about 20 percent, from \$6.30 to \$7.50. Home health visits would be cut from the present authorized 200 visits to 100 visits per year with no liberalization of the present stringent requirements to qualify for home health benefits.

Drugs are supposed to be included, but we have no details as to whether the proposed coverage of drugs would equal the legislation which I have sponsored and which has already passed the Senate. We do know that there would be a steep \$50 deductible before any prescriptions are paid for.

Finally, it is certainly meritorious that the administration's plan would cover hospital stays without limit for those who require lengthy hospitalization. I have sponsored, and the Senate has passed, legislation which would improve the Medicare program substantially in this regard by increasing the lifetime reserve and reducing coinsurance charges.

Action to help these patients is to be welcomed, but too much emphasis is placed in the proposal on this catastrophic type of coverage while leaving uncovered such needs as routine medical checkups for older people and the provision of eyeglasses and hearing aids.

Nelson Cruikshank, president of the National Council of Senior Citizens, summed up the failings of the health plan very well when he said:

The Nixon plan might indeed be of some advantage to the very few who have extremely long stays in hospital. But the measure of advantage of any insurance plan—including health insurance—is how it meets the costs of the greatest majority of the people, and how it covers the risks most likely to occur to most people.

Mr. President, I ask unanimous consent that the statement by Nelson Cruikshank be printed in the RECORD.

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

SENIOR CITIZENS LEADER SAYS: "NIXON HEALTH PLAN FOR ELDERLY IS AN OLD DISCREDITED PROPOSAL IN A NEW SUIT"

WASHINGTON, D.C., February 7.—So far as elderly people on Medicare are concerned, the new Nixon national health insurance plan is merely "an old discredited proposal brought out in a new suit." This was the statement made today by Nelson H. Cruikshank, President of the National Council of Senior Citizens, the largest organization of older people's clubs in the U.S., after the President's proposals were sent to Capitol Hill.

Cruikshank said last February HEW Secretary Caspar Weinberger called on Congress to "revamp" the Medicare program to discourage what the Administration described as "overutilization of health services" by increasing patient "cost sharing"—which, in fact, would have meant putting an increased financial burden squarely on the shoulders of the sickest Americans.

"Under both last year's plans and this so-called new proposal, the out-of-pocket expenses for Medicare patients would soar—especially for hospital care" said Cruikshank. "Using Administration cost figures, the average Medicare hospital stay of 12 days would be four times as large under the Nixon scheme—from the present \$84 to \$342."

Cruikshank continued, "For a 30-day hospital stay—the maximum confinement for more than 90 per cent of all hospital patients—the patient would pay under the Nixon plan \$750 as compared to a current charge of \$84 under Medicare. This is nine times more costly."

"The Nixon plan might indeed be of some advantage to the very few who have extremely long stays in hospitals. But the measure of advantage of any insurance plan—including health insurance—is how it meets the costs of the greatest majority of the people and how it covers the risks most likely to occur to most people."

"This isn't the only area where the Nixon plan would sock it to the elderly."

"Under the Medicare plan (part B) the annual deductible for physician services is \$72 a year. But, under the Nixon plan, these costs jump to \$100 a year—about a 40 per cent increase. The monthly premium would also increase by about 20 per cent, from \$6.30 to \$7.50."

"The Nixon plan would also take a dignified social insurance program, with benefits as a matter of right, and turn it into a government welfare program by introducing a 'means test.'"

"We were told we would be receiving a major breakthrough in health care insurance from the White House. Yet when the package is unwrapped, some of it is missing. We are told that the portions of the health plan dealing with insurance for out-of-hospital drugs will be 'detailed at a later time.'"

"This is utterly unacceptable. We are being asked to buy a major health insurance plan, without being able to see all of it."

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for the transaction of routine morning business be now resumed for not to exceed 30 minutes, with statements limited therein to 5 minutes.

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

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

Mr. STAFFORD. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Chair would advise the Senator that a quorum call is in progress.

The rollcall was continued.

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

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

Mr. MANSFIELD. Mr. President, if I may have the attention of the Senate—

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate, and will the Chair ask Senators to take their seats, and attachés to leave the well?

The ACTING PRESIDENT pro tempore. The Senate will be in order. Senators will take their seats.

The Senator may continue.

UNANIMOUS-CONSENT REQUEST

Mr. MANSFIELD. Mr. President, I make the following unanimous-consent request—

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. Senators will come to order. The Senator from Montana may continue.

Mr. MANSFIELD [continuing]. Which I think has been cleared all around.

Ordered, that on Tuesday, February 19, 1974, at 4 p.m., a vote occur on the motion to recommit the conference report on S. 2589.

That on Tuesday, February 19, 1974, the Senate convene at 10 a.m., and that after the recognition of the two leaders under the standing order, the conference report be laid before the Senate, and that the time until 12:30 p.m. be equally divided between and controlled by the Senator from Washington (Mr. JACKSON) and the Senator from Arizona (Mr. FANNIN), and the time from 2 p.m. to 4 p.m. on that day be similarly divided and controlled.

That if the conference report is not re-committed, a vote on the adoption of the conference report on S. 2589 follow immediately the vote on the motion to recommit.

That all points of order be excluded, so that the votes will occur on a motion to recommit and a motion to approve or disapprove the conference report.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. PASTORE. Mr. President, reserving the right to object, I have been on this floor now for about three-quarters of an hour. There has been a confab going on, sometimes above a whisper but still not audible to Members of the Senate. We have been told time and time again that the No. 1 priority in this country is the energy crisis. I do not know what the agreements are, and I do not know what the difficulties are in the conference report, but I think the people are entitled to know.

Why can we not have these motions determined today or tomorrow? Why do we have to wait until the 19th? If we can vote on these motions on the 19th, why can we not do it today, or why can we not do it tomorrow?

The people of this country want an answer. They want results, and I think the people are entitled to know what the difficulty is, why this postponement is taking place, and why we have to do it this way.

Mr. MANSFIELD. Mr. President, the Senator from Rhode Island raises some very valid points.

It was the hope of the leadership that we could finish with the conference report today or tomorrow at the latest. Unfortunately, events have developed which indicated that that would not be possible to do.

Therefore, on the basis of the best judgment of the joint leadership, it was decided to agree to vote at a time cer-

tain rather than to have the debate dragged out today and tomorrow with perhaps no solution in sight. This way, we are certain at which time a vote will be taken, if the Senate agrees.

I would point out also that the Commerce Committee in the House yesterday tried to get a rule to take up the conference report but it was unable to do so. I would point out also that the House goes out tonight and will not be back before Wednesday next. I have been informed that, so far as the administration is concerned, they are not pushing for action today or tomorrow but, in effect, are in accord with the desire of certain members of the committee who did not sign the report, that this procedure be followed, if for no other reason than to give the membership a chance to understand in detail just what the conference report contains.

Mr. PASTORE. Mr. President—

Mr. JACKSON. Mr. President, will the Senator from Rhode Island yield?

Mr. PASTORE. Let me say, before Senator Jackson speaks, why cannot we have a vote on the motion to recommit today or tomorrow to find out where we stand? Why do we have to wait until February 19 to find out. At that time, it might be re-committed—and then we will be in this hassle all over again?

I think we should determine now as to whether, on February 19, when we do come back we will vote on the conference report up or down, and not get ourselves once more into this mess having it re-committed and starting all over again.

Mr. JACKSON. May I just say to the Senate—especially to my good friend from Rhode Island—that we were prepared on our side to take it up, as we are taking it up now, to get a vote today. There is no reason why we cannot vote. But when we were confronted with a problem, with the clear indication that there would be no vote today or tomorrow, we had no other alternative but to work out the unanimous consent agreement that was agreed to.

Mr. PASTORE. Do you not think that the people of this country are entitled to know who is solving the energy crisis and who is not, and why we have to get into a filibuster over it?

Mr. JACKSON. Absolutely. Let me just say that there is one key issue on this conference report—forget about all the other things in it—there is one major issue, and that is whether the Senate will go on record and vote to roll back the prices of petroleum products. We have had an astronomical increase in the price of petroleum, both crude oil, and petroleum products. That is the issue. There are many things in this conference report, of course, and I have the assurance from the leadership on the minority side that the administration can get along under the provisions of this report—and I asked this specifically—because I am prepared to vote today. There is not that much to be discussed. It is an up and down question, really, on the issue of the price roll back. The leadership has agreed, and I have gone along with it on a realistic basis, that it is not possible to get a vote today or tomorrow. That is where we are.

Mr. HUGH SCOTT. Mr. President, will

the distinguished majority leader yield?

Mr. MANSFIELD. I yield.

Mr. HUGH SCOTT. The distinguished majority leader is quite right in making the point that the joint leadership was prepared to vote before we take this recess. I have had no word whatever from the administration in opposition to a vote as soon as we can. What we are discussing here, however, is the fact that objections were heard on both sides of the aisle to immediate consideration. We are moving as expeditiously as we can. We are proposing to vote on the second legislative day after today—that is, assuming that we do not come in tomorrow and that we take the recess and come in on February 18, debate on February 18, and vote on February 19. So we are agreeing to vote on the second legislative day. So, as the distinguished Senator from Rhode Island (Mr. PASTORE) has pointed out, that is not perfect. He would like to see action now. I would be glad to see action now myself, so far as I am personally concerned, if the leadership were ready. But there have been objections. There have been a number of objections from both sides of the aisle. As in all cases, I must follow the precepts of my favorite Greek Menander, who said, "We live not as we were, but as we must."

Mr. PASTORE. That may be so. I am a little bit of a philosopher on my own, but the fact still remains that the fly in the ointment here is this agreement on a vote to recommit. What I am saying is that this is an eyewash for the people of this country. I do not understand why we have to wait to vote on February 19 and apparently that is satisfactory to the administration, the leadership, and to the members of the conference. Why can we not on that day, vote this conference report up or down, without going through the gymnastics of voting on a motion to recommit?

Let us assume that we wait until February 19 and then recommit it. Then where are we?

All I am saying is, we could dispose of this vote to recommit before we leave. If we have got to go back into conference, we can go back into conference next week without waiting until February 19.

Several Senators addressed the Chair.

Mr. AIKEN. I simply want to say that as of now there are 205 million people in this country who have been blaming either the Arab countries or the oil companies for their present predicament.

However, if we postpone action or even discussion until February 19, and in the meantime take several days vacation, the American people will stop blaming the Arab countries and the oil companies and they will blame Congress—and very properly so.

Mr. PASTORE. They are already doing that.

Mr. AIKEN. I think we should have a record vote on whether we want to postpone this or not.

Mr. JACKSON. I am for that.

Mr. FANNIN. Mr. President, we should go further than just talk about one section. There are 40 separate sections in the conference report. There are not more than 10 Senators who know what is in the bill. Why should we vote on

something without knowing what we are voting on? Certainly we are entitled to know what is in the bill. Every Senator is entitled to know what is in the bill. It will take some time to discuss these 40 separate sections.

Mr. PASTORE. We have talked about this bill until the cows came home.

Mr. FANNIN. But now we have changed it.

Mr. PASTORE. We have filibustered this bill—

Mr. FANNIN. We wanted some time—

Mr. PASTORE. All right—why do you not tell us where the changes are?

Mr. FANNIN. We wanted some time to do that. It takes time to do that.

Mr. PASTORE. In the meantime, what do we do about gasoline?

Mr. FANNIN. This conference report is 103 pages long with 40 separate sections. You cannot memorize that overnight.

Mr. PASTORE. You cannot do it during your vacation, either. You cannot do it in the Florida sun. [Applause in the gallery.]

The PRESIDING OFFICER (Mr. METZENBAUM). May we have order in the galleries—and in the Chamber.

The Chair would point out to those in the galleries that they are guests of the Senate and any disorder may cause the galleries to be cleared.

Mr. JACKSON. Mr. President, first, let me say that I want it clearly understood, so far as our side is concerned, the Democrats handling the bill on the Senate side, that they are ready and prepared to vote on this today. There is no reason why we cannot finish it today, but those on the other side disagree.

Mr. FANNIN. It is on both sides—let us not say that—

Mr. JACKSON. Those on our side—

Mr. FANNIN. Those who are handling the bill or those who are talking about the handling of the bill?

Mr. JACKSON. We came in here—we worked late last night. The staff prepared—

Mr. FANNIN. Whether it is the Senators who handled the bill or the Senators who did not, they are entitled to know what is in this bill.

Mr. JACKSON. We have today and tomorrow. Let us vote tomorrow. The point I want to make is that I think it should be understood now that the administration does need power to do certain things. That power is contained in this bill. Without it the administration cannot act effectively. Any postponement could affect that. I do not want the White House coming around here saying that, had Congress only acted, we would be able to deal with the queuing up at the gas stations. There is no authority in current law to set the hours of opening or the hours of closing at a gas station.

This is a matter of great concern in the country. There is one central issue here. Let us be candid. We have rolled back the price of unregulated domestic crude oil from a current high of \$10.35 to a maximum of \$7.09. In fact, we rolled it back to \$5.25, and included in the rollback are all petroleum products, including propane; propane that has seen

an astronomical rise in price that is really hurting the little folks of America.

The overriding issue is that those who are receiving these astronomical prices in the United States—it is bad enough what is being done abroad—will continue to until this bill becomes law. That is the issue. The oil industry will have to take a great deal of the responsibility for nationwide inflation, because these astronomical prices are digging away not just at the consumer, but at the free enterprise system itself, inflating it higher and higher.

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

Mr. JACKSON. I yield.

Mr. PASTORE. The Senator keeps using the expression "the other side." Whom does he mean? Let the record show who he means.

Mr. JACKSON. Let me just say that all the Democrats who are conferees—that is why we stayed late—came in here prepared to vote today. I asked for the session to start at 10 a.m. so that we could finish. That is the record.

Mr. PASTORE. "The other side" would be the Republican side. Is that correct.

Mr. HUGH SCOTT. I do not think that is correct.

Mr. PASTORE. We keep using the words "the other side." What side are we talking about?

Mr. HUGH SCOTT. What is the Senator from Rhode Island talking about?

Mr. PASTORE. We have the Democratic side and the Republican side, and I understand that the Democrats are ready to vote now.

Mr. HUGH SCOTT. The Senator is not correct.

Mr. PASTORE. Let us find out. Let us have a vote.

Mr. HUGH SCOTT. The Senator can do what he wants. Personally, I am prepared to vote. I always have been prepared to vote, and I am not going to be included in any such statement.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

Mr. FANNIN. I object to voting on a recommitment motion today, Mr. President. I do not object to the unanimous-consent request of the Senator from Montana (Mr. MANSFIELD).

It would be very unfair to have a vote, and I say there are not 10 Members of the Senate who will know what they are voting on. I feel that they should have the information available to them. I know that some of them are very interested in this matter, and they have called me, from the Democratic side, so I do not want it said that it is just the Republican side. I had two calls from the Democratic side.

Mr. PASTORE. What does that have to do with the vote to recommit? Why do we not dispose of that today or tomorrow?

Mr. FANNIN. It has a great deal to do with it. They want to know why they are voting for or against recommitment.

Mr. PASTORE. That is the crunch. You are waiting until February 19. You are lulling the people of this country into a false sense of security.

Mr. FANNIN. There is no way of saying it is going to delay anything at all,

because the House did not get a rule. There is no determination that the House is going to act any quicker if we vote on Tuesday, the 19th, than if we vote today—no assurance whatsoever.

Mr. ALLEN. Mr. President, reserving the right to object—and I shall not object—I favor the adoption of the conference report. I am ready to vote on it now.

I oppose the motion that may or may not be made to send the bill back to conference. I am ready to vote on that. But I am persuaded that we can get quicker action on this bill and on this conference report by agreeing to the unanimous-consent request made by the distinguished majority leader, because we have experienced extended discussion on the bill. It would be no problem whatever to extend this discussion.

I believe it would serve the interests of the people for whom the distinguished Senator from Rhode Island speaks to agree on this time; because in the vast majority of cases where an agreement is made on a time for a vote, that takes time. I am persuaded that if this agreement is not entered into, it will be well beyond the 19th of this month before we have a final vote.

I urge the distinguished Senator from Rhode Island not to insist on his objection.

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

Mr. ALLEN. I yield.

Mr. PASTORE. The one crunch, as I have already pointed out, is the motion to recommit. What I am fearful of is that the people of this country are looking to Congress for a solution of this problem and we are not doing our job.

Thus far, the administration has not been able to solve it. They have been trying. They have a good man at the head of it—Mr. Simon. He came before our committee yesterday. I congratulated the man.

I said, "Mr. Simon, you are the right man at the right time to do the right job."

But the job has not been done, because I understand there are certain powers that the administration needs, but which it will not get until we pass the energy bill. The point I am making is this: In the unanimous-consent agreement that has been proposed, we are talking not only about the final vote at 4 o'clock; we are talking about a vote on a motion to recommit first. There is a motion to recommit the conference report and a motion on final passage—back to back. But the motion to recommit comes before the final motion to adopt the conference report.

We are telling the people of the country that we will solve this question on February 19. But what might happen on February 19, when the motion to recommit comes up, is that the report might be recommitted. Thus it will go back to conference, and we will start all over again.

If we are sincere, let us reject the motion to recommit and vote on the merits of the report, even if we have to do it on February 19.

Mr. ALLEN. Mr. President, I believe I still have the floor. I say to the Senator

from Rhode Island that I believe it is only fair that those who saw the report only yesterday should have an opportunity to study it and make their points on the floor of the Senate. I do not believe it is asking too much to have this vote come at a time when arguments could be made on recommitment and could be made on the adoption of the report. I do not believe we will lose any time whatsoever.

The Senator from Rhode Island made the point, and stated it well, that this vote will show where we stand in the matter. I hope he will not throw any barrier in the way of the adoption of the conference report. If he insists on his objection, I think it will be barrier to the adoption of the report. I hope he will withdraw his motion.

Mr. PASTORE. I merely reserved the right to object. I never said I would object. I think the people of the country should know what this is all about.

Mr. FANNIN. I agree that the people should know what this is about. So should Senators know what it is about. I am hopeful that we can have time for the Senate to study this proposal before a motion is made to recommit. I support the distinguished majority leader, but I would certainly object to a vote on a recommitment motion today because, as I said before, there are not 10 Members of the Senate today that have any idea what the report contains. There are 40 separate sections. I simply hope we will give Senators—some of them not here today, and will not be here today—the opportunity to determine, after study, whether they want to vote to recommit or not.

Mr. ALLEN. Mr. President, reserving the right to object, I would hope that after this agreement is entered into—and I believe it will be entered into—a time would be set apart this morning for a colloquy on the report, so that Senators may question the distinguished Senator from Washington (Mr. Jackson).

Mr. MANSFIELD. Does the Senator mean a limited time?

Mr. ALLEN. No; simply that time be allowed us to discuss the report. I think we will discuss it at some length today.

Mr. MUSKIE. Mr. President, I must say to my distinguished friend from Arizona that I am puzzled by this reluctance to move to a decision on this legislation. I was a member of this conference in December and I was a member of the conference this month.

Because of my responsibility with respect to the environmental matters contained in the report I was advised by the White House, by Mr. Simon, that we were going to proceed expeditiously, not this month but in December, and I was urged to resolve quickly whatever doubts I had about the matters for which I was responsible, because of the need for urgent action. We met that responsibility, putting doubts behind us.

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

Mr. MUSKIE. May I finish the point?

Mr. FANNIN. I want to praise the Senator.

Mr. MUSKIE. May I finish, and then I will be happy to yield to the Senator.

Mr. FANNIN. I want also to comment—

Mr. MUSKIE. I will give the Senator the opportunity.

But I must say I am disturbed and concerned. My primary responsibility was not with respect to the energy conservation provisions of the report. But I was given to believe that under the urging of the administration Senators were proceeding with a sense of urgency to resolve those issues; and I was asked to give a similar sense of urgency to the environmental matters.

Now, there are changes in environmental policy in this bill that merit long and deliberate consideration; matters that were not even considered on the floor of the Senate but were included in the House version of the bill. I was willing to consider these matters, because Mr. Simon told us he needed this authority and asked, would I not please resolve my doubts—in the interest of urgency.

Now, if we are going to become involved in a stretched out, delaying process, I may be tempted to reconsider my view with respect to the actions taken in regard to environmental matters.

Is the authority contained in the conference report eventually needed by Mr. Simon or not? That is a question I answered affirmatively in the interest of reaching a decision.

The Senator said there are 40-odd provisions of the bill. The Senator knows as well as I know that there is only one issue that prompts this delay and that is the question of whether or not there should be a rollback in prices.

Mr. FANNIN. Will the Senator yield? Mr. MUSKIE. May I finish?

If that provision were not in the conference report, we would pass this conference report in the Senate either today or tomorrow, and the Senator knows that. So the question is, whether on that issue we have had enough time to make up our minds. It is a legitimate question, and I know the Senator's views on it, because he has expressed them eloquently and at length in conference. He and I disagree; but the point is not whether we disagree. I submit we have had as much time to resolve that question as I gave myself to resolve my doubts about the environmental matters in this report.

I submit, and I do so only to direct my remarks to the White House, that I am having reservations about the urgency of this legislation. I am having reservations about the need to take the action we have recommended to both Houses with respect to environmental matters, because the administration does not exhibit the sense of urgency it asked me to demonstrate with regard to my responsibility in the conference.

So I say to the Senator that I am deeply disappointed—deeply disappointed—that we are now being asked and urged to drag our feet.

If the matter is truly a national emergency, every Senator has a responsibility to collapse his timetable, to focus on this matter, to brush everything else aside, and make up his mind about whether he favors a price rollback or not—and

make up his mind this week, not 10 days from now.

If the matter is not that urgent I doubt there is anything urgent in this bill.

Now, I yield.

Mr. FANNIN. Mr. President, I am very pleased to have the chance to respond. In the first place there is no assurance that if we acted today this legislation would be approved before the 19th; there is no assurance whatever.

Mr. MUSKIE. We do not need that assurance. All we need is added momentum.

Mr. FANNIN. May I explain my position?

Mr. MUSKIE. Certainly.

Mr. FANNIN. If the Senator does not want to yield to me, that is his privilege.

Mr. MUSKIE. The Senator has the floor.

Mr. FANNIN. There are other objections that I have to the measure, and I have offered amendments. So do not say it is just one section, because that is not correct.

The Senator from Maine (Mr. MUSKIE) was there at the time—he worked hard and I commend him for it. He said he would like to have a chance to explain the changes made.

Mr. MUSKIE. I can do it in 30 minutes.

Mr. FANNIN. Fine. Many Senators are not here today, and they would not have the opportunity to hear the Senator. As far as what has been said that we gave the Administrator what he wanted, that is not correct. He came before us; he made a request; we turned him down. I did not turn him down. A majority of the conferees voted against his every suggestion. There is no reason to say it is going to be acted on earlier if we act in the next 5 minutes. It just is not right.

So I hope the Senator takes into consideration that there are at least 90 Senators who did not have the privilege—89 to be specific, because there are 11 on the conference committee—that did not have the opportunity to look over this measure in detail.

Many changes have been made. So I feel it is very essential, because more than one section is involved, that we have a thorough study of what is in this particular legislation.

Most of the Members—I would say all the Members—did not have an opportunity to look at this until they came to the Chamber this morning. Here we are talking about acting on it today and it is a very complex piece of legislation.

I hope the distinguished Senator from Maine will realize he is being fair and equitable without hurting anyone by taking the time necessary to explain this bill to his colleagues.

Mr. MUSKIE. I appreciate the Senator's explanation, but I am not impressed, because the rhetoric he is using is the rhetoric of delay. This rhetoric was just as available to me in conference, but I did not choose to use it, because I was urged to be expeditious. The Senator has chosen to use it. It is his privilege, but in exercising that privilege he undermines my confidence in the urgency of this legislation.

Nothing the Senator can say can dis-

abuse me of my disappointment or my interpretation of what he is doing.

I urge the Senator to reconsider, because I think delay—delay for reasons that seem sound to him—is a temptation to delay to others who have other reservations about the bill. If the Senator wants to risk undermining the whole package, which has been carefully, delicately, and sensitively put together, delay is the way to do it, and I say it with all the sincerity at my command. Delay is the wrong instrument for the administration to be using today.

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

Mr. MUSKIE. I yield.

Mr. MANSFIELD. Mr. President, I withdraw my request.

Mr. FANNIN. Mr. President, will the Senator yield in connection with the statement that I want to delay the legislation? Why does the Senator select one Senator when many want it? At least 90 Senators do not know what is in the report.

Mr. MUSKIE. If I want to mount an army of Senators and Congressmen to promote delay on issues that the Senator does not question in this report, if I want to mobilize an army to delay, I can do it, and somebody else can. The Senator is using the rhetoric of delay. I have heard the rhetoric of delay on the floor of the Senate for 16 years. I recognize it when it is used. I am sure the Senator recognizes it when it is used. The Senator knows as well as I that if the White House were interested in a decision on this bill today or tomorrow, we could get it. That is my conviction. I sense delay in everything the Senator has said. That is not to attack his integrity or sincerity, or anything of the sort, but the Senator is talking about deliberate and intentional delay, which would promote the forces which are out to kill this conference report.

I shall yield to the Senator from West Virginia, but first I yield to the Senator from Washington.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

Mr. JACKSON. Mr. President, I call up the report of the committee of conference on S. 2589, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

The Senate proceeded to consider the report, which reads as follows:

CONFERENCE REPORT (S. REPT. 93-681)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and international contingency plans; to assure the continuation of vital public services; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act, including the following table of contents, may be cited as the "Energy Emergency Act".

TABLE OF CONTENTS

TITLE I—ENERGY EMERGENCY AUTHORITIES

- Sec. 101. Findings and purposes.
- Sec. 102. Definitions.
- Sec. 103. Federal Energy Emergency Administration.
- Sec. 104. End-use rationing.
- Sec. 105. Energy conservation plans.
- Sec. 106. Coal conversion and allocation.
- Sec. 107. Materials allocation.
- Sec. 108. Federal actions to increase available domestic petroleum supplies.
- Sec. 109. Other amendments to the Emergency Petroleum Allocation Act of 1973.
- Sec. 110. Prohibition on inequitable prices.
- Sec. 111. Protection of franchised dealers.
- Sec. 112. Prohibitions on unreasonable actions.
- Sec. 113. Regulated carriers.
- Sec. 114. Antitrust provisions.
- Sec. 115. Exports.
- Sec. 116. Employment impact and unemployment assistance.
- Sec. 117. Use of carpools.
- Sec. 118. Administrative procedure and judicial review.
- Sec. 119. Prohibited acts.
- Sec. 120. Enforcement.
- Sec. 121. Use of Federal facilities.
- Sec. 122. Delegation of authority and effect on State law.
- Sec. 123. Grants to States.
- Sec. 124. Reports on national energy resources.
- Sec. 125. Intrastate gas.
- Sec. 126. Expiration.
- Sec. 127. Authorizations of appropriations.
- Sec. 128. Severability.
- Sec. 129. Importation of liquefied natural gas.
- Sec. 130. Loans to homeowners and small businesses.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

- Sec. 201. Suspension authority.
- Sec. 202. Implementation plan revisions.
- Sec. 203. Motor vehicle emissions.
- Sec. 204. Conforming amendments.
- Sec. 205. Protection of public health and environment.
- Sec. 206. Energy conservation study.
- Sec. 207. Reports.
- Sec. 208. Fuel economy study.

TITLE III—STUDIES AND REPORTS

- Sec. 301. Agency studies.
- Sec. 302. Reports of the President to Congress.

**TITLE I—ENERGY EMERGENCY
AUTHORITIES**

SEC. 101. FINDINGS AND PURPOSES.

(a) (1) The Congress hereby determines that—

(A) shortages of crude oil, residual fuel oil, and refined petroleum products caused by insufficient domestic refining capacity, inadequate domestic production, environmental constraints, and the unavailability of imports sufficient to satisfy domestic demand now exist;

(B) such shortages have created or will create severe economic dislocations and hardships;

(C) such shortages and dislocations jeopardize the normal flow of interstate and foreign commerce and constitute an energy emergency which can be averted or minimized most efficiently and effectively through prompt action by the executive branch of Government;

(D) disruptions in the availability of imported energy supplies, particularly crude oil and petroleum products, pose a serious risk to national security, economic well-being, and health and welfare of the American people;

(E) because of the diversity of conditions, climate, and available fuel mix in different areas of the Nation, a primary governmental responsibility for developing and enforcing energy emergency measures lies with the States and with the local governments of major metropolitan areas acting in accord with the provisions of this Act; and

(F) the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital during the energy emergency.

(2) On the basis of the determinations specified in subparagraphs (A) through (F) of paragraph (1) of this subsection, the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

(b) The purposes of this Act are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which, to the fullest extent practicable: (1) is consistent with existing national commitments to protect and improve the environment; (2) minimizes any adverse impact on employment; (3) provides for equitable treatment of all sectors of the economy; (4) maintains vital services necessary to health, safety, and public welfare; and (5) insures against anticompetitive practices and effects and preserves, enhances, and facilitates competition in the development, production, transportation, distribution, and marketing of energy resources.

SEC. 102. DEFINITIONS.

For purposes of this Act:

(1) The term "State" means a State, the District of Columbia, Puerto Rico, or any territory or possession of the United States.

(2) The term "petroleum product" means crude oil, residual fuel oil, or any refined petroleum product (as defined in the Emergency Petroleum Allocation Act of 1973).

(3) The term "United States" when used in the geographical sense means the States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(4) The term "Administrator" means the Administrator of the Federal Energy Emergency Administration.

SEC. 103. FEDERAL ENERGY EMERGENCY ADMINISTRATION.

(a) There is hereby established until May 15, 1975, unless superseded prior to that date by law, a Federal Energy Emergency Administration which shall be temporary and shall

be headed by a Federal Energy Emergency Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. Vacancies in the office of Administrator shall be filled in the same manner as the original appointment.

(b) The Administrator shall be compensated at the rate provided for level II of the Executive Schedule. Subject to the Civil Service and Classification provisions of title 5, United States Code, the Administrator may employ such personnel as he deems necessary to carry out his functions.

(c) Effective on the date on which the Administrator first takes office, all functions, powers, and duties of the President under the Emergency Petroleum Allocation Act of 1973 (as amended by this Act), and of any officer, department, agency, or State (or officer thereof) under such Act (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice), are transferred to the Administrator. All personnel, property, records, obligations, and commitments used primarily with respect to functions transferred under the preceding sentence shall be transferred to the Administrator.

(d) (1) Whenever the Federal Energy Emergency Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of such estimate or request to the Congress.

(2) Whenever the Federal Energy Emergency Administration submits any legislative recommendations or testimony or comments on legislation to the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress.

(3) The Federal Energy Emergency Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purpose.

SEC. 104. END-USE RATIONING.

Section 4 of the Emergency Petroleum Allocation Act of 1973 is amended by adding at the end thereof the following new subsection:

"(h) (1) The President may promulgate a rule which shall be deemed a part of the regulation under subsection (a) and which shall provide, consistent with the objectives of subsection (b), for the establishment of a program for the rationing and ordering of priorities among classes of end-users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to end-users of such products of rights, and evidences of such rights, entitling them to obtain such products in precedence to other classes of end-users not similarly entitled.

"(2) That rule under this subsection shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of subsection (b) of this section and of the Energy Emergency Act.

"(3) The President shall, by order, in furtherance of the rule authorized pursuant to paragraph (1) of this subsection and consistent with the attainment of the objectives in subsection (b) of this section, cause such adjustments in the allocations made pursuant to the regulation under subsection (a) as may be necessary to carry out the purposes of this subsection.

"(4) The President shall provide for procedures by which any end-user of crude oil, residual fuel oil or refined petroleum products for which priorities and entitlements are established under paragraph (1) of this subsection may petition for review and reclassification or modification of any determination made under such paragraph with respect to his rationing priority or entitlement. Such procedures may include pro-

cedures with respect to such local boards as may be authorized to carry out functions under this subsection pursuant to section 122 of the Energy Emergency Act.

"(5) No rule or order under this section may impose any tax or user fee, or provide for a credit or deduction in computing any tax."

SEC. 105. ENERGY CONSERVATION PLANS.

(a) (1) (A) Pursuant to the provisions of this section, the Administrator may promulgate, by regulation, one or more energy conservation plans in accord with this section which shall be designed (together with actions taken and proposed to be taken under other authority of this or other Acts) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. For purposes of this section, the term "energy conservation plan" means a plan for transportation controls (including but not limited to highway speed limits) or such other reasonable restrictions on the public or private use of energy (including limitations on energy consumption of businesses) which are necessary to reduce energy consumption.

(B) No energy conservation plan may impose rationing or any tax or user fee, or provide for a credit or deduction in computing any tax.

(2) An energy conservation plan shall become effective as provided in subsection (b). Such a plan shall apply in each State, except as otherwise provided in an exemption granted pursuant to such plan in cases where a comparable State or local program is in effect, or where the Administrator finds special circumstances exist.

(3) An energy conservation plan may not deal with more than one logically consistent subject matter.

(4) An amendment to an energy conservation plan, if it has significant substantive effect, shall be transmitted to Congress and shall be effective only in accordance with subsection (b). Any amendment which does not have significant substantive effect and any rescission of a plan may be made effective in accordance with section 553 of title 5, United States Code.

(5) Subject to subsection (b) (3), an energy conservation plan shall remain in effect for a period specified in the plan unless earlier rescinded by the Administrator, but shall terminate in any event no later than six months after any such plan first takes effect.

(b) (1) For purposes of this subsection, the term "energy conservation plan" includes an amendment to an energy conservation plan which has significant substantive effect.

(2) The Administrator shall transmit any energy conservation plan (bearing an identification number) to each House of Congress on the date on which it is promulgated.

(3) (A) If any energy conservation plan is transmitted to Congress before March 15, 1974, and provides for an effective date earlier than March 15, 1974, such plan shall take effect on the date provided in the plan; but if either House of the Congress, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it, passes a resolution stating in substance that such House does not favor such plan, such plan shall cease to be effective on the date of passage of such resolution.

(B) (1) Except as provided in clause (ii), if an energy conservation plan is transmitted to the Congress and provides for an effective date on or after March 15, 1974, and before September 1, 1974, such plan shall take effect at the end of the first period of 15 calendar days of continuous session of Congress after the date on which such plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that such House does not favor such plan.

(ii) An energy conservation plan described in clause (i) may be implemented prior to the expiration of the 15 calendar-day period after the date on which such plan is transmitted, if each House of Congress approves a resolution affirmatively stating in substance that such House does not object to the implementation of such plan.

(C) An energy conservation plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Act of Congress.

(4) For the purpose of paragraph (3) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the 15-day period.

(5) Under provisions contained in an energy conservation plan, a provision of the plan may take effect at a time later than the date on which such plan otherwise takes effect.

(c) (1) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by paragraph (2) of this subsection; and it supersedes other rules only to the extent that it is inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(2) For purposes of this subsection, the term "resolution" means only a resolution of either House of Congress described in subparagraph (A) or (B).

(A) A resolution of the matter after the resolving clause of which is as follows: "That the _____ does not object to the implementation of energy conservation plan numbered _____ submitted to the Congress on _____, 19____", the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specified more than one energy conservation plan.

(B) A resolution of the matter after the resolving clause of which is as follows: "That the _____ does not favor the energy conservation plan numbered _____ transmitted to Congress on _____, 19____", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one energy conservation plan.

(3) A resolution once introduced with respect to an energy conservation plan shall immediately be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(4) (A) If the committee to which a resolution with respect to an energy conservation plan has been referred has not reported it at the end of 5 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration of any other resolution with respect to such energy conservation plan which has been referred to the committee.

(B) A motion to discharge may be made only by an individual favoring the resolu-

tion, shall be highly privileged (except that it may not be made after the committee has not reported a resolution with respect to the same energy conservation plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. 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 was agreed to or disagreed to.

(C) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same plan.

(5) (A) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The 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 was agreed to or disagreed to.

(B) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion to further limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which the resolution was agreed to or disagreed to; except that it shall be in order to substitute a resolution disapproving a plan for a resolution not to object to a plan for a resolution disapproving such plan.

(6) (A) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution and motions to proceed to the consideration of other business, shall be decided without debate.

(B) 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 a resolution shall be decided without debate.

(7) Notwithstanding any of the provisions of this subsection, if a House has approved a resolution with respect to an energy conservation plan, then it shall not be in order to consider in that House any other resolution with respect to the same plan.

(d) (1) In carrying out the provisions of this Act, the Administrator shall, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions including but not limited to the preparation of an analysis of the effect of such actions on—

(A) the fiscal integrity of State and local government;

(B) vital industrial sectors of the economy;

(C) employment, by industrial and trade sector, as well as on a national, regional, State, and local basis;

(D) the economic vitality of regional, State, and local areas;

(E) the availability and price of consumer goods and services;

(F) the gross national product;

(G) competition in all sectors of industry; and

(H) small business.

(2) The Administrator shall develop analyses of the economic impact of any energy conservation plan on States or significant sectors thereof, considering the impact on energy resources as fuel and as feedstock for industry.

(3) Such analysis shall, whenever possible, be made explicit and, to the extent practi-

cable, other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analyses, and all Federal agencies shall cooperate with the Administrator in preparing such analyses except that the Administrator's actions pursuant to this subsection shall not create any right of review or cause of action except as otherwise exist under other provisions of law.

(4) The Administrator, together with the Secretaries of Labor and Commerce, shall monitor the economic impact of any rules, regulations, and orders taken by the Administrator, and shall provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

(e) Any energy conservation plan which the Administrator submits to the Congress pursuant to subsection (b) of this section shall include findings of fact and a specific statement explaining the rationale for each provision contained in such plan.

SEC. 106. COAL CONVERSION AND ALLOCATION.

(a) The Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this Act, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this Act, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies shall be permitted to continue to use coal or coal byproducts as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products under this subsection shall be contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. The Administrator shall require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant may be required under this section to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design and construction requirement under this subsection, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

(b) The Administrator may by rule prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

SEC. 107. MATERIALS ALLOCATION.

(a) The Administrator shall, within 30 days after the date of enactment of this Act,

propose (in the nature of a proposed rule affording an opportunity for the presentation of views) and publish (and may from time to time amend) a contingency plan for the allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. At such time as he finds that it is necessary to put all or part of such plan into effect, he shall transmit such plan or portion thereof to each House of Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105 and to which section 105 (b) (3) (A) applies (except that such plan or portions thereof may be submitted at any time after the date of enactment of this Act and before May 15, 1975).

(b) Section 4(b) (1) (G) of the Emergency Petroleum Allocation Act of 1973 is amended to read as follows:

"(G) allocation of residual fuel oil and refined petroleum products in such amounts and in such manner as may be necessary for the maintenance of exploration for, and production or extraction of—

"(i) fuels, and
 "(ii) minerals essential to the requirements of the United States,

and for required transportation related thereto."

(c) The Administrator shall exercise any authority conferred on him under this Act and under any other Act to take steps designed to alleviate shortages in petrochemical feedstocks, and within 30 days from the date of the enactment of this Act shall report to the Congress with respect to shortages of petrochemical feedstocks, of steps taken to alleviate any such shortages, the unemployment impact resulting from such shortages, and any legislative recommendations which he deems necessary to alleviate such shortages.

SEC. 108. FEDERAL ACTIONS TO INCREASE AVAILABLE DOMESTIC PETROLEUM SUPPLIES.

(a) The Administrator may, by rule or order, until May 15, 1975, require the following measures to supplement domestic energy supplies:

(1) the production of designated existing domestic oilfields, at their maximum efficient rate of production, which is the maximum rate at which production may be sustained without detriment to the ultimate recovery of oil and gas under sound engineering and economic principles. Such fields are to be designated by the Secretary of the Interior after consultation with the appropriate State regulatory agency. Data to determine the maximum efficient rate of production shall be supplied to the Secretary of the Interior by the State regulatory agency which determines the maximum efficient rate of production and by the operators who have drilled wells in, or are producing oil and gas from such fields;

(2) if necessary to meet essential energy needs, production of certain designated existing domestic oilfields at rates in excess of their currently assigned maximum efficient rates. Fields to be so designated, by the Secretary of the Interior or the Secretary of the Navy as to the Federal lands or as to Federal interests in lands under their respective jurisdiction, shall be those fields where the types and quality of reservoirs are such as to permit production at rates in excess of the currently assigned sustainable maximum efficient rate for periods of ninety days or more without excessive risk of losses in recovery;

(3) the adjustment of processing operations of domestic refineries to produce refined products in proportions commensurate with national needs and consistent with the

objectives of section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(b) Nothing in this section shall be construed to authorize the production from any Naval Petroleum Reserve now subject to the provisions of chapter 641 of title 10, United States Code.

SEC. 109. OTHER AMENDMENTS TO THE EMERGENCY PETROLEUM ALLOCATION ACT OF 1973.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973 (as amended by sections 104 and 107 of this Act) is further amended by adding at the end of such section the following new subsection:

"(1) If any provision of the regulation under subsection (a) provides that any allocation of residual fuel oil or refined petroleum products is to be based on use of such a product or amounts of such product supplied during a historical period, the regulation shall contain provisions designed to assure that the historical period can be adjusted (or other adjustments in allocations can be made) in order to reflect regional disparities in use, population growth or unusual factors influencing use (including unusual changes in climatic conditions), of such oil or product in the historical period. This subsection shall take effect 30 days after the date of enactment of the Energy Emergency Act. Adjustments for such purposes shall take effect no later than 6 months after the date of enactment of this subsection. Adjustments to reflect population growth shall be based upon the most current figures available from the United States Bureau of the Census."

(b) Section 4(g) (1) of the Emergency Petroleum Allocation Act of 1973 is amended by striking out "February 28, 1975" in each case the term appears and inserting in each case "May 15, 1975".

SEC. 110. PROHIBITION ON INEQUITABLE PRICES.

(a) Section 4 of the Emergency Petroleum Allocation Act of 1973, as amended by this title, is further amended to prevent inequitable prices with respect to sales of crude oil, residual fuel oil, and refined petroleum products, by adding at the end thereof the following new subsection:

"(j) (1) The President shall exercise his authority under this Act and the Economic Stabilization Act of 1970, as amended, so as to specify (or prescribe a manner for determining) prices for all sales of domestic crude oil, residual fuel oil, and refined petroleum products in accordance with this subsection.

"(2) Except as otherwise provided in paragraphs (3) and (4), the provisions of the regulation under subsection (a) of this section which specified (or prescribed a manner for determining) the price of domestic crude oil, residual fuel oil, and refined petroleum products, and which were in effect on the date of enactment of this subsection shall remain in effect until modified pursuant to paragraph (5) of this subsection.

"(3) Commencing 30 days after the date of enactment of this subsection, and until any other ceiling price becomes effective pursuant to the terms of paragraph (5) hereof, the ceiling price for the first sale or exchange of a particular grade of domestic crude oil in a particular field shall be the sum of—

"(A) the highest posted price at 6:00 a.m., local time, May 15, 1973, for that grade of crude oil at that field, or if there are no posted prices in that field, the related price for that grade of crude oil which is most similar in kind and quality at the nearest field for which prices are posted; and
 "(B) a maximum of \$1.35 per barrel.

"(4) The regulation under subsection (a) of this section shall be amended so as to provide that any reduction in the price of crude oil (or any classification thereof), of residual fuel oil, or of a refined petroleum product (including propane) resulting from the provisions of this subsection is passed through on a dollar-for-dollar basis to any

subsequent purchaser, reseller, or final consumer in the United States. Such pass-through of price reductions shall, to the extent practicable and consistent with the objectives of this section, be allocated among products refined from such crude oil on a proportional basis, taking into consideration historical price relations among such products.

"(5) (A) The President may, in accordance with the procedures and standards provided in this paragraph, amend the regulation under subsection (a) of this section to specify a different price for domestic crude oil, residual fuel oil, or refined petroleum products, or a different manner for determining the price, other than that provided in paragraph (2) or (3) of this subsection, if he finds that such different price or such different manner for determining such price is necessary to permit the attainment of the objectives of this Act and the purposes described in Section 101(b) of the Energy Emergency Act.

"(B) Every price proposed to be specified pursuant to this subsection which specifies a different price or manner for determining the price for domestic crude oil provided for in paragraph (3) of this subsection, and every price specified for (or every prescribed manner for determining the ceiling price of) residual fuel oil and refined petroleum products, shall be transmitted to the Congress and shall be accompanied by a detailed analysis setting forth—

"(i) the additional quantities of crude oil, residual fuel oil, refined petroleum products, or if any, that can reasonably be expected to be produced;

"(ii) the effect, if any, upon the demand for crude oil, residual fuel oil, refined petroleum products, or

"(iii) the impact upon the economy as a whole, including the impact upon consumers and the profitability of and employment in industry and business;

"(iv) any significant problems of enforcement or administration; and

"(v) the impact on the preservation of existing competition within the petroleum industry,

resulting from the proposed change in the price of crude oil or manner for determining the price of residual fuel oil or refined petroleum products. Any change in a price of domestic crude oil (or any classification thereof) which is transmitted to Congress within 30 days after enactment of this subsection, which prescribes a different price or a different manner for determining such price provided in paragraph (3) of this subsection shall not take effect until 15 days after the detailed analysis required by this paragraph has been transmitted to the Congress.

"(C) No price for domestic crude oil, or any classification thereof, specified pursuant to this subsection shall exceed the ceiling price provided in paragraph (3) of this subsection by more than 35 percent.

"(D) Ceiling prices or a manner for determining prices established by or pursuant to this subsection are maximum permissible prices, and any seller may sell domestic crude oil, or residual fuel oil, or any refined petroleum product produced therefrom at any lesser price. In the case of any exchange of domestic crude oil, residual fuel oil, or refined petroleum products, the ceiling price shall apply to the total value of the goods and services asked, given or received in exchange for such crude oil, residual fuel oil, or refined petroleum product.

"(6) (A) Any interested person who has reason to believe that any price or manner for determining prices in the regulation under subsection (a) of this section does not prevent inequitable prices may petition the President for a determination under subparagraph (B) of this paragraph.

"(B) Upon petition of any interested per-

son, the President shall by rule determine whether the price of crude oil, residual fuel oil, or any refined petroleum products does not prevent inequitable prices. The President may either affirm such price, or method for determining such price, or establish a different price, or method of determining such price, upon a finding (accompanied by a detailed analysis of such finding as is required under paragraph (5) (B)) that such price as affirmed or reestablished prevents inequitable prices.

"(7) (A) The President may provide, in his discretion under regulations prescribed by him, for such consolidation of petitions as may be necessary or appropriate to carry out the purposes of this subsection.

"(B) The President may make such rules, regulations, and orders as he deems necessary or appropriate to carry out his functions under this subsection.

"(8) No petition under paragraph (6) of this subsection to determine prices may be filed later than one year after the expiration of this Act or any extension thereof.

"(9) The President may at any time act to establish ceiling prices lower than those provided in paragraphs (2) and (5) if he determines that lower ceiling prices will permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act.

"(10) The provisions of this subsection shall apply to all crude oil notwithstanding the provisions of subsection (e) (2) of this section and section 406 of Public Law 93-153 (87 Stat. 590).

"(11) (A) A proceeding to amend the regulation under subsection (a) of this section with respect to prices as authorized and limited under the terms of paragraph (5) of this subsection and a rulemaking proceeding under paragraph (6) of this subsection shall be governed by section 553 of title 5, United States Code, except that the President shall afford interested persons an opportunity of at least 10 days to present oral and written views, data, and arguments. The 10-day period for presentation of views, data and arguments respecting such action may be postponed until after such action takes effect where the President specifically finds that strict compliance would be likely to cause serious impairment to the operation of the program and such finding and the reasons therefor are set out in detail in the Federal Register at the time of publication.

"(B) Judicial review of an amendment to the regulation under subsection (a) of this section with respect to prices under the terms of paragraph (5) of this subsection and a rule promulgated under paragraph (6) of this subsection shall be reviewable pursuant to the provisions of section 211 of the Economic Stabilization Act of 1970, as amended, except that any such amendment or rule may not be enjoined or set aside, in whole or in part, unless the court makes a final determination that such amendment or rule is in excess of the President's authority, is arbitrary or capricious, is otherwise unlawful under the criteria set forth in section 706 (2) of title 5, United States Code, or is based on findings required by this subsection which are not supported by substantial evidence.

"(12) For purposes of this subsection—

"(A) the term 'inequitable price' means a price in excess of a price which is reasonable, taking into consideration the price necessary to obtain sufficient supplies of crude oil, residual fuel oil, and refined petroleum products, to permit the attainment of the objectives of this Act and the purposes described in section 101(b) of the Energy Emergency Act;

"(B) the term 'domestic crude oil' means crude oil produced in the United States or from the outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331); and

"(C) the term 'interested person' includes

the United States, any State, the District of Columbia, Puerto Rico, and the territories and possessions of the United States."

SEC. 111. PROTECTION OF FRANCHISED DEALERS.

(a) As used in this section:

(1) The term "distributor" means a person engaged in the sale, consignment, or distribution of petroleum products to wholesale or retail outlets whether or not it owns, leases, or in any way controls such outlets.

(2) The term "franchise" means any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, under which such retailer or distributor is granted authority to use a trademark, trade name, service mark, or other identifying symbol or name owned by such refiner or distributor, or any agreement or contract between such parties under which such retailer or distributor is granted authority to occupy premises owned, leased, or in any way controlled by a party to such agreement or contract, for the purpose of engaging in the distribution or sale of petroleum products for purposes other than resale.

(3) The term "refiner" means a person engaged in the refining or importing of petroleum products.

(4) The term "retailer" means a person engaged in the sale of any refined petroleum product for purposes other than resale within any State, either under a franchise or independent of any franchise, or who was so engaged at any time after the start of the base period.

(b) (1) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless he furnishes prior notification pursuant to this paragraph to each distributor or retailer affected thereby. Such notification shall be in writing and sent to such distributor or retailer by certified mail not less than ninety days prior to the date on which such franchise will be canceled, not renewed, or otherwise terminated. Such notification shall contain a statement of intention to cancel, not renew, or to terminate together with the reasons therefor, the date on which such action shall take effect, and a statement of the remedy or remedies available to such distributor or retailer under this section together with a summary of the applicable provisions of this section.

(2) A refiner or distributor shall not cancel, fail to renew, or otherwise terminate a franchise unless the retailer or distributor whose franchise is terminated failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out the terms of such franchise, or unless such refiner or distributor withdraws entirely from the sale of refined petroleum products in commerce for sale other than resale in the United States.

(c) (1) If a refiner or distributor engages in conduct prohibited under subsection (b) of this section, a retailer or a distributor may maintain a suit against such refiner or distributor. A retailer may maintain such suit against a distributor or a refiner whose actions affect commerce and whose products with respect to conduct prohibited under paragraph (1) or (2) of subsection (b) of this section, he sells or has sold, directly or indirectly, under a franchise. A distributor may maintain such suit against a refiner whose actions affect commerce and whose products he purchases or has purchased or whose products he distributes or has distributed to retailers.

(2) The court shall grant such equitable relief as is necessary to remedy the effects of conduct prohibited under subsection (b) of this section which it finds to exist including declaratory judgment and mandatory or prohibitive injunctive relief. The court may grant interim equitable relief, and actual and punitive damages (except for actions for a failure to renew) where indicated, in suits under this section, and may, unless

such suit is frivolous, direct that costs, including reasonable attorney and expert witness fees, be paid by the defendant. In the case of actions for a failure to renew damages shall be limited to actual damages including the value of the dealer's equity.

(3) A suit under this section may be brought in the district court of the United States for any judicial district in which the distributor or the refiner against whom such suit is maintained resides, is found, or is doing business, without regard to the amount in controversy.

(d) The provisions of this section expire at midnight, May 15, 1975, but such expiration shall not affect any pending action or pending proceeding, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975, except that no suit under this section, which is based upon an act committed prior to midnight, May 15, 1975, shall be maintained unless commenced within three years after such act.

SEC. 112. PROHIBITIONS ON UNREASONABLE ACTIONS.

(a) Action taken under authority of this Act, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in the allocation of petroleum products and electrical energy among classes of users or resulting in restrictions on use of petroleum products and electrical energy, shall be equitable, shall not be arbitrary or capricious, and shall not unreasonably discriminate among classes of users, except that with respect to allocations of petroleum products no foreign corporation or entity shall receive more favorable treatment in the allocation of petroleum products than that which is accorded by its home country to United States citizens engaged in the same line of commerce, unless the President determines such a policy would be inconsistent with the purposes of this Act and publishes his finding in the Federal Register. Allocations shall contain provisions designed to foster reciprocal and non-discriminatory treatment by foreign countries of United States citizens engaged in commerce.

(b) To the maximum extent practicable, any restriction on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden of such restriction on all sectors of the economy, without imposing an unreasonably disproportionate share of such burden on any specific industry, business or commercial enterprise, or on any individual segment thereof and shall give due consideration to the needs of commercial, retail, and service establishments whose normal function is to supply goods and services of an essential convenience nature during times of day other than conventional daytime working hours.

SEC. 113. REGULATED CARRIERS.

(a) The Interstate Commerce Commission (with respect to common or contract carriers subject to economic regulation under the Interstate Commerce Act), the Civil Aeronautics Board, and the Federal Maritime Commission shall, for the duration of the period beginning on the date of enactment of this Act and ending on May 15, 1975, have authority to take any action for the purpose of conserving energy consumption in a manner found by such Commission or Board to be consistent with the objectives and purposes of the Acts administered by such Commission or Board on its own motion or on the petition of the Administrator which existing law permits such Commission or Board to take upon the motion or petition of any regulated common or contract carrier or other person.

(b) The Interstate Commerce Commission shall, by expedited proceedings, adopt appropriate rules under the Interstate Com-

merce Act which eliminate restrictions on the operating authority of any motor common carrier of property which require excessive travel between points with respect to which such motor common carrier has regularly performed service under authority issued by the Commission. Such rules shall assure continuation of essential service to communities served by any such motor common carrier.

(c) Within 45 days after the date of enactment of this Act, the Civil Aeronautics Board, the Federal Maritime Commission, and the Interstate Commerce Commission shall report separately to the appropriate committees of the Congress on the need for additional regulatory authority in order to conserve fuel during the period beginning on the date of enactment of this Act and ending on May 15, 1975 while continuing to provide for the public convenience and necessity. Each such report shall identify with specificity—

(1) the type of regulatory authority needed;

(2) the reasons why such authority is needed;

(3) the probable impact on fuel conservation of such authority;

(4) the probable effect on the public convenience and necessity of such authority; and

(5) the competitive impact, if any, of such authority.

Each such report shall further make recommendations with respect to changes in any existing fuel allocation programs which are deemed necessary to provide for the public convenience and necessity during such period.

SEC. 114. ANTITRUST PROVISIONS.

(a) Except as specifically provided in subsection (1), no provision of this Act shall be deemed to convey to any person subject to this Act any immunity from civil and criminal liability or to create defenses to actions, under the antitrust laws.

(b) As used in this section, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1 et seq.), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12 et seq.), as amended;

(3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.), as amended;

(4) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(5) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

(c) (1) To achieve the purposes of this Act, the Administrator may provide for the establishment of such advisory committees as he determines are necessary. Any such advisory committees shall be subject to the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. App. I), whether or not such Act or any of its provisions expires or terminates during the term of this Act or of such committees, and in all cases shall be chaired by a regular full-time Federal employee and shall include representatives of the public. The meetings of such committees shall be open to the public.

(2) A representative of the Federal Government shall be in attendance at all meetings of any advisory committee established pursuant to this section. The Attorney General and the Federal Trade Commission shall have adequate advance notice of any meeting and may have an official representative attend and participate in any such meeting.

(3) A full and complete verbatim transcript shall be kept of all advisory committee

meetings, and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be made available for public inspection and copying, subject to the provisions of sections 552 (b) (1) and (b) (3) of title 5, United States Code.

(d) The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission, shall promulgate, by rule, standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil or any refined petroleum product may develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives stated in section 4(b) of the Emergency Petroleum Allocation Act of 1973.

(e) The standards and procedures under subsection (d) shall be promulgated pursuant to section 553 of title 5, United States Code. They shall provide, among other things, that—

(1) Such agreements and plans of action shall be developed by meetings of committees, councils, or other groups which include representatives of the public, of interested segments of the petroleum industry and of industrial, municipal and private consumers, and shall in all cases be chaired by a regular full-time Federal employee;

(2) Meetings held to develop a voluntary agreement or a plan of action under this subsection shall permit attendance by interested persons and shall be preceded by timely and adequate notice with identification of the agenda of such meeting to the Attorney General, the Federal Trade Commission and to the public in the affected community;

(3) Interested persons shall be afforded an opportunity to present, in writing and orally, data, views and arguments at such meetings;

(4) A full and complete verbatim transcript shall be kept of any meeting, conference or communication held to develop, implement or carry out a voluntary agreement or a plan of action under this subsection and shall be taken and deposited, together with any agreement resulting therefrom, with the Attorney General and the Federal Trade Commission. Such transcript and agreement shall be available for public inspection and copying, subject to provisions of section 552 (b) (1) and (b) (3) of title 5, United States Code.

(f) The Federal Trade Commission may exempt types or classes of meetings, conferences or communications from the requirements of subsections (c) (3) and (e) (4) provided such meetings, conferences, or communications are ministerial in nature and are for the sole purpose of implementing or carrying out a voluntary agreement or plan of action authorized pursuant to this section. Such ministerial meeting, conference or communication may take place in accordance with such requirements as the Federal Trade Commission may prescribe by rule. Such persons participating in such meeting, conference or communication shall cause a record to be made specifying the date such meeting, conference, or communication took place and the persons involved, and summarizing the subject matter discussed. Such record shall be filed with the Federal Trade Commission and the Attorney General, where it shall be made available for public inspection and copying.

(g) (1) The Attorney General and the Federal Trade Commission shall participate from the beginning in the development, implementation, and carrying out of voluntary agreements and plans of action authorized under this section. Each may propose any alternative which would avoid or overcome,

to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act. Each shall have the right to review, amend, modify, disapprove, or prospectively revoke, on its own motion or upon the request of any interested person, any plan of action or voluntary agreement at any time, and, if revoked, thereby withdraw prospectively the immunity which may be conferred by subsection (1) of this section.

(2) Any voluntary agreement or plan of action entered into pursuant to this section shall be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented, where it shall be made available for public inspection and copying.

(h) (1) The Attorney General and the Federal Trade Commission shall monitor the development, implementation and carrying out of plans of action and voluntary agreements authorized under this section to assure the protection and fostering of competition and the prevention of anticompetitive practices and effects.

(2) The Attorney General and the Federal Trade Commission shall promulgate joint regulations concerning the maintenance of necessary and appropriate documents, minutes, transcripts and other records related to the development, implementation or carrying out of plans of action or voluntary agreements authorized pursuant to this Act.

(3) Persons developing, implementing, or carrying out plans of action or voluntary agreements authorized pursuant to this Act shall maintain those records required by such joint regulations. The Attorney General and the Federal Trade Commission shall have access to and the right to copy such records at reasonable times and upon reasonable notice.

(4) The Federal Trade Commission and the Attorney General may each prescribe such rules and regulations as may be necessary or appropriate to carry out their responsibilities under this Act. They may both utilize for such purposes and for purposes of enforcement, any and all powers conferred upon the Federal Trade Commission or the Department of Justice, or both, by any other provision of law, including the antitrust laws; and wherever such provision of law refers to "the purposes of this Act" or like terms, the reference shall be understood to be this Act.

(i) There shall be available as a defense to any civil or criminal action brought under the antitrust laws in respect of actions taken in good faith to develop and implement a voluntary agreement or plan of action to carry out a voluntary agreement by persons engaged in the business of producing, refining, marketing or distributing crude oil, residual fuel oil, for any refined petroleum product that—

(1) such action was—

(A) authorized and approved pursuant to this section, and

(B) undertaken and carried out solely to achieve the purposes of this section and in compliance with the terms and conditions of this section, and the rules promulgated hereunder; and

(2) such persons fully complied with the requirements of this section and the rules and regulations promulgated hereunder.

(j) No provision of this Act shall be construed as granting immunity for, nor as limiting or in any way affecting any remedy or penalty which may result from any legal action or proceeding arising from, any acts or practices which occurred: (1) prior to the enactment of this Act, (2) outside the scope and purpose or not in compliance with the terms and conditions of this Act and this section, or (3) subsequent to its expiration or repeal.

(k) Effective on the date of enactment of this Act, this section shall apply in lieu of

section 6(c) of the Emergency Petroleum Allocation Act of 1973. All actions taken and any authority or immunity granted under such section 6(c) shall be hereafter taken or granted, as the case may be, pursuant to this section.

(l) The provisions of section 708 of the Defense Production Act of 1950, as amended, shall not apply to any action authorized to be taken under this Act or the Emergency Petroleum Allocation Act of 1973.

(m) The Attorney General and the Federal Trade Commission shall each submit to the Congress and to the President, at least once every six months, a report on the impact on competition and on small business of actions authorized by this section.

(n) The authority granted by this section (including any immunity under subsection (1)) shall terminate on May 15, 1975.

(o) The exercise of the authority provided in section 113 shall not have as a principal purpose or effect the substantial lessening of competition among carriers affected. Actions taken pursuant to that subsection shall be taken only after providing from the beginning an adequate opportunity for participation by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division, who shall propose any alternative which would avoid or overcome, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of this Act.

SEC. 115. EXPORTS.

To the extent necessary to carry out the purpose of this Act, the Administrator may under authority of this Act, by rule, restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate: *Provided*, That the Administrator shall restrict exports of coal, petroleum products, or petrochemical feedstocks if either the Secretary of Commerce or the Secretary of Labor certifies that such exports would contribute to unemployment in the United States. The Secretary of Commerce, pursuant to the Export Administration Act of 1969 (but without regard to the phrase "and to reduce the serious inflationary impact of abnormal foreign demand" in section 3(2)(A) of such Act), may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this Act and section 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973: *Provided*, That in the event that the Administrator certifies to the Secretary of Commerce that export restrictions of products enumerated in this section are necessary to carry out the purpose of this Act, the Secretary of Commerce shall impose such export restrictions. Rules under this section by the Administrator and actions by the Secretary of Commerce under the Export Administration Act of 1969 shall take into account the historical trading relations of the United States with Canada and Mexico and shall not be inconsistent with subsections (b) and (d) of section 4 of the Emergency Petroleum Allocation Act of 1973.

SEC. 116. EMPLOYMENT IMPACT AND UNEMPLOYMENT ASSISTANCE.

(a) The President shall take into consideration and shall minimize, to the fullest extent practicable, any adverse impact of actions taken pursuant to this Act upon employment. All agencies of government shall cooperate fully under their existing statutory authority to minimize any such adverse impact.

(b) The President shall make grants in accordance with regulations prescribed by him to States to provide assistance to any individual unemployed, if such unemployment heretofore or hereafter is the result of the energy crisis and was in no way due

to the fault of such individual, while the individual is unemployed. Unemployment resulting from the energy crisis means unemployment which the State determines to be attributable to fuel allocations, fuel pricing, consumer buying decisions clearly influenced by the energy crisis, and governmental action associated with the energy crisis. Such assistance as a State under such a grant shall provide for not less than 6 months of eligibility and shall be available to individuals not otherwise eligible for unemployment compensation and individuals who have otherwise exhausted their eligibility for such unemployment compensation, and shall continue as long as such unemployment continues or until the individual is reemployed in a suitable position, but not longer than one year after such individual becomes eligible for such assistance. Such assistance shall not exceed the maximum weekly amount under the unemployment compensation program of the State in which the employment loss occurred.

(c) On or before the sixtieth day following the date of enactment of this Act, the President shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers and shall include legislative recommendations which the President deems appropriate to meet such needs, including revisions in the unemployment insurance laws.

SEC. 117. USE OF CARPOOLS.

(a) The Secretary of Transportation shall encourage the creation and expansion of the use of carpools as a viable component of our nationwide transportation system. It is the intent of this section to maximize the level of carpool participation in the United States.

(b) The Secretary of Transportation is directed to establish within the Department of Transportation an "Office of Carpool Promotion" whose purpose and responsibilities shall include—

(1) responding to any and all requests for information and technical assistance on carpooling and carpooling systems from units of State and local governments and private groups and employees;

(2) promoting greater participation in carpooling through public information and the preparation of such materials for use by State and local governments;

(3) encouraging and promoting private organizations to organize and operate carpool systems for employees;

(4) promoting the cooperation and sharing of responsibilities between separate, yet proximately close, units of government in coordinating the operations of carpool systems; and

(5) promoting other such measures that the Secretary determines appropriate to achieve the goal of this subsection.

(c) The Secretary of Transportation shall encourage and promote the use of incentives such as special parking privileges, special roadway lanes, toll adjustments, and other incentives as may be found beneficial and administratively feasible to the furtherance of carpool ridership, and consistent with the obligations of the State and local agencies which provide transportation services.

(d) The Secretary of Transportation shall allocate the funds appropriated pursuant to the authorization of subsection (f) according to the following distribution between the Federal and State or local units of government:

(1) The initial planning process—up to 100 percent Federal.

(2) The systems design process—up to 100 percent Federal.

(3) The initial startup and operation of a given system—60 percent Federal and 40 percent State or local with the Federal portion not to exceed 1 year.

(e) Within 12 months of the date of enactment of this Act, the Secretary of Transportation shall make a report to Congress of all his activities and expenditures pursuant to this section. Such report shall include any recommendations as to future legislation concerning carpooling.

(f) The sum of \$5,000,000 is authorized to be appropriated for the conduct of programs designed to achieve the goals of this section, such authorization to remain available for 2 years.

(g) For purposes of this section, the terms "local governments" and "local units of government" include any metropolitan transportation organization designated as being responsible for carrying out section 134 of title 23, United States Code.

(h) As an example to the rest of our Nation's automobile users, the President of the United States shall take such action as is necessary to require all agencies of Government, where practical, to use economy model motor vehicles.

(1) (1) The President shall take action to require that no Federal official or employee in the executive branch below the level of Cabinet officer be furnished a limousine for individual use. The provisions of this subsection shall not apply to limousines furnished for use by officers or employees of the Federal Bureau of Investigation, or to those persons whose assignments necessitate transportation by limousines because of diplomatic assignment by the Secretary of State.

(2) For purposes of this subsection, the term "limousine" means a type 6 vehicle as defined in the Interim Federal Specifications issued by the General Services Administration, December 1, 1973.

(3) (A) The President shall take action to insure the enforcement of 31 U.S.C. 638a.

(B) No funds shall be expended under authority of this or any other Act for the purpose of furnishing a chauffeur for individual use by any Federal official or employee.

SEC. 118. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) (1) Subject to paragraphs (2), (3), and (4) of this subsection, the provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to any rule, regulation, or order (including a rule, regulation, or order issued by a State or officer thereof) under this title, under section 4(h) of the Emergency Petroleum Allocation Act of 1973; except that this subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973 (as amended by this title) other than section 4(h) thereof, nor to any rule under section 113 of this title.

(2) Notice of any proposed rule or order described in paragraph (1) shall be given by publication of such proposed rule or order in the Federal Register. In each case, a minimum of ten days following such publication shall be provided for opportunity to comment; except that the requirements of this paragraph as to time of notice and opportunity to comment may be waived where strict compliance is found to cause serious impairment to the operation of the program to which such rule or order relates and such findings are set out in detail in such rule or order. In addition, public notice of all rules or orders promulgated by officers of a State or political subdivision thereof or to State or local boards pursuant to this Act shall to the maximum extent practicable be achieved by publication of such rules or orders in a sufficient number of newspapers of statewide circulation calculated to receive widest possible notice.

(3) In addition to the requirements of paragraph (2), if any rule or order described in paragraph (1) is likely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be afforded. To

the maximum extent practicable, such opportunity shall be afforded prior to the implementation of such rule or order, but in all cases such opportunity shall be afforded no later than 45 days after the implementation of any such rule or order. A transcript shall be kept of any oral presentation.

(4) Any officer or agency authorized to issue rules or orders described in paragraph (1) shall provide for the making of such adjustments, consistent with the other purposes of this Act or the Emergency Petroleum Allocation Act of 1973 (as the case may be), as may be necessary to prevent special hardships, inequity, or an unfair distribution of burdens and shall in rules prescribed by it establish procedures which are available to any person for the purpose of seeking an interpretation, modification, or rescission of, or an exception to or exemption from, such rules and orders. If such person is aggrieved or adversely affected by the denial of a request for such action under the preceding sentence, he may request a review of such denial by the officer or agency and may obtain judicial review in accordance with subsection (b) or other applicable law when such denial becomes final. The officer or agency shall, in rules prescribed by it, establish appropriate procedures, including a hearing where deemed advisable, for considering such requests for action under this paragraph.

(b) (1) Judicial review of administrative rulemaking of general and national applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the District of Columbia within thirty days from the date of promulgation of any such rule or regulation, and judicial review of administrative rulemaking of general, but less than national, applicability done under this title may be obtained only by filing a petition for review in the United States Court of Appeals for the appropriate circuit within thirty days from the date of promulgation of any such rule or regulation, the appropriate circuit being defined as the circuit which contains the area or the greater part of the area within which the rule or regulation is to have effect.

(2) Notwithstanding the amount in controversy, the district courts of the United States shall have exclusive original jurisdiction of all other cases or controversies arising under this title, or under regulations or orders issued thereunder, except any actions taken by the Civil Aeronautics Board, the Interstate Commerce Commission, Federal Power Commission, or the Federal Maritime Commission, or any actions taken to implement or enforce any rule or order by any officer of a State or political subdivision thereof or State or local board which has been delegated authority under section 122 of this Act except that nothing in this section affects the power of any court of competent jurisdiction to consider, hear, and determine in any proceeding before it any issue raised by way of defense (other than a defense based on the constitutionality of this title or the validity of action taken by any agency under this title). If in any such proceeding an issue by way of defense is raised based on the constitutionality of this Act or the validity of agency action under this title, the case shall be subject to removal by either party to a district court of the United States in accordance with the applicable provisions of chapter 89 of title 28, United States Code. Cases or controversies arising under any rule or order of any officer of a State or political subdivision thereof or a State or local board may be heard in either (1) any appropriate State court, and (2) without regard to the amount in controversy, the district courts of the United States.

(3) This subsection shall not apply to any rule, regulation, or order issued under the Emergency Petroleum Allocation Act of 1973

nor to any rule under section 113 of this title.

(c) The Administrator may by rule prescribe procedures for State or local boards which carry out functions under this Act or the Emergency Petroleum Allocation Act of 1973. Such procedures shall apply to such boards in lieu of subsection (a), and shall require that prior to taking any action, such boards shall take steps reasonably calculated to provide notice to persons who may be affected by the action, and shall afford an opportunity for presentation of views (including oral presentation of views where practicable) at least 10 days before taking the action. Such boards shall be of balanced composition reflecting the makeup of the community as a whole.

(d) In addition to the requirements of section 552 of title 5, United States Code, any agency authorized by this title of the Emergency Petroleum Allocation Act of 1973 to issue rules or orders shall make available to the public all internal rules and guidelines which may form the basis, in whole or in part, for any rule or order with such modifications as are necessary to insure confidentiality protected under such section 552. Such agency shall, upon written request of a petitioner filed after any grant or denial of a request for exception or exemption from rules or orders furnish the petitioner with a written opinion setting forth applicable facts and the legal basis in support of such grant or denial. Such opinions shall be made available to the petitioner and the public within thirty days of such request and with such modifications as are necessary to insure confidentiality of information protected under such section 552.

SEC. 119. PROHIBITED ACTS.

It shall be unlawful for any person to violate any provision of title I of this Act (other than provisions of this Act which make amendments to the Emergency Petroleum Allocation Act of 1973 and section 113) or to violate any rule, regulation (including an energy conservation plan) or order issued pursuant to any such provision.

SEC. 120. ENFORCEMENT.

(a) Whoever violates any provision of section 119 shall be subject to a civil penalty of not more than \$2,500 for each violation.

(b) Whoever willfully violates any provision of section 119 shall be fined not more than \$5,000 for each violation.

(c) It shall be unlawful for any person to offer for sale or distribute in commerce any product or commodity in violation of an applicable order or regulation issued pursuant to this Act. Any person who knowingly and willfully violates this subsection after having been subjected to a civil penalty for a prior violation of the same provision of any order or regulation issued pursuant to this Act shall be fined not more than \$50,000 or imprisoned not more than six months, or both.

(d) Whenever it appears to any person authorized by the Administrator to exercise authority under this Act that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of section 119, such person may request the Attorney General to bring an action in the appropriate district court of the United States to enjoin such acts or practices, and upon a proper showing a temporary restraining order or a preliminary or permanent injunction shall be granted without bond. Any such court may also issue mandatory injunctions commanding any person to comply with any provision, the violation of which is prohibited by section 119.

(e) Any person suffering legal wrong because of any act or practice arising out of any violation of section 119 may bring an action in a district court of the United States, without regard to the amount in controversy, for appropriate relief, including an action for

a declaratory judgment or writ of injunction. Nothing in this subsection shall authorize any person to recover damages.

SEC. 121. USE OF FEDERAL FACILITIES.

Whenever practicable, and for the purpose of facilitating the transportation and storage of fuel, agencies or departments of the United States are authorized, during the period beginning on the date of enactment of this Act and ending May 15, 1975, to enter into arrangements for the acquisition or use by domestic public entities and private industries of equipment or facilities which are surplus to the needs of such agency or department and appropriate to the transportation and storage of fuel, except that such arrangements may be made (1) only after the Administrator finds that such equipment or facilities are not available from private sources and (2) only on the basis of compensation for the acquisition or use of such equipment or facilities at fair market value prices or rentals.

SEC. 122. DELEGATION OF AUTHORITY AND EFFECT ON STATE LAW.

(a) The Administrator may delegate any of his functions under the Emergency Petroleum Allocation Act of 1973 or this Act to any officer or employee of the Federal Energy Administration as he deems appropriate. The Administrator may delegate any of his functions relative to implementation and enforcement of the Emergency Petroleum Allocation Act of 1973 or this Act to officers of a State or political subdivision thereof or to State or local boards of balanced composition reflecting the make-up of the community as a whole. Such officers or boards shall be designated and established in accordance with regulations which the Administrator shall promulgate under this Act. Section 5(b) of the Emergency Petroleum Allocation Act of 1973 is repealed effective on the effective date of the transfer of functions under such Act to the Administrator pursuant to section 103 of this Act.

(b) No State law or State program effect on the date of enactment of this Act, or which may become effective thereafter, shall be superseded by any provision of this Act or any regulation, order, or energy conservation plan issued pursuant to this Act except insofar as such State law or State program is inconsistent with the provisions of this Act, or such a regulation, order, or plan.

SEC. 123. GRANTS TO STATES.

Any funds authorized to be appropriated under section 127(b) shall be available for the purpose of making grants to States to which the Administrator has delegated authority under section 122 of this Act, or for the administration of appropriate State or local energy conservation programs which are the basis of an exemption made pursuant to section 105(a)(2) of this Act from a Federal energy conservation plan which has taken effect under section 105 of this Act. The Administrator shall make such grants upon such terms and conditions as he may prescribe by rule.

SEC. 124. REPORTS ON NATIONAL ENERGY RESOURCES.

(a) For the purpose of providing to the Administrator, Congress, the States, and the public, to the maximum extent possible, reliable data on reserves, production, distribution, and use of petroleum products, natural gas, and coal, the Administrator shall promptly publish for public comment a regulation requiring that persons doing business in the United States, who, on the date of enactment of this Act, are engaged in exploring, developing, processing, refining, or transporting by pipeline, and petroleum product, natural gas, or coal, shall provide detailed reports to the Administrator every sixty calendar days. Such reports shall show for the preceding sixty calendar days such person's (1) reserves of crude oil, natural gas, and coal; (2) production and

destination of any petroleum product, natural gas, and coal; (3) refinery runs by-product; and (4) other data required by the Administrator for such purpose. Such regulation shall also require that such persons provide to the Administrator such reports for the period from January 1, 1970, to the date of such person's first sixty day report. Such regulation shall be promulgated 30 days after such publication. The Administrator shall publish quarterly in the Federal Register a meaningful summary analysis of the data provided by such reports.

(b) The reporting requirements of this section shall not apply to the retail operations of persons required to file such reports. Where a person shows that all or part of the data required by this section is being reported by such person to another Federal agency, the Administrator may exempt such person from reporting all or part of such data directly to him, and upon such exemption, such agency shall, notwithstanding any other provision of law, provide such data to the Administrator. The district courts of the United States are authorized, upon application of the Administrator, to require enforcement of such reporting requirements.

(c) Upon a showing satisfactory to the Administrator by any person that any report or part thereof obtained under this section from such person or from a Federal agency would, if made public, divulge methods or processes entitled to protection as trade secrets or other proprietary information of such person, such report, or portion thereof, shall be confidential in accordance with the provisions of section 1905 of title 18 of the United States Code, except that such report or part thereof shall not be deemed confidential for purposes of disclosure to (1) any delegate of the Federal Energy Emergency Administration for the purpose of carrying out this Act, (2) the Attorney General, the Secretary of the Interior, the Federal Trade Commission, the Federal Power Commission, or the General Accounting Office when necessary to carry out those agencies' duties and responsibilities under this and other statutes, and (3) the Congress or any Committee of Congress upon request of the Chairman. The provisions of this section shall expire on May 15, 1975.

SEC. 125. INTRASTATE GAS.

Nothing in this Act shall expand the authority of the Federal Power Commission with respect to sales of non-jurisdictional natural gas.

SEC. 126. EXPIRATION.

The authority under this title to prescribe any rule or order to take other action under this title, or to enforce any such rule or order, shall expire at midnight, May 15, 1975, but such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any act committed prior to midnight, May 15, 1975.

SEC. 127. AUTHORIZATIONS OF APPROPRIATIONS.

(a) There are authorized to be appropriated to the Federal Energy Emergency Agency to carry out its functions under this Act and under other laws, and to make grants to States under section 123, \$75,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975.

(b) For the purpose of making payments under grants to States under section 123, there are authorized to be appropriated \$50,000,000 for the fiscal year ending June 30, 1974, and \$75,000,000 for the fiscal year ending June 30, 1975.

(c) For the purpose of making payments under grants to States under section 116, there is authorized to be appropriated \$500,000,000 for the fiscal year ending June 30, 1974.

SEC. 128. SEVERABILITY.

If any provision of this Act, or the application of any such provision to any person

or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SEC. 129. IMPORTATION OF LIQUEFIED NATURAL GAS.

Notwithstanding the provisions of section 3 of the Natural Gas Act (or any other provisions of law) the President may by order, on a finding that such action would be consistent to the public interest, authorize on a shipment-by-shipment basis the importation of liquefied natural gas from a foreign country: *Provided, however,* That the authority to act under this section shall not permit the importation of liquefied natural gas which had not been authorized prior to the date of expiration of this Act and which is in transit on such date.

SEC. 130. LOANS TO HOMEOWNERS AND SMALL BUSINESSES.

(a) The Department of Housing and Urban Development and the Small Business Administration are authorized to make low interest loans to homeowners and small businesses for the purpose of installing new and improved insulation, storm windows, and more efficient heating units, and adopt such rules and regulations as are necessary to achieve the objectives of this section.

(b) It is the sense of the Congress that small business enterprises should cooperate to the maximum extent possible in achieving the purposes of the Act and that they should have their varied needs considered by all levels of government in the implementation of the programs provided for by this Act.

(c) In order to carry out the policy stated in subsection (b)—

(1) the Small Business Administration (A) shall to the maximum extent possible provide small business enterprises with full information concerning the provisions of the programs provided for in this Act which particularly affect such enterprises, and the activities of the various departments and agencies under such provisions, and (B) shall, as a part of its annual report, provide to the Congress a summary of the actions taken under programs provided for in this Act which have particularly affected such enterprises;

(2) to the extent feasible, Federal and other governmental bodies shall seek the views of small business in connection with adopting rules and regulations under the programs provided for in this Act and in administering such programs; and

(3) in administering the programs provided for in this Act, special provision shall be made for the expeditious handling of all requests, applications, or appeals from small business enterprises.

(d) Any controls instituted shall be insofar as practicable, equitably applied to all businesses, whether large or small; and due consideration shall be given to the unique problems of retailing establishments and small business so as not to discriminate or cause unnecessary hardship in the administration or implementation of the provisions of this Act.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SEC. 201. SUSPENSION AUTHORITY.

Title I of the Clean Air Act (42 U.S.C. 1857 et seq.) is amended by adding at the end thereof the following new section:

"ENERGY EMERGENCY AUTHORITY

"SEC. 119. (a) (1) (A) The Administrator may, for any period beginning on or after the date of enactment of this section and ending on or before November 1, 1974, temporarily suspend any stationary source fuel or emission limitation as it applies to any person, if the Administrator finds that such person will be unable to comply with such limitation during such period solely because of

unavailability of types or amounts of fuels. Any suspension under this paragraph and any interim requirement on which such suspension is conditioned under paragraph (3) shall be exempted from any procedural requirements set forth in this Act or in any other provision of local, State, or Federal law; except as provided in subparagraph (B).

"(B) The Administrator shall give notice to the public of a suspension and afford the public an opportunity for written and oral presentation of views prior to granting such suspension unless otherwise provided by the Administrator for good cause found and published in the Federal Register. In any case, before granting such a suspension he shall give actual notice to the Governor of the State, and to the chief executive officer of the local government entity in which the affected source or sources are located. The granting or denial of such suspension and the imposition of an interim requirement shall be subject to judicial review only on the grounds specified in paragraphs (2) (B) and (2) (C) of section 706 of title 5, United States Code, and shall not be subject to any proceeding under section 304(a) (2) or 307 (b) and (c) of this Act.

"(2) In issuing any suspension under paragraph (1) the Administrator is authorized to act on his own motion without application by any source or State.

"(3) Any suspension under paragraph (1) shall be conditioned upon compliance with such interim requirements as the Administrator determines are reasonable and practicable. Such interim requirements shall include, but need not be limited to, (A) a requirement that the source receiving the suspension comply with such reporting requirements as the Administrator determines may be necessary, (B) such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to health of persons, and (C) requirements that the suspension shall be inapplicable during any period during which fuels which would enable compliance with the suspended stationary source fuel or emission limitations are in fact reasonably available to that person (as determined by the Administrator). For purposes of clause (C) of this paragraph, availability of natural gas or petroleum products which enable compliance shall not make a suspension inapplicable to a source described in subsection (b) (1) of this section.

"(4) For purposes of this section:

"(A) The term 'stationary source fuel or emission limitation' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under this Act (other than section 303, 111(b), or 112) or contained in an applicable implementation, plan, and which is designed to limit stationary source emissions resulting from combustion of fuels, including a prohibition on, or specification of, the use of any fuel of any type or grade or pollution characteristic thereof.

"(B) The term 'stationary source' has the same meaning as such term has under section 111(a) (3).

"(b) (1) Except as provided in paragraph (2) of this subsection, any fuel-burning stationary source—

"(A) which is prohibited from using petroleum products or natural gas as fuel by reason of an order issued under section 106(a) of the Energy Emergency Act, or

"(B) which (1) the Administrator of the Environmental Protection Agency determines began conversion to the use of coal as fuel during the 90-day period ending on December 15, 1973, and (2) the Administrator of the Federal Energy Emergency Administration determines should use coal after November 1, 1974, after balancing on a plant-by-plant basis the environmental effects of such conversion against the need to fulfill the purposes of the Energy Emergency Act,

and which converts to the use of coal as fuel, shall not, until January 1, 1979, be prohibited, by reason of the application of any air pollution requirement, from burning coal which is available to such source. For purposes of this paragraph, the term "began conversion" means action by the owner or operator of a source during the 90-day period ending December 15, 1973 (such as entering into a contract binding on the operator of the source for obtaining coal, or equipment or facilities to burn coal; expending substantial sums to permit such source to burn coal; or applying for an air pollution variance to enable the source to burn coal) which the Administrator finds evidences a decision (made prior to December 15, 1973) to convert to burning coal as a result of the unavailability of an adequate supply of fuels required for compliance with the applicable implementation plan, and a good faith effort to expeditiously carry out such decision.

"(2)(A) Paragraph (1) of this subsection shall apply to a source only if the Administrator finds that emissions from the source will not materially contribute to a significant risk to public health and if the source has submitted to the Administrator a plan for compliance for such source which the Administrator has approved, after notice to interested persons and opportunity for presentation of views (including oral presentation of views). A plan submitted under the preceding sentence shall be approved only if it provides (i) for compliance by the means specified in subparagraph (B), and in accordance with a schedule which meets the requirements of such subparagraph; and (ii) that such source will comply with requirements which the Administrator shall prescribe to assure that emissions from such source will not materially contribute to a significant risk to public health. The Administrator shall approve or disapprove any such plan within 60 days after such plan is submitted.

"(B) The Administrator shall prescribe regulations requiring that any source to which this subsection applies submit and obtain approval of its means for and schedule of compliance. Such regulations shall include requirements that such schedules shall include dates by which such source must—

"(i) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of coal which enables such source to achieve the emission reduction required by subparagraph (C), or

"(ii) if coal which enables such source to achieve such emission reduction is not available to such source, (I) enter into contracts (or other enforceable obligations) which have received prior approval of the Administrator as being adequate to effectuate the purposes of this section and which provide for obtaining a long-term supply of other coal or coal by-products, and (II) take steps to obtain continuous emission reduction systems necessary to permit such source to burn such coal or coal by-products and to achieve the degree of emission reduction required by subparagraph (C) (which steps and systems must have received prior approval of the Administrator as being adequate to effectuate the purposes of this section).

"(C) Regulations under subparagraph (B) shall require that the source achieve the most stringent degree of emission reduction that such source would have been required to achieve under the applicable implementation plan which was in effect on the date of enactment of this section (or if no applicable implementation plan was in effect on such date, under the first applicable implementation plan which takes effect after such date). Such degree of emission reduction shall be achieved as soon as practicable, but not later than January 1, 1979; except

that, in the case a source for which a continuous emission reduction system is required for sulphur-related emissions, reduction of such emissions shall be achieved on a date designated by the Administrator (but not later than January 1, 1979). Such regulations shall also include such interim requirements as the Administrator determines are reasonable and practicable including requirements described in clauses (A) and (B) of subsection (a)(3).

"(D) The Administrator (after notice to interested persons and opportunity for presentation of views, including oral presentations of views, to the extent practicable) (i) may, prior to November 1, 1974, and shall thereafter prohibit the use of coal by a source to which paragraph (1) applies if he determines that the use of coal by such source is likely to materially contribute to a significant risk to public health; and (ii) may require such source to use coal of any particular type, grade, or pollution characteristic if such coal is available to such source. Nothing in this subsection (b) shall prohibit a State or local agency from taking action which the Administrator is authorized to take under this subparagraph.

"(3) For purposes of this subsection, the term 'air pollution requirement' means any emission limitation, schedule, or timetable for compliance, or other requirement, which is prescribed under any Federal, State, or local law or regulation, including this Act (except for any requirement prescribed under this subsection or section 303), and which is designed to limit stationary source emissions resulting from combustion of fuels (including a restriction on the use or content of fuels). A conversion to coal to which this subsection applies shall not be deemed to be a modification for purposes of section 111(a)(2) and (4) of this Act.

"(4) A source to which this subsection applies may, upon the expiration of the exemption under paragraph (1), obtain a one year postponement of the application of any requirement of an applicable implementation plan under the conditions and in the manner provided in section 110(f).

"(c) The Administrator may by rule establish priorities under which manufacturers of continuous emission reduction systems shall provide such systems to users thereof, if he finds that priorities must be imposed in order to assure that such systems are first provided to users in air quality control regions with the most severe air pollution. No rule under this subsection may impair the obligation of any contract entered into before enactment of this section. No State or political subdivision may require any person to use a continuous emission reduction system for which priorities have been established under this subsection except in accordance with such priorities.

"(d) The Administrator shall study, and report to Congress not later than May 31, 1974, with respect to—

"(1) the present and projected impact on the program under this Act of fuel shortages and of allocation and end-use allocation programs;

"(2) availability of continuous emission reduction technology (including projections respecting the time, cost, and number of units available) and the effects that continuous emission reduction systems would have on the total environment and on supplies of fuel and electricity;

"(3) the number of sources and locations which must use such technology based on projected fuel availability data;

"(4) priority schedule for implementation of continuous emission reduction technology, based on public health or air quality;

"(5) evaluation of availability of technology to burn municipal solid waste in these sources; including time schedules, priorities analysis of unregulated pollutants which will be emitted and balancing of

health benefits and detriments from burning solid waste and of economic costs;

"(6) projections of air quality impact of fuel shortages and allocations;

"(7) evaluation of alternative control strategies for the attainment and maintenance of national ambient air quality standards of sulfur oxides within the time frames prescribed in the Act, including associated considerations of cost, time frames, feasibility, and effectiveness of such alternative control strategies as compared to stationary source fuel and emission regulations;

"(8) proposed allocations of continuous emission reduction technology for non-solid waste producing systems to sources which are least able to handle solid waste byproduct, technologically, economically, and without hazard to public health, safety, and welfare; and

"(9) plans for monitoring or requiring sources to which this section applies to monitor the impact of actions under this section on concentration of sulfur dioxide in the ambient air.

"(e) No State or political subdivision may require any person to whom a suspension has been granted under subsection (a) to use any fuel the unavailability of which is the basis of such person's suspension (except that this preemption shall not apply to requirements identical to Federal interim requirements under subsection (a)(1)).

"(f) (1) It shall be unlawful for any person to whom a suspension has been granted under subsection (a)(1) to violate any requirement on which the suspension is conditioned pursuant to subsection (a)(3).

"(2) It shall be unlawful for any person to violate any rule under subsection (c).

"(3) It shall be unlawful for the owner or operator of any source to fail to comply with any requirement under subsection (b) or any regulation, plan, or schedule thereunder.

"(4) It shall be unlawful for any person to fail to comply with an interim requirement under subsection (1)(3).

"(g) Beginning January 1, 1975, the Administrator shall publish at no less than 180-day intervals, in the Federal Register the following:

"(1) A concise summary of progress reports which are required to be filed by any person or source owner or operator to which subsection (b) applies. Such progress reports shall report on the status of compliance with all requirements which have been imposed by the Administrator under such subsections.

"(2) Up-to-date findings on the impact of this section upon—

"(A) applicable implementation plans, and

"(B) ambient air quality.

"(h) Nothing in this section shall affect the power of the Administrator to deal with air pollution presenting an imminent and substantial endangerment to the health of persons under section 303 of this Act.

"(i) (1) In order to reduce the likelihood of early phaseout of existing electric generating facilities during the energy emergency, any electric generating power plant (A) which, because of the age and condition of the plant, is to be taken out of service permanently no later than January 1, 1980, according to the power supply plan (in existence on the date of enactment of the Energy Emergency Act) of the operator of such plant, (B) for which a certification to that effect has been filed by the operator of the plant with the Environmental Protection Agency and the Federal Power Commission, and (C) for which the Commission has determined that the certification has been made in good faith and that the plan to cease operations no later than January 1, 1980, will be carried out as planned in light of existing and prospective power supply requirements, shall be eligible for a single one-year postponement as provided in paragraph (2).

"(2) Prior to the date on which any plant

eligible under paragraph (1) is required to comply with any requirement of an applicable implementation plan, such source may apply (with the concurrence of the Governor of the State in which the plant is located) to the Administrator to postpone the applicability of such requirement to such source for not more than one year. If the Administrator determines, after balancing the risk to public health and welfare which may be associated with a postponement, that compliance with any such requirement is not reasonable in light of the projected useful life of the plant, the availability of rate base increases to pay for such costs, and other appropriate factors, then the Administrator shall grant a postponement of any such requirement.

"(3) The Administrator shall, as a condition of any postponement under paragraph (2), prescribe such interim requirements as are practicable and reasonable in light of the criteria in paragraph (2).

"(j) (1) The Administrator may, after public notice and opportunity for presentation of views in accordance with section 553 of title 5, United States Code, and after consultation with the Federal Energy Emergency Administration, designate persons to whom fuel exchange orders should be issued. The purpose of such designation shall be to avoid or minimize the adverse impact on public health and welfare of any suspension under subsection (a) of this section or conversion to coal to which subsection (b) applies or of any allocation under the Energy Emergency Act or the Emergency Petroleum Allocation Act of 1973.

"(2) The Administrator of the Federal Energy Emergency Administration shall issue exchange orders to such persons as are designated by the Administrator under paragraph (1) requiring the exchange of any fuel subject to allocation under the preceding Acts effective no later than 45 days after the date of the designation under paragraph (1), unless the Administrator of the Federal Energy Emergency Administration determines, after consultation with the Administrator, that the costs or consumption of fuel, resulting from such exchange order, will be excessive.

"(3) Violation of any exchange order issued under paragraph (2) shall be a prohibited act and shall be subject to enforcement action and sanctions in the same manner and to the same extent as a violation of any requirement of the regulation under section 4 of the Emergency Petroleum Allocation Act of 1973".

SEC. 202. IMPLEMENTATION PLAN REVISIONS.

(a) Section 110(a) of the Clean Air Act is amended in paragraph (3) by inserting "(A)" after "(3)" and by adding at the end thereof the following new subparagraph:

"(B) (1) For any air quality control region in which there has been a conversion to coal under section 119(b), the Administrator shall review the applicable implementation plan and no later than one year after the date of such conversion determine whether such plan must be revised in order to achieve the national primary standard which the plan implements. If the Administrator determines that any such plan is inadequate, he shall require that a plan revision be submitted by the State within three months after the date of notice to the State of such determination. Any plan revision which is submitted by the State after notice and public hearing shall be approved or disapproved by the Administrator, after public notice and opportunity for public hearing, but no later than three months after the date required for submission of the revised plan. If a plan provision (or portion thereof) is disapproved (or if a State fails to submit a plan revision), the Administrator shall, after public notice and opportunity for a public hearing promulgate a revised plan (or portion there-

of) not later than three months after the date required for approval or disapproval.

"(2) Any requirement for a plan revision under paragraph (1) and any plan requirement promulgated by the Administrator under such paragraph shall include reasonable and practicable measures to minimize the effect on the public health of any conversion to which section 119(b) applies."

(b) Subsection (c) of section 110 of the Clean Air Act (42 U.S.C. 1857 C-5) is amended by inserting "(1)" after "(c)"; by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and by adding the following new paragraph:

"(2) (A) The Administrator shall conduct a study and shall submit a report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committee on Public Works of the United States Senate not later than May 1, 1974, on the necessity of parking surcharge, management of parking supply, and preferential bus/carpool lane regulations as part of the applicable implementation plans required under this section to achieve and maintain national primary ambient air quality standards. The study shall include an assessment of the economic impact of such regulations, consideration of alternative means of reducing total vehicle miles traveled, and an assessment of the impact of such regulations on other Federal and State programs dealing with energy or transportation. In the course of such study, the Administrator shall consult with other Federal officials including, but not limited to, the Secretary of Transportation, the Administrator of the Federal Energy Emergency Administration, and the Chairman of the Council of Environmental Quality.

"(B) No parking surcharge regulation may be required by the Administrator under paragraph (1) of this subsection as a part of an applicable implementation plan. All parking surcharge regulations previously required by the Administrator shall be void upon the date of enactment of this subparagraph. This subparagraph shall not prevent the Administrator from approving parking surcharges if they are adopted and submitted by a State as part of an applicable implementation plan. The Administrator may not condition approval of any applicable implementation plan submitted by a State on such plan's including a parking surcharge regulation.

"(C) The Administrator is authorized to suspend until January 1, 1975, the effective date or applicability of any regulations for the management of parking supply or any requirement that such regulations be a part of an applicable implementation plan approved or promulgated under this section. The exercise of the authority under this subparagraph shall not prevent the Administrator from approving such regulations if they are adopted and submitted by a State as part of an applicable implementation plan. If the Administrator exercises the authority under this subparagraph, regulations requiring a review or analysis of the impact of proposed parking facilities before construction which take effect on or after January 1, 1975, shall not apply to parking facilities on which construction has been initiated before January 1, 1975.

"(D) For purposes of this paragraph, the term 'parking surcharge regulation' means a regulation imposing or requiring the imposition of any tax, surcharge, fee, or other charge on parking spaces, or any other area used for the temporary storage of motor vehicles. The term 'management of parking supply' shall include any requirement providing that any new facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality con-

siderations. The term 'preferential bus/carpool lane' shall include any requirement for the setting aside of one or more lanes of a street or highway on a permanent or temporary basis for the exclusive use of buses and/or carpools."

SEC. 203. MOTOR VEHICLE EMISSIONS.

(a) Section 202(b) (1) (A) of the Clean Air Act is amended by striking out "1975" and inserting in lieu thereof "1977"; and by inserting after "(A)" the following: "The regulations under subsection (a) applicable to emissions of carbon monoxide and hydrocarbons from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the interim standards which were prescribed (as of December 1, 1973) under paragraph (5) (A) of this subsection for light-duty vehicles and engines manufactured during model year 1975."

(b) Section 202(b) (1) (B) of such Act is amended by striking out "1976" and inserting in lieu thereof "1978"; and by inserting after "(B)" the following: "The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model years 1975 and 1976 shall contain standards which are identical to the standards which were prescribed (as of December 1, 1973) under subsection (a) for light-duty vehicles and engines manufactured during model year 1975. The regulations under subsection (a) applicable to emissions of oxides of nitrogen from light-duty vehicles and engines manufactured during model year 1977 shall contain standards which provide that emissions of such vehicles and engines may not exceed 2.0 grams per vehicle mile."

(c) Section 202(b) (5) (A) of such Act is amended to read as follows:

"(5) (A) At any time after January 1, 1975, any manufacturer may file with the Administrator an application requesting the suspension for one year only of the effective date of any emission standard required by paragraph (1) (A) with respect to such manufacturer for light-duty vehicles and engines manufactured in model year 1977. The Administrator shall make his determination with respect to any such application within 60 days. If he determines, in accordance with the provisions of this subsection, that such suspension should be granted, he shall simultaneously with such determination prescribe by regulation interim emission standards which shall apply (in lieu of the standards required to be prescribed by paragraph (1) (A) of this subsection) to emissions of carbon monoxide or hydrocarbons (or both) from such vehicles and engines manufactured during model year 1977."

(d) Section 202(b) (5) (B) of the Clean Air Act is repealed and the following subparagraphs redesignated accordingly.

SEC. 204. CONFORMING AMENDMENTS.

(a) (1) Section 113(a) (3) of the Clean Air Act is amended by striking out "or" before "112(c)", by inserting a comma in lieu thereof, and by inserting after "hazardous emissions)" the following: ", or 119(f) (relating to priorities and certain other requirements)".

(2) Section 113(b) (3) of such Act is amended by striking out "or 112(c)" and inserting in lieu thereof ", 112(c), or 119(f)".

(3) Section 113(c) (1) (C) of such Act is amended by striking out "or section 112(c)" and inserting in lieu thereof ", section 112(c), or section 119(f)".

(4) Section 114(a) of such Act is amended by inserting "119 or" before "303".

(b) Section 116 of the Clean Air Act is amended by inserting "119(b), (c) and (e)," before "209".

SEC. 205. PROTECTION OF PUBLIC HEALTH AND ENVIRONMENT.

(a) Any allocation program provided for in title I of this Act or in the Emergency

Petroleum Allocation Act of 1973, shall, to the maximum extent practicable, include measures to assure that available low sulfur fuel will be distributed on a priority basis to those areas of the country designated by the Administrator of the Environmental Protection Agency as requiring low sulfur fuel to avoid or minimize adverse impact on public health.

(b) In order to determine the health effects of emissions of sulfur oxides to the air resulting from any conversions to burning coal to which section 119 of the Clean Air Act applies, the Department of Health, Education, and Welfare shall, through the National Institute of Environmental Health Sciences and in cooperation with the Environmental Protection Agency, conduct a study of chronic effects among exposed populations. The sum of \$3,500,000 is authorized to be appropriated for such a study. In order to assure that long-term studies can be conducted without interruption, such sums as are appropriated shall be available until expended.

(c) No action taken under this Act shall, for a period of 1 year after initiation of such action, be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 856). However, before any action under this Act that has a significant impact on the environment is taken if practicable, or in any event within 60 days after such action is taken, an environmental evaluation with analysis equivalent to that required under section 102(2)(C) of the National Environmental Policy Act, to the greatest extent practicable within this time constraint, shall be prepared and circulated to appropriate Federal, State, and local government agencies and to the public for a 30-day comment period after which a public hearing shall be held upon request to review outstanding environmental issues. Such an evaluation shall not be required where the action in question has been preceded by compliance with the National Environmental Policy Act by the appropriate Federal agency. Any action taken under this Act which will be in effect for more than a one year period (other than action taken pursuant to subsection (d) of this section) or any action to extend an action taken under this Act to a total period of more than 1 year shall be subject to the full provisions of the National Environmental Policy Act notwithstanding any other provision of this Act.

(d) Notwithstanding subsection (c) of this section, in order to expedite the prompt construction of facilities for the importation of hydroelectric energy thereby helping to reduce the shortage of petroleum products in the United States, the Federal Power Commission is hereby authorized and directed to issue a Presidential permit pursuant to Executive Order 10485 of September 3, 1953, for the construction, operation, maintenance, and connection of facilities for the transmission of electric energy at the borders of the United States without preparing an environmental impact statement pursuant to section 102 of the National Environmental Policy Act of 1969 (83 Stat. 856) for facilities for the transmission of electric energy between Canada and the United States in the vicinity of Fort Covington, New York.

SEC. 206. ENERGY CONSERVATION STUDY.

(a) The Administrator of the Federal Energy Emergency Administration shall conduct a study on potential methods of energy conservation and, not later than 6 months after the date of enactment of this Act, shall submit to Congress a report on the results of such study. The study shall include, but not be limited to, the following:

(1) the energy conservation potential of restricting exports of fuels or energy-intensive products or goods, including an analysis

of balance of payments and foreign relations implications of any such restrictions;

(2) federally sponsored incentives for the use of public transit, including the need for authority to require additional production of buses or other means of public transit and Federal subsidies for the duration of the energy emergency for reduced fares and additional expenses incurred because of increased service;

(3) alternative requirements, incentives, or disincentives for increasing industrial recycling and resource recovery in order to reduce energy demand, including the economic costs and fuel consumption trade-off which may be associated with such recycling and resource recovery in lieu of transportation and use of virgin materials;

(4) the costs and benefits of electrifying rail lines in the United States with a high density of traffic; including (A) the capital costs of such electrification, the oil fuel economies derived from such electrification, the ability of existing power facilities to supply the additional power load, and the amount of coal or other fossil fuels required to generate the power required for railroad electrification, and (B) the advantages to the environment of electrification of railroads in terms of reduced fuel consumption and air pollution and disadvantages to the environment from increased use of fossil fuel such as coal; and

(5) means for incentives or disincentives to increase efficiency of industrial use of energy.

(b) Within 90 days of the date of enactment of this Act, the Secretary of Transportation, after consultation with the Federal Energy Emergency Administrator, shall submit to the Congress for appropriate action an "Emergency Mass Transportation Assistance Plan" for the purpose of conserving energy by expanding and improving public mass transportation systems and encouraging increased ridership as alternatives to automobile travel.

(c) Such plan shall include, but shall not be limited to—

(1) recommendations for emergency temporary grants to assist States and local public bodies and agencies thereof in the payment of operating expenses incurred in connection with the provision of expanded mass transportation service in urban areas;

(2) recommendations for additional emergency assistance for the purchase of buses and rolling stock for fixed rail, including the feasibility of accelerating the timetable for such assistance under section 142(a)(2) of title 23, United States Code (the "Federal Aid Highway Act of 1973"), for the purpose of providing additional capacity for and encouraging increased use of public mass transportation systems;

(3) recommendations for a program of demonstration projects to determine the feasibility of fare-free and low-fare urban mass transportation systems, including reduced rates for elderly and handicapped persons during nonpeak hours of transportation;

(4) recommendations for additional emergency assistance for the construction of fringe and transportation corridor parking facilities to serve bus and other mass transportation passengers;

(5) recommendations on the feasibility of providing tax incentives for persons who use public mass transportation systems.

(d) In consultation with the Federal Energy Emergency Administrator, the Secretary of Transportation shall make an investigation and study for the purpose of conserving energy and assuring that the essential fuel needs of the United States will be met by developing a high-speed ground transportation system between the cities of Tijuana in the State of Baja California, Mexico, and Vancouver in the Province of British Columbia, Canada, by way of the cities of Seattle in the State of Washington,

Portland in the State of Oregon, and Sacramento, San Francisco, Fresno, Los Angeles and San Diego in the State of California. In carrying out such investigation and study the Secretary shall consider, but shall not be limited to—

(1) the efficiency of energy utilization and impact on energy resources of such a system, including the future impact of existing transportation systems on energy resources if such a system is not established;

(2) coordination with other studies undertaken on the State and local levels; and

(3) such other matters as he deems appropriate.

The Secretary of Transportation shall report the results of the study and investigation pursuant to this Act, together with his recommendations, to the Congress and the President no later than December 31, 1974.

SEC. 207. REPORTS.

The Administrator of the Environmental Protection Agency shall report to Congress not later than January 31, 1975, on the implementation of sections 201 through 205 of this title.

SEC. 208. FUEL ECONOMY STUDY.

Title II of the Clean Air Act is amended by redesignating section 213 as section 214 and by adding the following new section:

"FUEL ECONOMY IMPROVEMENT FROM NEW MOTOR VEHICLES

"SEC. 213. (a) (1) The Administrator and the Secretary of Transportation shall conduct a joint study, and shall report to the Committee on Interstate and Foreign Commerce of the United States House of Representatives and the Committees on Public Works and Commerce of the United States Senate within 120 days following the date of enactment of this section, concerning the practicability of establishing a fuel economy improvement standard of 20 percent for new motor vehicles manufactured during and after model year 1980. Such study and report shall include, but not be limited to, the technological problems of meeting any such standard, including the leadtime involved; the test procedures required to determine compliance; the economic costs associated with such standards, including any beneficial economic impact; the various means of enforcing such standard; the effect on consumption of natural resources, including energy consumed; and the impact of applicable safety and emission standards. In the course of performing such study, the Administrator and the Secretary of Transportation shall utilize the research previously performed in the Department of Transportation, and the Administrator and the Secretary shall consult with the Administrator of the Federal Energy Emergency Administration, the Chairman of the Council on Environmental Quality, and the Secretary of the Treasury. The Office of Management and Budget may review such report before its submission to Congress but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and may submit to Congress its comments respecting such report. In connection with such study, the Administrator may utilize the authority provided in section 307(a) of this Act to obtain necessary information.

"(2) For the purpose of this section, the term 'fuel economy improvement standard' means a requirement of a percentage increase in the number of miles of transportation provided by a manufacturer's entire annual production of new motor vehicles per unit of fuel consumed, as determined for each manufacturer in accordance with test procedures established by the Administrator pursuant to this Act. Such term shall not include any requirement for any design standard or any other requirement specifying or otherwise limiting the manufacturer's discretion in de-

ciding how to comply with the fuel economy improvement standard by any lawful means."

TITLE III—STUDIES AND REPORTS

SEC. 301. AGENCY STUDIES.

The following studies shall be conducted, with reports on their results submitted to the Congress:

(1) Within 30 days after the date of enactment of this Act:

(A) The Administrator shall conduct a review of all rulings and regulations issued pursuant to the Economic Stabilization Act to determine if such rulings and regulations are contributing to the shortage of fuels and of materials associated with the production of energy supplies.

(B) All Federal departments and agencies, including the Federal regulatory agencies, are directed to undertake a survey of all activities over which they have special expertise or jurisdiction and identify and recommend to the Congress and to the President specific proposals to significantly increase energy supply or to reduce energy demand through conservation programs.

(C) The Secretary of the Treasury and the Director of the Cost of Living Council shall recommend to the Congress specific incentives to increase energy supply, reduce demand, to encourage private industry and individual persons to subscribe to the goals of this Act. This study shall also include an analysis of the price-elasticity of demand for gasoline.

(D) The Administrator shall report to the Congress concerning the present and prospective impact of energy shortages upon employment. Such report shall contain an assessment of the adequacy of existing programs in meeting the needs of adversely affected workers, together with legislative recommendations appropriate to meet such needs, including revisions in the unemployment insurance laws.

(E) The Secretary of the Interior and the Secretary of Commerce are directed to prepare a comprehensive report of (1) United States exports of petroleum products and other energy sources, and (2) foreign investment in production of petroleum products and other energy sources to determine the consistency or lack thereof of the Nation's trade policy and foreign investment policy with domestic energy conservation efforts. Such report shall include recommendations for legislation.

(2) Within 6 months after the date of enactment of this Act:

(A) The Administrator shall develop and submit to the Congress no later than May 15, 1974, a plan for providing incentives for the increased use of public transportation and Federal subsidies for maintained or reduced fares and additional expenses incurred because of increased service for the duration of the Act.

(B) The Administrator shall recommend to the Congress actions to be taken regarding the problem of the siting of energy producing facilities.

(C) The Administrator shall conduct a study of the further development of the hydroelectric power resources of the Nation, including an assessment of present and proposed projects already authorized by Congress and the potential of other hydroelectric power resources, including tidal power and geothermal steam.

(D) The Administrator shall prepare and submit to Congress a plan for encouraging the conversion of coal to crude oil and other liquid and gaseous hydrocarbons.

(E) The Secretary of the Interior shall study methods for accelerating leases of energy resources on public lands including oil and gas leasing onshore and offshore, and geothermal energy leasing.

SEC. 302. REPORTS OF THE PRESIDENT TO CONGRESS.

The President shall report to the Congress every sixty days, beginning April 1, 1974, on

the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, together with an assessment of the results attained thereby. Each report shall include specific information, nationally and by region and State, concerning staffing and other administrative arrangements taken to carry out programs under these Acts and may include such recommendations as he deems necessary for amending or extending the authorities granted in this Act or in the Emergency Petroleum Allocation Act of 1973.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the Senate bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the House to the title of the Senate bill, insert the following: "An Act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes."

And the House agree to the same.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, JR.,
ERNEST F. HOLLINGS,
ADLAI STEVENSON III,
TED STEVENS,

Managers on the Part of the Senate.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROTHILL,
JAMES F. HASTINGS,

Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2589) to declare by congressional action a nationwide energy emergency; to authorize the President to immediately undertake specific actions to conserve scarce fuels and increase supply; to invite the development of local, State, National, and International contingency plans; to assure the continuation of vital public services; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text and provided a new title for the Senate bill.

The committee of conference has agreed to a substitute for both the Senate bill and the House amendment to the text of the bill. Except for clarifying, clerical, and conforming changes, the differences are noted below:

Several general comments should be made concerning the overall pattern of the legislation agreed to by the Conference Committee. The Substitute text agreed to does not contain a number of provisions which were contained in either the House or Senate bill. The Committee wishes to emphasize that it has eliminated these provisions without prejudice. In a number of cases these matters were not agreed to in deference to the jurisdictional prerogatives of other committees of the Congress who were not represented at the Conference. In other cases the Conferees eliminated provisions which in their judgment addressed problems which did not relate to the short term emergency situation. Because of the exigencies of the situation, the Conferees have attempted to confine the

scope of this legislation to those matters which were essential and leave to a time which affords more studied consideration those proposals which attempt to deal with the more long term and basic energy supply and demand problems which confront this nation.

EMERGENCY CONSERVATION REGULATIONS

Faced with the emergency situation, on November 8, 1973, the President addressed the nation on the dimensions of the energy crisis. In that address, the President announced that he would request the Congress to vest in him emergency authority to impose restrictions on both the public and private consumption of energy. The legislation which the Conferees have agreed to proposes to give to the Executive a full spectrum of extraordinary powers to cope with the situation. The Conferees fully expect that the Administration, having been granted these authorities under the Act, will use them forthwith, and take strong action to reduce demand for energy during this period of national energy shortages and to expand supply of petroleum products through the conversion of stationary electric power plants now burning oil or natural gas.

The Conferees have not, however, agreed to vest without limitation the all pervasive and ill defined authority to restrict public and private consumption of energy which had been requested by the President. Instead, the Conferees have devised a mechanism for allowing further legislative consideration and control over the exercise of these powers.

Under its terms, the Administrator of the Federal Emergency Energy Administration created by this legislation would be permitted to issue regulations restricting energy use subject to a reservation of Congressional veto power. This control is to be exercised in a manner which closely parallels statutory mechanisms which have been used in various reorganization acts of the Congress over the past thirty years. The Conferees have carefully tailored this mechanism to take into consideration the emergency circumstances which confront the nation. Thus, the Administrator would be permitted to immediately implement conservation regulations prior to March 15, 1974, in order to reduce demand in the harsh winter months of January and February without delay. Such regulations must be submitted to the Congress simultaneously with their promulgation. Thereafter, the Congress would have an opportunity to veto the regulation by simple resolution in either house. If vetoed, the regulation would not continue in effect. The Committee wishes to emphasize that any such regulation would, until vetoed, be given full force and effect. Compliance may be obtained through court injunctive process or through the imposition of civil and criminal penalties for any violation.

Conservation regulations proposed to take effect after March 15, 1974, would be delayed in their implementation until Congress is afforded an opportunity of 15 consecutive days in continuous legislative session to consider disapproval resolutions. If the Congress does not act within that 15-day period, the regulation may be implemented. Lastly, the Conferees have determined that any conservation measure which is proposed to take effect after August 31, 1974, must be submitted to the Congress in the nature of a legislative proposal for appropriate Congressional consideration. Actions of this nature are sufficiently long term in their objective so as to permit the normal legislative process to be observed.

The law passed since the first declared national emergency in 1933 commonly transferred almost unlimited power to the Executive to permit government to act effectively in times of great crisis. A recently issued report of the Special Committee on the Termination of the National Emergency, United States Senate, catalogued over 470 significant

statutes which the Congress has passed since 1933 delegating to the President powers that has been "the prerogatives and responsibility of the Congress since the beginning of the Republic".

Over the course of that 40-year period, the Congress has repeatedly been presented with the problem of finding a means by which a legislative body in a democratic republic may extend extraordinary powers for use by the Executive during times of emergency without imperiling our Constitutional balance of liberty and authority. The conferees believe that the disapproval mechanism contained in this legislation provides the best opportunity for resolution of this problem.

The veto authority coupled with a termination date which limits the duration of the period within which these powers may be exercised provides assurance that normal legislative processes will be resumed at a time certain and that the Constitutional checks and balance system will be preserved. It is firmly believed that this form of legislative consideration and control gives full effect to the separation of powers principle so fundamental to our system of government while at the same time allowing a vesting of power in the Executive branch to permit actions to be taken expeditiously in order to respond to immediate and changing circumstances during a crisis situation.

Federal emergency energy administration

To exercise the authority granted under this legislation, the Committee has created a temporary Federal Emergency Energy Administration to be directed by an administrator appointed by the President with the advice and consent of the Senate. In addition to its duties under this Act, the Administration is to exercise the authority provided for in the Emergency Petroleum Allocation Act of 1973 previously reported by this Committee and already enacted into law. In so doing the Committee proposes to parallel and give statutory force to the Federal Energy Office created by executive order of the President on Tuesday, December 4, 1973. It is the understanding of the conferees that the office of Administrator came into existence on the effective date of this Act and that vacancies exist in such offices from the time of their creation until they are filled. Accordingly, Article 2, Section 2, Clause 3 of the Constitution is applicable.

The creation of this new administration to deal with the emergency fuels shortages is proposed on the premise that we must focus authority in a single agency head with decisionmaking responsibility for these programs. This agency is to operate within the Executive Department subject to the supervision of the President. Several trappings of independence, however, are given to the Administrator to assure that he may act consonant with the preeminence of his mission free from certain administrative controls which have been ingrafted on agency actions in the name of administrative efficiency. Thus, the Federal Emergency Energy Administration is relieved of the necessity of obtaining prior OMB clearance for information gathering activities. Also to assure that the administration will have high visibility in government, budget requests and legislative recommendations are to be transmitted to the Congress simultaneously with their submission to the Office of Management and Budget. In so doing the Committee seeks to assure that the Congress will know without question or qualification what the Administrator determines to be his fiscal needs in carrying out his legislative assignment and what additional authority may be required to get the job done effectively and expeditiously.

In addition to the powers under the Emergency Petroleum Allocation Act of 1973 and as may be authorized under this Act, the President has proposed to transfer other functions of the Executive Department to a

Federal Energy Administration so as to consolidate energy related activities. The Committee has not attempted and does not propose to transfer these functions in this Act. It is understood that some of these proposed transfers, such as the transfer from the Department of Interior of its Office of Oil and Gas and the Outer Continental Shelf authority, require legislative approval. An appropriate bill has been submitted to the Congress and has been considered by the Government Operations Committees of the House and Senate. On December 19 the Senate passed the Administration's proposed bill to establish an FEA.

The conferees wish to emphasize that the creation of a temporary Federal Emergency Energy Administration under this Act does not remove the necessity of the Congress acting upon the legislation reported by the House and Senate Government Operations Committees. The need for statutory creation of an administrative office within the Executive Branch which consolidates energy policy related functions of government remains real and immediate. This Act provides the basic authority to initiate the establishment of such an administrative office.

SAFEGUARDS AGAINST UNREASONABLE DISCRIMINATIONS AND UNEQUITABLE TREATMENT

The authorities contained in this legislation and in the Emergency Petroleum Allocation Act of 1973, which it amends, calls for a major intrusion into the competitive marketplace by the federal government. In allocating fuels so as to maintain essential services during times of shortage and to assure equitable distribution of supplies throughout the nation, decisions will be made which will impact on all regions of the country and all sectors of the economy. Already significant actions have been taken in some cases on questionable legal authority, which have produced dislocations and distortions in the competitive market which have impacted disproportionately on individual groups of competitors offering similar services. In part, this has been the unavoidable result of attempting to cope with a crisis situation without having first developed a decision-making structure which affords government an opportunity to appreciate the full ramifications of its direct and indirect actions. For example, there must be a realization by those in authority that the public good is not served by denying allocations of fuel for certain uses which have the appearance of being nonessential (such as recreational activities or various aspects of general aviation) if to do so would result in significant unemployment and economic recession for some regions of the country. There are, of course, many areas in this nation where recreation and tourism provide the base of the local economy. Careful attention must be given to the needs of these as well as other areas. Moreover, government must equip itself so as to be able to look beyond the immediately affected industry to discover the unforeseen ripple effects of its action on other supportive and relative industry groupings.

Access to adequate supplies of fuels is basic to the survival of virtually every commercial enterprise and, accordingly, government must act with great care to assure that its actions are equitable and do not unreasonably discriminate among users. The Committee has added a separate section to this legislation creating a statutory standard of reasonableness to be observed in the allocation of refined petroleum products and electrical energy among users or in taking actions which result in restrictions on use of such products and electrical energy. The Committee intends the term equitable to be applied in its broadest and most general sense. As such, the term denotes the spirit of fairness, justice, and right dealing. No user or class of users should be called upon during this shortage period to carry an unreasonably disproportionate share of the burden. This is fundamental to

the traditional notion of fairness, and equal protection. The Committee expects the President and the Administrator of the Federal Emergency Energy Administration created under this Act to assiduously observe these requirements in the conduct of their functions.

The Committee also adopted a section which requires the preparation of an economic impact analysis of any actions it proposes to take to bring supply and demand into balance. Wherever practicable, this analysis is to be completed prior to implementation of the proposed action. If conditions do not permit full advance preparation of the economic impact analysis in acting to deal with emergency conditions, the analysis is to be prepared contemporaneously with implementation of any proposed action between date of enactment and March 15, 1974.

The committee is concerned about the very real threat of the cutoff of Canadian fuel to the United States, particularly fuel essential for business and heating purposes. A specific example of such an action is the possibility that the Canadian government may stop supplying fuel to the great Northern Paper and Georgia-Pacific plants in the State of Maine. The following amendment was offered in the conference but was subsequently withdrawn in recognition of the desirability of allowing diplomatic endeavors to be pursued:

"Whenever, as a result of action by the Canadian Resources Board, fuel exports to any manufacturing plant in the United States are interrupted, the Administrator shall make an allocation of fuel to such manufacturing plant in accordance with the provisions of the Emergency Petroleum Allocation Act. Where possible, such allocation shall be from fuel which would otherwise be exported from the United States to Canada."

The committee understands that diplomatic efforts are underway to reverse the actions contemplated by the Canadian government and expresses a strong interest in having all diplomatic avenues pursued vigorously to successfully resolve this and other similar situations.

END USE RATIONING AUTHORITY

The conferees have agreed on provisions which authorize the President to develop and implement an end use rationing plan for crude oil, residual fuel oil and refined petroleum products. This authority is to be exercised under the Emergency Petroleum Allocation Act of 1973 and must be consistent with the attainment of the congressionally stated objectives of that Act. Procedural protections are provided to permit users an opportunity to present views respecting the development of the plan. It is the firm intention of the conferees that end use rationing be implemented as a last resort measure. Accordingly it has been provided in the conference substitute that end use rationing may be implemented only upon a finding that all other practicable and authorized actions are insufficient to assure the preservation of public health, safety, and the public welfare and those other defined objectives set forth in section 4(b) of the Emergency Petroleum Allocation Act. Should the President be able to make such a finding, he is authorized to implement end use rationing without further action of the Congress.

The conferees wish to state their intent that in the development of an end use rationing plan, the President shall give special consideration to the transportation needs of our handicapped Americans. Clearly, if the employment, medical, and therapeutic services of our physically handicapped citizens are interrupted as a result of lack of transportation, a hardship for such individuals will be incalculable in its effects. Moreover, the conferees believe that actions taken under the Emergency Petroleum Allocation Act of 1973 shall, where consistent with the objectives of section 4(b) of that Act, give

consideration to providing allocations of petroleum products for the timely completion of Federal construction projects and give consideration to the public welfare needs of meeting the educational or housing requirements of our citizens.

The Conferees also recognize that end use rationing plans should give consideration to the personal transportation needs of American military personnel re-assigned to other duty stations and of those persons who are required to relocate for employment purposes.

PROHIBITION ON INEQUITABLE PRICING

During the protracted congressional consideration of S. 2589, the energy emergency and the problems facing the Nation have become acute. One of the most serious and recent aspects of the emergency has been the meteoric increase in crude oil and petroleum product prices. In the last three months of 1973, the cost of residual fuel oil to utilities rose by 150 percent. In December 1973, fuel price increases accounted for 40 percent of the increase in the wholesale price index. Wholesale gasoline prices increased about four cents a gallon in the last three months of 1973. These increases, under present price controls, can be traced directly to two factors: (1) the great increase in the world crude price since October, and (2) the release of certain categories of domestic crude from price controls.

A year ago, crude oil sold for \$3.40 a barrel. Today, imported crude and domestic crude not subject to price ceilings sell for \$10.35 a barrel and higher. While it is beyond the Committee's jurisdiction to regulate the world price of crude or the price of crude established by international controls, control of domestic prices was considered in order.

It is indisputable that such prices have led to increased drilling activity in the United States, which is clearly desirable if we are to approach domestic self-sufficiency in energy. However, the Committee understands that, according to oil industry and other recent economic supply studies, the long-run market clearing price needed to assure adequate exploration and development and supply is considerably under the \$7.09 a barrel national average price for newly produced crude established under section 110 of this Act. The Committee therefore finds little reason for asking consumers to pay increasingly higher prices, when such prices cannot be justified on the grounds of increasing cost.

For example, total sales volume for the seven major oil companies in the U.S. increased about six percent between the first three quarters of 1973. Total revenues increased by 22 percent, and total net earnings by 46 percent. For this reason, the Committee adopted a section which sets an average ceiling price for crude oil of \$5.25, with provisions for higher prices for certain classes of crude, up to an absolute ceiling of 35 percent above the \$5.25 average price, or an average of \$17.09. Dollar-for-dollar pass-throughs of all rollbacks are required to be passed through to the ultimate consumers of residual fuel oil or refined petroleum products, including propane.

The Committee intends, in adopting this section, to strike a just balance between the need for equity and the need for adequate incentives to assure a sufficient long-run supply of domestic fuels.

SHORT TITLE TABLE OF CONTENTS *Senate bill*

The Senate bill provided that it could be cited as the "National Energy Emergency Act of 1973". It had no table of contents.

House amendment

The House amendment provided that it could be cited as the "Energy Emergency Act".

The House amendment also included a table of contents of the legislation

Conference substitute

The conference substitute has the same short title as the House amendment and includes a table of contents.

TITLE I—ENERGY EMERGENCY AUTHORITIES

FINDINGS AND PURPOSES—ENERGY EMERGENCY

FINDINGS

Senate bill

Under section 101 of the Senate bill the Congress would make a determination that a shortage of crude oil, residual fuel oil, and refined petroleum products does now exist. In addition, it would make determinations with respect to the effect of those shortages; what steps should be taken with respect thereto; that primary responsibility for developing and enforcing fuel shortage contingency plans lies with the States and certain local governments, and that, during the energy emergency the protection and fostering of competition and the prevention of anticompetitive practices and effects are vital.

House amendment

No provision.

Conference substitute

Section 101(a)(1) of the conference substitute is in most respects the same as the Senate bill.

DECLARATION OF EMERGENCY

Senate bill

Under section 201 the Congress would declare that current and imminent fuel shortages have created a nationwide energy emergency.

House amendment

No provision.

Conference substitute

Section 101(a)(2) of the conference substitute states that on the basis of the determinations specified in paragraph (1) thereof the Congress hereby finds that current and imminent fuel shortages have created a nationwide energy emergency.

PURPOSES

Senate bill

Section 102 of the Senate bill lists the purposes of the legislation. Among the purposes listed are (1) to declare an energy emergency, (2) to direct the President to take action with regard thereto, (3) to provide a national program to conserve scarce energy resources, (4) to minimize the adverse effects of energy shortages on the economy and industrial capacity of the Nation, and (5) to direct the President and State and local governments to develop contingency plans for making specified reductions in energy consumption.

House amendment

Section 101 of the House amendment sets forth the purpose of the legislation which is to (1) call for proposals for measures which could be taken in order to conserve energy, and (2) authorize specific temporary emergency measures to be taken to assure that the Nation's essential needs for fuel will be met in a manner which to the maximum practicable extent meets certain specified objectives.

Conference substitute

Section 101(b) of the conference substitute provides that the purposes of the legislation are to call for proposals for energy emergency rationing and conservation measures and to authorize specific temporary emergency actions to be exercised, subject to congressional review and right of approval or disapproval, to assure that the essential needs of the United States for fuels will be met in a manner which to the fullest extent practicable meets specified objectives.

DEFINITION *Senate bill*

No provision.

House amendment

Section 102 defined the terms "State", "petroleum product", "United States" and "Administration" for purposes of the legislation.

"Administrator" is defined to mean the Administrator of the Federal Energy Administration which is established by section 104 of the House amendment. The term is used with that meaning throughout the House amendment segments of this joint statement unless another intent is specifically indicated.

Conference substitute

Section 102 of the conference substitute is the same as the House amendment, except that "Administrator" is defined to mean the Administrator of the Federal Energy Emergency Administration which is established by section 103 of the conference substitute. That term will be used with that meaning throughout the conference substitute portions of this joint statement unless another intent is specifically indicated.

FEDERAL ENERGY EMERGENCY ADMINISTRATION

Senate bill

No provision.

House amendment

Section 104 would establish a Federal Energy Administration. The Administration would be headed by a Federal Energy Administrator appointed by and with the consent of the Senate who would serve until May 15, 1975. The Administrator would be responsible for the development and implementation of Mandatory Allocation Programs provided for in the Emergency Petroleum Allocation Act of 1973.

Copies of budget estimates and requests, legislative recommendations, testimony, or comments on legislation which are submitted to the President or to the Office of Management and Budget would be concurrently transmitted to the Congress. The Administration would be considered an independent regulatory agency for purposes of the collection of information and as such is exempt from Office of Management and Budget veto of its actions for the collection of necessary information.

Conference substitute

Section 103 of the conference substitute establishes until May 15, 1975, unless superseded prior to that date by law a Federal Emergency Energy Administration (FEEA) which shall be temporary and headed by an Administrator who shall be appointed by the President by and with the advice and consent of the Senate.

It is the understanding of the conferees that the office of Administrator comes into existence on the date of enactment of the legislation and that a vacancy exists in such office from the time of its creation until it is filled. Accordingly, Article II, Section 2, Clause 3 of the Constitution is applicable.

Effective on the date on which the Administrator first takes office (or, if later, on January 1, 1974) certain functions, powers, and duties under specified sections of the Emergency Petroleum Allocation Act of 1973 (other than functions vested by section 6 of such Act in the Federal Trade Commission, the Attorney General, or the Antitrust Division of the Department of Justice) are transferred to the Administrator. Personnel, property, records, obligations, and commitments used primarily with respect to functions transferred to the Administrator are also transferred to him.

Whenever the FEEA submits any (1) budget estimate or request, or (2) legislative recommendations or testimony or comments on legislation, to the Office of Management and Budget it must concurrently transmit a copy thereof to the Congress.

The FEEA shall be an independent regulatory agency for purposes of Chapter 35 of Title 44, United States Code, but not for any other purpose.

ENERGY CONSERVATION, DISTRIBUTION, AND ALLOCATION PROVISIONS—RATIONING AUTHORITY
Senate bill

ENERGY RATIONING AND CONSERVATION PROGRAM

Under subsections (a) and (b) of section 203, the President would be required to promulgate a nationwide emergency energy rationing and conservation program within 15 days after enactment of the legislation. Such program would include (1) a priority system and plan, including a program to be implemented without delay for rationing scarce fuels among distributors and consumers, and (2) measures capable of reducing energy consumption in the affected area by no less than 10% within 10 days, and by no less than 25% within 4 weeks after implementation.

FUEL DISTRIBUTION PLAN

Section 203(c) would require the President within 15 days after enactment of the legislation to determine the fuel needs of the major geographic regions of the United States and to promulgate a plan assuring equitable distribution of available fuel supplies among such regions based on their respective relative needs, including such needs of the States within such regions.

The plan would include allocation of available transport facilities necessary to assure equitable distribution of fuel supplies under the plan.

The fuel distribution plan or plans would be implemented within 30 days after promulgation.

House amendment

ENERGY CONSERVATION PLANS

Section 105 would require the Administrator, within 30 days after enactment of the legislation and from time to time thereafter, to propose one or more energy conservation plans, as defined, to reduce energy consumption to a level which could be supplied from available energy resources. The plans would be submitted to Congress for appropriate action.

Section 105(b) would require such plans to provide for the maintenance of vital services. Section 105(c) would require that proposed restrictions on the use of energy in such plans to be submitted by the Administrator would be designed, to the maximum extent practicable, to be carried out in a manner which is fair and reasonably distributes the burden on all sectors of the economy. Such restrictions should also give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours. Section 105(e) would state that no provision of the Act or the EPAA should be construed as authorizing the imposition of any tax.

AMENDMENTS TO EMERGENCY PETROLEUM ALLOCATION ACT OF 1973 (EPAA)

Section 103(a) would amend section 4 of the EPAA, relating to mandatory allocation of crude oil, residual fuel oil, and refined petroleum products.

Proposed subsection 4(h) would authorize the President to establish rules for the ordering of priorities among users of petroleum products and to assign to such users rights to obtain petroleum products in preference to those assigned a lower priority. Prior to this ordering of priorities and assignment of rights, the President must find that such action is necessary in order to carry out the objectives of subsection 4(b) of the EPAA. (Subsection 4(b) is the section which defines the provisions which must be fulfilled by the regulation providing for the mandatory allocation of petroleum products.)

In the ordering of priorities among users, the maintenance of vital services would be emphasized.

Allocations of products made pursuant to the proposed subsection would be adjusted by the President as necessary to assure that those entitled to receive allotments would actually obtain such allocated products.

The President would be required to establish procedures whereby users may petition for review, reclassification, and modification of priorities and entitlements assigned in accordance with the subsection. These procedures may include procedures with respect to local boards which could be established under section 109(c) of the legislation.

The President would be authorized to require refineries in the United States to adjust their operations with regard to the proportions of products produced in the refining process. These adjustments would be required as necessary to assure that the proportions produced are consistent with the objectives set forth in section 4(b) of the EPAA.

The definition of "allocation" as used in this subsection would be clarified by stating that it "shall not be construed to exclude the end-use allocation of gasoline to individual consumers". Thus, the President would be authorized to ration gasoline.

Section 103(e) would amend section 4 of the EPAA by adding subsection (1) through (n) thereto providing a procedure for Congressional review and disapproval of any rule issued under section 4(h) (which is discussed above) with respect to end-use allocation which is referred to as an "energy action".

Under the procedure, the President would be required to transmit any energy action to both Houses of the Congress on the same day.

An energy action would take effect at the end of the first period of 15 calendar days of continuous session of the Congress after the date on which the energy action is transmitted, unless either House passed a resolution stating that it did not favor the energy action. A detailed disapproval procedure is set out which would be enacted as an exercise of the rulemaking power of each House of Congress. Any energy action which became effective would be printed in the Federal Register.

Proposed section 4(j) of the EPAA would provide that, notwithstanding any other provision of the EPAA, or of any State or local law regarding fuel allocation, provision will be made for adequate supplies of fuels for:

- (a) moves of armed services personnel on orders;
- (b) household moves related to employment;
- (c) household moves rising from displacement due to unemployment; and
- (d) moves due to health, educational opportunities, or other good and sufficient reasons.

Conference substitute

END-USE ALLOCATION

Section 104 of the conference substitute amends section 4 of the Emergency Petroleum Allocation Act of 1973 (EPAA) by adding a new subsection (h). This new subsection, agreed to by the conferees on December 20, 1973, authorizes the development and implementation of end use rationing plans for crude oil, residual fuel oil, and refined petroleum products.

Under the new subsection the President may promulgate a rule which shall provide, consistent with the objectives of section 4(b) of that Act, an ordering of priorities among users of crude oil, residual fuel oil, or any refined petroleum product, and for the assignment to such users of rights entitling them to obtain any such oil or product in precedence to other users not similarly entitled. The proposed gasoline rationing plan published for comment by the Federal En-

ergy Office on January 16, 1974 was not reviewed by the conferees. The conference report reflects neither concurrence nor non-concurrence with the Federal Energy Office plan or with any of the provisions thereof.

Such rule shall take effect only if the President finds that, without such rule, all other practicable and authorized methods to limit energy demand will not achieve the objectives of Emergency Petroleum Allocation Act of 1973, and of this Act.

The President shall, by order, in furtherance of such rule cause such adjustments in the allocations made pursuant to the regulation under section 4(b) of the EPAA as may be necessary to provide for the allocation of crude oil, residual fuel oil, or any refined petroleum product as necessary to attain the objectives established for the Allocation Program in the Emergency Petroleum Allocation Act.

The President must provide for procedures by which any user of such oil or product for which priorities and entitlements are established under this new subsection may petition for service and reclassification or modification of any determination made thereunder with respect to his priority or entitlement. Provision is made for the establishment of local boards to administer allocation or rationing programs. In providing for the implementation of rationing the conferees specifically state that no taxing authority, of any type, is granted.

ENERGY CONSERVATION REGULATIONS

Under section 105 of the conference substitute, the Administrator may propose one or more energy conservation regulations which shall be designed (together with certain other actions) to result in a reduction of energy consumption to a level which can be supplied by available energy resources. The term "energy conservation regulations" is defined to mean limits or such other restrictions on the public or private use of energy (including limitations on operating hours of businesses) which are necessary to reduce energy consumption.

An energy conservation regulation—

- (1) may not impose any tax or user fee, or provide for a credit or deduction in computing any tax,
- (2) may not provide for taking any action of a kind which may not be taken under this legislation, the Emergency Petroleum Allocation Act of 1973, or the Clean Air Act,
- (3) shall apply according to its terms in each State except as otherwise provided in the regulation, and
- (4) may not deal with more than one logically consistent subject matter.

An energy conservation regulation may be amended or repealed only in accordance with section 105(b), except that technical or clerical amendments may be made in accordance with section 553 of title 5, United States Code.

Subject to provisions relating to Congressional approval or disapproval, a provision of an energy conservation regulation shall remain in effect for a period specified in the plan but may not remain in effect after May 15, 1975.

The term "energy action" is defined to mean an energy conservation regulation or an amendment (other than a technical or clerical amendment) or repeal of such energy conservation regulation.

The Administrator must transmit any energy action (bearing an identification number) to each House of Congress on the date on which it is promulgated.

If an energy action is transmitted to Congress before March 1, 1974, and provides for an effective date earlier than March 1, 1974, then such action shall take effect on the date provided in the action; but if either House, before the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan

is transmitted to it, passes a resolution stating in substance that that House does not favor the energy action, such action shall cease to be effective on the date of passage of such resolution.

If an energy action is transmitted to Congress and provides for an effective date on or after March 15, 1974 and before September 1, 1974, such action shall take effect in most cases at the end of the first period of 15 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 15-day period, either House passes a resolution stating in substance that that House does not favor the energy action.

A plan proposed to be made effective on or after September 1, 1974, shall take effect only if approved by Congress by law.

In carrying out the provisions of this legislation, the Administrator must, to the greatest extent practicable, evaluate the potential economic impacts of proposed regulatory and other actions. This would include but not be limited to the preparation of an analysis of the effects of such actions on certain entities and other things which are enumerated.

The Administrator must also develop analyses of the economic impact of various conservation measures on States or significant sectors thereof, considering the impact on both energy for fuel and energy as feed stock for industry. Such analysis shall, wherever possible, be made explicit and to the extent practicable other Federal agencies and agencies of State and local governments which have special knowledge and expertise relevant to the impact of proposed regulatory or other actions shall be consulted in making the analysis, and all Federal agencies shall cooperate with the Administrator in preparing such analyses.

The Administrator, together with the Secretaries of Labor and Commerce, must monitor the economic impact of any energy actions taken by the Administrator, and must provide the Congress with separate reports every thirty days on the impact of the energy shortage and such emergency actions on employment and the economy.

The conferees, taking cognizance of the fact that there are shortages in petrochemical feedstocks, which if not alleviated may cause disruptions of varying degree among many sectors of our economy, have directed the Administrator to exercise such authority as is granted to him under this Act and under any other Act to alleviate such shortages. The conferees are aware that action has been taken under the Economic Stabilization Act to allow an increase in the price of petrochemical feedstocks in an effort to increase their supply. However, it is the intent of the conferees, in directing the Administrator to exercise the authorities conferred on him, to require that he take such other and additional steps as are necessary to increase the supply and availability of petrochemical feedstocks. Within 30 days from the date of enactment of this Act the Administrator is also directed to report to the Congress with respect to the shortages of petrochemical feedstocks and with respect to such additional steps as have been taken to alleviate such shortages.

Under section 105(b)(3)(A), the conference committee substituted new dates to grant the Administrator immediate authority and time so that it can establish and implement a system subject to congressional veto for the purpose of alleviating the panic-buying now taking place at the retail level. In this regard, special note was made of the success achieved under State programs adopted by the States of Hawaii, Oregon and Massachusetts to manage sales of gasoline at the pump.

The conferees urge the Administrator, in

fashioning any energy conservation plan to deal with this problem, to consider preserving State programs for control of gasoline sales which are shown to be workable and which are not inconsistent with this Act.

COAL CONVERSION AND ALLOCATION

Senate bill

Section 204(a) would authorize the President to require that any major fossil fuel burning installation (including existing electric generating plants) which has the ready capability and necessary plant equipment to burn coal or other fuels, convert to burning coal or other fuels as its primary energy source. Any installation so converted could be permitted to use such fuel for more than one year, subject to the provisions of the Clean Air Act. To the extent practicable, plant conversions would first be required where the use of coal would have the least adverse environmental impact. Such conversions would be contingent on the availability of coal and reliability of service.

The President would require that fossil fuel fired electrical powerplants now being planned be designed and constructed so as to have capability of rapid conversion to burn coal.

The President could require that certain fossil fuel fired baseload powerplants (other than combustion turbine and combined cycle units) now being planned be designed and constructed so to be capable of rapid conversion to burn coal.

House amendment

The provisions of section 106 of the House amendment are in most respects the same as in the Senate bill with the following exceptions:

(1) Under the House amendment the powers and duties are vested in the Administrator of the Federal Energy Administration rather than the President.

(2) Any installation limited to burning coal as its primary energy source under the legislation or which converted to the use of coal after beginning such conversion within 90 days before the effective date of the legislation could continue to use coal until January 1, 1980, if the Administrator of the EPA approves a plan submitted by the operator of such installation after notice to interested persons and opportunity for presentation of views. The plan would have to meet requirements spelled out in section 106(b)(1).

(3) The Administrator of EPA or a State or local agency could, after notice to interested persons and an opportunity for presentation of views, (A) prohibit any such installation from using coal if it determines that such use is likely to materially contribute to a significant risk to public health, or (B) require any such installation to use a particular type and grade of coal if such coal is available.

(4) The Administrator would be authorized to prescribe a system for allocation of coal.

Conference substitute

Section 106 of the conference substitute provides that the Administrator shall, to the extent practicable and consistent with the objectives of this Act, by order, after balancing on a plant-by-plant basis the environmental effects of use of coal against the need to fulfill the purposes of this legislation, prohibit, as its primary energy source, the burning of natural gas or petroleum products by any major fuel-burning installation (including any existing electric powerplant) which, on the date of enactment of this legislation, has the capability and necessary plant equipment to burn coal. Any installation to which such an order applies is permitted to continue to use coal and coal by-products as provided in section 119(b) of the Clean Air Act. To the extent coal supplies are limited to less than the aggregate

amount of coal supplies which may be necessary to satisfy the requirements of those installations which can be expected to use coal (including installations to which orders may apply under this subsection), the Administrator shall prohibit the use of natural gas and petroleum products for those installations where the use of coal will have the least adverse environmental impact. A prohibition on use of natural gas and petroleum products hereunder is contingent upon the availability of coal, coal transportation facilities, and the maintenance of reliability of service in a given service area. Assessment of the availability of coal would take into consideration the physical and economic feasibility of its production, transportation to the powerplant, and any state laws or policies limiting its extraction or use.

The administrator must require that fossil-fuel-fired electric powerplants in the early planning process, other than combustion gas turbine and combined cycle units, be designed and constructed so as to be capable of using coal as a primary energy source instead of or in addition to other fossil fuels. No fossil-fuel-fired electric powerplant is required to be so designed and constructed, if (1) to do so would result in an impairment of reliability or adequacy of service, or (2) if an adequate and reliable supply of coal is not available and is not expected to be available. In considering whether to impose a design or construction requirement, the Administrator shall consider the existence and effects of any contractual commitment for the construction of such facilities and the capability of the owner or operator to recover any capital investment made as a result of the conversion requirements of this section.

The Administrator is authorized by rule to prescribe a system for allocation of coal to users thereof in order to attain the objectives specified in this section.

MATERIALS ALLOCATION

Senate bill

The first paragraph of section 313 would authorize the President to allocate supplies of materials, equipment, and fuel associated with exploration, production, refining, and required transportation of energy supplies to maintain and increase the production of coal, crude oil, natural gas, and other fuels.

Under section 606 the President would be authorized to allocate residual fuel oil and refined petroleum products for the maintenance of exploration for, and production or extraction and processing of, minerals, and for transportation related thereto.

House amendment

Section 103(b) would amend section 4(b) of the EPAA to provide for such allocation for maintenance of exploration for, and production or extraction of fuels and minerals essential to the requirements of the United States, and for required transportation related thereto.

Section 210 would allow the formulation of rules to provide the necessary fuels for all operations of any project or enterprise authorized by the Federal Government.

Conference substitute

Under section 107(a) of the conference substitute, the Administrator must within 30 days after enactment of the legislation propose and publish a contingency plan for allocation of supplies of materials and equipment necessary for exploration, production, refining, and required transportation of energy supplies and for the construction and maintenance of energy facilities. When he finds it necessary to put all or part of the plan into effect, he must transmit the plan or portion thereof to Congress and such plan or portion thereof shall take effect in the same manner as an energy conservation plan prescribed under section 105.

Section 107(b) of the conference substitute is the same as section 103(b) of the House amendment which is described above.

FEDERAL ACTIONS TO INCREASE AVAILABLE
DOMESTIC PETROLEUM SUPPLIES

Senate bill

Section 207 would authorize the President—

(a) to require that existing domestic oil fields produce at their maximum efficient rate (MER). MER is a level of production fixed by State agency regulation at which it is estimated that production can be sustained without detriment to the ultimate recovery;

(b) to require certain designated oilfields, on lands in which there is a Federal interest, to produce in excess of their maximum efficient rate. Such fields would be those in which production in excess of their currently assigned maximum efficient rate would not result in excessive risk of losses of recovery;

(c) to require adjustment of product mix in domestic refinery operations, in accordance with national needs and priorities; and

(d) to order acceleration of oil and gas leasing programs, both onshore and offshore, and for geothermal leasing. Such an accelerated program would be subject to the provisions of all existing laws, including the National Environmental Policy Act.

House amendment

Section 103(a) would add a new section 4(h) (4) to the EPAA which would vest the President with the same authority with respect to refineries as provided in section 207 (c) of the Senate bill.

Section 103(a) would also add new section 4(i) to the EPAA. This new section would authorize the President to require the production of crude oil at the MER. He would consult with the Department of the Interior and with State governments in order to determine which producers shall be so required. The MER would be as determined by the State in which the field is located. However, after consultation with such State or with the Department of the Interior, the President may set a higher rate if he determines that in doing so the ultimate recovery of crude oil and natural gas is not unreasonably impaired.

Existing and future development plans for the production of crude oil on Federal lands would include or be amended to include provisions for the secondary recovery and, insofar as possible, the tertiary recovery of crude oil before the well was abandoned.

Conference substitute

Section 108(a) of the conference substitute is substantially the same as the provisions of the Senate bill described above, except that section 108 vests the authority in the Administrator of FEEA rather than the President, and the provisions for accelerated leasing programs are not included.

Section 180(b) of the conference substitute provides that nothing in this section shall be construed to authorize the production of any Naval Petroleum Reserve now subject to chapter 641 of title 10 of the U.S.C.

OTHER AMENDMENT TO THE EMERGENCY
PETROLEUM ALLOCATION ACT OF 1973

Senate bill

No provision.

House amendment

Section 103(a) of the House amendment would have added a new subsection (1) to section 4 of the Emergency Petroleum Allocation Act. Such new subsection would require that, if any allocation of residual fuel oil or refined petroleum products under section 4(a) of the EPAA is based on the amount used or supplied during a historical period, adjustments could be made reflecting regional disparities in use, or unusual factors influencing use, in the historical period. This

subsection would take effect 30 days after enactment of the legislation.

Section 103(c) would amend section 4(c) (3) of the EPAA to direct the President, when requiring adjustments in allocations, to take into account lessened use of crude oil, residual fuel oil, and refined petroleum products prior to enactment as a result of unusual regional climatic variations.

Section 103(d) would amend section 4(g) (1) of the EPAA to change the termination date in each case to May 15, 1975.

Conference substitute

Section 109 of the conference substitute is the same as the House amendment, except that—

(1) the new subsection which would be added to section 4 of the EPAA would be designated as subsection (1),

(2) population growth and unusual changes in climate conditions are added as factors on which adjustments under the subsection can be based, and such adjustments to reflect population growth will be based on the most current figures available from the Bureau of the Census,

(3) a specific provision has been added so that adjustments under the subsection shall take effect no later than 6 months after the date of enactment of the legislation, and

(4) the amendment to section 4(c) (3) is omitted.

PROHIBITION ON INEQUITABLE PRICING

Senate bill

No provision.

House amendment

Section 117 amended the Emergency Petroleum Allocation Act to require the President to set prices for crude oil, residual fuel oil and refined petroleum products at such a level as to prevent windfall profits to sellers. If, upon petition by an interested party, the Renegotiation Board (established by section 107(a) of the Renegotiation Act of 1951) determines that a price permits windfall profits, the Board may specify a price which does not result in such profits, and may order the refund to purchasers of an amount equal to the windfall profits gained.

For the purposes of this section, windfall profits were defined as either profits in excess of a reasonable profit with respect to the particular seller, considering volume of production, net worth, risk, efficiency, etc.; or, the average profit for the firm or the industry in the period 1967 through 1971.

Conference substitute

The conference substitute rewrites the provisions of the House amendment. The House amendment included provisions designed to prohibit windfall profits-price gouging. The thrust of these provisions was to provide pricing protection for industrial and individual consumers of petroleum products. Under its terms, the President was directed to exercise his pricing authority under the Economic Stabilization Act of 1970 and the Emergency Petroleum Allocation Act of 1973 to specify prices for crude oil, residual fuel oil, and refined petroleum products to prevent windfall profits and price gouging by sellers. This was to be accomplished by specifically directing the President to establish prices which avoid windfall profits; by providing a procedure before the Renegotiation Board by which interested persons could obtain review of established prices and, in certain events, a rollback of such prices; and by including procedures permitting consumers to force individual companies to return windfall profits resulting from excessive prices. These provisions were incorporated in the House amendment out of a sense of dissatisfaction with the lack of limitations in existing law on the exercise of the President's pricing authority. This situation had permitted the President to adopt pricing policies which were producing unreasonably high profits for

persons engaged in the petroleum industry in what a majority of House members believed to be a misdirected effort to allow the prices for short supplies to rise to levels which would discourage demand. The Senate bill contained no specific control on the exercise of the President's pricing authority similar to that of the House amendment.

The Conference substitute has shifted the emphasis away from a concentration on the profits produced by such prices to instead concentrate on the reasonableness of the levels of such prices. Here the conferees have refined the direction to the President to specifically require that the President specify equitable prices for domestic crude oil, all residual oil, and all refined petroleum products. This section further provides that, within 30 days after enactment of this Act, the ceiling price for all crude oil be the price for that grade of oil in that field at 6:00 a.m., May 15, 1973, plus \$1.35. On a national average basis, this new price would be approximately \$5.25. If this new price results in a rollback, as it would for oil not now subject to price controls, any such savings must be passed on to the ultimate consumers of residual oil or refined petroleum products, on a dollar-for-dollar passthrough, in an equitable and proportional manner among the consumers of different products.

Such proportional distribution of the passthrough shall be established on the basis of historical sales, using as the base period 1972, the same as that set out under the Emergency Petroleum Allocation Act.

For certain classes of crude, the President may establish a ceiling price up to 35 percent above the general ceiling price, upon transmittal to Congress of an explanation thereof and justification therefor.

Categories which the conferees envision could be granted at ceiling price above the average ceiling price of \$5.25, would be crude oil produced from stripper wells, oil produced by secondary or tertiary recovery, and other sources of crude which require higher prices to permit recovery of costs and to provide additional incentives to maintain production and stimulate new development.

With certain exceptions, the conference substitute provides that in making any future change in the regulation which establishes a price or method for determining the price of crude oil, residual fuel oil, and refined petroleum products, the President shall afford interested persons an opportunity of not less than 10 days to present oral and written views on the proposed change. In certain crucial circumstances, the President is entitled to waive the 10 day comment period and make price changes immediately effective. It is the express and deliberate intent of the conferees, however, that such waivers occur in only emergency circumstances and that even in such an event the President would be directed to afford an opportunity of comment following implementation of the amendment to the regulation.

Moreover, in addition to the procedural protections provided in this section the conference substitute has incorporated separate procedures governing the judicial review of amendments to the pricing regulation.

Section 110 also provides for procedure whereby persons may petition the President to obtain administrative review of prices established by regulation.

PROTECTION OF FRANCHISED DEALERS

Senate bill

Section 607 would provide for protection of franchised dealers. The term "franchise" would mean any agreement or contract between a refiner or a distributor and a retailer or between a refiner and a distributor, as these terms were defined by the section. A refiner or distributor was prohibited from terminating a franchise unless he furnished prior notification to each affected distributor or retailer in writing by certified mail not less than 90 days prior to the date on which

such franchise would be canceled. Such notification must contain a statement of intention to terminate with the reasons therefor, the date on which such action would take effect, and a statement of the remedy or remedies available to such distributor or retailer. This franchise could not be terminated by the refiner or distributor unless the affected retailer or distributor failed to comply substantially with any essential and reasonable requirement of such franchise or failed to act in good faith in carrying out its terms, or unless such refiner or distributor withdrew entirely from the sale of petroleum products in commerce for sale other than resale in the United States.

A retailer with a franchise agreement could bring suit against a distributor or refiner whose actions affected commerce and who has engaged in conduct prohibited by this section. Similarly, a distributor could bring suit against a refiner. Such suits could be brought in a United States district court if commenced within three years after the cancellation, failure to renew, or termination of a franchise. The district court was empowered to grant the necessary equitable relief including declaratory judgment and injunctive relief. The court could grant an award for actual and punitive damages as well as reasonable attorney and expert witness fees.

House amendment

Section 113 amended the Emergency Petroleum Allocation Act of 1973 to provide for fair marketing of petroleum products. Certain terms were defined, including "commerce" to mean commerce between a state and a point outside such state; "marketing agreement" to mean a specified portion of an agreement or contract between a refiner and a branded independent marketer.

The notice and termination requirements would be the same as those in the Senate bill except that termination could not be made for withdrawal from the market unless the refiner did not for three years after termination engage in the sale of petroleum products in the same relevant market area within which the terminated marketer operated. Another difference required a terminated marketer to bring suit in district court against a refiner within four years after the date of termination of such marketing agreement.

Conference substitute

Section 111 of the conference substitute is the same as the Senate bill, except that—

(1) the terms "distributor," "refiner" and "retailer" are defined in terms of a person engaged in certain acts, rather than in terms of an oil company engaged in certain acts as in the Senate bill, and

(2) in the case of an action for failure to renew a franchise, damages would be limited to actual damages including the value of the dealer's equity. The provisions of this section shall expire with the expiration of the Act, except for pending actions or proceedings, or claims based on actions prior to that expiration date.

PROHIBITIONS ON UNREASONABLE ACTIONS

Senate bill

No provision.

House amendment

Section 115 provides that actions taken under the legislation, the Emergency Petroleum Allocation Act of 1973, or other Federal law resulting in allocation or restriction on the use of refined petroleum products and electrical energy must be equitable and not arbitrary or capricious or unreasonably discriminate among users.

In the case of allocations of petroleum products applicable to foreign commerce no foreign entity would receive more favorable treatment than that which is accorded by its home country to U.S. citizens in the same line of commerce. Allocations would include provisions designed to foster reciprocal and

nondiscriminatory treatment by foreign countries of U.S. citizens engaged in foreign commerce.

Section 105(c) would provide that, to the maximum extent practicable, restrictions on the use of energy shall be designed to be carried out in such manner so as to be fair and to create a reasonable distribution of the burden on all sectors of the economy, without imposing an unreasonably disproportionate share on any specific industry, business, or commercial enterprise, and shall give due consideration to the needs of commercial, retail, and service establishments with unconventional working hours.

Conference substitute

Section 112 of the conference substitute is the same as the House amendment except that section 112(a) refers to allocation of petroleum products and electrical energy among classes of users. Section 112(b) incorporates the provisions of section 105(c) of the House amendment.

It is the intent of the conferees that foreign corporations be accorded treatment under allocation programs comparable to that accorded United States corporations which operate in their respective countries of origin or incorporation. The President is granted discretion to waive this provision if he determines its strict application would be contrary to the purposes of the Act, and publishes his finding to that effect in the Federal Register. Examples might be allocation of fuels for activities such as petroleum exploration and development, or construction of pipelines or refineries in the United States, by a foreign corporation to serve United States needs, or the use of allocation authority as an economic bargaining tool with foreign nations.

REGULATED CARRIERS

Senate bill

Under section 204(b)(1), the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission with respect to certain carriers which they regulate could make reasonable and necessary adjustments in the operating authority of such carriers in order to conserve fuel.

Section 204(b)(2) would require each of these agencies to report to the appropriate Committees of Congress within 15 days after enactment of the legislation on the need for additional regulatory authority to conserve fuel.

House amendment

Sections 107(a) and 107(d) of the House amendment are substantially the same as the provisions of the Senate bill described above, except that the reports of the ICC, CAB, and FMC would not have to be submitted until 60 days after the date of enactment of the legislation.

In addition, section 107(b) would require the ICC to eliminate restrictions on the operating authority of any motor common carrier of property which requires excessive travel between points. This would be done without disrupting essential service to communities served by any such carrier.

Section 107(c) would require the ICC to adopt rules which contribute to conserving energy by eliminating discrimination against the shipment of recyclable materials in rate structures and Commission practices.

Conference substitute

Section 113 of the conference substitute is the same as the House amendment with two exceptions. The reports of the ICC, CAB, and FMC must be submitted within 45 days after enactment and section 107(c) of the House amendment is deleted.

ANTITRUST LAWS

Senate bill

Under section 314, the President would develop plans of action and could authorize voluntary agreements which are necessary to

achieve the purposes of the legislation. In addition, the President could provide for the establishment of interagency committees and advisory committees.

Advisory committees would be subject to the Federal Advisory Committee Act of 1972 and would be chaired by a regular full-time Federal employee.

An appropriate representative of the Federal Government would attend each meeting of any advisory committee or interagency committee established under the legislation. The Attorney General and the Federal Trade Commission would be given advance notice of any meeting and could have an official representative attend and participate in any such meeting.

A verbatim transcript would be kept of all advisory committee meetings, and subject to existing law concerning the national security and proprietary information, would be deposited together with any agreement resulting therefrom with the Attorney General and the Federal Trade Commission. The transcript would be available for public inspection.

The Attorney General and the Federal Trade Commission would participate in the preparation of any plans of action or voluntary agreement and could propose any alternative which would avoid, to the greatest extent practicable, any anticompetitive effects while achieving the purposes of the legislation. They would also review, amend, modify, disapprove or prospectively revoke any plan of action or voluntary agreement which they determined was contrary to the purposes of section 314 or not necessary to achieve the purposes of the legislation.

If necessary to achieve the purposes of the legislation, owners, directors, officers, agents, employees, or representatives of two or more persons engaged in the business of producing, transporting, refining, marketing, or distributing crude oil or any petroleum product would meet, confer, or communicate in accordance with the provisions of section 314 and solely to achieve the objectives of the legislation. In those instances, such persons would have a defense against any civil or criminal action brought under the antitrust laws.

The Attorney General would be granted authority to exempt certain meetings, conferences, or communications from being chaired by a regular full-time Federal employee or from the requirement that a verbatim transcript be kept, deposited with the Attorney General and Federal Trade Commission and made available for public inspection.

The President could delegate the functions of developing plans of action, authorizing voluntary agreements, and providing for the establishment of interagency committees and advisory committees.

Section 708 of the Defense Production Act of 1950 would not apply to any action taken under this legislation or the Emergency Petroleum Allocation Act of 1973. The provisions of sections 314 would apply to the latter Act, notwithstanding any inconsistent provisions of section 6(c) thereof.

There would be a defense available to any civil or criminal action brought under the antitrust laws arising from any course of action, meeting, conference, communication or agreement which was held or made in compliance with the provision of this section.

The Attorney General and the Federal Trade Commission would be responsible for monitoring any plan of action, voluntary agreement, regulation, or order approved under section 314 to prevent anticompetitive practices and promote competition.

The Attorney General and the Federal Trade Commission would promulgate joint regulations concerning maintenance of documents, minutes, transcripts, and other records relating to the implementation of any plan of action, voluntary agreement, regulation, or order approved under the legislation.

Persons involved in any such implementation would be required to maintain the record required by any such joint regulation and make them available for inspection by the Attorney General and the Federal Trade Commission at reasonable times on reasonable notice.

Actions taken by the Interstate Commerce Commission, the Civil Aeronautics Board, and the Federal Maritime Commission under section 204(b)(1) would not have as their principal purpose or effect the substantial lessening of competition among the carriers affected. Actions taken under that section would be taken only after providing an opportunity for participation to the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division.

House amendment

The provisions of section 120 are similar to the provisions in the Senate bill described immediately above. However, the following differences should be noted:

The House version vests various powers and duties in the Administrator of the Federal Energy Administration. In the Senate version powers and duties were vested in the President.

The House version requires that advisory committees include representatives of the public and be open to the public.

The Administrator, subject to the approval of the Attorney General and the Federal Trade Commission would by rule promulgate standards and procedures by which persons engaged in the business of producing, refining, marketing, or distributing crude oil, residual fuel oil, or any refined petroleum product could develop and implement voluntary agreements and plans of action to carry out such agreements which the Administrator determines are necessary to accomplish the objectives of section 4(b) of the EPAA. Such standards and procedures would be promulgated under the section 553 of title 5, United States Code. Several standards and procedures are set forth and required by the legislation.

The Federal Trade Commission instead of the Attorney General could exempt types or classes of meetings, conferences, or communications from the requirement that a verbatim transcript be kept and deposited with the Attorney General and Federal Trade Commission and made available for public inspection and copying.

Any voluntary agreement or plan of action entered into under the section would have to be submitted in writing to the Attorney General and the Federal Trade Commission 20 days before being implemented and would be available for public inspection and copying.

The Attorney General and the Federal Trade Commission could each prescribe rules and regulations necessary or appropriate to carrying out their responsibilities under the legislation.

The Attorney General and the Federal Trade Commission would each submit to the Congress and the President at least once every 6 months a report on the impact on competition and on small business of actions authorized by section 120.

The authority granted under section 120 and any immunity from the antitrust laws thereunder would terminate on December 31, 1974.

RETAIL AND SERVICE ESTABLISHMENTS—VOLUNTARY ENERGY CONSERVATION AGREEMENTS

Section 114 of the House amendment would provide that within fifteen days of enactment of the legislation, the Administrator, in consultation with the Attorney General and the Federal Trade Commission, would promulgate standards and procedures for retail or service establishments to enter into voluntary agreements to limit operating hours, adjust retail-store delivery schedules

and take such other action as the Administrator, after consultation with the Attorney General and the Federal Trade Commission, determines to be necessary and appropriate to accomplish the objectives of this Act.

Such standards and procedures would be promulgated pursuant to section 553 of title 5 of the United States Code. Among these standards and procedures would be provision for the filing of a copy of any agreement with the Attorney General and the Federal Trade Commission, which would be available for public inspection. Meetings held to develop and implement a voluntary agreement could be attended by interested persons, who would be afforded opportunity to make oral and written presentations, and such meetings shall be preceded by timely notice to the Attorney General, the Federal Trade Commission and be available to the public in the affected community. A summary of such meeting, along with any written presentation of interested persons, would be submitted to the Attorney General and the Federal Trade Commission and be available for public inspection. Actions in good faith which are taken by firms in conformity with this section to develop and implement a voluntary energy conservation agreement shall not be construed to be within the prohibitions of the antitrust laws of the United States, the Federal Trade Commission Act or similar State statutes.

Any voluntary agreement entered into under this section would be submitted to the Attorney General 10 days before being implemented. The Attorney General at any time on his own motion or upon request of any interested person could disapprove any voluntary agreement under section 114 and thereby withdraw prospectively any immunity from the antitrust laws.

No voluntary agreement under this section would pertain to activities relating to marketing and distribution of crude oil, residual fuel oil or refined petroleum products, which are matters dealt with under section 120. Also, this section is limited to those voluntary agreements in which all members have 75 per cent of their annual sales not for resale and recognized as retail in the particular industry, as determined by the Attorney General.

The Attorney General and the Federal Trade Commission would be required to submit to Congress and the President at least once every six months a report on the impact on competition and on small business of agreements authorized by this section.

Conference substitute

Section 114 of the conference substitute is the same as section 120 of the House amendment, except that the authority granted and any immunity from the antitrust laws thereunder would terminate on May 15, 1975.

EXPORTS

Senate bill

Subsection (e) of section 207 authorized the President to limit the export of gasoline, number 2 fuel oil, residual fuel oil, or any other petroleum product, pursuant to the Export Administration Act of 1969, to achieve the purposes of the Act.

House amendment

To the extent necessary to carry out the purposes of the Act, section 123 authorized the Administrator by rule to restrict exports of coal, petroleum products, and petrochemical feedstocks, under such terms as he deems appropriate. He must restrict exports of such commodities if the Secretary of Commerce or the Secretary of Labor certified that such exports would contribute to unemployment in the United States. The Administrator could use, but was not limited to, existing statutes such as the Export Administration Act of 1969. Rules should take into account the historical trading relations with Canada

and Mexico and should not be inconsistent with section 4(b) and (d) of the Environmental Protection Agency Act.

Conference substitute

Section 115 of the conference substitute follows the provisions of the House amendment. The authority of the Administrator to set appropriate terms for the restriction of exports of coal, petroleum products, and petrochemical feedstocks and the requirement that he do so upon certification by the Secretary of Commerce or the Secretary of Labor is the same as in section 123 of the House amendment.

In addition, the Secretary of Commerce, pursuant to the Export Administration Act of 1969 may restrict the exports of coal, petroleum products, and petrochemical feedstocks, and of materials and equipment essential to the production, transport, or processing of fuels to the extent necessary to carry out the purpose of this legislation and sections 4(b) and 4(d) of the Emergency Petroleum Allocation Act of 1973. If the Administrator certifies to the Secretary of Commerce that export restrictions of such commodities are necessary to carry out the purposes of this legislation, the Secretary of Commerce shall impose such export restrictions. The requirements for rules in the House amendment are also applied to actions taken by the Secretary of Commerce under the Export Administration Act of 1969.

The Committee has confined the export control authority to petrochemical feedstocks, coal, and petroleum products which are subject to allocation under the Emergency Petroleum Allocation Act of 1973. In using the term "petrochemical feedstocks" the Committee intends to identify the basic hydrocarbon derivatives of crude oil such as propane, butane, naphtha, olefins such as ethylene and propylene, aromatics such as benzene, toluene and the xylenes, extender oil used in the manufacture of rubber, and aromatic oils used in the manufacture of carbon black.

The Committee has vested separate authority in both the Administrator and the Secretary of Commerce in connection with the administration of the Export Administration Act. This will insure that the essential needs of American consumers will be met and that private enterprises will not be permitted to export energy in a manner not in accord with the national interest.

EMPLOYMENT IMPACT AND WORKER ASSISTANCE

Senate bill

Section 208 would direct the President to take into consideration and minimize, to the fullest extent practicable, any adverse impact of actions taken under this Act upon employment. All government agencies would be directed to cooperate fully to minimize any such adverse impact.

Section 501 would direct the President to make grants to states to provide unemployment assistance to individuals as he deemed appropriate during the individual's unemployment. The individual must be not otherwise eligible for unemployment compensation or have exhausted his eligibility for it. There is a two-year limitation on the eligibility for such assistance and a limitation on the amount.

This section would also authorize the President to prescribe terms and conditions for the distribution of food stamps through the Secretary of Agriculture pursuant to the provisions of the Food Stamp Act of 1964, as amended, for so long as he determined necessary. The Secretary of Labor would be directed to provide reemployment assistance services under other laws to any unemployed individual, including assistance to relocate in another area where employment was available.

The President would be directed, acting through the Small Business Administration, to make loans to aid in financing domestic

projects required by the Administration for administration or enforcement of the Act for approved private and public applicants. The President would determine the terms and conditions of such financial assistance subject to stated exceptions.

The authorization of such appropriations as might be necessary to carry out the provisions of this section would be included. The Secretary of Labor must report to Congress on the implementation of this section no later than six months after enactment and annually thereafter. The report must include an estimate of the funds necessary in each of the succeeding three years.

House amendment

Section 122 included provisions very similar to those in the Senate bill except that the distribution of food stamps and reemployment assistance and Small Business loans would not be provided for. Also, the President was required to report to Congress within 60 days of enactment on the present and prospective impact of energy shortages upon employment, the adequacy of existing programs to deal with such impact, and recommendations for legislation needed to adequately meet the needs of adversely affected workers.

Conference substitute

Section 116 of the Conference report provides for grants to be made to the States to enable them to extend the coverage of their unemployment compensation to persons adversely affected by the implementation of this Act as well as those directly and adversely affected by energy allocations, energy shortages, energy conservation measures and changes in consumption patterns as a result of the energy emergency. Such coverage would be available beyond the duration provided ordinarily under State law, and would extend to persons not otherwise covered by unemployment insurance programs, up to a period not to exceed one year. In adopting this provision, the conferees recognized that energy-related unemployment will be severe in the coming months—perhaps reaching recessionary levels—and will touch virtually all sectors of the economy.

The Committee believes that, at a time when the American people are being asked to bear the burden of the shortage, the government should also act to provide programs to assist persons and families who face hardships as a result of unemployment caused by the energy shortage.

The authorization for this section is limited to \$500,000,000 each year.

The conferees wish to make some specific notations of their understanding of how this section is to operate. It is to be emphasized that this action requires the President to make grants to the states to provide unemployment compensation for persons who have exhausted their state rights to unemployment compensation and for others engaged in classes of employment not otherwise entitled to unemployment compensation under state programs. In giving rule making authority to the President to govern the issuance of such grants, the conferees intend that the President exercise that authority to define the nature of the criteria or formula pursuant to which states receive grants-in-aid under this section. Within the dimensions of the assistance program as established by the President's regulations, the state is to administer the program. Grants to the states may include reimbursement for the costs of administration of this program. It is also to be emphasized that the states are to determine whether the unemployment is attributable to the energy crisis and may also determine whether an unemployed person continues to be eligible for compensation under this section.

USE OF CARPOOLS AND GOVERNMENT MOTOR VEHICLES

Senate bill

Section 605 directs the Secretary of Transportation to encourage the creation and expansion of the use of carpools and to establish within DOT an Office of Carpool Promotion and authorizes an appropriation of \$25,000,000 for the conduct of programs to promote carpools. Appropriated funds would be allocated to State and local governments in fixed proportions to carry out the promotion of carpooling. The Secretary would make a report to the Congress within one year after enactment of the legislation on his activities and expenditures under section 605.

Section 603 would generally preclude the use of funds for passenger motor vehicles or to pay the salaries of drivers of such vehicles unless they are operated out of carpools.

This would not apply to vehicles for the use of the President and one each for the Chief Justice, members of the President's Cabinet, and the elected leaders of Congress, or to vehicles operated to provide regularly scheduled service on a fixed route.

House amendment

Section 116(a)-(f) of the House amendment is generally the same as the provisions of section 605 of the Senate bill with respect to carpools, except that only \$1 million is authorized to carry out the provisions of the section. Section 116(g) would define local governments and local units of government.

The President under section 116(h) would be required to take action to require all agencies of the Government, where practicable, to use economy model motor vehicles.

Section 116(h) would also specify the number of "fuel inefficient" motor vehicles which could be purchased for the Federal Government in fiscal years 1975 and 1976.

Section 116(i) would direct the President to take action to prevent with specified exceptions any officer or employee in the Executive Branch below the rank of Cabinet officer from being furnished a limousine for his individual use.

Conference substitute

Section 117 (a) through (h) of the conference substitute is the same as section 116 (a) through (h) of the House amendment with two exceptions. The sum of \$5 million, not \$1 million, is authorized to be appropriated for the conduct of programs to promote carpools, such authorization to remain available for two years. Also, the provisions in section 116(h) of the House amendment on government motor vehicles specifying the number of "fuel inefficient" motor vehicles which could be purchased has been deleted. With regard to the use of limousines by Federal officials, the conferees adopted language from both the Senate and House provisions. The report provides among other things that no funds be expended for chauffeurs for individual use by government officials.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Senate bill

Section 311(a) would waive the more time-consuming procedures of the Administrative Procedure Act, notably the requirements of adjudicatory hearings according to section 554 of title 5, United States Code, which could otherwise apply to functions exercised under the Act. However, the requirements of sections 552, 553 (as modified by section 311(b) of the Act), 555 (c) and (e), and 702 would apply to such functions.

Section 311(b) would require that all rules, regulations, or orders promulgated pursuant to the Act be subject to the provisions of section 553 of title 5, United States Code, with the following exceptions: (1) Notice and opportunity to comment (a minimum of five

days) by publication in the Federal Register on all proposed general rules, regulations or orders (this requirement could be waived upon a finding that strict compliance would cause grievous injury); (2) public notice of State rules, regulations, or orders promulgated pursuant to section 203 of the Act by widespread publication in newspapers of statewide circulation, and (3) public hearings on those rules, regulations, or orders issued by authorized agencies and determined to have substantial impact, to be held prior to implementation to the maximum extent practicable and no later than sixty days following implementation.

Section 311(c)(1) would require, in addition to the requirements of section 552 of title 5, United States Code, any agency authorized to issue rules or orders to make available to the public all internal rules and guidelines upon which they are based, modified as necessary to insure confidentiality protected under such section 552. Such agency must publish written opinions on any grant or denial of a petition requesting exemption or exception within thirty days with appropriate modifications to insure confidentiality.

Authorized agencies would also be required to make adjustments to prevent hardships and establish procedures available to any person making appropriate requests.

Section 311(d) would require the President's proposals submitted pursuant to section 301 of the Act to include findings of fact and explanation of the rationale for each provision, proposed procedures for the removal of restrictions imposed, and a schedule for implementing the provisions of section 552 of title 5, United States Code.

Section 312 contained judicial review provisions. National programs required by the Act and regulations establishing such national programs could be challenged only in the United States Court of Appeals for the District of Columbia within 30 days of the promulgation of the regulations. Programs and regulations of general, not national, applicability (to a State, or several States, or portions thereof) could be challenged only in the United States Court of Appeals for the appropriate circuit within 30 days of promulgation. Otherwise, the United States district courts would have original jurisdiction of all other litigation arising under the Act.

However, this section would not apply to actions taken under the act by the Civil Aeronautics Board, the Interstate Commerce Commission, the Federal Power Commission, or the Federal Maritime Commission. The judicial review provisions in their respective organic acts would apply for the sake of uniformity.

House amendment

Section 109(a) would provide for the streamlining of administrative procedures for actions taken pursuant to this Act and the Emergency Petroleum Allocation Act, including the formulation of energy conservation plans.

Actions taken under title I of the bill and under the allocation exchange authority in section 205 would be subject to special administrative procedure and judicial review provisions. Section 109 would provide expedited administrative procedures for Federal actions. These same procedures would also apply to State actions unless the Federal Energy Administrator specified different but comparable procedures for the State. Included among the procedures are publication and notice and an opportunity for comment on agency rules and orders. All rules and orders issued by Federal and State agencies both under title I and under the new subsections (h) and (i) of section 4 of the Emergency Petroleum Allocation Act would

be required to include provisions for making adjustments in hardship cases.

Section 109(b) would provide judicial review of rules issued under these provisions in the Temporary Emergency Court of Appeals which was created under the Economic Stabilization Act. Orders issued in individual cases would be reviewed first in the United States district court and then in the Temporary Emergency Court of Appeals.

Section 109(c) would authorize the Administrator to prescribe by rule procedures for State or local boards carrying out functions under the Act or the Emergency Petroleum Allocation. Such procedures would apply in lieu of those in section 109(a) and would require notice to affected persons and an opportunity for presentation of views. Such boards must be of balanced composition reflecting the makeup of the community as a whole.

The bill would not alter the judicial review provisions of the Clean Air Act. These would continue to apply to actions taken by the Administrator of EPA under that Act, including the amendments made to that Act by the Energy Emergency Act.

Conference substitute

Section 118 of the conference substitute incorporated provisions of both the Senate bill and the House amendment. The administrative procedures of section 118(a) are the same as the streamlined administrative procedures of section 109(a) of the House amendment, with the addition of section 311(c)(1) of the Senate bill as section 118(a)(5) of the conference substitute.

Section 118(b) on judicial review is the same as section 312 of the Senate bill, except that any actions taken by any State or local officer who has been delegated authority under section 122 of the conference substitute would be subject either to district court jurisdiction or to appropriate State courts.

PROHIBITED ACTS

Senate bill

No provision.

House amendment

Section 110 stated that the following acts would be prohibited under the Act: (1) to deny full fillups of diesel fuel to trucks, unless a rationing program is in effect which restricts such full fillups to trucks or if the diesel fuel is not available for sale; (2) to violate any order concerning the use of coal as a primary energy source pursuant to section 106; (3) to violate export restrictions established under section 123; (4) to violate any order of the Renegotiation Board issued pursuant to its authority under section 117.

Conference substitute

Section 119 of the conference substitute makes it unlawful for any person to violate any provision of Title I of this legislation (except provisions making amendments to the Emergency Petroleum Allocation Act and section 113) or to violate any rule, regulation (including an energy conservation plan), or order issued pursuant to such provisions.

ENFORCEMENT

Senate bill

Section 306 provides for application by the Attorney General to the appropriate United States district court to restrain violation of the Act or regulations or orders issued thereunder by issuing a temporary restraining order, preliminary or permanent injunction.

Section 307 provided for criminal penalty of not more than \$5,000 for each willful violation of any order or regulation issued pursuant to the Act and a civil penalty of not more than \$2,500 for each day of each violation of any order or regulation issued pursuant to the Act. In addition, subsection (c) made it unlawful to sell or distribute in commerce any product or commodity in violation of an applicable order or regulation. Any

person who knowingly and willfully, after having been subjected to a civil penalty for a prior violation of any order or regulation violated the same provision of that order or regulation would be fined not more than \$50,000 or imprisoned not more than six months or both.

House amendment

Section III provided for fines up to \$5,000 for each willful criminal violation of the Act, and civil penalties up to \$2,500 for each violation of any provision of a prohibited act.

The Attorney General was authorized by this section to obtain temporary restraining orders or preliminary injunctions against actual or impending violations of this Act. It also provided for the private injunction actions.

Conference substitute

Section 120 of the conference substitute is the same as the House amendment. In addition, the provisions of subsection (c) of section 307 of the Senate bill are included.

USE OF FEDERAL FACILITIES

Senate bill

Section 305 would provide for the use of surplus government equipment or facilities, whenever practicable and to facilitate the transportation and storage of fuel, by domestic public entities and private industries for the duration of the emergency. Arrangements for such use with Federal agencies or departments must be made at fair market prices and only if such facilities or equipment would be needed, otherwise unavailable, and not required by the Federal government.

House amendment

No provision.

Conference substitute

Section 121 of the conference substitute is the same as the Senate bill, except that such government equipment or facilities must also be appropriate to the transportation and storage of fuel and can be acquired as well as used by domestic public entities and private industries. The use of Federal facilities is authorized during the period beginning on the date of enactment and ending May 15, 1975.

This provision was adopted by the conferees primarily for the purpose of freeing for use tankers now being kept in "mothballs" by the Armed Services. Such tanks, largely left over from World War II, could be used by private carriers for storing oil or for transporting oil in coastwise trade where the Jones Act would otherwise prohibit the use of foreign tankers. It was the express intent of the conferees that any use of such surplus Federal equipment would not put the Federal government in the transportation business. The Navy, for example, would not be required to operate any tankers used for private shipment of oil.

DELEGATION OF AUTHORITY AND EFFECT ON STATE LAWS

Senate bill

Section 304 would provide that only State laws or programs which are inconsistent with this legislation would be superseded by it.

House amendment

Section 108 would permit the Administrator to delegate all or any of his functions under the Act or the EPAA to any officer or employee of the Federal Energy Administration. He could also delegate any of his functions relative to implementation of regulations and energy conservation plans under either of such Acts to State officers or State and local boards of balanced composition. This section would also repeal section 5(b) of the EPAA, effective on the date of transfer of functions under such Act to the Administrator.

Conference substitute

Subsection (a) of section 122 of the conference substitute is the same as the House amendment except that the Administrator may only delegate any of his functions relative to implementation of energy conservation regulations to officers of a state or locality.

Subsection (b) is the same as the Senate bill, except that a technical amendment is made reflecting the fact that the terms "regulation", "order" and "energy conservation plan" are used in the legislation rather than "program".

The Administrative mechanism for the implementation of the conservation and rationing program provided for in the Act must be such as to insure equity on a nationwide basis. At the same time it is imperative that it be responsive to the varying conditions and unique problems of the several States and regions of the Nation. For that reason, the conferees drew from both the House and Senate bills in drafting sections 104 and 122 which authorizes the Administrator to delegate functions assigned to him. Such delegation may be to either State and regional officers of the Administration or to the officers of a State or locality. For the implementation of rationing programs the establishment and use of State or local boards to handle hardship appeals and perform other functions is authorized. To insure that any rationing program is as just and equitable as possible, section 122 specifically requires that State or local boards must be of balanced composition so as to reflect the makeup of the community as a whole. This provision is intended to insure that the interests of all classes of users are both represented and protected. The Act authorizes the appropriation of funds from which the Administrator may make grants to the States for the exercise of such authority as he may delegate or for the Administrator of State or local energy conservation measures which are independent of the authority in this Act.

GRANTS TO STATES

Senate bill

Section 315 would authorize the President to make grants to any State or major metropolitan government, in accordance with but not limited to, section 302 for the purpose of assisting, developing, administering, and enforcing emergency fuel shortage contingency plans under the Act and fuel allocation programs authorized under the Emergency Petroleum Allocation Act of 1973.

House amendment

Section 112 authorized to be appropriated such sums as might be necessary for the purpose of making grants to States to which the Federal Energy Administrator has delegated authority under section 109. The Administrator would prescribe the terms and conditions for such grants.

Conference substitute

Section 123 of the conference substitute authorizes funds for the Administrator of the Federal Energy Emergency Administration to make grants to States for the purposes of implementing authority he has delegated to them, or for the administration of appropriate State or local conservation measures where exempted from Federal conservation regulations under section 105 of the Act.

In authorizing grants to States for the purpose of carrying out their responsibilities implementing this Act, it was the express intent of the conferees that, if a rationing program were implemented, additional sums would need to be appropriated for grants in aid to the States for their participation in the rationing program.

REPORTS ON NATIONAL ENERGY RESOURCES
Senate bill

No provision.

House amendment

Section 126 would require the Administrator to issue regulations requiring persons doing business in the United States who on the effective date of the legislation are engaged in exploring, developing, processing, refining, or transporting by pipeline, any petroleum product, natural gas, or coal, to provide reports to the Administrator.

Such reports would be submitted every 60 days and a report would be required to cover the period from January 1, 1970, to the date covered by the first 60-day report.

Each report would show for the period covered the person's (1) reserves of crude oil, natural gas, and coal, (2) production and destination of any petroleum product, natural gas, and coal, (3) refinery runs by-product, and (4) other data required by the Administrator.

The Administrator would publish quarterly in the *Federal Register* a summary analysis of the data provided by such reports.

These reporting requirements would not apply to retail establishments.

Where any person is reporting all or part of the required data to another Federal agency, the Administrator could exempt the person from reporting all or part of the data to him and such other Federal agency would provide the data to the Administrator.

Provisions are included to protect trade secrets and proprietary information.

Conference substitute

Section 124 of the Conference substitute is the same as the House amendment.

INTERSTATE GAS

Senate bill

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

House amendment

Section 119 is the same as the Senate provision except that it would also apply to solar energy, geothermal resources, and pumped storage.

Conference substitute

Section 125 of the conference substitute provides that nothing in the legislation shall expand the authority of the Federal Power Commission with respect to non-jurisdictional natural gas.

EXPIRATION

Senate bill

Subsection (d) of section 202 would provide in part that the nationwide energy emergency and the authority granted by the Act would terminate one year after the date of enactment.

House amendment

Subsection (b) of section 125 would provide for the expiration of all authorities granted under Title I of the Act or under the Emergency Petroleum Allocation Act on May 15, 1975.

Conference substitute

Section 126 of the conference substitute follows the House amendment by providing that the authority under Title I to prescribe any rule or order or take other action shall expire on midnight, May 15, 1975. In addition, the authority under Title I to enforce any such rule or order shall likewise expire; however, such expiration shall not affect any action or pending proceedings, civil or criminal, not finally determined on such date, nor any action or proceeding based upon any

act committed prior to midnight, May 15, 1975.

AUTHORIZATION OF APPROPRIATIONS

Senate bill

Section 318 would authorize to be appropriated such funds as were necessary for purposes of the Act.

There were authorizations of appropriations for particular provisions which have been considered in the appropriate sections of this statement.

House amendment

The House amendment contained no provision for the authorization of funds to carry out all provisions of the Act but included authorizations of appropriations for particular provisions which have also been considered in the appropriate sections of this statement.

Conference substitute

Section 127 of the conference substitute authorizes an appropriation to the Federal Energy Emergency Agency to carry out its functions under this legislation and under other laws, and to make grants to states under section 123, of \$75,000,000 for each of the fiscal years 1974 and 1975. In addition, for the purpose of making payments under grants to States to carry out energy conservation measures under section 123, \$50,000,000 is authorized to be appropriated for fiscal year 1974 and \$75,000,000 is authorized to be appropriated for fiscal year 1975. Also, for the purpose of making payments under grants to States under section 116, \$500,000,000 is authorized to be appropriated for fiscal year 1974.

SEVERABILITY

Senate bill

Section 319 would provide that if any provision of the legislation or the applicability thereof is held invalid, the remainder of legislation would not be affected thereby.

House amendment

No provision.

Conference substitute

Section 128 of conference substitute follows the Senate bill and also specifies that if the application of any provision to any person or circumstance shall be held invalid, such application to other persons or circumstances shall not be affected thereby.

IMPORTATION OF LIQUEFIED NATURAL GAS

Senate bill

No provision.

House amendment

Section 118 would amend the Emergency Petroleum Allocation Act of 1973 by adding a new section 9. This new section 9 would authorize the President to permit liquefied natural gas imports on a shipment-by-shipment basis until the expiration of the legislation.

Conference substitute

The Senate recedes.

ASSISTANCE TO HOMEOWNERS AND SMALL

BUSINESSES

Senate bill

Section 308 of the Senate bill provided for the Federal Housing Administration and the Small Business Administration to make low-interest loans to homeowners and small business for the purpose of making energy-saving improvements on their homes or business establishments. The section further provided that maximum assistance and consideration be given to small business in the implementation of energy conservation measures.

House amendment

The House amendment contained no such provision.

Conference substitute

Section 130 of the conference substitute adopted the Senate language, except that loans to homeowners are to be made by the

Department of Housing and Urban Development rather than through the Federal Housing Administration.

In adopting this provision it was the intent of the conferees that such low-interest loans would be available to those already eligible for assistance under existing agency programs; it was not the intent of the committee to broaden the base of eligibility for loans, but rather to increase the scope of uses to which such loans would be put by eligible persons. It is the anticipation that the availability of such loans will facilitate inculcation of the energy conservation ethic in the American people.

PROHIBITION AGAINST FUEL ALLOCATION FOR CERTAIN SCHOOL BUSING

Senate bill

No provision.

House amendment

Section 103 would add a new section 4(k) to the Emergency Petroleum Allocation Act of 1973. Under the section no refined petroleum product could be allocated under a mandatory fuel allocation regulation made under section 4(a) of that Act to be used to transport any public school student to a school farther than the public school closest to his home offering the courses for the grade level and course of study of the student which is within the school attendance district where the student resides.

This would not prevent the allocation of refined petroleum products for transportation to relieve overcrowding, to meet needs for special education, or if the transportation is within the regularly established neighborhood school attendance areas.

These provisions would not take effect until August 1, 1974.

Conference report

The House recedes.

NATIONAL ENERGY EMERGENCY ADVISORY COMMITTEE

Senate bill

Section 310 would establish a National Energy Emergency Advisory Committee to advise the President with regard to implementation of this legislation. The Chairman of the Committee would be the Director of the Office of Energy Policy.

The Committee would consist of 20 members (in addition to the chairman) appointed by the President representing specified interests.

The heads of listed Federal departments, agencies, and instrumentalities would designate a representative to serve as an observer at each meeting of the Committee and to assist the Committee in performing its functions.

House amendment

No provision.

Conference substitute

The Senate recedes.

HOMEOWNER TAX DEDUCTIONS

Senate bill

Section 209 would amend the Internal Revenue Code to allow a taxpayer to deduct an energy-conserving residential improvement expense, not to exceed \$1,000, paid or incurred by him during the taxable year on his tax return for such year. These amendments apply to taxable years ending after the date of enactment of the Act and expire on termination of the Act.

House amendment

No provision.

Conference substitute

The Senate recedes.

INTERNATIONAL AGREEMENTS

Senate bill

Section 202(b) would authorize the President to enter into agreements with foreign entities, or to take such other action as he deems necessary, with respect to trade in

fossil fuels, to achieve the purposes of the legislation. Any formal agreement would be submitted to the Senate and would be operative but not final until the Senate had 15 days, at least 7 of which were legislative days, to disapprove the agreement.

Section 202(c) expresses the sense of Congress that the energy crisis is also an international problem and therefore the United States should attempt to reach an agreement with other member nations of the Organization for Economic Cooperation and Development with respect to supplies of energy available to the industrialized nations of the free world with special reference to joint or cooperative research and development of alternative sources of power.

House amendment

No provision.

Conference substitute

The Senate recedes.

Although the Senate receded on these provisions because of a jurisdictional problem on the House side, the conferees wish to make clear that the section was dropped without prejudice from the bill.

CONSULTATIONS WITH CANADA

Senate bill

Section 601 would direct the President to convene consultations with the Government of Canada at the earliest possible date to safeguard joint national interests through consultations on encouraging trade in natural gas, petroleum, and petroleum products between the two nations. The President must make an interim report to Congress on the progress of such consultations within forty-five days after enactment and a final report with legislative recommendations ninety days after enactment.

House amendment

No provision.

Conference substitute

The Senate recedes.

TITLE II—COORDINATION WITH ENVIRONMENTAL PROTECTION REQUIREMENTS

SHORT-TERM AND LONG-TERM SUSPENSIONS

SHORT TERM

Senate bill

The Senate bill would have allowed temporary suspensions of any emission limitation requirement or compliance schedule contained in a state implementation plan, regardless of whether the origin of the suspended provision was in State, Federal, or local law. Suspensions could only be granted during the period commencing November 15, 1973, and ending August 15, 1974, and no suspension could last beyond November 1, 1974. Only currently existing stationary fuel-burning sources which had been deprived of their supplies of clean fuel by actions taken by the President under the Senate bill itself would have been eligible to receive suspensions, and no suspension could be granted unless the Administrator of EPA found either (1) that a suspension was essential to enable clean fuels to be redistributed to another area in order to avoid or minimize violations of primary air quality standards, or (11) that the source in question was not likely to have available a sufficient supply of clean fuels even after all practicable steps to allocate such fuels had been taken. Suspension would only last for as long as clean fuels were unavailable. Where practicable, a suspension would be conditioned on the source's agreeing to keep on hand an emergency supply of clean fuel to burn during periods of air stagnation. The Administrator could deny any suspension request if he found that an imminent and substantial endangerment to the health of persons would result from granting it.

Suspension applications would be heard under abbreviated administrative procedures, and would not be subject to judicial review under Sections 304 or 307 of the Clean Air Act.

SHORT TERM

House amendment

The House amendment would have allowed the Administrator of EPA during the period between enactment and May 15, 1973, to suspend any fuel or emission limitation (including compliance schedules) contained in an applicable implementation plan. The only ground for granting such a suspension would be inability to comply with the suspended requirement due to unavailability of types or amounts of fuels. Interim requirements of emission control could be imposed as a condition of suspension.

No procedural requirements would apply to suspension applications under the terms of any law, and judicial review of their grant or denial would be severely restricted.

LONG TERM

Senate bill

The Senate bill provided for revisions of State implementation plans, which could be requested by either individual sources or by a State. The Administrator would be required to approve or disapprove suspension applications within 60 days if requested by a source, or within 120 days if requested by a State. For a revision requested by a source to be approved, the Administrator would have to determine, after notice and opportunity for presentation of views, (1) that the source was able to enter into a contract either for a permanent continuous emission reduction system which the Administrator determined to have been adequately demonstrated or for a long term supply of low sulfur fuel, and (2) that the revision was consistent with the implementation plan so that ambient air quality standards would still be attained. The Administrator's approval would have to be conditioned on the source actually entering into such contract. Any plan revision, whether requested by a source or a State, would have to include legally enforceable compliance schedules for the fuel burning sources affected by the revision. The schedule would establish continuous emission reduction measures to be employed by the sources, including interim steps of progress toward implementation of such measures, and would provide for alternate emission control measures that could be employed during the interim period before final compliance with the applicable emission limitations to minimize pollutant emissions. Any such revisions could defer compliance only until July 1, 1977, although a one-year extension pursuant to section 110 (f) of the Act would be authorized.

LONG TERM

House amendment

The House amendment provided that the Administrator could suspend fuel or emission limitations upon his own motion or upon the application of a source or a State (1) if he found that the source could not comply because of the unavailability of types and amounts of fuels, (2) if the suspension would not cause violations of a primary ambient air quality standard beyond the time provided for attainment of such standard in the plan, and (3) if the source were placed on a compliance schedule, with increments of progress, which would provide for the source to use methods of emission control that would assure continuing compliance with a natural ambient air quality standard as expeditiously as practicable. No such suspension could defer compliance beyond June 30, 1979. Notice and opportunity for presentation of views would be required before approval of any such suspension. The compliance schedule would have to include a date for entering

into a contractual obligation for an emission reduction system which the Administrator had determined to be adequately demonstrated. A source could also construct and install such a system itself if it provided plans and specifications for installation of such a system. Sources were given the option of not providing a compliance schedule with a contract date, or plans for an emission reduction system, if the source elected (prior to May 15, 1977) not to provide one, and established to the satisfaction of the Administrator that it had binding, enforceable rights to sufficient low polluting fuels or other means of insuring long-term compliance. If such an election were made, the amendment would limit the suspension to no later than May 15, 1977. In granting suspensions, the Administrator could impose interim requirements to minimize adverse health effects before the primary ambient air quality standard was achieved and to assure maintenance of the standard where the suspension extended beyond the attainment date deadline.

The House amendment specifically provided that such interim requirements could include intermittent control measures which the Administrator determined to be reliable and enforceable and which would permit attainment and maintenance of primary ambient air quality standards during the suspension. The interim requirements would include the obligation to utilize fuels or emission reduction systems that would permit compliance with the suspended fuel or emission limitation when such fuels or systems became available. However, use of such fuel would not be required if the costs of changing the source to permit it to burn the fuel would be unreasonable.

The House amendment also provided additional provisions making the terms of such suspensions enforceable under the Clean Air Act and to require the Administrator to publish reports at 180-day intervals on the status and effect of such suspensions. Limited judicial review of any suspension was also specified.

A specific exemption of certain coal-fired steam electric generating plants from fuel or emission limitations was provided for in the House amendment. Only facilities which were to be permanently taken out of service by December 31, 1980, and which had certified such fact to the satisfaction of the Federal Power Commission would be eligible for such exemption. Interim requirements could, however, be imposed in such facilities. The suspension would be authorized whenever the Administrator determined that compliance was unreasonable in light of (1) the useful life of the facility, (2) the availability of rate increases, and (3) the risk to the public health and the environment of such exemption.

The House Amendment also contained a separate provision in section 106(b) which provided for suspension of fuel or emission limitations that would prohibit the use of coal with respect to any source which was ordered to convert to coal by the Administrator of the Federal Energy Administration pursuant to section 106(a) of the House bill or which had voluntarily begun to convert to coal prior to the effective date of the Act. The suspension would have extended to January 1, 1980, and would have been available only if the Administrator of the Environmental Protection Agency approved, after notice and opportunity for presentation of oral views, a plan submitted by the source. The plan would, in order to be approved, have to provide (1) that the power plant would use the control technology necessary to permit the source to comply with national ambient air quality standards as expeditiously as practicable; (2) that the power plant was placed on a schedule providing for the use of emission reduction systems as soon as

practicable but no later than June 30, 1979, and (3) that the power plant would comply with such interim requirements as the Administrator of the Environmental Protection Agency prescribed to insure that the power plant would not contribute to a substantial risk to public health. Such plans were to be approved before May 15, 1974, or within 30 days after submittal if submitted after that date.

The Administrator of the Environmental Protection Agency was, however, authorized, after notice and opportunity for presentation of oral views, to prohibit the use of coal if he determined that the use of coal would be likely to materially contribute to a significant risk to public health, or to require the use of a particular grade of coal if it were available to the power plant.

Conference substitute

Several changes have been made in the language of title II and in the conference report statement of managers since the original conference report was filed on January 22, 1974 (H. Rep. No. 93-763). These changes do not represent substantial changes in policy; rather they are intended to cure inadvertent omissions, to clarify ambiguities, to make the statutory language conform more closely to the intent of the conferees, and to correct certain printing errors.

The conference substitute provides for short term suspension of stationary source fuel or emission limitations but, with one exception, does not authorize long term delay of such limitations. The conference substitute adds a new section 119 to the Clean Air Act which will permit the Administrator of the Environmental Protection Agency to suspend until November 1, 1974, any stationary source fuel or emission limitation, either upon his own motion or upon the application of a source or a State, if the source cannot comply with such limitations because of the unavailability of fuel. The Administrator of the Environmental Protection Agency is directed to give prior notice to the Governor of the State and the chief executive of the local governmental unit where the source is located. He is also directed to give notice to the public and to allow for the expression of views on the suspension prior to granting it unless he finds that good cause exists for not providing such opportunity. Judicial review of such suspension would be restricted to certain specified grounds.

The Administrator is required to condition the granting of any suspension upon adoption of any interim requirements that he determines are reasonable and practicable. These interim requirements must include necessary reporting requirements, and a provision that the suspension would be inapplicable during any period when clean fuels were available to such source. The Administrator would be required to determine when such fuels were in fact available. It is the intent of the conferees that the Administrator in making such determination take into consideration the costs associated with any changes that would be required to be made by the source to enable it to utilize such fuel. No source which has converted to coal under section 119, however, could be required under this provision to return to the use of oil or natural gas.

The suspension would also be conditioned on adoption of such measures as the Administrator determines are necessary to avoid an imminent and substantial endangerment to the health of persons. This would authorize not only requirements that a facility shut down during air pollution emergencies, but also (for example) a requirement that it keep a reserve supply of clean fuels on hand to be burned to avoid such emergencies.

The purpose of the short term suspension provision is to enable sources to continue operation during the immediate fuel short-

age while at the same time limiting as much as possible the impact on air quality. In rejecting the provisions for long term suspensions, the conferees were of the opinion that more information and experience should be acquired before any long term postponement of emission limitations was authorized. If additional tools for dealing with energy shortages are needed by the end of 1974, the Congress can address the issue prior to that time. For this reason both the provisions in section 402 of S. 2589 and comparable provisions in the House bill were rejected.

In recognition of the need to balance energy needs with environmental requirements and the unique problems facing any source which converts to coal in response to the emergency, the conferees adopted a provision which provides that no air pollution requirement (as defined in the conference substitute) could have the effect of prohibiting any such source from burning coal, except as provided in section 119(b)(1)(C). The conference bill would prohibit the application of such requirements to sources which are either ordered to convert to coal or which began to convert to coal during the 90-day period prior to December 15, 1973. This prohibition against application of such requirements to such source could in some instances continue until as late as January 1, 1979. The prohibition would only apply if the source were placed, after notice and opportunity for oral presentation of views, on a schedule approved by the Administrator of the Environmental Protection Agency. The schedule must provide a timetable for compliance with the fuel or emission limitations of the applicable implementation plan no later than January 1, 1979.

One problem which the language of the new conference agreement is intended to remedy relates to use of the phrase "by the applicable implementation plan in effect on the date of enactment of this section" in section 119(b)(2)(B). This phrase poses no problem in states other than Ohio and Kentucky. However, in these two states, there is no applicable implementation plan in effect. This is so, because of the Sixth Circuit Court of Appeals' opinion and order in *Buckeye Power Inc., v. Environmental Protection Agency*, No. 72-1628 (6th Cir. 1973) and consolidated cases. The conferees do not intend to preclude sources located in Ohio or Kentucky from eligibility for the exemption provided in section 119(b)(1). Therefore, the language of section 119(b)(2)(B) has been modified to permit the Administrator to approve a plan for a source located in either of these states if the plan provides a compliance schedule to achieve "the most stringent degree of emission reduction that such source would have been required to achieve . . . under the first applicable implementation plan which takes effect after" the date of enactment.

All compliance schedules under section 119(b) must also provide for compliance with interim requirements that will assure that the source will not materially contribute to a significant risk to public health.

The conference committee wishes to emphasize that the Administrator would not be able to approve a plan under section 119(b) for a utility generally. Rather, each plan approval must be for a specific plant. Moreover, before ordering the source to convert under section 106 of the Energy Emergency Act, the Federal Energy Emergency Administrator would be expected to make a careful, case-by-case balancing analysis of the energy need and environmental harm which might result from such an order. The same type analysis must be made by the FEEA Administrator prior to permitting a source which began conversion to coal in the 90 days prior to December 15, 1973, to continue to burn coal under a section 119(b) exemption. The FEEA Administrator in making such an

analysis is expected to consult and cooperate with the Administrator of EPA.

There are three basic reasons for the conferees' decision to encourage continued burning of coal until at least 1979. First, in order to encourage the opening of new coal mines to increase energy supplies, the conferees intend to encourage an on-going substantial demand for such coal. Without reasonable likelihood that new coal mines will be able to market their new production, the opening of new mines and expansion of existing mine capacity may be regarded too risky. Second, to the extent that electric generating power plants can be encouraged to cease burning oil and natural gas, these fuels would be available to meet other energy needs, such as production of gasoline and home heating oil. Finally, since continuous emission reduction technology is available for major sources such as power plants, but is not available for sources such as homes, apartment houses, and small businesses, the purposes of the Clean Air Act can be better effectuated by having low pollution oil and natural gas burned to the maximum extent feasible, in sources for which no effective clean up technology is available.

The conferees believe that the priority effort of each source which is subject to section 119(b) should be to obtain low sulfur coal. If an adequate, long-term supply of low sulfur coal is available to such a source, the Administrator should only approve a plan which requires its use (and thus compliance with air pollution requirements) as expeditiously as practicable. In such a case, the Administrator would have to disapprove a plan which proposed to wait until January 1, 1979, before beginning to burn low sulfur coal. The conferees believe that requiring priority consideration to the use of non-metallurgical low sulfur coal will reduce the likelihood of extended violation of applicable emission standards.

If a source is unable to obtain an adequate long-term supply of low sulfur coal, it may seek to come into compliance by use of a continuous emission reduction system or by use of coal byproducts which would achieve the required degree of emission reduction. In such case, the source would still be required to act expeditiously to obtain an adequate supply of coal. However, compliance with all air pollution requirements would be required "not later than January 1, 1979" and "by a date established by the Administrator".

It is expected that the Administrator would include, but would not be limited to, the following requirements in any compliance schedule:

(1) the dates by which the source will solicit bids and enter into binding contractual agreements (or other equally binding commitment) for the procurement of an adequate fuel supply to permit continued long term operation of the source;

(2) where the coal obtained by the source has sulfur content which will require installation of continuous emission reduction equipment to enable the source to comply with emission limitations, the dates for soliciting bids for such equipment, contracting for such equipment, and installation and start-up of such equipment by a date that will permit a reasonable time for necessary adjustments of the equipment to maximize the reliability and efficiency of the system prior to January 1, 1979; and

(3) reasonable interim measures which the source should employ to minimize the adverse impact on air quality.

In establishing dates for contracting for coal, the Administrator should determine the earliest date that is reasonable and which will permit compliance by the time specified in this section. Because the dates for obtaining coal or continuous emission reduction systems may occur at approximately the same time for more than one source which

may overburden suppliers, the Administrator is specifically authorized to establish differing dates for obtaining coal for such systems to insure availability of supplies of such coal or equipment. In making such decisions, it is expected that the Administrator will provide the earliest date for those sources in areas with the most serious pollution problems.

It is the intent of the conferees that when the coal available to the source necessitates the use of continuous emission reduction equipment for control of sulfur-related emissions, the source will have as much time as necessary to install the equipment and achieve timely compliance, in order to permit the orderly development of technology.

In recognition of the complex factors involved in determining schedules for the various sources, the conferees intend that the Administrator have broad discretion in prescribing and approving schedules of compliance to insure that sources meet the requirements of this section without overburdening production capacity for continuous emission reduction systems for sulfur control or causing unacceptable disruption in energy production capacity.

The conference committee does not intend to permit delay of existing compliance schedules for control of particulate emissions. Some slight delay may be necessary in light of revised compliance schedules for control of sulfur-related emissions. However, only such minor adjustments as the Administrator determines to be unavoidable should be permitted in existing compliance schedules and emission limitations for control of particulates.

The provision relating to conversions under section 119(b) does not apply to fuel burning stationary sources which would propose to reconvert to oil or natural gas by November 1, 1974. Only fuel burning stationary sources which select coal, receive EPA approval and submit a new compliance schedule which will achieve applicable emission limitations no later than January 1, 1979, can take advantage of section 119(b) beyond November 1, 1974. After November 1, 1974, fuel burning stationary sources which choose to reconvert to oil or natural gas remain subject to compliance schedules which were applicable prior to the temporary suspension or exemption.

The conference bill does provide for two exceptions to the prohibition on enforcing air pollution requirements. The Administrator, or a State or local governmental unit, may, after notice and opportunity for presentation of oral views, prohibit the use of coal if it is determined that such use will materially contribute to a significant risk to public health. The Administrator, or a State or local government unit, may also require that a source use a particular grade of coal or coal with particular pollutant characteristics if such coal is in fact available to such source.

The term "significant risk to public health" is used in several instances in section 119. The conferees are aware that the Environmental Protection Agency, taking its lead from the Senate Committee Report on section 303 of the Clean Air Amendments of 1970, has defined "imminent and substantial endangerment" by regulation as a significant risk to the health of persons and has specified levels for various pollutants which reflect its judgment as to where those risks occur. The conferees emphasized that the language which is used in section 119 is not used in the same sense as in the EPA regulations. Rather, the language of the conference substitute, as with the House-passed bill, deals with risks to health which are less severe than those specified by the Agency's "endangerment" regulations. What is intended is that some violation of the national primary ambient air quality standards can be per-

mitted so long as any of the public would not be exposed to significant health risks.

The conference bill makes explicit that the period of inapplicability under section 119 (b) of State implementation plan requirements may be extended for one year under the procedures of section 110(f) of the Clean Air Act. It is the intent of the conferees, however, that the requirement of that section be clearly satisfied before any one year suspension is granted; the conferees believe that requiring compliance by 1979 should permit adequate time for all sources to achieve compliance. The additional one year postponement to 1980 should only be necessary to accommodate strikes, natural disasters or other unanticipated occurrences that may prevent compliance by that time.

The House-passed bill would have permitted the use of so-called intermittent or alternative control strategies as a means of meeting ambient air quality standards if such strategies were determined by the Administrator to be reliable and enforceable. This permission would have applied to both existing sources not affected directly by the energy emergency and sources required to convert to coal under the emergency legislation.

The Senate bill would have permitted revision of existing implementation plans to require use of continuous emission reduction systems on any fuel-burning stationary sources affected by shortages of fuels, suspensions or conversions.

The conference agreement does not include either of the foregoing broad provisions. Instead, the conferees decided to limit the application of this provision to those sources which convert to combustion of coal as a result of the energy emergency. The conference substitute requires these converting sources to come into compliance with all plan requirements by 1979 (or 1980, if a postponement is obtained under section 110(f)) in accordance with a schedule which meets requirements of regulations of EPA. These requirements would require incremental steps toward compliance by utilization of low sulfur coal or coal by-products, or by continuous emission reduction systems to permit the combustion of high sulfur coal (or coal with high ash content) in compliance with such plan requirements.

The opportunity to continue to burn coal until January 1, 1979, would extend to sources which began converting to coal use at any time between September 17 and December 15, 1973. The language of section 119(b)(1) and the conference report printed on January 22, 1974 (H. Rept. No. 93-763) was subject to various conflicting interpretations as to what was meant by "began conversion." In order to clarify the intent of the conference bill, an amendment has been added to define this term. The intent of this amendment is to indicate that in order to be eligible for the exemption of section 119(b)(1), the source must do more than merely create a contingency capability to burn coal. Rather, the source must have made a firm determination to cease burning oil or natural gas and to burn coal instead. Moreover, the source must carry out this determination expeditiously and in good faith. Thus, the mere solicitation of bids for a coal supply would not necessarily in and of itself constitute action to begin conversion to the use of coal. The new amendment retains the intent of the conferees to permit the Administrator of the Environmental Protection Agency to exercise his discretion in deciding whether any particular source "began conversion to the use of coal" within the meaning of section 119(b)(1).

The conferees intend that all limitation of State and local authority which is contained in section 119(b) would cease to be effective on January 1, 1979.

The conference bill includes the House

amendment provision which authorizes the Administrator of the Environmental Protection Agency to allocate continuous emission reduction systems among users where supplies are less than demand. This provision is modified in the conference substitute to include the stipulation in the Senate bill that such allocation authority shall not impair the obligation of any contract entered into prior to the enactment of this Act.

STUDY AND REPORTS

The conference bill also adopts the provisions of the House bill which required the Administrator of the Environmental Protection Agency to report to Congress on the impact of fuel shortages on the Clean Air Act programs as well as other factors, including the availability of continuous emission control equipment. The Administrator would also have to publish periodic reports on compliance with requirements imposed as part of any suspension or coal conversion, and other information on the impact of the section. The only change from the House version was to provide for reports on all continuous emission reduction systems and not limit the report to scrubbers. The conference bill also retained the House bill provisions making the violation of any requirement imposed as part of the new section 119 subject to enforcement under section 113 of the Act. Finally, the conference version adopts the House bill provision preempting any State or local government from enforcing a fuel or emission limitation against a source granted a suspension under the section because of the availability of fuel to permit the source to comply with such fuel or emission limitation. Such preemption does not apply with respect to requirements which are identical to Federal interim requirements.

The conference bill adopts a provision similar to that in the House bill, which provided a specific exemption for electric generating plants which are scheduled to be permanently taken out of service by 1980. Unlike the House bill, the conference substitute authorizes a one year postponement of applicable plan requirements for certain power plants. To be eligible, the power plant must be on a schedule to cease operations by January 1, 1980. The Federal Power Commission must also determine that the facility will in good faith carry out such plan.

To obtain the one year postponement of an emission limitation which is part of a State implementation plan, the Governor of the State must concur in the application to the Administrator of the Environmental Protection Agency. The Administrator shall consider the risk to the public health and welfare and only grant the postponement if he determines that compliance is not reasonable in light of the projected useful life of the plant and availability of rate increases, as well as other factors. He may prescribe such interim requirements as may be reasonable. The conferees limited this suspension to one year since it is intended that this bill only address the immediate energy emergency and the conferees do not intend for any electric generating facility to be shut down in the near future because of the infeasibility of employing required emission control measures due to the age of the facility. The Congress intends to review the long term energy problems and environmental needs during the next year and will consider such relief as may be justified to alleviate the problems presented to facilities, including power plants, which are scheduled to be phased out.

FUEL EXCHANGE AUTHORITY

House amendment

Section 205 of the House amendment would have directed the Administrator in establishing any allocation program to allocate low sulfur fuels to those areas of the country designated by the Administrator of

EPA as requiring such fuels to avoid or minimize adverse health effects. This provision would have taken effect after May 15, 1974 and after such an allocation program had been established.

Section 205 would have further authorized the Administrator of EPA by rulemaking after informal hearings to issue binding exchange orders to persons subject to it. Such exchange orders would have been designed to avoid or minimize the adverse effects of any allocation program on public health. They would only have been authorized if substantial emission reduction would have resulted.

By virtue of Section 106(c), the House amendment would have explicitly authorized the Administrator to establish allocation programs for coal. If such a program were established, it would have been subject to the provisions of Section 205.

Section 119(c), of the Clean Air Act, added by Section 201 of the House amendment, would have allowed the Administrator of EPA to establish by rule priorities for the supply of emission reduction systems so that they could be routed to users in regions with the most severe air pollution.

Senate bill

Section 203 of the Senate bill would have required any general priority and rationing program to provide to the extent practicable for allocation of low sulfur fuels to areas of the country designated by the Administrator of EPA as needing such fuels in order to avoid or minimize adverse impacts on public health.

The Administrator of EPA would be authorized under Section 402 of the Senate bill to further allocate low sulfur fuels within any such area. He would also be authorized to allocate emission reduction systems first to users in air quality control regions with the most severe air pollution (except that no such action could affect existing controls).

Conference substitute

In order to assure the Administrator of the Environment Protection Agency an adequate supply of information on the types, amounts, price, pollution characteristics and allocation of available fuels, it is expected that he will have access to all data available to the Administrator of the Federal Energy Emergency Administration.

Such information will assist in effective and timely performance of the Administrator of EPA's function under this section as well as those provisions relating to suspensions, conversions, enforcement, and other responsibilities of EPA.

The conferees expect that both the FEEA and EPA Administrators will facilitate inter-agency cooperation and information exchange. EPA is expected to establish a permanent liaison in the office of the FEEA Administrator for the duration of the emergency and the FEEA Administrator is expected to do the same at EPA. This may reduce the confusion which can otherwise be expected to result from those decisions each agency is required to make under statutory authorization.

REVISIONS OF IMPLEMENTATION PLANS

Senate bill

The Senate bill provided that the Administrator of the Environmental Protection Agency was to review by May 1, 1974, all State implementation plans to determine if shortages of fuels or emission reduction systems, or any suspensions of emission limitations provided for in the bill (including future anticipated suspensions) would result in any plan failing to achieve the national ambient air quality standards within the time provided for in section 110 of the Clean Air Act. Where the results of review indicate that a plan would be inadequate, the Administrator would be directed to order those States to submit revisions to their

plans by July 1, 1974, which would achieve the standards within the time limits. Two months were provided for the Administrator to review and approve or disapprove the plan revisions, and an additional two months were provided for him to promulgate regulations if a revision were not approvable.

House amendment

The House amendment contained a similar provision.

Conference substitute

The conference substitute provides that the Administrator will only review those plans for regions in which coal conversion under section 119(b) of the Clean Air Act may result in a failure to achieve a primary ambient air quality standard on schedule. The conference substitute directs the Administrator to order necessary plan revisions within one year after such conversion that would set forth any additional reasonable and practicable measures required to achieve ambient air quality standards. The plan revision would have to consider whether, despite the coal conversions, the standards could be achieved through the use of additional reasonable and practicable measures (which may include energy conservation measures) that were not included in the original plan. In allowing up to a year for the Administrator of the Environmental Protection Agency to act, it is the intent of the conferees to permit both the Administrator and the States sufficient leadtime to develop adequate information on the impact of coal conversions, both effected and anticipated, and to permit accurate assessment of the additional measures required for State implementation plans.

The conferees expect that revisions under this section will be required only after careful consideration of a number of factors to assure that existing sources which do not convert will not be subjected to new requirements where such requirements are unreasonable or impractical. In determining reasonability and practicability, the Administrator shall consider whether the source is presently subject to requirements, is on schedule and has expended or is expending funds to comply. In this event, no requirement shall be imposed under this section which will require unreasonable additional expenditures. However, where reasonable measures can be imposed, without penalizing sources which are in compliance or are in the process of complying with the law, the Administrator shall impose such requirements.

TRANSPORTATION CONTROL PLANS

Senate bill

The Senate bill contained no provision relating to transportation control plans.

House amendment

The House amendment would have directed the Administrator, upon application by the Governor concerned, to extend until June 1, 1977, the date for achieving primary air quality standards in any air quality region subject to transportation controls which mandated a 20% or greater reduction in vehicle miles travelled by June 1, 1977, or imposed any transportation controls that could not be practicably implemented by that date. The Administrator could grant further extensions until January 1, 1985. These further extensions would be conditioned both on the application of all practicable interim control measures and on the attainment of at least a 10% annual improvement in air quality.

The House amendment would also have directed the Administrator to conduct a study of the necessity of parking surcharges, review of new parking facilities, and preferential bus/carpool lanes to achieve air quality standards. The Administrator would be required to report to the appropriate com-

mittees of the Congress within six months after enactment. Until such measures had been explicitly authorized by the Congress in subsequently enacted legislation, the Administrator could not require them to be included in an implementation plan, although he could approve such measures if they were submitted by the State. Previously promulgated regulations requiring such measures would be declared null and void.

Conference substitute

The conference substitute does not contain the provisions of the House amendment allowing modifications of the date by which primary ambient air quality standards must be achieved. The conferees expect the appropriate committees of the Congress to include in their re-examination of the Clean Air Act scheduled for the next session of the Congress, consideration of the effect modifications in new motor vehicle emission standards will have on the ability to achieve the primary standards by statutory deadlines, as well as the practicability of various transportation control strategies within the time available.

The other related provision of the House amendment has been modified to provide that only parking surcharges (rather than surcharges, management of parking supply, and bus/carpool lanes) must receive the explicit authorization of the Congress before they may legally be imposed by the Environmental Protection Agency. The conference substitute would therefore continue to permit preferential bus/carpool lanes to be implemented by the Environmental Protection Agency as set forth in current transportation control plans. In implementing requirements for bus/carpool lanes, the basic responsibility rests with State and local governments and transportation agencies, and local hearings should be considered for specific proposals.

The conferees note that the appropriate committees with jurisdiction over the Clean Air Act will be reviewing the issues involved in transportation controls in hearings during the next session. The study mandated by this bill of the necessity and impact of these specific transportation controls will be useful to the committees in their inquiry.

In addition, the conferees direct the Administrator of the Environmental Protection Agency to review all the transportation controls which have been promulgated or proposed as to their efficacy and practicability, and to provide the appropriate committees with the results of that review in connection with hearings during 1974.

The conference substitute would also empower the Administrator of the Environmental Protection Agency to suspend for one year the review of new parking facilities. In response to inquiries by the conferees, the Administrator has provided a letter stating his intention to suspend these regulations under this authority.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 19, 1973.
Senator JENNINGS RANDOLPH,
Chairman, Senate Committee on Public
Works, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: I would like to reaffirm for the record my understanding of our conversation yesterday on the subject of the "parking management" portions of EPA transportation control plans. I hope this letter will help to clarify EPA's position and that it will be useful to you in your continuing deliberations in the Senate-House conference on the Emergency Energy Bill.

I understand that based on provisions in the House Bill the conference committee has considered provisions which would by statute postpone requirements of parking management plans for at least one year and that consideration has also been given to an al-

ternative provision which would simply authorize EPA to grant such an extension. You have asked what action EPA would take pursuant to such a grant of authority. As I stated to you, our position if such authority were granted would be to delay for one year from enactment (i.e. until December 1974) the effective date of parking management plans promulgated by EPA which would otherwise go into effect at an earlier date.

During this year-long suspension, EPA would continue to work with the States and localities and to provide assistance to them in developing plans which will result in the necessary reductions of vehicle miles traveled by automobiles which are required to meet the ambient air standards and thereby to achieve compliance with the Clean Air Act. During this year, EPA would not impose any postponement or restraint on action by the States and localities in furtherance of parking management plans of their own, and it is our hope that we can assist the States and localities in developing long-term strategies to achieve clean air in urban centers.

We believe that parking management plans can provide an effective tool toward meeting air quality needs. Effective use of this tool, however, does depend largely on the understanding and support of State and local officials and the general public in the individual cities in question. Further review during the one year suspension contemplated by the committee would facilitate better understanding and support for such measures.

I want to thank you for the courtesy and hospitality you extended to me and my EPA colleagues yesterday.

Sincerely yours,

JOHN R. QUARLES, JR.,
Deputy Administrator.

U.S. ENVIRONMENTAL
PROTECTION AGENCY,
OFFICE OF THE ADMINISTRATOR,
Washington, D.C., December 20, 1973.

HON. PAUL G. ROGERS,
House of Representatives,
Washington, D.C.

DEAR MR. ROGERS: I am writing pursuant to our telephone conversation this morning concerning my letter to Senator Randolph dated yesterday (with a copy to you) about the parking management plans. In that letter I indicated that if granted authority under the Emergency Energy Act EPA would delay until one year from now the effective date of parking management plans.

You have expressed concern that I referred to parking management plans only in relationship to transportation control plans, whereas the proposed legislation would apply also to review of parking facilities under our proposed indirect source regulations. As I explained to you, our position with regard to both is the same.

Very truly yours,

JOHN R. QUARLES, JR.,
Deputy Administrator.

Although the conferees do not believe that regulations on the management of parking supply should be made subject to prior congressional approval, they did conclude that a period for refining the criteria which will be used in the review of such facilities and establishing the administrative machinery to review them should be permitted before the program is placed in operation. The conference substitute provides that when the suspension authority is exercised, no parking facility on which construction is initiated before January 1, 1975, would be subject to review for its impact on air quality as a result of any Environmental Protection Agency regulations on the management of parking supply.

In adopting these aspects of the conference substitute, the conferees do not intend to question either the need for, or the authority of the Administrator of the Environmental Protection Agency to impose transportation control plans.

AUTO EMISSIONS

Senate bill

S. 2589, as passed by the Senate, would not have affected section 202 of the Clean Air Act. The conference committee notes, however, that on December 17, 1973, the Senate passed a bill, S. 2772, which would have extended through 1976 the interim hydrocarbon, carbon monoxide, and oxides of nitrogen emission standards established by the Administrator for model year 1975 vehicles.

House amendment

The House amendment would have amended section 202 of the Clean Air Act to defer the date for achieving the statutorily required 90% reduction in hydrocarbon and carbon monoxide automobile emissions. The date would have been deferred from model year 1976 until model year 1978. The House amendment would have required the interim hydrocarbon and carbon monoxide emission standards established by the Administrator for 1975 model year automobiles to also be applied in model years 1976 and 1977. Under the House amendment, the nitrogen oxides emission standards for 1976 model year automobiles could not exceed 3.1 grams per mile; for 1977 and subsequent model year automobiles emissions of oxides of nitrogen could not exceed 2.0 grams per mile.

In addition, the Administrator of the Environmental Protection Agency would be authorized to extend the deadline for achieving the ambient air quality standards in any air quality control region for up to two years to the extent he determined that an inability to achieve the standards on schedule would result solely from the modifications of the statutorily mandated auto emission levels and the deadlines for achieving those standards.

Conference substitute

The conference substitute amends section 202 of the Clean Air Act to continue the emission standards established by the Administrator for 1975 model year automobiles during the 1976 model year. The effect of this provision is to maintain in the 1976 model year a Federal 49-State standard of 1.5 grams per mile of hydrocarbons, 15.0 grams per mile of carbon monoxide and 3.1 grams per mile of oxides of nitrogen, and a standard for California of 0.9 grams per mile of hydrocarbons, 9.0 grams per mile of carbon monoxide, and 2.0 grams per mile of oxides of nitrogen. These standards apply to automobiles produced by all manufacturers, whether or not any individual manufacturer had applied for or received a suspension under section 202(b)(5) previous to the enactment of this Act.

The conference substitute provides that after January 1, 1975, an automobile manufacturer may seek a single one-year suspension of the statutory standards for hydrocarbons and carbon monoxide applicable to the 1977 model year. The Administrator would be required to establish interim emission standards for 1977 model automobiles for hydrocarbons and carbon monoxide if he grants the suspension.

In authorizing the suspension for the 1977 model year, the conferees point out that one of the considerations advanced by Judge Levanthall in remanding EPA's decision not to authorize a suspension of the 1975 standards for one year was that adverse fuel economy would deter consumer purchasing of new automobiles, resulting in greater retention of old automobiles with inefficient pollution control devices. As Judge Levanthall pointed out, this might lead to a situation whereby denial of a suspension would result in greater total actual emissions of all cars in use than would be the case if a suspension were authorized. See *International Harvester Company, et al. v. Ruckelshaus*, 478 F.2d 615, 633-634 (February 20, 1973). If the Administrator is asked

to authorize a suspension for HC and CO for model year 1977, and if the country is experiencing an energy crisis at the time a suspension is requested, the conferees would expect the Administrator to weigh carefully whether the application of the statutory standard would result in significant increase in fuel consumption.

The conference substitute amends section 202(b)(1)(B) of the Clean Air Act to establish a maximum emission standard for oxides of nitrogen of 2.0 grams per mile applicable nationwide to 1977 model year automobiles. This defers the previous statutory standard of 0.4 grams per mile of oxides of nitrogen until the 1978 model year. No administrative suspensions would be possible from either the 1977 or 1978 standard. While the 1977 model year standard is a maximum of 2.0 grams per mile nationwide, under the conference substitute California retains the right under section 209 of the Clean Air Act to seek a waiver for a more stringent standard.

The conferees are concerned with what may be unwarranted or, at least, untimely changes in EPA's certification test procedures for new automobile emissions. It is intended that uncertainty as to requirements for compliance with such standards be minimized. Any changes in test procedures shall be kept to an absolute minimum and should occur only where such changes improve instrumentation, reduce cost of testing or improve the reliability and validity of the test results.

The conference substitute does not contain the language of the House amendment providing for extensions of implementation plan deadlines in response to the changed standards and deadlines for automobile emission.

REPORT LANGUAGE: FUEL ECONOMY STUDY

The fuel economy study requirement was amended to provide for joint conduct of the study with the Department of Transportation. The conferees insisted on a joint study to eliminate duplication with current, ongoing fuel economy studies.

The conferees expect, of course, that any current DOT studies will be coordinated with this study to eliminate any potential duplication and minimize waste of funds.

At the same time, the conferees agree that EPA must be actively involved in any fuel economy analysis to assure consistency between the findings of the study and the statutory requirements for automobile emission reductions.

The conferees recognize that DOT has an equally important safety responsibility but does not have either established test procedures, testing facilities or the expertise on engine technology to perform an independent review.

The conferees expect this study to utilize EPA's established emission test procedures in order to avoid inconsistency in any subsequent legislative recommendation.

TITLE III—REPORTS AND STUDIES

Senate bill

Section 204(c) would direct the President to develop and implement incentives for the use of public transportation. In addition, the Federal share of expenditures for buses and rail cars from the Highway Trust Fund increased to 80 percent.

Section 210 of the Senate bill would require the President, within 90 days after enactment of the legislation, to promulgate a plan for the development of hydroelectric resources. Such plan would provide for expeditious completion of projects authorized by Congress and for the planning of other projects designed to utilize available hydroelectric resources, including tidal power.

Under section 211, within 30 days of enactment of the legislation, the Secretaries of the Interior and of Commerce would prepare

and submit to Congress a comprehensive review of U.S. export policies for energy sources. The purpose of this study would be to determine any inconsistencies between national energy trade policies and domestic fuel conservation efforts.

Section 303 would direct the Secretary of the Treasury and the Director of the Cost of Living Council to provide the Congress with recommended economic incentives to encourage both individuals and industry to subscribe to the purposes of the Act. An analysis of actions needed to effect payment by producers and users of the full cost of producing incremental energy supplies would also be required.

Under the second paragraph of section 313, the President would review all rulings and regulations issued under the Economic Stabilization Act to determine if they are contributing to the shortage of materials associated with the production of energy supplies and equipment necessary to maintain and increase the production of coal, crude oil, and other fuels.

The results of this review would be submitted to the Congress within 30 days after the date of enactment of this legislation.

Section 316 would require the Department of Health, Education, and Welfare, in cooperation with the EPA, to conduct a study of the health effects of emissions of sulphur oxide to the air resulting from any conversion to burning coal pursuant to section 204(a) of the Act.

The sum of \$5 million would be authorized to be appropriated for such a study.

Section 317 would require the Council of Economic Advisors, in cooperation with other agencies and departments, to submit an Emergency Energy Economic Impact Report to the Congress which must include, but was not limited to, certain assessments of the impact of the energy shortage on employment, agriculture, various industries, commerce, and public services, as well as projections of its impact on the economy. A preliminary report would be filed thirty days after enactment and a final report no later than sixty days after enactment.

Section 402 would amend the Clean Air Act, as amended, to require the Administrator of the EPA to report to the Congress by May 1, 1974, on the extent to which any applicable State or local air pollution requirement or deadline may adversely affect the implementation of the National Energy Emergency Act or of the proposed amendments to the Clean Air Act.

House amendment

The provisions of section 104(d) of the House amendment parallel Section 313 of the Senate bill are almost the same, except that the responsibility for conducting the review would be vested in the President and the Administrator of the Federal Energy Administration.

Section 105(d) would require energy conservation plans to include proposals to provide for Federally sponsored incentives for the use of public transportation and Federal subsidies to maintain or reduce existing fares and additional expenses incurred because of increased service.

Section 121 of the House amendment is the same as the provision of Section 211 in the Senate bill, except that (1) the report under the House version would also cover foreign investment in production of energy sources and be included for the purpose of determining any inconsistencies between such investment and domestic conservation efforts, and (2) the report would have to be submitted within 90 days of enactment of the legislation rather than 30 days.

Under section 127 the Administrator would be required to prepare and submit within 90 days after enactment of the legislation a plan for encouraging the conversion of coal to

crude oil and other liquid and gaseous hydrocarbons.

Section 207 would require the Administrator of the Environmental Protection Agency to report to the Congress by January 31, 1975, on the implementation of sections 201-205 of this title.

(Additional language to come.)

of Health, Education, and Welfare and the Environmental Protection Agency of the health effects of sulphur oxide conversions, except that the sum authorized was \$2 million.

Section 206(a) would direct the Federal Energy Administration to conduct a study on energy conservation methods and to report the results to the Congress within six months of enactment. The study must address the energy conservation potential of restrictions on export of fuels and energy-intensive products (including balance of payments and foreign relations implications); federally sponsored incentives for public transit use and Federal authority to increase public transit facilities; alternative requirements, incentives, or disincentives for increasing recycling and resource recovery to reduce demands on energy (including a comparison of the economic and fuel impacts of such recycling and resource recovery with the transportation and use of virgin materials); the costs and benefits of electrifying high traffic rail lines; and means for incentives or disincentives to decrease industrial use of energy.

Section 206(b) would require the Secretary of Transportation, after consulting with the Federal Energy Administrator, to submit to the Congress within 90 days of enactment an "Emergency Mass Transportation Assistance Plan" to expand and improve public mass transportation systems and encourage increased ridership. This plan must include, but is not limited to recommendations for: emergency temporary grants to assist States and local public bodies in payment of operating expenses for expanded urban mass transportation service; additional emergency assistance for the purchase of buses and rolling stock and the construction of fringe parking facilities; demonstration projects to determine feasibility of fare-free and low-fare urban mass transportation system; and the feasibility of providing tax incentives for users of urban mass transportation systems.

Section 206(d) would provide that no later than December 31, 1974, the Secretary of Transportation, in consultation with the Federal Energy Administrator, must also study and report to the Congress on the development of a high-speed ground transportation system between the cities of Tijuana, Mexico and Vancouver, British Columbia, Canada.

Section 208 would direct the President, within 90 days following enactment, to recommend to the Congress actions to be taken by the Executive and the Congress regarding siting of all types of energy producing facilities.

Section 209 would amend the Clean Air Act by directing the Administrator of EPA to conduct a study of the feasibility of establishing a fuel economy improvement standard of 20% for 1980 and subsequent model year new motor vehicles. A report on the study must be submitted to the Congress within 120 days after enactment, and the Administrator must consult with designated Federal agencies in the course of the performance of the study. The Administrator would be directed to fully examine the problems associated with obtaining a 20% improvement in fuel economy. The study must include technological problems, costs, relation to safety and emission standards as well as energy impact and enforcement. The agency would be authorized to obtain information for the study under its section 307(a) powers.

Conference substitute

Title III contains a number of provisions for studies to be conducted. Recognizing the merit of these provisions, the Conferees included them in this bill although they will not necessarily contribute to the relief of the immediate energy emergency.

The Conferees provided for three categories of studies and reports to be made to Congress. The first provides for immediate recommendations on means for near term increases in energy supply or reductions in energy consumption. The second set of studies and reports deal with longer term methods for achieving these same objectives. The third class of reports essentially reserve to the Congress an oversight function on the implementation of this Act, by requiring reports from the President to the Congress every 60 days on the implementation and administration of this Act and the Emergency Petroleum Allocation Act of 1973, and an assessment of the results attained thereby.

The conferees recognize that increased use of mass transit is essential to energy conservation both in the short term and in the longer run. For this reason, the conferees wish to call attention to the adoption of several studies dealing with the major energy conservation measures. The first is a Senate-sponsored provision to provide for plans for Federal subsidies to mass transit systems for reduced fares and operating costs. The conferees believe that such incentives to greater use of mass transit coupled with reduced use of personal vehicles, can result in significant energy saving.

In addition, to reflect the need for improving mass transit in the longer run as well the conferees adopted a number of provisions providing for study of various mass transit systems.

In the first class of studies which are to be completed with a report submitted to Congress within 30 days after enactment of the Act, the conference substitute adopted the following studies:

From the Senate bill—

Of the rulings and regulations issued pursuant to the Economic Stabilization Act, by the Administrator of the FEEA on methods of energy conservation and production by all Federal agencies.

On specific incentives to increase energy supply and reduce consumption, by the Secretary of the Treasury and the Director of the Cost of Living Council.

On the impact of energy shortages on employment, by the Administrator of the FEEA.

From the House amendment:

A comprehensive review of United States exports and foreign investment policies by the Secretaries of the Interior and Commerce.

The second group of studies adopted in the Conference substitute, to be completed with a report submitted to Congress within 6 months from the date of enactment, include the following:

From the Senate bill:

From section 204(c) of the Senate bill, a plan to be submitted to the Congress for approval, to provide federally-sponsored incentives for increased use of mass transit, by the Administrator of the Federal Energy Emergency Administration.

Of the potential for further development of hydroelectric power resources, by the Administrator of Federal Energy Emergency Administration.

From Section 207(d) of methods for accelerated leasing of energy resources on public lands, by the Secretary of the Interior.

From the House amendment:

Of energy facility siting problem, by the Administrator of the Federal Energy Emergency Administration.

On the potential for conversion of coal to synthetic oil or gas, by the Administrator of the Federal Energy Emergency Administration.

HENRY M. JACKSON,
ALAN BIBLE,
LEE METCALF,
JENNINGS RANDOLPH,
EDMUND S. MUSKIE,
HOWARD H. BAKER, JR.,
ERNEST P. HOLLINGS,
ADLAI E. STEVENSON III,
TED STEVENS,

Managers on the Part of the Senate.

HARLEY O. STAGGERS,
TORBERT H. MACDONALD,
JOHN E. MOSS,
PAUL G. ROGERS,
JAMES T. BROYHILL,
JAMES F. HASTINGS,

Managers on the Part of the House.

Mr. MUSKIE. Mr. President, I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

SENATOR RANDOLPH URGES PROMPT ACTION ON ENERGY EMERGENCY CONFERENCE REPORT

Mr. RANDOLPH. Mr. President, I would like, before speaking very briefly, to know which Senators signed the conference report.

The PRESIDING OFFICER. The clerk will please state the names of the Senators who signed the conference report.

The legislative clerk read the following names of Senators who signed the conference report: Senators JACKSON, BIBLE, METCALF, RANDOLPH, MUSKIE, BAKER, HOLLINGS, STEVENSON, and STEVENS.

Mr. HANSEN. Mr. President—

Mr. MUSKIE. Mr. President, I have the floor.

The PRESIDING OFFICER. The Senator from Maine has the floor.

Mr. MUSKIE. I have yielded to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. I had hoped, Mr. President, that the Senate of the United States could be, as I see it, responsible to the people of this country. They have every right to expect that a conference report of this kind, in which there has been an earnest attempt to cope with the energy emergency, would be acted on before any recess of this body takes place, whether we are to leave at the close of business tomorrow, or some other date to be determined by the Senate.

I would feel that throughout America men and women by the millions who are being adversely affected by the continuing crisis in energy—which I believe will be abated by the Energy Emergency Act—and I repeat this for the third time—have a right to expect that we act and that we act now.

I am not critical of the viewpoint of any Member of this body. But what excuse, what plausible reason can be given to the citizens of this Republic when the Senate and/or the House, both bodies, fail to come to grips with this matter and suggest that some 10 days or 2 weeks later we will come back to it, we will talk about it, and then we may do something?

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate while the Senator is addressing the Senate? May we clear the well? Will the Chair require attachés and the aides to take seats and Senators who are not addressing the Senate, to take their seats?

The PRESIDING OFFICER. Senators and aides will take their seats.

Mr. RANDOLPH. Mr. President, I thank the able majority whip.

There were 3 days of consideration of this report by the conferees. Hour after hour the conferees addressed themselves to the problems that we as a Congress should be attending to now, not later. I say, in good humor and good purpose, it is not only difficult for me to understand, but frankly, I do not understand why we cannot proceed to the business at hand. I have every confidence in the Senator from Washington. I have every confidence in the Senator from Arizona, the chairman, and the ranking minority member of the Interior and Insular Affairs Committee. I have every confidence in my colleagues who were conferees, those who signed the conference report, that we can adequately explain the actions that have been taken. Then, Mr. President, we would either vote the conference up or vote the conference report down.

It seems to me that we fail, in considerable degree, to serve the people of this country if we delay the action which can be taken in this body. It is not for us to speak for the other body, but in the Senate, this matter can be considered with adequate debate, lasting, if necessary, late into the evening tonight, beginning early tomorrow and running perhaps late into tomorrow, in order to dispose of the conference report.

Mr. President, I close by saying that I do not attribute to any Member of this body a desire to fail, in his opinion, to give the consideration to this matter which he believes it should have. However, those who would delay consideration of this matter were conferees on the part of the Senate. They were there hour after hour. They heard the discussions and participated, often helpfully, in the consolidation of our thoughts. Changes were even made. Those matters were thoroughly discussed and evaluated. However, after all of that work has been done, they say, "We are leaving Washington. We are going back to our States or wherever we have made arrangements to travel. For this period of time we will continue to have uncertainty compounded." That is not proper. However, that is what will happen.

Mr. President, I must emphasize that in what I have just said, I am in no way assuming the role of a carping critic. I am only saying that at this time I wanted to speak these words slowly and earnestly, believing that in so doing I expressed not only my conviction, but also, I think, the opinion of those who, if they could speak to us in voices that could be heard, would say that we should be going about our business and continuing to discuss the conference report today and tomorrow, and for as many hours as necessary.

Why could we not meet until 9 o'clock

tonight? Why could we not come in early tomorrow and meet until late tomorrow evening if necessary?

I hope that the calm words which I have spoken will help to resolve this matter. They are not spoken in any way to lecture someone, because certainly that is not my purpose. However, I do believe, I repeat, that we have an obligation and we will fail in that obligation to ourselves as a body and to the country as a whole if we do not act, either affirmatively or negatively, on the conference report by a rollcall vote of the Members of this body after adequate debate.

I thank the Senator from Maine for giving me this opportunity to speak. I might say that in the 15 years that I have been a Member of the Senate, I doubt that I have ever even approached the position of offering criticism of the membership of this body or of any Member of this body. And that has not been my intention as I have talked this morning.

Mr. MUSKIE. Mr. President, I thank my good friend, the chairman of the Public Works Committee, the Senator from West Virginia (Mr. RANDOLPH), for his highly appropriate remarks and for his mention of my own concept of what we need to do.

What I have said this morning is said more in sadness than in anger. However, I want to call to the attention of the Senator from Arizona a few additional points with respect to these problems.

I have a great deal of respect for the Senator from Wyoming and for the Senator from Arizona. I have a great deal of respect for Mr. Simon. As a matter of fact, I have taken what has been said to me in the course of the last few minutes in all good faith. I think that Mr. Simon is doing a very difficult job. He is doing his best to get the facts, and he is doing his best to convey the facts to the American people.

Mr. President, separately today, I am going to have printed in the RECORD a speech Mr. Simon made last Tuesday to the National Press Club. The thrust of his remarks was an expression of his determination to get the facts to the press and to the public, because, as he sees it, one of his greatest challenges is the lack of credibility in all our institutions. I read this language which suggests his sense of urgency:

Within 24 hours of our receiving your requests for information, we will issue an acknowledgement or grant the requests. Within 10 working days, I personally guarantee that you will get the information you seek or have the opportunity of appealing, and appeals will be ruled upon in no more than 10 days.

That is the kind of action that Mr. Simon is proposing to get the information to the American people and to mobilize our Nation's energies to deal with this problem.

So, I am for Mr. Simon. I have been for him, and I think that this matter requires a sense of urgency.

May I say to my good friend that there are items in this conference report dealing with energy with respect to automobile emissions that do not need to be dealt with on an emergency basis. In our Senate Committee on Public Works, we

have already planned and scheduled hearings to deal with some of these issues this year, either in the late spring, early summer, or fall. Testimony will be scheduled. Then we will act.

To the unhappiness of many people, we dealt with some of these issues in the conference, notwithstanding the fact that they were not dealt with on the Senate floor.

When a Senator says to me that there are matters in this report that deserve deliberate consideration and discussion, I tell him that I agree. However, with respect to my particular responsibility, we resolved those issues quickly and expeditiously because Mr. Simon told us—and I believed him—that there was a crisis and a sense of urgency.

There is great doubt around the country that there is a crisis. There is a widespread feeling that the shortage is contrived. Mr. Simon does not believe that. He tells us with all earnestness and all the urgency that he can command that there is a real crisis and that we must deal with it quickly.

It was for that reason that we acted quickly in the conference on the matters under my jurisdiction. It is for that reason that we must act expeditiously now.

May I say to the Senator from Arizona and to the Senator from Wyoming that I intended to present the environmental portions of the conference report today.

I will not do so today because it seems to me that the whole report is in doubt. At this point, it is left hanging.

I will be available to answer questions about the matter. I will not absent myself. If there are Senators on the floor who want to discuss those portions of the conference report, I will be available. However, I will not present them with a recommendation for adoption today, because if the distinguished Senator from Arizona feels he is entitled to more time to consider these issues, if he feels that other Senators are entitled to more time in which to discuss these issues, then I say to the Senator with all due respect that I am entitled to more time in which to discuss these matters. It cannot be a one-way street.

We have had ample time in the conference to discuss these issues. The Senator's case has been made appropriately and well. He raised questions, questions that I think create doubt on all sides. But the question today is whether this is such an urgent matter for action and whether we should collapse our time frames to get to a disposition of the matter.

If the Senator urges, and is in a position to implement his feeling, that we need more time, I say to the Senator I am going to take more time.

Mr. FANNIN. Mr. President, I would like to clarify a situation in which I may have been misunderstood.

I supported the Mansfield unanimous-consent request, and it may have been misconstrued, when I was objecting as to what the Senator from Rhode Island (Mr. PASTORE) was discussing, that I was objecting to Senator MANSFIELD's unanimous-consent request. I want the record to be clear that I support the unanimous-consent proposal of the distinguished majority leader, and appre-

ciate very much that he made that unanimous-consent request, which was not accepted.

Mr. President, we have before us very important legislation regarding what can be done to assist in solving the energy problem, but unfortunately I do not feel that we have taken the action that is necessary to accomplish that objective, that is, to obtain additional supplies of petroleum products domestically, and to provide the incentives that will accomplish that particular need.

We have a real sense of urgency, as has been expressed. I agree, but urgency must never replace thorough deliberation on legislation that will touch each and every one of us in this country.

Let us use the necessary time to explain this report, and make sure this is legislation that will cure our problems and not aggravate them.

We feel that more than 90 Senators have not had a sufficient opportunity to digest the legislation—or approximately 90; there were 11 members of the conference committee, though not all the members of the conference committee were in attendance. We did spend considerable time on the discussions, but we also tried to give thorough consideration to the witnesses who came before us on this particular measure.

On February 2, a Saturday, hearings were held on this energy bill, at a time when we had witnesses from various schools, witnesses from industry, and economists of great renown. We had Dr. John H. Lichtblau, executive director of the Petroleum Industry Research Foundation of New York; we had Dr. Thomas Stauffer, research associate, Center for Middle Eastern Studies of Harvard University; we had Mr. Warren Davis, chief economist, Gulf Oil Corp., here in Washington; and we had Mr. John Emerson, energy economist of the Chase Manhattan Bank of New York.

I would like to refer to the testimony of Dr. Thomas Stauffer, research associate of the Center for Middle Eastern Studies at Harvard University. He gave us, I think, some very beneficial information, and I would like to read what he had to say, because I think that everyone should know his position in this regard as a student of the subject.

He said:

I would oppose a price roll back at the present time, in the absence of much more careful consideration and better information, because a price roll back could have a number of important and serious repercussions on our national economy, and possibly on national security.

(1) It would perpetuate our dependence upon foreign sources of unreliable oil imports.

(2) It could mortgage our future supplies of energy in order to offer a very short-run dividend in the form of slightly lower prices. This might be good politics, but it is bad economics.

I want to bring out that many of the things done under this legislation, perhaps, are good politics but bad economics. Perhaps they will prove to be very detrimental.

Dr. Stauffer continued:

(3) The hidden costs of energy shortages can be a much greater burden than the visible costs of higher oil prices. It is better

to pay more but to have energy, than to pay less and thus to get less energy—and cause still more jobs to be lost.

(4) There is a disastrous precedent for unwise price regulation of energy resources. We must remember what FPC price regulation did to the natural gas industry. Those price controls were implemented in the name of consumerism. And those policies of Commissioners Swidler and White promoted the waste of energy and created today's shortages.

(5) Finally, last October we embarked on a policy in the Middle East which created today's energy crunch and cost American jobs. In the face of today's shortages, it seems unwise if not folly itself, to make another political decision which would reduce the incentives for the production of domestic energy. Having cut ourselves off from oil from Middle Eastern producing countries, if not careful we might find that price rollbacks and revisions of the oil tax laws might dry up our otherwise promising domestic sources.

Price rollbacks and oil tax revisions as called for by Chairman Jackson are definitely not the direct route to achieving energy self-sufficiency. On the contrary such actions can impede the attainment of self-sufficiency.

Such measures do not contribute to any solution of our country's energy problem. Indeed, the proposed price rollbacks and possible revisions in the tax laws seem better designed to perpetuate and worsen the energy crisis. Specifically, these measures would reduce our production of domestic oil and increase the already dangerous import gap. Senator Jackson's proposals could ultimately render us still more dependent upon foreign oil imported from the Middle East. Far from fostering energy self-sufficiency for the U.S., these measures would render us still more vulnerable to more serious oil embargoes in the future.

The United States has already lost some 20% of its oil supply as a consequence of our political policy in the Middle East, and now millions of Americans must bear increasing inconvenience, while hundreds of thousands have already sacrificed their jobs. Any act which could impair the remaining domestic supply is at best perverse, if not an act of absolute folly. At this point we need all the oil which we can produce. Higher prices are certainly unpleasant—no one wants to pay more—but higher prices alone are the most direct route towards emancipating ourselves from the political dangers of greater oil imports. Given our commitment to Israel, the best alternative to imported oil is a strengthened domestic oil industry, not one weakened by price cuts.

Such measures appear to be expressly designed to perpetuate and exacerbate the present energy crises. If price rollbacks are implemented, the consumer in the short run obviously pays less for gasoline or heating oil, but over the longer period the consumer would also get less. We must ask which poses the greater burden for the consumer—some market-related price for a commodity or the ramified costs of shortages such as we begin to see now? Which is more serious—paying market-related prices for an indispensable resource or the still greater costs resulting from not having enough?

Given that we are confronted with acute shortages in key areas, it seems imprudent, if not irresponsible, to reduce the incentives for energy production until the ramifications and implications of these steps are fully understood. Otherwise, we shall resemble the farmer who decides to get more in the short-run by eating all of his seed corn. His belly was certainly more full for a few months, but the price for such a short-lived bounty can be long years of unpleasant deprivation.

A central issue here is the relationship between the prices of oil and gas and the additional production which can be obtained from increased prices. It is clear that our potential reserves of oil and gas are very large. In particular, these are large enough that exploitation of such conventional reserves can greatly facilitate our switch to coal or nuclear sources over the longer-run.

It is exceedingly difficult to estimate the supply elasticity for oil or gas, i.e. how much more one can discover and produce at higher prices, or, conversely, how much less one might have if real prices were to decline. Conventional econometric calculations are so unreliable that I for one do not believe them even when I might agree with the result.

However, a simple-minded set of engineering-type calculations leads to the suggestion that there should be about a fifty-percent increase in potential production for every doubling of the price. Thus, very approximately, a twenty-five per cent reduction in price equates to a loss of about 12.5% of potential production, or about 1.5 million barrels per day. This is roughly equivalent to one half of the present level of shortfall induced by the oil embargo. Therefore, we are talking about effects which are serious.

This very rough computation allowed only for the ability to drill deeper wells in response to higher wellhead prices. Everything else remaining equal, an average price increase of 50% would permit the depth of the average well to increase from around 5600 feet to circa perhaps 6800. In a special sense this means that 20 percent more sands may be tapped.

More generally, however, two additional effects contribute to a still greater increase in production as a consequence of a price increase. First, it is economically justified to explore for smaller or less certain deposits in older, less more shallow zones. Second, secondary or tertiary recovery projects may be implemented more thoroughly, increasing output both from new finds and also from older reservoirs. Finally, one can operate in deeper water offshore, increasing the scope for new discoveries, or one can develop lower-quality, higher-cost fields when found.

All of these factors contribute significantly to a higher yield of new energy supplies when price incentives are raised. But, conversely, such opportunities can be lost if prices are cut or tax incentives reduced. Especially at this time, when we have lost some 20% of our oil supply as a consequence of our Middle Eastern policy, we should be cautious indeed before we jeopardize any fraction of our remaining domestic supplies of energy. These price rollbacks and tax modifications deserve the most careful scrutiny, lest we sacrifice future crops while savoring enjoying the seed corn.

Complex issues with complex ramifications cannot be resolved overnight nor even in 48 hours. The issues raised in this hearing deserve review, but once again, in conclusion, I urge the utmost caution and discretion.

TESTIMONY OF WARREN B. DAVIS, BEFORE THE SENATE INTERNATIONAL COMMITTEE, CONCERNING S. 2885, FEBRUARY 2, 1974

My name is Warren B. Davis. I am Director of Energy Economics for the Gulf Oil Corporation and reside in Pittsburgh, Pa. I was Chairman of the Coordinating Subcommittee of the National Petroleum Council's U.S. Energy Outlook Study.

I would like to discuss some of the aspects of S. 2885.

I believe the goal of 85-90 percent self-sufficiency in crude oil by 1980 will be an extremely difficult one to obtain. It will require an all-out effort to explore for and develop domestic oil supplies. In the context of the National Petroleum Council's Study on the U.S. Energy Outlook, only Cases I and

II approach this goal. These cases both assume a finding rate about 50 percent above the past trend. Thus, it would be dangerous to count on them in laying plans. A more realistic possibility might be the Case I drilling rate which envisions an increase of six percent per year in drilling, combined with a discovery rate in line with past trends. This produces results similar to Case II which results in 80 percent of the U.S. energy requirements being supplied by domestic fuels in 1980.

Then if we are to be 85-90 percent self-sufficient by 1980, we will need to develop synthetic fuels at an even greater rate than the projections in any of the cases in the National Petroleum Council study. Thus, it will require an all-out effort, not only on domestic crude oil, but also on synthetic fuels.

I cannot forecast for you exactly what oil price is needed to encourage an all-out effort, and I doubt if anyone else can either. There is a great deal more involved than just the price of oil in encouraging all-out efforts in the development of fuels in this country. Rather than list other factors here, I would simply refer you to the National Petroleum Council study.

I think it worthwhile to try to compare the present situation with one that occurred in the past. After World War II, war-time price controls were removed and the average price of crude oil increased from \$1.22 per barrel in 1945 to \$2.60 per barrel in 1948. Between 1946 and 1957, drilling increased from 28,000 wells to over 50,000 wells, and as a result U.S. crude oil reserves increased by about 50 percent. I cannot say for certain that the same would happen today, but it looks as if we face a similar situation. It is interesting that during this 1946-1957 period, the oil industry did not have extremely large profits for more than a very short period of time, because the high prices induced people to spend more money looking for and developing oil.

If the U.S. is to achieve a high degree of self-sufficiency, then we need prices that will induce very large investments in synthetic fuels. Referring again to the National Petroleum Council study, the committee estimated synthetic oil from shale and coal to have costs, including a return on investment, in the range of \$5.00-\$8.00 per barrel. However, these estimates did not include land costs and there is great uncertainty about the magnitude of the environmental costs. Both of these factors tend to make the upper end of this range look more likely at the present time than the lower end. The most significant fact, however, is the basic uncertainty as to what oil price will encourage a forced-draft development of our synthetic fuel resources in this country. The results of the recent shale oil lease sale make it appear that the present new oil prices are sufficient to encourage the development of synthetics. It is questionable whether a substantially lower price would, and it is reasonably certain that putting an arbitrary ceiling price on the new oil price will be a discouraging factor.

A factor that is most discouraging to the idea of arbitrarily lowering the new oil price is the inability of anyone to accurately determine what will be the effect of an arbitrary reduction in price. At the present time, the new oil price in the U.S. is free of control and presumably is either seeking or has already found its natural level. I believe the course of action most likely to maximize the development of our domestic fuel resources is to continue to leave this price free of control. At least two factors are working to prevent free prices from resulting in "windfall profits" to producers: (1) When oil producers get more revenue, they traditionally use it to explore more territory and drill more wells. This normally has gone on until their profitability level is back somewhere near the level before the price increase, and instead of re-

sulting in a lot more profit, it results in more production. (2) The only really good long-term solution to high oil prices is a substantial increase in supply. If the supply is great enough, the prices will go down, and the sooner we get to that point the better.

The dual price structure maintained by the Cost of Living Council has been livable, but it creates economic anomalies to have a single lease producing identical oil with two different prices. I endorse the statement made by the Cost of Living Council in the introductory material to its Phase IV Regulations, published August 17, 1973 in which they say, "The Council will continually monitor the ceiling prices of domestic crude petroleum and intends to make periodic upward adjustments in the ceiling price toward the higher world prices for crude petroleum."

In closing I would like to comment on Senator Jackson's remarks in the Congressional Record of January 24, 1974. On pages 727-728, the Senator interpreted the National Petroleum Council report as saying that the U.S. would achieve the greatest feasible level of domestic self-sufficiency with a crude oil price of \$4.35 per barrel in 1975. I would like to call your attention to a statement on Page 39 of the Summary Report of the National Petroleum Council's study which says, "These required 'prices' and production rates provide useful information about supply and price. However, they should not be construed as measures of supply-price elasticity." I would also like to point out that National Petroleum Council study was directed at the long-range outlook, particularly toward the period 1980-1985 and if any such interpretations are to be made, they should be directed to that period. I believe Mr. Vincent M. Brown, Executive Director of the National Petroleum Council, has commented on this matter and I endorse his comments.

If I seem to be uncertain about these matters, it is simply because there are many uncertainties. I don't know how many of them could be resolved with thorough study, but I strongly recommend that any action such as S2885 be delayed until some thorough studies can be made.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. FANNIN. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, having discussed this request with the distinguished Senator from Arizona (Mr. FANNIN), that he be permitted to yield at this time to the distinguished Senator from Maine (Mr. MUSKIE), that Mr. MUSKIE be permitted to speak out of order for not to exceed 30 minutes, notwithstanding the Pastore rule of germaneness, that the distinguished Senator from Arizona not lose his right to the floor, and further that the statement of the distinguished Senator from Arizona not show an interruption in the RECORD.

THE PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, first of all I thank my distinguished friend from Arizona for yielding for this purpose. This is the same general subject area which I seek to address, but it is not relevant to the conference report.

Mr. President, the foreign ministers of the world's major oil consuming nations are to meet in Washington next Monday at the invitation of our Government. Their agenda calls for action on world energy problems. Their meeting is of great importance.

Either it will prove a short-lived, frustrating exercise in crisis diplomacy, or it

will make a belated start on the creation of a common policy toward the common problems of resource scarcity. The early indications are not encouraging.

In the month since the President issued invitations to the conference, evidence has mounted of sharp divergence between the aims of the United States and those of our Canadian, European, and Japanese allies. Officials here informed the Canadian Energy Minister last week that our main objective is to weld a common front against high oil prices—even to roll them back.

The Common Market countries, in defining their position Tuesday, specifically rejected any thought of confrontation between the oil consumer and producer nations. Instead, they prefer to expand the international dialog on energy to include both the countries which dominate the supply of crude oil and the developing nations which need fuel they can afford as badly as the industrialized world.

These aims need not be mutually contradictory. But the advance consultation necessary to reconcile them has not taken place. And, lacking such essential, ongoing contacts, historic partners have allowed lack of leadership and the contagion of self-interest to drive them into attitudes of rivalry and suspicion.

In the short months since Middle Eastern oil suppliers initiated the twin tactics of restricting production and inflating price, each consumer country has gone its own competitive way. European and Japanese negotiators, for example, have reportedly already concluded \$6 billion worth of bilateral agreements with the oil producing nations, bartering arms, technology and promises of industrial development assistance for guarantees of petroleum.

This competition—including another \$5 billion in separate, similar negotiations said to be underway—strengthens the producers' bargaining position as surely as it weakens the political and economic cohesion of the industrial democracies. The Washington conference must make its first goal the essential one of curtailing such beggar-thy-neighbor policies.

But there can be little hope of the foreign ministers' agreeing to even a policy of mutual restraint unless America's own practices are coordinated with our rhetoric about international cooperation. As host to the conference—and as the most powerful and temporarily best-placed of the consumer nations—we have a special responsibility to set an example others can trust and follow.

Until now, however, we have acted preoccupied and uncertain, substituting contradictory expedients for coherent policy. In the style of our diplomacy and the substance of our action, we have undercut our sincere calls for concerted action with postures that serve narrow, nationalistic goals.

While all of us admire the negotiating expertise of Secretary Kissinger, we know that he would agree that his heavy schedule of travel tends to interfere with the patient discussions allies must have to prevent minor misunderstandings from becoming major obstacles to coordination. Such talks are hard to hold

in airport waiting rooms, as they recently were with the British Foreign Minister. And the French compliment to Dr. Kissinger's gift for "happy improvisation" is only a barbed reminder that "muddling through" one emergency only defers conflicts; it does not defuse them.

But even if we had talked less about consultation and practiced it more, our own initiatives for dealing with energy problems would have raised grave doubts among our partners. No matter what we preach abroad, Project Independence defines our policy at home primarily in terms of pursuing energy self-sufficiency, rather than emphasizing the broader goal of international cooperation. And the recently reported, secret Justice Department waiver of antitrust action against joint bargaining activity by our major oil companies can only suggest that we are unleashing our private buyers to compete for fuel in the marketplace against the governments of our allies.

If we mean to go it alone—the message France has already read from the present shape of Project Independence—we cannot realistically expect others to honor our calls for concerted action. Yet the President's energy message of January 23 made no mention of any hopes for an international approach to the problems the whole world faces. It emphasized only the important—but inward-looking—goals of developing alternative energy sources within the United States, of conserving essential fuel for ourselves, of expanding our research and development efforts so that by 1980, in the President's words:

We are no longer dependent to any significant extent upon potentially insecure foreign supplies of energy.

By contrast, the agenda proposed by Secretary Kissinger for the foreign ministers' conference envisages discussions on joint action by the oil-consuming nations on all the goals we set for ourselves in Project Independence, on international monetary and economic policy to deal with the consequences of the exorbitant oil prices and on plans for sharing and allocating fuel during emergencies.

That last item is especially puzzling.

Are we thinking of pooling our domestic energy supplies—now inadequate for our own needs—with those of other nations even more dependent than we on imported fuel? If such sacrifices are under consideration, the American people should be told of them. They have not been. Project Independence points in a much different direction, and the emphasis we have given it must surely make our allies question our willingness to consider even emergency fuel sharing proposals.

In fact, Project Independence need not contradict our efforts to secure international cooperation. At one level, it does add to the weight we carry in negotiations with the oil-producing states. At another—if we succeed in reducing U.S. demand for imported fuel—it frees resources we might have required for the use of others.

But unless it is refashioned to reflect

the realities of our interdependent world, this policy will discourage concerted action. Our goal is not just one of freeing ourselves from reliance on "potentially insecure foreign supplies." Our aim is to insure a stable worldwide flow of energy supplies and, beyond that, of the supplies of all the raw materials the entire planet needs.

It is true that America is potentially in a better position to supply its own energy requirements than any other Western industrial nation. But we must already rely on others for more than 80 percent of the chromium, manganese, bauxite, tin, and nickel our power converts to manufactured products. And it is estimated that by the end of the century we will be importing more than half the tungsten, zinc, copper, iron, lead, and sulfur we will need.

All the self-generated energy in the world will be wasted if we lack the raw materials to convert to finished goods. And if we are unable now to limit the power of one monopoly cartel—the oil producers—to hold the industrial world to political and economic ransom, our failure can only invite the suppliers of other essential resources to adopt similar tactics in the near future.

Supply, of course, is simply one edge of the sword. Price is the other. And in that field, the interests of the buyers and the sellers converge. As Dr. Kissinger wisely said of the producers:

It cannot be in their interest to bring about a worldwide depression.

First, perhaps, the inflated prices will shake the economic structures of the most advanced countries, those whose prosperity, until now, has been built on the availability of cheap fuel and whose oil bills are likely to rise by \$50 billion in 1974.

Second, the economies of the developing nations are equally exposed to calamity. To keep their fuel bills from increasing by \$10 billion this year, as projected, they will have to curtail oil imports and forego essential growth.

Finally, of course, the suppliers might come to discover that they have not so much priced themselves out of the market as priced the markets into such turbulence that they collapse. Oil that no one can buy is of no use to those who would sell it.

If the first requirement of the foreign ministers' conference is a common policy to avert such disaster by suppressing the competitive rush to strike short-term oil bargains in the Middle East, it is nevertheless clear that agreement on such policy must be based on a broader consensus among the consumers. Joint action to develop alternative energy sources will surely be part of any long-run effort, but if such commitments are seen primarily as an immediate bargaining counterweight against the suppliers, they are likely to encourage a confrontation mentality and a fierce push by the suppliers to get the most now for what they have.

So the foundation for a concerted policy must be the recognition by all involved that cooperative effort cannot

be limited to industrial nations. It must be a global aim.

The proper focus for our efforts should be the broadest one: Conservation of all the world's energy resources, not just our own; and development of alternative energy supplies for all users, not just ourselves. Such a coordinated approach assures that we—and others—recognize that the immediate shortage of supply are simply the precursors of a new world condition.

The abundance from which we have so long profited is past. Global scarcity is the new reality to which we must adapt.

On a shrinking planet, self-sufficiency is a delusion. The remedy for problems that poison the hopes of rich and poor alike is to be found in multilateral solutions that give hope to rich and poor alike.

Next week's conference was first announced as a prelude to a further meeting with the oil producers. The American aim, apparently, was to build a solid, joint bargaining position from which to negotiate supply guarantees and price reductions.

By itself, however, that goal would seem to be unrealizable. In any event, it is too narrow. The Common Market position—avoidance of confrontation and promotion of the role of both the producing and developing countries "in reinforcing international cooperation"—appears to offer a more hopeful, although far more complex approach. The fact is that the interest of the industrialized world in harmonizing relations with oil suppliers runs parallel to the interest of all nations in building a healthy international economic order.

Such progress is only possible through the slow, painstaking adjustment of competing national interests in international negotiations. It will have to be founded in new, liberal trade arrangements between the developing countries and those they tend to see as exploiters of their relative weakness. It will have to be cemented by monetary agreements that guarantee against sudden dislocations. It will have to be molded by the leadership of the advanced nations, prepared to concede that their own survival and prosperity depend inexorably on the survival and prosperity of their poorer neighbors.

To give that leadership should be America's greatest goal. Instead of Project Independence, Project Interdependence should be our first priority, for interdependence is the overriding and overwhelming reality of our era.

Judging by his statement Wednesday about America's "profound interest in world cooperative relationships," Secretary Kissinger appears to recognize this reality. Based on that recognition, I am hopeful that he will be able to reconcile America's desire for rapid, decisive action in the energy crisis with our allies' policy of giving both the oil-producing and the developing nations key roles in building a new international consensus. For the conference that opens here Monday can begin the hard, long search for a way out of the immediate crisis and toward new, equitable, reliable interna-

tional relationships. If it accomplishes only that—a beginning—it will have been well worthwhile.

But such a beginning must also put an end to American practices that divide us from our closest partners. It must reestablish a diplomacy based less on ingenuity and improvisation in fighting fires and more on policies of mutual interest and restraint which will insulate us against fresh outbreaks of fire.

Looking back on the history of the democracies between the two world wars, Winston Churchill wrote of the "absolute need of a broad path of international action pursued by many states in common across the years, irrespective of the ebb and flow of national policies."

We have now what may be our best, if not our last, opportunity to find that "broad path" again. If America fails now to open the way to international action, we will tumble over ourselves into the dead end of international disorder.

Mr. President, I yield back the remainder of my time, and 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. JACKSON. 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 Senator from Arizona has the floor.

Mr. FANNIN. Mr. President, I am glad to yield to the Senator from Washington.

Mr. JACKSON. Mr. President, the Senate has already had before it for some time the bulk of the conference report. Very few substantive changes have been made in the report since the last time it was considered by the Senate. I will briefly summarize the major changes which were made in the most recent conference:

First, since there has been quite some delay in the passage of this bill since it was first considered, it was necessary to adjust the timetable for congressional approval of energy conservation plans as set forth in section 105. Original benchmark dates were March 1, 1974, and July 1, 1974. Because March 1 is now so close, the conferees felt it was only fair to the executive branch to relax the timetable. Accordingly, March 15 has been substituted for March 1, and September 1 for July 1.

Sections 110 and 129, previously required the President to set prices for petroleum products so as to avoid windfall profits, and provided for petition for refund of prices which were found by a renegotiation board to have resulted in excess profits. The new section 110 continues to recognize the need for judicious pricing of petroleum and petroleum products. As a commodity which affects virtually every consumer and every industry, rampant price increases for oil will only result in soaring inflation. In most instances, there is no substitute for petroleum—for transportation, for petrochemicals, to name but two such in-

stances. So people are being forced to accept higher prices: small businesses, low income consumers, independent businessmen and truckers must absorb the rising cost of crude. The conferees, after much deliberation, provided in section 110 that a ceiling be established for petroleum prices, to reflect more truly the actual value of petroleum, rather than current cartel levels inflated and uncontrolled levels. Section 110 as it now stands provides for ceiling prices to be established for all crude oil. The basic price is \$5.25 per barrel of crude oil. This price could be increased, if proper findings are made to \$7.09 a barrel. The bill also provides for a dollar-for-dollar passthrough of any price reductions resulting from such ceilings, to be reflected fully and proportionally in the price of petroleum products. Mr. President, I think section 110 as now written is a good and workable provision and I would strongly urge its adoption by my colleagues.

Section 116, which provides for grants to States for increased unemployment coverage has been broadened. The section as it now stands provides for compensation to be provided to persons adversely affected by the energy emergency—for example, by energy emergency allocation programs, conservation measures, energy shortages, and so forth. At a time when we are told to expect unemployment as high as 6 to 8 percent, 3 percent of which will be directly attributable to energy shortages, we must make provisions to avoid a major recession. Already, hundreds of thousands of workers in the auto and chemical industries are out of work. The conference bill, therefore, provides for \$500,000,000 to be available to the States for unemployment compensation for the duration of the bill.

Section 117 has been amended to provide greater restrictions on the use of Government limousines and chauffeurs. This revised conference version is far closer to the original Senate passed version, and I think provides for a good example to be set for the American people by their leaders.

A new section 130 has been added, to provide for low-interest loans to homeowners and small business, for the installation of energy conserving devices in their homes and places of business: Covered items under this provision would include storm windows, insulation, solar heating devices, and so forth. In adopting this provision the conferees restored the original Senate-passed language, recognizing that if the American people are being asked to make sacrifices in this time of crisis, they should be given the greatest assistance possible in doing so.

Mr. President, there are also amendments which were made to title II, but I will ask my distinguished colleague from Maine, Senator MUSKIE, to address those provisions at the appropriate time.

Mr. President, I strongly urge my colleagues to adopt this revised conference report. I think it is a good bill, a workable bill, and urgently needed. As my distinguished colleague, the senior Senator from Arizona, said in this

Chamber earlier this week, the administration needs this legislation if they are to deal adequately with the worsening crisis. If Congress fails this time to approve the conference report, the responsibility for the consequent dislocations in our economy will rest on our shoulders. We can no longer delay, no longer shirk our duty to our constituents, to bring a bit of order and a greater certainty into their daily lives.

Mr. President, I ask unanimous consent, if it is agreeable to the distinguished Senator from Arizona, to yield to the distinguished Senator from West Virginia (Mr. RANDOLPH) for a question.

Mr. FANNIN. I have no objection.

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

Mr. RANDOLPH. Mr. President, in reference to section 107 of the conference report, dealing with the allocation of material, is it the understanding of the chairman that this provision also goes to the matter of petrochemicals?

Mr. JACKSON. Yes, section 107(c) specifically addresses the matter of petrochemicals.

Mr. RANDOLPH. That was my understanding.

Mr. JACKSON. The Senator is correct.

Mr. RANDOLPH. I wanted to make certain that these vital feedstocks were covered by the allocation provision.

Mr. JACKSON. Needless to say, this is a very urgent area of economic concern to the Nation, because petrochemicals have become a basic feedstock to the economy. We are perhaps more familiar with steel, aluminum, copper, and the other metal industries as basic industries; but petrochemicals have come to play an equally vital part in the economic growth of the Nation, contributing to the manufacture of so many things that go into the gross national product of the Nation.

Mr. RANDOLPH. The Senator is correct. The State of West Virginia has a very substantial petrochemical industry. I am aware of the problems in that industry, which is affected by the energy crisis.

I desire to emphasize, as we have in the past in the conference and during the discussion on the floor, the viability of the conference report on this subject.

Mr. JACKSON. I must say—and I want to be properly understood in connection with the pricing of petrochemicals, that the equitable pricing of petrochemicals is provided for under the term "refined petroleum products of crude oil" in section 110 of the conference report.

Mr. RANDOLPH. There is need for a further clarification on the conference report, which I would ask the able chairman to address at this time.

There is need for clarification of a point regarding section 106 of the conference report.

Coal conversion into synthetic fuels offers a potential for significant savings in petroleum product usage. This is discussed in some depth in the conference report. Increased coal usage and synthetic fuels from coal offer significant opportunities for relieving present shortages.

With regard to existing facilities as well as possible longer term problems

with regard to plants now in the planning phase. Using new technologies, such as coal byproducts as synthetic gas and oil and solvent refined coal, major strides can be taken to meet our energy needs consistent with long-term environmental policies.

I would like to ask the floor manager for this conference report, Senator JACKSON, if he does not agree that the intent of the conferees was to include these new technologies within the term "coal byproducts."

Mr. JACKSON. By including the term "coal byproducts" in the conference report as a possible alternative fuel to oil and natural gas, it was understood that the term "byproducts" would not be narrowly construed, but rather would include such coal derivatives as synthetic gas and oil from coal, or solvent refined coal. The latter is particularly attractive for use in powerplants, as it can readily be substituted for high sulfur coal or for oil. It is clearly the intent of the conferees, in pursuing the national goal of energy self-sufficiency, not to preclude the use of any possible alternative sources of energy which could bring us closer to that goal.

Mr. RANDOLPH. I recognize that my colleague has also asked a question. I do have a commitment I should like to keep in a few minutes. I am wondering whether I might be permitted, if it would not disarrange the schedule of the Senator from Louisiana (Mr. JOHNSTON), to comment on an additional section of the conference report. The Senator from Arizona (Mr. FANNIN) suggested that I might be able to do it now.

Mr. JACKSON. The Senator from Wyoming (Mr. HANSEN) has control of the time.

Mr. RANDOLPH. I had asked Senator FANNIN for an opportunity to speak for 5 or 6 minutes, and he indicated that that time might be yielded to me. I did not realize that he is not in his seat at this time; but when I asked him, he felt that that could be done. I have no desire to press the point, except because of another commitment that I have with some constituents. I do hope that I might be permitted to seek clarification of one point at this time, if it is agreeable to the Senator. If it is not—

Mr. HANSEN. Mr. President, may I say, speaking on behalf of the distinguished ranking minority member of the Interior and Insular Affairs Committee, that were the Senator here, I am sure he would have no objection. He did, however, assure the Senator from Louisiana (Mr. JOHNSTON) earlier that he would be recognized first. If the Senator from West Virginia would not object—I do not know how long he cares him to yield—

Mr. RANDOLPH. I would like to have the response to the able Senator from Wyoming's question as to time, because I do not want to violate any agreement that was made.

Mr. JOHNSTON. Mr. President, I would suggest, if it meets with the distinguished chairman's schedule, that I be allowed to ask a question or two for a minute or two. Then if the Senator wishes to be recognized, I would like to

be recognized at the conclusion of his remarks. I will certainly yield to the distinguished Senator from West Virginia for whatever time he needs, and then ask to be recognized after that, whatever the pleasure of the floor manager is.

The PRESIDING OFFICER. Who seeks recognition?

Mr. JOHNSTON. Mr. President, will the Senator from Washington yield for a question?

Mr. JACKSON. Mr. President, I seek the floor, but I will relinquish it for the purpose of responding to a question.

I yield to the distinguished Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I would like to ask questions relevant to the meaning of the practical effect of the price rollback provision. As I understand it, the initial price allowed is that which was in existence at a particular field on May 15, 1973, plus the sum of \$1.35 a barrel. Do I understand that correctly?

Mr. JACKSON. That is correct. The average price on May 15, 1973, as I recall, was \$3.90 a barrel. Under Cost of Living Council regulations they are now allowed to charge an additional \$1.35, which is the current price of old oil; this averages about \$5.25 a barrel.

Mr. JOHNSTON. So, in effect, the intent is to bring the price for old oil to, roughly, \$5.25 per barrel?

Mr. JACKSON. The Senator is correct.

Mr. JOHNSTON. In some cases it could be lower or perhaps higher, depending on what the price was on May 15, but the rule is that it will be about \$5.25 per barrel.

Mr. JACKSON. The Senator, I think, has stated it accurately.

Mr. JOHNSTON. This \$5.25 per barrel price includes the \$1 per barrel increase allowed by the CLC or the Energy Office, whichever one allowed it, that was granted just in recent weeks?

Mr. JACKSON. I believe the Cost of Living Council approved it the latter part of December—that is, the dollar-per-barrel increase—and that is included in the \$5.25.

Mr. JOHNSTON. That dollar increase was not a cost passthrough but was, in effect, what some might call a windfall profit. Was it not?

Mr. JACKSON. I think that is correct. It was, to my best recollection, allowed as an incentive to production, and did not reflect increased costs. It went directly to the producer.

Mr. JOHNSTON. So, in effect, we are giving old oil owners a dollar per barrel windfall profit while at the same time reducing the price on new oil from \$10.35 to \$5.25?

Mr. JACKSON. I would not put it that way. I would put it the other way. The producers of new oil took a rather big leap in price this fall, from around \$3.90 to a high of about \$10.35. That is quite an adjustment. The average on new oil has been about \$9.51, but it has hit \$10.35 a barrel. That is an increase of \$5.45.

Mr. JOHNSTON. Can the Senator call it a windfall when it is new oil that is found under new circumstances? Does

not the term "windfall" really apply to old oil, and not to new oil?

Mr. JACKSON. That is true, but such windfalls do accrue when, for every barrel of new oil discovered since 1972—and that would not be new oil to me—they deregulated a barrel of old oil.

Mr. JOHNSTON. Right.

Mr. JACKSON. Which adds on to the consumer's cost another \$5 in increased prices. Thus recent price increases for new oil really amount to \$10 a barrel for the consumer, above the levels of a few months ago.

Mr. JOHNSTON. If the distinguished manager will recall, when we had the first day of hearings on the question of rollback in the Interior and Insular Affairs Committee, I made an opening statement criticizing the decision allowing deregulation of one barrel of old oil for every barrel of new oil discovered. I made the point that such a pricing procedure was not necessary to increase incentive, and that incentive to discover and produce oil is what we need. I am sure the distinguished chairman recalls that colloquy.

Mr. JACKSON. Yes; I recall that we did provide an incentive for new oil, when we worked out the deregulation of the so-called stripper well, using production of 10 barrels a day or less as a basis for qualification. The debate centered around the fact that the expected price increase would probably be a little over a dollar a barrel. What has happened since then, by reason of the cartel price set by OPEC—the oil producing exporting countries—has driven the price of stripper well production up by not \$1 but by \$5.45 a barrel—way beyond anything I contemplated—and I must confess I think it was a mistake to make that change which permitted such an extraordinary increase.

The administration has noted this problem. Mr. Sawhill, who is Deputy FEO Administrator, and Mr. Simon, who is Administrator, have commented on it. I should like to quote from the press conference that Mr. Sawhill had on February 1. This is the last paragraph of his statement:

So we feel that before we would take any action on new oil prices we would ask the Congress and we hope that they would give us the opportunity to put a cap on stripper wells—

Meaning price.

Mr. JOHNSTON. Will the Senator explain to me how it gives an incentive by allowing a dollar increase on old oil?

Mr. JACKSON. We are not defending that. We are authorizing them, of course, to roll it back. We do not require it, but we make it very clear in the provision of the conference report that they can do that. I am not defending that at all. I think it is a clear windfall. Nor do I defend the enormous increase in price as it relates to the new oil and the stripper well.

I do think the stripper well is in a special category, and I think there ought to be a special incentive, and that is one of the reasons we have provided in the bill the basic authority for the President to make upward price adjustments to encourage production if the criteria set

forth in the act are complied with and to permit up to a maximum price per barrel of \$7.09.

Also on page 13 of the conference report (9)—let me just read it so there is no misunderstanding—it is stated:

The President may at any time act to establish ceiling prices lower than those provided in paragraphs (2) and (5) if he determines that lower ceiling prices will permit the attainment of the objectives of this act and the purposes described in section 101(b) of the Energy Emergency Act.

As to any future raising of prices, as the Senator knows, the President must submit a detailed analysis to justify that action.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator.

Mr. ALLEN. Senators know that the price of propane has gone through the roof. There are thousands of families in my State who depend on propane for cooking, for hot water, for heating and for drying their crops. In only a few months the price of propane has more than tripled, and many of my people just do not have the money to pay these fantastic prices.

As the price of propane has gone up, very poor families have bought less of the fuel. Where once they bought propane sufficient to fill their tanks on a monthly basis, now they are buying only a half or a quarter tank.

In the cold months, Georgia families have seen their monthly propane bill rise from the former level of about \$25 to a new high of \$60. In other States, the monthly bill is now as high as \$80. What does that do to the elderly couple trying to live on social security? It forces them to give up a certain amount of heat so they can buy food and other essentials. This is a tragic situation which must be corrected.

Did the conferees, in their report, provide any relief from exorbitant propane prices?

Mr. JACKSON. Propane gas, the fuel which heats the homes of millions of rural families in the South and Midwest, has increased in price by 300 percent in the last 9 months, allowing the oil industry to enjoy huge profits at the expense of the very people who are least able to fight back.

There has either been an honest mistake by the Government in allowing the propane gas price increase or Government officials are guilty of deliberate and cynical opportunism. In either case, the result is the same—the rural families of the South and Midwest are paying the bill while the oil companies make unjustified profits.

What has happened is obvious. The oil companies are being pressured to hold down prices in more visible products such as fuel oil, gasoline and diesel. But in the less visible products such as propane—a product which is used extensively by the least visible Americans—the prices are going up at breakneck speed.

In Oklahoma, the cost to the homeowner for a gallon of propane last year was 12 cents a gallon. Now it is 37 to 40 cents a gallon. In Georgia, the price per gallon of propane at the distributor level has gone up over the year from 5 cents a gallon to 21 cents.

These price rises are being repeated throughout the South. People are quite literally going without heat in their homes.

Because the users of propane gas for home heating fuel are largely rural and poor, these consumers are being victimized. Profits which the industry cannot make in the sale of more closely watched petroleum products are being earned with a vengeance in propane.

The distributors tell us that there is no shortage of propane. The National LP Gas Association contradicts FEO's assertion that there is an acute propane shortage, and says it can supply all its traditional customers. Petrolane, the largest domestic marketer, says its stocks are 12 percent higher than a year ago, but the cost of the products it gets from refiners has increased 400 percent from a year ago.

The problem with propane prices is that the dollar-for-dollar passthrough in the Petroleum Allocation Act has not been applied proportionally to all petroleum products. The average prices of refined products have increased 30 to 50 percent, but some items like propane have been allowed to increase many times more.

On January 30, FEO proposed controls and propane prices for the first time, but these are just directed to controlling future increases, and prices are already much too high.

The Energy Emergency Act corrects this situation by mandating that rollbacks of petroleum products take into consideration the historical relationship among product prices. The language of the act intends, and the conferees intended, that the rollbacks required by the act by focusing especially upon those products like propane whose prices have been allowed to increase disproportionately.

Mr. ALLEN. Not all propane is refined from crude oil. Does this act reach the propane that is stripped from natural gas?

Mr. JACKSON. Although the Energy Emergency Act does not deal with the allocation or pricing of natural gas itself, natural gas liquids and condensate are treated like crude oil both by the Petroleum Allocation Act and by this act. The prices of both natural gas liquids and condensate, as well as crude oil, will be rolled back by this legislation, and these rollbacks must be passed on to consumers of those products which are made either from crude oil or from natural gas liquids and condensate.

It should be noted that "natural gas liquids" and "condensate" are physically the same thing. Natural gas liquids are stripped from the natural gas from oil wells and condensate comes from gas wells. Both are included in the category "crude petroleum" unless they are specifically excluded.

Mr. President, there has been much discussion here today about the likely impact of a price rollback on petroleum supplies, very little of which has been supported by statistics or other factual data. For the record, I would like to run through a number of statistical and economic studies which deal with this subject. Our prime concerns in considering

a rollback are two: first, the need to set a price which will permit development of a future supply of petroleum adequate to meet long-term needs; and second, the need to achieve equity for energy consumers and to avoid intensifying inflationary pressures on the economy by allowing runaway prices. With regard to the first point, there have been many allegations here today that any price rollback will drastically reduce supply, both immediately and in the long run. Yet I would like to point out that a survey of petroleum economic studies done in the last year indicate that, to achieve 80 percent energy self-sufficiency by 1980, the average price of crude oil would have to be between \$4.45 and \$7 a barrel—the most recent of these studies was completed in December 1973, by the National Petroleum Council—yet section 110 of the conference report, would permit a ceiling price for crude oil, where justified, of \$7.09 a barrel—considerably above the levels quoted by the industry as necessary to provide sufficient incentives for that exploration and development needed to assure continued adequate supplies of domestic energy. Since these are the industry's own figures, we assume they are an accurate reflection of their needs. I ask unanimous consent that a summary of the finding of these studies be printed in the RECORD.

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

SUMMARY OF RECENT PRICE STUDIES

A number of recent studies have focused on determining the long run supply price of crude oil needed to elicit adequate domestic supplies of oil. A summary of the findings of these studies is given below.

Federal Energy Office (January 1974):

"... The long term supply price of bringing in the alternate sources of energy in this country, as well as drilling the Outer Continental Shelf and the North Slope ... is \$7 a barrel, current 1973 dollars."

Department of the Treasury (December 1973):

"No one knows exactly what the long-term supply price is, as no one can predict the future that clearly. Our best estimate is that it would be in the neighborhood of \$7 per barrel within the next few years."

Independent Petroleum Association of America (1973 projections):

"In terms of constant 1973 dollars ... an average price of about \$6.65 per barrel for

crude oil ... would be required over the long run to achieve 85% self-sufficiency in oil and gas by 1980."

National Petroleum Council Oil and Gas Availability (Dec. 1973):

For maximum attainable self sufficiency by 1980, average revenue required per barrel of crude is shown on the following table for different rates of return.

TABLE 653.—AVERAGE UNIT REVENUE REQUIRED PER BARREL OF CRUDE OIL¹

	[Dollars per barrel] ²				
	10 percent rate of return	12.5 percent rate of return	15 percent rate of return	17.5 percent rate of return	20 percent rate of return ³
1971.....	2.739	2.981	3.223	3.465	3.706
1972.....	2.819	3.066	3.315	3.563	3.812
1973.....	2.855	3.112	3.370	3.623	3.886
1974.....	2.941	3.214	3.486	3.759	4.031
1975.....	3.168	3.359	3.650	3.941	4.232
1976.....	3.216	3.530	3.844	4.158	4.472
1977.....	3.398	3.738	4.078	4.418	4.758
1978.....	3.612	3.978	4.344	4.711	5.077
1979.....	3.815	4.208	4.601	4.995	5.389
1980.....	4.056	4.476	4.896	5.317	5.737
1981.....	4.288	4.738	5.188	5.639	6.087
1982.....	4.553	5.037	5.520	6.004	6.487
1983.....	4.864	5.631	5.899	6.417	6.935
1984.....	5.151	5.707	6.262	6.818	7.374
1985.....	5.500	6.093	6.687	7.280	7.873

¹ Based on economics for lower 48 States and South Alaska.

² Constant 1970 dollars.

³ All rates of return are annual book return on average net fixed assets.

Oil and Gas Journal (September 17, 1973):

"The price outlook for domestic crude thus has to be rated promising ... The new prices make investment attractive in the new equipment and services to rejuvenate marginal wells ... Risks are becoming worth taking." [September 1973 average domestic crude oil prior was \$4.27 a barrel; that of new oil was \$5.12.]

Petroleum Independent (November 1973):

"There's no doubt that prospects are for increased drilling. Everybody I know is planning on it. With new oil priced from \$5.30 to \$6.00 per barrel, there's incentive now to go looking for oil."

As to the second point, we cannot neglect the question of equity. Petroleum and petroleum products comprise a fundamental and inescapable part of the economic life of every industry and every consumer. A study made available to the Committee on Interior and Insular Affairs by John Dunlop, of the Cost of Living Council, shows that petroleum related costs represent from 14.5 percent to 43.3 percent of the total cost of 25 of our country's most basic industries.

The findings of that study which I ask unanimous consent to have printed in the RECORD.

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

ECONOMIC STABILIZATION PROGRAM, COST OF LIVING COUNCIL, Washington, D.C., December 26, 1973.

THE COSTS OF PURCHASED FUELS AND ELECTRIC ENERGY BY INDUSTRY

The attached four tables contain information that helps us to ascertain the potential impact of energy cost increases on different industries.

Table 1 is a summary table that presents data on value of shipments, cost of materials, the dollar cost of purchased fuels and electric energy, and fuel and electric energy costs as a percent of value of shipments and as a percent of cost of materials, by three-digit SIC industry group. The three supplementary tables arrange the industry groups in rank order according to:

(A) Dollar amount of energy and fuel purchased—Table 2.

(B) Energy and fuel costs as a percent of value of shipments—Table 3.

(C) Energy and fuel costs as a percent of cost of materials—Table 4.

The blast furnace and basic steel products industry spends \$1,251 million on purchased fuels and electric energy followed by the industrial chemicals industry which spends \$1,119 million on purchased fuels and electric energy. These two industries spend almost twice as much on energy as any other industry group. Following steel and industrial chemicals in descending order of millions of dollars spent on fuel and energy requirements are petroleum refining (\$586), paper-milling (\$375), primary nonferrous metals (\$320), motor vehicles (\$308), and plastics and synthetics industries (\$287).

The cost of purchased fuels and electric energy as a percent of the total cost of materials is greatest in the hydraulic cement industry (43%), followed in order by structural clay products (21.2%), building paper and paper-board mills (16.2%), industrial chemicals (14.8%), and glass (14.5%). There are eleven, three-digit SIC industry groups in which the costs of purchased fuels and electric energy account for more than 10 percent of the total cost of materials, and twenty-five industries in which fuel and energy costs account for more than 5 percent of materials cost.

The expected rapid increases in the costs of purchased fuels and electric energy in the coming months will add a considerable amount to cost justification in these industries.

TABLE I.—SELECTED STATISTICS ON SHIPMENT VALUE MATERIAL COSTS, AND ENERGY USE—MANUFACTURING INDUSTRIES, UNITED STATES, 1971

[Dollar amounts in thousands]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy		Purchased fuels		Purchased electric energy				
				Amount	Percent of shipment	Amount	Percent of shipment	Amount	Percent of shipment			
191	Guns, mortars ordnance and accessories, n.e.c.	562.2	150.4	9.8	1.7	6.5	3.2	0.6	2.1	6.4	1.1	4.3
192	Ammunition, except for small arms	5,278.7	1,661.6	35.1	.7	2.1	7.9	.1	.5	27.2	.5	1.6
193	Tanks and tank components	345.2	193.8	2.0	.6	1.0	.8	.2	.4	1.2	.3	.6
194	Sighting and fire control equipment	35.0	10.5	.2	.6	1.9	0	0	.2	.6	.1	.9
195	Small arms	379.1	129.1	4.4	1.2	3.4	1.7	.4	1.3	2.6	.7	2.0
196	Small arms ammunition	381.9	186.8	4.5	1.2	2.4	1.7	.4	.9	2.8	.7	1.5
201	Meat products	26,078.5	21,168.8	130.8	.5	.6	57.0	.2	.3	73.8	.3	.3
202	Dairy products	14,813.3	10,923.0	123.2	.8	1.1	54.3	.4	.5	69.0	.5	.6
203	Canned, cured and frozen foods	11,961.5	7,326.7	124.4	1.0	1.7	65.1	.5	.9	59.3	.5	.8
204	Grain mill products	11,269.6	7,787.9	118.1	1.1	1.5	57.3	.5	.7	60.8	.5	.8
205	Bakery products	7,357.2	3,221.7	65.5	.9	2.1	32.9	.4	1.0	33.6	.5	1.0
206	Sugar	2,857.0	2,015.4	61.1	2.3	3.0	56.7	2.0	2.8	5.0	.2	.2
207	Confectionery and related products	3,442.3	1,827.1	27.3	.8	1.5	10.6	.3	.6	16.7	.5	.9
208	Beverages	13,330.8	6,855.1	109.2	.8	1.6	57.0	.4	.8	50.2	.4	.7
209	Miscellaneous food and kindred products	12,580.7	8,651.8	136.0	1.1	1.1	73.9	.6	.8	62.1	.5	.7
211	Cigarettes	3,573.3	1,464.3	10.1	.3	.7	5.3	.1	.4	4.8	.1	.3
212	Cigars	359.3	140.5	1.7	.5	1.2	.4	.1	.3	1.3	.4	.9
213	Chewing and smoking tobacco	186.6	81.5	1.1	.6	1.3	.6	.3	.7	.5	.3	.6

SIC code	Description	Purchased fuels and electric energy				Purchased fuels			Purchased electric energy			
		Value of shipments	Cost of materials	Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost material	Amount	Percent of shipment	Percent of cost material
214	Tobacco stemming and redrying	1,408.7	1,286.7	6.8	0.5	0.5	3.2	0.2	0.2	3.5	0.2	0.3
221	Weaving mills, cotton	2,650.5	1,379.8	60.7	2.3	4.4	14.5	.5	1.1	46.2	1.7	3.3
222	Weaving mills, synthetic	3,129.6	1,711.8	63.7	2.0	3.7	16.7	.5	1.0	47.0	1.5	2.7
223	Weaving and finishing mills, wool	546.8	296.1	13.1	2.4	4.4	6.6	1.2	2.2	6.5	1.2	2.2
224	Narrow fabric mills	\$531.2	\$247.5	\$6.5	1.2	2.6	\$2.1	0.4	0.8	\$4.4	0.8	1.8
225	Knitting mills	6,336.0	3,683.9	65.8	1.0	1.8	28.2	.4	.8	37.6	.6	1.0
226	Textile finishing, except wool	2,113.6	1,177.3	65.7	3.1	5.6	47.7	2.3	4.1	18.0	.9	1.5
227	Floor covering mills	2,618.8	1,776.0	28.2	1.1	1.6	18.0	.7	1.0	10.3	.4	.6
228	Yarn and thread mills	3,604.8	2,482.0	60.6	1.7	2.7	11.4	.3	.5	49.2	1.4	2.2
229	Miscellaneous textile goods	2,438.5	1,489.1	36.9	1.5	2.5	14.6	.6	1.0	22.3	.9	1.5
231	Men's and boy's suits and coats	1,892.1	858.7	10.9	.6	1.3	3.2	.2	.4	7.6	.4	.9
232	Men's and boy's furnishings	6,116.1	3,036.2	26.6	.4	.9	7.0	.1	.2	19.7	.3	.6
233	Women's and misses outerwear	7,698.5	3,882.2	44.8	.6	1.2	9.1	.1	.2	35.7	.5	.9
234	Women's and children's undergarments	1,913.4	885.2	7.7	.4	.9	1.6	.1	.2	6.1	.3	.7
235	Hats, caps, and millinery	221.9	98.6	1.6	.7	1.6	.5	.2	.5	1.1	.5	1.1
236	Children's outerwear	\$1,194.9	\$600.3	\$4.9	0.4	0.8	\$0.9	0.1	0.1	\$0.4	0.3	0.7
238	Miscellaneous apparel and accessories	1,188.6	586.2	5.4	.5	.9	1.5	.1	.3	3.9	.3	.7
239	Miscellaneous fabricated textile products	4,615.2	2,611.5	29.4	.6	1.1	9.3	.2	.4	20.1	.4	.8
241	Logging camps and logging contractors	1,814.1	954.6	48.3	2.7	5.1	45.4	2.5	4.8	2.9	.2	.3
242	Sawmills and planing mills	5,267.7	2,804.0	126.0	2.4	4.5	58.7	1.1	2.1	67.3	1.3	2.4
243	Millwork, plywood and related products	5,395.6	3,155.9	58.8	1.1	1.9	24.4	.5	.8	34.4	.6	1.1
244	Wooden containers	414.4	230.6	4.9	1.2	2.1	1.8	.4	.8	2.1	.7	1.3
249	Miscellaneous wood products	2,039.0	1,028.2	50.2	2.5	6.9	24.5	1.2	2.4	25.7	1.3	2.5
251	Household furniture	6,622.6	3,208.7	53.8	.8	1.7	18.2	.3	.6	35.6	.5	1.1
252	Office furniture	857.3	340.1	8.4	1.0	2.5	3.3	.4	1.0	5.1	.6	1.5
253	Public building furniture	471.8	218.5	4.5	1.0	2.1	1.7	.4	.8	2.8	.6	1.3
254	Partitions and fixtures	1,225.4	531.1	11.9	1.0	2.2	4.7	.4	.9	7.2	.6	1.4
259	Miscellaneous furniture and fixtures	576.4	261.0	5.5	1.0	2.1	2.3	.4	.9	3.3	.6	1.3
261	Pulpmills	841.8	496.4	57.8	6.9	11.6	41.4	4.9	8.3	16.4	1.9	3.3
262	Papermills, except building paper	5,825.7	3,229.6	375.3	6.4	11.6	240.5	4.1	7.4	134.8	2.3	4.2
263	Paperboard mills	3,536.4	1,885.5	256.2	7.2	13.6	200.1	5.7	10.6	56.1	1.6	3.0
264	Miscellaneous converted paper products	7,672.0	4,039.2	73.8	1.0	1.8	28.7	.4	.7	45.1	.6	1.1
265	Paperboard containers and boxes	7,116.5	3,970.9	73.5	1.9	3.1	31.0	.4	.8	42.5	.6	1.1
266	Building paper and board mills	465.7	218.5	35.5	7.6	16.2	20.8	4.5	9.5	14.7	3.2	6.7
271	Newspapers	7,354.5	1,817.5	44.0	.6	2.4	9.7	.1	.5	34.3	.5	1.9
272	Periodicals	3,238.6	1,239.3	6.9	.2	.6	1.2	0	.1	5.8	.2	.5
273	Books	3,681.9	1,220.6	17.6	.5	1.4	4.1	.1	.3	13.5	.4	1.1
274	Miscellaneous publishing	764.2	211.1	(S)	NA	NA	(S)	NA	NA	2.7	.4	1.3
275	Commercial printing	8,298.8	3,214.2	81.7	1.0	2.5	23.1	.3	.7	58.6	.7	1.8
276	Manifold business forms	1,277.7	550.3	8.4	.7	1.5	2.0	.2	.4	6.5	.5	1.2
277	Greeting card publishing	738.7	268.3	(S)	NA	NA	(S)	NA	NA	2.7	.4	1.0
278	Blankbooks and bookbinding	848.4	241.3	8.1	1.0	3.4	1.7	.2	.7	6.4	.8	2.7
279	Printing trade services	684.4	98.7	7.8	1.1	7.9	1.6	.2	1.6	6.2	.9	6.3
281	Industrial chemicals	16,524.3	7,545.1	1,119.4	6.8	14.8	576.9	3.5	7.6	542.3	3.3	7.2
282	Plastics materials and synthetics	9,345.6	4,569.4	286.5	3.1	6.3	173.8	1.9	3.8	112.7	1.2	2.5
283	Drugs	7,278.1	1,808.6	63.0	.9	3.5	30.1	.4	1.7	32.9	.5	1.8
284	Soap, cleaners and toilet goods	8,467.2	3,170.2	47.4	.6	1.5	24.2	.3	.8	23.2	.3	.7
285	Paints and allied products	3,655.9	1,921.1	22.1	.6	1.2	9.3	.3	.5	12.8	.4	.7
286	Gum and wood chemicals	279.4	144.7	6.6	2.4	4.6	5.3	1.9	3.7	1.3	.5	.9
287	Agricultural chemicals	2,751.3	1,607.7	53.5	1.9	3.3	25.2	.9	1.6	28.3	1.0	1.8
289	Miscellaneous chemical products	3,571.3	1,723.0	75.9	2.1	4.4	59.3	1.4	2.9	26.6	.7	1.5
291	Petroleum refining	24,583.7	20,091.9	585.6	2.4	2.9	412.4	1.7	2.1	173.2	.7	.9
295	Paving and roofing materials	1,683.5	972.7	43.9	2.6	4.5	30.2	1.8	3.1	13.7	.8	1.4
299	Miscellaneous petroleum and coal products	668.0	396.2	7.5	1.1	1.9	5.1	.8	1.3	2.4	.4	.6
301	Tires and inner tubes	5,231.9	2,468.4	70.9	1.4	2.9	29.6	.6	1.2	41.3	.8	1.7
302	Rubber footwear	519.8	228.7	5.1	1.0	2.2	1.8	.3	.8	3.3	.6	1.4
303	Reclaimed rubber	32.1	14.5	1.9	5.9	13.1	.6	1.9	4.1	1.3	4.0	9.0
306	Fabricated rubber products, n.e.c.	3,495.0	1,475.0	56.3	1.6	3.8	24.9	.7	1.7	31.3	.9	2.1
307	Miscellaneous plastics products	7,765.0	3,354.9	134.1	1.7	4.0	33.0	.4	1.0	101.1	1.3	3.0
311	Leather tanning and finishing	838.3	498.5	15.7	1.9	3.1	10.1	1.2	2.0	5.6	.7	1.1
312	Industrial leather belting and packing	50.0	20.1	(S)	NA	NA	(S)	NA	NA	.4	.8	2.0
313	Footwear cut stock	234.0	124.7	2.2	.9	1.8	.8	.3	.6	1.3	.6	1.0
314	Footwear, except rubber	3,068.5	1,342.6	15.6	.5	1.2	4.0	.1	.3	11.6	.4	.9
315	Leather gloves and mittens	92.1	48.7	.6	.7	1.2	.3	.3	.6	.3	.3	.6
316	Luggage	283.3	125.0	2.3	.8	1.8	.4	.1	.3	1.9	.7	1.5
317	Handbags and personal leather goods	509.2	209.5	4.3	.8	2.1	.6	.1	.3	3.6	.7	1.7
319	Leather goods, n.e.c.	143.0	68.3	.7	.5	1.0	.2	.2	.3	.5	.3	.7
321	Flat glass	811.1	240.3	34.5	4.3	14.4	24.7	3.0	10.3	8.8	1.1	3.7
322	Glass and glassware, pressed or blown	3,052.0	1,009.3	146.7	4.8	14.5	99.7	3.3	9.9	47.0	1.5	4.7
323	Products of purchased glass	1,156.6	600.0	14.4	1.2	2.4	6.6	.6	1.1	7.8	.7	1.3
324	Cement, hydraulic	1,560.3	564.9	243.1	15.6	43.0	163.7	10.5	29.0	79.4	1.5	14.1
325	Structural clay products	1,115.2	386.6	82.1	7.4	21.2	63.7	5.7	16.5	18.4	1.6	4.7
326	Pottery and related products	717.8	217.7	19.4	2.7	8.9	12.6	1.8	5.8	6.8	.9	3.1
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	179.7	2.7	5.4	133.9	2.0	4.0	45.8	.7	1.4
328	Cut stone and stone products	261.4	97.2	5.7	2.2	5.9	2.2	.8	2.2	3.6	1.3	3.7
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	108.0	3.2	7.7	64.4	1.9	4.6	43.6	1.3	3.1
331	Blastfurnace and basic steel products	25,790.4	14,677.7	1,250.5	4.8	8.5	784.2	3.0	5.3	466.8	1.8	3.2
332	Iron and steel foundries	4,977.5	1,956.8	207.4	4.2	10.6	109.6	2.2	5.6	97.8	2.0	5.0
333	Primary nonferrous metals	5,290.6	3,930.0	320.0	6.0	8.1	100.0	1.9	2.5	219.9	4.1	5.6
334	Secondary nonferrous metals	1,644.0	1,350.1	23.1	1.4	1.7	15.4	.9	1.1	7.7	.9	1.6
335	Nonferrous rolling and drawing	11,316.2	8,062.9	173.4	1.5	2.1	71.4	.6	.9	102.1	.9	1.3
336	Nonferrous foundries	1,919.6	868.2	43.0	2.2	4.9	20.7	1.0	2.4	22.3	1.2	2.6
339	Miscellaneous primary metal products	2,129.0	1,035.2	80.8	3.8	7.8	51.0	2.3	4.8	30.7	1.4	3.0
341	Metals cans	4,159.4	2,429.4	33.1	.8	1.4	15.2	.4	.6	17.9	.7	.9
342	Cutlery, handtools, and hardware	4,485.3	1,709.5	45.1	1.0	2.6	17.3	.4	1.0	27.8	.6	1.6
343	Plumbing and heating, except electric	2,207.0	1,109.3	22.7	1.0	2.0	11.4	.5	1.0	11.2	.5	1.0
344	Fabricated structural metal products	12,615.2	6,432.1	105.5	1.8	1.6	43.1	.3	0.7	62.4	.5	1.0
345	Screw machine products, belts, etc.	2,620.7	1,065.3	32.4	1.2	3.0	11.8	.5	1.1	20.6	.8	1.9
347	Metal stampings	7,095.7	3,407.6	76.4	1.1	2.2	25.6	.4	.8	50.8	.7	1.5
347	Metal services, n.e.c.	1,484.9	516.8	46.2	3.1	8.9	20.0	1.3	3.9	26.2	1.8	5.1
348	Miscellaneous fabricated wire products	1,336.4	598.4	14.2	1.1	2.4	4.9	.4	.8	9.2	.7	1.5
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	69.2	1.1	2.5	28.9	.5	1.0	40.3	.7	1.4
351	Engines and turbines	5,024.9	2,500.9	35.5	.7	1.4	14.4	.3	.6	21.1</		

TABLE I.—SELECTED STATISTICS ON SHIPMENT VALUE, MATERIAL COSTS, AND ENERGY USE—MANUFACTURING INDUSTRIES, UNITED STATES, 1971—Continued

[Dollar amounts in thousands]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy		Purchased fuels		Purchased electric energy				
				Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost	Amount	Percent of shipment	Percent of cost
361	Electric test and distributing equipment.....	4,618.7	1,825.6	33.9	0.7	1.9	10.0	0.2	0.5	23.8	0.5	1.3
362	Electrical industrial apparatus.....	4,929.7	2,006.4	63.8	1.3	3.2	21.4	0.4	1.1	42.3	0.9	2.1
363	Household appliances.....	6,061.6	2,911.6	44.6	0.7	1.5	18.2	0.3	0.6	26.4	0.4	0.9
364	Electric lighting and wiring equipment.....	4,832.2	2,030.5	41.9	0.9	2.1	16.1	0.3	0.8	25.9	0.5	1.3
365	Radio and TV receiving equipment.....	4,543.8	2,664.4	17.1	0.4	0.6	4.8	0.1	0.2	12.3	0.3	0.5
366	Communication equipment.....	12,985.3	4,833.8	73.5	0.6	1.5	17.0	0.1	0.4	56.5	0.4	1.2
367	Electronic components and accessories.....	7,296.4	2,917.2	78.4	1.1	2.7	19.1	0.3	0.7	59.3	0.8	2.0
369	Miscellaneous electrical equipment and supplies.....	3,900.3	1,733.6	31.4	0.8	1.8	9.9	0.3	0.6	21.5	0.6	1.2
371	Motor vehicles and equipment.....	58,138.0	37,575.1	305.1	0.5	0.8	119.0	0.2	0.3	186.1	0.3	0.5
372	Aircraft and parts.....	18,432.8	7,820.6	123.6	0.7	1.6	34.5	0.2	0.4	89.1	0.5	1.1
373	Ship and boatbuilding and repairing.....	3,503.4	1,564.0	30.6	0.9	2.0	10.3	0.3	0.7	20.3	0.6	1.3
374	Railroad equipment.....	2,363.9	1,372.3	17.0	0.7	1.2	7.9	0.3	0.6	9.1	0.4	0.7
375	Motorcycles, bicycles, and parts.....	4,659.6	2,566.6	3.2	0.7	1.2	1.4	0.3	0.5	1.8	0.4	0.7
379	Miscellaneous transportation equipment.....	4,012.8	2,662.6	13.9	0.3	0.5	5.3	0.1	0.2	8.1	0.2	0.3
381	Engineering and scientific instruments.....	1,105.0	408.6	9.6	0.8	2.3	3.0	0.3	0.7	6.5	0.6	1.6
382	Mechanical measuring and control devices.....	2,275.9	740.9	17.4	0.9	2.3	4.9	0.2	0.7	12.5	0.5	1.7
383	Optical instruments and lenses.....	2,385.6	120.8	3.0	0.8	2.5	0.6	0.2	0.5	2.4	0.6	2.0
384	Medical instruments and supplies.....	2,327.5	833.6	14.8	0.6	1.8	4.3	0.2	0.5	10.5	0.5	1.3
385	Ophthalmic goods.....	565.2	176.6	5.3	0.7	3.0	1.9	0.3	1.1	3.4	0.6	1.9
386	Photographic equipment and supplies.....	4,709.2	1,233.6	31.3	0.9	2.5	18.1	0.4	1.5	13.2	0.3	1.1
387	Watches, clocks, and watchcases.....	906.8	442.7	4.1	0.5	0.9	1.2	0.1	0.3	2.9	0.3	0.7
391	Jewelry, silverware and plated ware.....	1,559.8	824.5	10.3	0.7	1.2	3.6	0.2	0.4	6.7	0.4	0.8
393	Musical instruments and parts.....	506.5	233.2	3.6	0.8	1.5	1.2	0.2	0.5	2.4	0.5	1.0
394	Toys and sporting goods.....	2,785.5	1,229.5	21.5	0.8	1.7	6.3	0.2	0.7	15.1	0.5	1.2
395	Pens, pencils, office and art supplies.....	873.4	355.4	8.0	0.9	2.2	2.4	0.3	0.7	5.6	0.6	1.6
396	Costume jewelry and notions.....	1,227.6	507.7	9.8	0.8	1.9	3.0	0.2	0.6	6.9	0.6	1.4
399	Miscellaneous manufactures.....	3,169.2	1,318.8	26.9	0.8	2.0	13.9	0.4	1.1	13.0	0.4	1.0

TABLE II.—INDUSTRIES RANKED BY DOLLARS SPENT ON ENERGY REQUIREMENTS

[In millions of dollars]

Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy	Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy
331	Blast furnace and basic steel products.....	25,790.4	14,677.7	1,250.5	295	Paving and roofing materials.....	1,683.5	972.7	43.9
281	Industrial chemicals.....	16,524.3	7,545.1	1,119.4	336	Nonferrous foundries.....	1,919.6	868.2	43.0
291	Petroleum refining.....	24,583.7	20,091.9	585.6	364	Electric lighting and wiring equipment.....	4,832.2	2,030.5	41.9
262	Papermills, except building paper.....	5,825.7	3,229.6	375.3	357	Office and computing machines.....	6,905.7	2,811.9	37.7
333	Primary nonferrous metals.....	5,290.6	3,930.0	320.0	352	Farm machinery.....	4,456.4	2,457.3	37.3
371	Motor vehicles and equipment.....	58,138.0	37,575.1	305.1	229	Miscellaneous textile goods.....	2,438.5	1,489.1	36.9
282	Plastics materials and synthetics.....	9,345.6	4,569.4	286.5	266	Building paper and board mills.....	465.7	218.5	35.5
263	Paperboard mills.....	3,536.4	1,885.5	256.2	351	Engines and turbines.....	5,024.9	2,500.9	35.5
324	Cement, hydraulic.....	1,560.3	564.9	243.1	192	Ammunition, except for small arms.....	5,278.7	1,661.6	35.1
332	Iron and steel foundries.....	4,977.5	1,956.8	207.4	321	Flat glass.....	811.1	240.3	34.5
327	Concrete, gypsum, and plaster products.....	6,545.8	3,291.1	179.7	361	Electric test and distributing equipment.....	4,618.7	1,825.6	33.9
335	Nonferrous rolling and drawing.....	11,316.2	8,062.9	173.4	341	Metal cans.....	4,159.4	2,429.4	33.1
322	Glass and glassware, pressed or blown.....	3,052.0	1,009.3	146.7	345	Screw machine products bolts, etc.....	2,620.1	1,065.3	32.4
209	Miscellaneous food and kindred products.....	12,580.7	8,651.8	136.0	369	Miscellaneous electrical equipment and supplies.....	3,900.3	1,733.6	31.4
307	Miscellaneous plastic products.....	7,785.0	3,354.9	134.1	386	Photographic equipment and supplies.....	4,709.2	1,233.6	31.3
201	Meat products.....	26,078.5	21,168.8	130.8	373	Ship and boatbuilding and repairing.....	3,503.4	1,564.0	30.6
242	Sawmills and planing mills.....	5,267.7	2,804.0	126.0	239	Miscellaneous fabricated textile products.....	4,615.2	2,611.5	29.4
203	Canned, cured, and frozen foods.....	11,961.5	7,326.7	124.4	227	Floor covering mills.....	2,678.8	1,776.0	28.2
372	Aircraft and parts.....	18,432.8	7,820.6	123.6	207	Confectionery and related products.....	3,442.3	1,727.1	28.2
202	Dairy products.....	14,813.3	10,923.0	118.1	399	Miscellaneous manufactures.....	3,169.2	1,318.8	26.9
204	Grain mill products.....	11,209.6	7,787.9	109.2	232	Men's and boys' furnishings.....	6,116.1	3,036.2	26.6
208	Beverages.....	13,330.8	6,855.1	108.1	334	Secondary nonferrous metals.....	1,644.0	1,350.1	23.1
329	Miscellaneous nonmetallic mineral products.....	3,314.5	1,409.2	105.5	343	Plumbing and heating except electric.....	2,207.0	1,109.3	22.7
344	Fabricated structural metal products.....	12,615.2	6,432.1	82.1	285	Paints and allied products.....	3,655.9	1,921.1	22.1
325	Structural clay products.....	1,115.2	386.6	81.7	394	Toys and sporting goods.....	2,785.5	1,229.5	21.5
275	Commercial printing.....	8,298.8	3,214.2	80.8	326	Pottery and related products.....	717.8	217.7	19.4
339	Miscellaneous primary metal products.....	2,129.0	1,035.2	78.4	273	Books.....	3,681.9	1,220.6	17.6
367	Electronic components and accessories.....	7,296.4	2,917.2	76.4	382	Mechanical measuring and control devices.....	2,275.9	740.9	17.4
346	Metal stampings.....	7,095.7	3,407.6	75.9	365	Radio and TV receiving equipment.....	4,543.8	2,664.4	17.1
289	Miscellaneous chemical products.....	3,571.3	1,723.0	74.8	374	Railroad equipment.....	2,363.9	1,372.3	17.0
356	General industry machinery.....	7,422.6	3,102.8	74.4	311	Leather tanning and finishing.....	838.3	498.5	15.7
354	Metalworking machinery.....	6,555.8	2,169.3	73.8	314	Footwear, except rubber.....	3,068.5	1,342.6	15.6
264	Miscellaneous converted paper products.....	7,672.0	4,039.2	73.5	384	Medical instruments and supplies.....	2,327.5	833.6	14.8
265	Paper board containers and boxes.....	7,116.5	3,970.9	71.3	323	Products of purchased glass.....	1,156.6	600.0	14.4
366	Communication equipment.....	12,985.3	4,833.8	70.9	348	Miscellaneous fabricated wire products.....	1,336.4	598.4	14.2
353	Construction and related machinery.....	9,498.8	4,544.2	69.2	379	Miscellaneous transportation equipment.....	4,012.8	2,662.6	13.9
301	Tires and inner tubes.....	5,231.9	2,468.4	66.5	223	Weaving and finishing mills, wool.....	546.8	296.1	13.1
349	Miscellaneous fabricated metal products.....	6,022.4	2,783.4	65.8	254	Partitions and fixtures.....	1,225.4	531.1	11.9
205	Bakery products.....	7,357.2	3,221.7	65.7	231	Men's and boys' suits and coats.....	1,892.1	858.7	10.9
225	Knitting mills.....	6,336.0	3,683.9	63.8	391	Jewelry, silverware and plated ware.....	1,559.8	824.5	10.3
226	Textile finishing, except wool.....	2,113.6	1,177.3	63.7	211	Cigarettes.....	3,573.3	1,464.3	10.1
362	Electrical industrial apparatus.....	4,929.7	2,006.4	63.0	398	Costume jewelry and notions.....	1,227.6	507.7	9.8
222	Weaving mills, synthetic.....	3,129.6	1,711.8	61.1	381	Engineering and scientific instruments.....	1,105.0	408.6	9.6
283	Drugs.....	7,278.1	1,808.6	60.7	252	Office furniture.....	857.3	340.1	8.4
206	Sugar.....	2,857.0	2,015.4	60.6	276	Manifold business forms.....	1,277.7	550.3	8.4
221	Weaving mills, cotton.....	2,650.5	1,379.8	58.8	278	Blankbooks and bookbinding.....	848.4	241.3	8.1
228	Yarn and thread mills.....	3,604.8	2,262.0	57.8	395	Pens, pencils, office and art supplies.....	873.4	356.4	8.0
243	Millwork, plywood and related products.....	5,395.6	3,155.9	57.3	279	Printing trade services.....	684.4	98.7	7.8
261	Pulpmills.....	841.8	496.4	56.8	234	Women's and children's undergarments.....	1,913.4	885.2	7.7
306	Fabricated rubber products, n.e.c.....	3,495.0	1,475.0	53.8	299	Miscellaneous petroleum and coal products.....	668.0	396.2	7.5
251	Household furniture.....	6,622.6	3,208.7	52.2	272	Periodicals.....	3,238.6	1,239.3	6.9
287	Agricultural chemicals.....	2,751.3	1,607.7	50.2	214	Tobacco stemming and redrying.....	1,408.7	1,286.7	6.8
249	Miscellaneous wood products.....	2,039.0	1,028.2	48.3	286	Gum and wood chemicals.....	279.4	144.7	6.6
241	Logging camps and logging contractors.....	1,814.1	954.6	47.4	224	Narrow fabric mills.....	531.2	247.5	6.5
284	Soap, cleaners and toilet goods.....	8,467.2	3,170.2	46.2	328	Cut stone and stone products.....	261.5	97.2	5.7
347	Metal services, n.e.c.....	1,484.9	516.8	46.1	259	Miscellaneous furniture and fixtures.....	576.4	261.0	5.5
358	Service industry machines, except electrical.....	6,621.2	3,558.7	45.7	238	Miscellaneous apparel and accessories.....	1,188.6	586.2	5.4
359	Miscellaneous machinery, except electrical.....	3,884.1	1,222.9	45.7	385	Ophthalmic goods.....	565.2	176.6	5.3
342	Cutlery, handtools, and hardware.....	4,485.3	1,709.5	44.6	302	Rubber footwear.....	519.8	228.7	5.1
233	Women's and misses' outerwear.....	7,698.6	3,882.2	44.5	236	Children's outerwear.....	1,194.9	600.3	4.9
363	Household appliances.....	6,061.6	2,911.6	44.5	244	Wooden containers.....	414.4	230.6	4.9
355	Special industry machinery.....	5,186.4	2,168.5	44.5					
12	Newspapers.....	7,354.5	1,817.5	44.0					

Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy	Sic code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy
191	Guns, mortars, ordnance and accessories, n.e.c.	562.2	150.4	4.5	193	Tanks and tank components	345.2	193.8	2.0
196	Small arms ammunition	381.9	186.8	4.5	303	Reclaimed rubber	32.1	14.5	1.9
253	Public building furniture	471.8	218.5	4.5	212	Cigars	359.3	140.5	1.7
195	Small arms	379.7	129.1	4.4	235	Hats, caps and millinery	221.9	98.6	1.6
317	Handbags and personal leather goods	506.2	209.5	4.3	213	Chewing and smoking tobacco	186.6	81.8	1.1
387	Watches, clocks, and watchcases	906.8	442.7	4.1	319	Leather goods, n.e.c.	143.0	68.3	.7
393	Musical instruments and parts	506.5	233.2	3.6	315	Leather gloves and mittens	92.1	48.7	.6
376	Motorcycles, bicycles, and parts	469.6	256.6	3.2	194	Sighting and fire control equipment	35.0	10.5	.2
383	Optical instruments and lenses	385.6	120.8	3.0	274	Miscellaneous publishing	764.2	211.1	NA
316	Luggage	283.3	125.0	2.3	277	Greeting card publishing	738.7	268.3	NA
313	Footwear cut stock	234.0	124.7	2.2	312	Industrial leather belting and packing	50.0	20.1	NA

TABLE III.—INDUSTRIES RANKED BY ENERGY COSTS AS A PERCENTAGE OF VALUE OF SHIPMENTS

(Dollar amounts in millions)

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of shipment)	SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of shipment)
324	Cement, hydraulic	\$1,560.3	\$564.9	15.6	342	Cutlery, handtools, and hardware	4,485.3	1,709.5	1.0
266	Building paper and board mills	465.7	218.5	7.6	343	Plumbing and heating, except electric	2,207.0	1,109.3	1.0
325	Structural clay products	1,115.2	386.6	7.4	356	General industry machinery	7,422.6	3,102.8	1.0
263	Paperboard mills	3,536.4	1,885.5	7.2	205	Bakery products	7,357.2	3,221.7	.9
261	Pulpmills	841.8	496.4	6.9	283	Drugs	7,278.1	1,808.6	.9
281	Industrial chemicals	16,524.3	7,545.1	6.8	313	Footwear cut stock	234.0	124.7	.9
262	Papermills, except building paper	5,825.7	3,229.6	5.4	355	Special industry machinery	5,186.4	2,168.5	.9
333	Primary nonferrous metals	5,290.6	3,930.0	6.0	364	Electric lighting and wiring equipment	4,832.2	2,030.5	.9
303	Reclaimed rubber	32.1	14.5	5.9	373	Ship and boat building and repairing	3,503.4	1,564.0	.9
322	Glass and glassware, pressed or blown	3,052.0	1,009.3	4.8	381	Engineering and scientific instruments	1,105.0	408.6	.9
331	Blast furnace and basic steel products	25,790.4	14,677.7	4.8	385	Ophthalmic goods	565.2	176.6	.9
321	Flat glass	811.1	240.3	4.3	395	Pens, pencils, office and art supplies	873.4	356.4	.9
332	Iron and steel foundries	4,977.5	1,956.8	4.2	202	Dairy products	14,813.3	10,923.0	.8
339	Miscellaneous primary metal products	2,129.0	1,035.2	3.8	207	Confectionery and related products	3,442.3	1,827.1	.8
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	3.2	208	Beverages	13,330.8	6,855.1	.8
226	Textile finishing, except wool	2,113.6	1,177.3	3.1	251	Household furniture	6,622.6	3,208.7	.8
282	Plastics materials and synthetics	9,345.6	4,569.4	3.1	316	Luggage	283.3	125.0	.8
347	Metal services, n.e.c.	1,484.9	516.8	3.1	317	Handbags and personal leather goods	509.2	209.5	.8
241	Logging camps and logging contractors	1,814.1	954.6	2.7	341	Metal cars	4,159.4	2,429.4	.8
326	Pottery and related products	717.8	217.7	2.7	344	Fabricated structural metal products	12,615.2	6,432.1	.8
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	2.7	352	Farm machinery	4,456.4	2,457.3	.8
295	Paving and roofing materials	1,683.5	972.7	2.6	353	Construction and related machinery	9,498.8	4,544.2	.8
249	Miscellaneous wood products	2,039.0	1,028.2	2.5	369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	.8
223	Weaving and finishing mills, wool	546.8	296.1	2.4	382	Mechanical measuring and control devices	2,275.9	740.9	.8
242	Sawmills and planing mills	5,267.7	2,804.0	2.4	383	Optical instruments and lenses	385.6	120.8	.8
286	Gum and wood chemicals	279.4	144.7	2.4	394	Toys and sporting goods	2,785.5	1,229.6	.8
291	Petroleum refining	24,583.7	20,091.9	2.4	396	Costume jewelry and notions	1,227.6	507.7	.8
206	Sugar	2,857.0	2,015.4	2.3	399	Miscellaneous manufactures	3,169.2	1,318.8	.8
221	Weaving mills, cotton	2,650.5	1,379.8	2.3	192	Ammunition, except for small arms	5,728.7	1,661.6	.7
328	Cut stone and stone products	261.4	97.2	2.2	235	Mats, caps, and millinery	221.9	98.6	.7
336	Nonferrous foundries	1,919.6	868.2	2.2	276	Manifold business forms	1,277.7	550.3	.7
289	Miscellaneous chemical products	3,571.3	1,723.0	2.1	315	Leather gloves and mittens	92.1	48.7	.7
222	Weaving mills, synthetic	3,129.6	1,711.8	2.0	351	Engines and turbines	5,024.9	2,500.9	.7
265	Paperboard containers and boxes	7,116.5	3,970.9	1.9	358	Service industry machines	6,621.2	3,558.7	.7
287	Agricultural chemicals	2,751.3	1,607.7	1.9	361	Electric test and distributing equipment	4,618.7	1,825.6	.7
311	Leather tanning and finishing	838.3	498.5	1.9	363	Household appliances	6,061.6	2,911.6	.7
191	Guns, mortars, ordnance, and accessories n.e.c.	562.2	150.4	1.7	372	Aircraft and parts	18,432.8	7,820.6	.7
228	Yarn and thread mills	3,604.8	2,262.0	1.7	374	Railroad equipment	2,363.9	1,372.3	.7
307	Miscellaneous plastic products	7,765.0	3,354.9	1.7	375	Motorcycles, bicycles, and parts	469.6	256.6	.7
306	Fabricated rubber products, n.e.c.	3,495.0	1,475.0	1.6	386	Photographic equipment and supplies	4,709.2	1,233.6	.7
229	Miscellaneous textile goods	2,438.5	1,489.1	1.5	391	Jewelry, silverware and plated ware	1,559.8	824.5	.7
335	Nonferrous rolling and drawing	11,316.2	8,062.9	1.5	393	Musical instruments and parts	506.6	233.2	.7
301	Tires and inner tubes	5,231.9	2,468.4	1.4	193	Tanks and tank components	345.2	193.8	.6
334	Secondary nonferrous metals	1,664.0	1,350.1	1.4	194	Sighting and fire control equipment	35.0	10.5	.6
362	Electrical industrial apparatus	4,929.7	2,006.4	1.3	213	Chewing and smoking tobacco	186.6	81.5	.6
195	Small arms	397.7	129.1	1.2	231	Men's and boys' suits and coats	1,892.1	858.7	.6
196	Small arms ammunition	381.9	186.8	1.2	233	Women's and misses outerwear	7,698.5	3,882.2	.6
224	Narrow fabric mills	531.2	247.5	1.2	239	Miscellaneous fabricated textile products	4,615.2	2,611.5	.6
244	Wooden containers	414.4	230.6	1.2	271	Newspapers	7,354.5	1,817.5	.6
323	Products of purchased glass	1,156.6	600.0	1.2	284	Soap, cleaners and toilet goods	8,467.2	3,170.2	.6
345	Screw machine products, bolts, etc.	2,620.1	1,065.3	1.2	285	Paints and allied products	3,655.9	1,921.1	.6
359	Miscellaneous machinery, except electrical	2,884.1	1,222.9	1.2	366	Communication equipment	12,985.3	4,833.8	.6
204	Grain mill products	11,209.6	7,787.9	1.1	384	Medical instruments and supplies	2,327.5	833.6	.6
209	Miscellaneous food and kindred products	12,580.7	8,651.8	1.1	201	Meat products	26,078.5	21,168.8	.5
227	Floor covering mills	2,678.8	1,776.0	1.1	212	Cigars	359.3	140.5	.5
243	Millwork, plywood, and related products	5,395.6	3,185.9	1.1	214	Tobacco stemming and redrying	1,408.7	1,286.7	.5
279	Printing trade services	684.4	98.7	1.1	238	Miscellaneous apparel and accessories	1,188.5	586.2	.5
299	Miscellaneous petroleum and coal products	663.0	396.2	1.1	273	Books	3,681.9	1,220.6	.5
346	Metal stampings	7,095.7	3,407.6	1.1	314	Footwear, except rubber	3,068.5	1,342.6	.5
348	Miscellaneous fabricated wire products	1,335.4	598.4	1.1	319	Office and computing machines	143.0	68.3	.5
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	1.1	371	Motor vehicles and equipment	6,909.7	2,811.9	.5
354	Metalworking machinery	6,555.8	2,169.3	1.1	387	Watches, clocks, and watchcases	58,138.0	37,575.7	.5
367	Electronic components and accessories	7,296.4	2,917.2	1.1	387	Watches, clocks, and watchcases	906.8	442.7	.5
203	Canned, cured, and frozen foods	11,961.5	7,326.7	1.0	232	Men's and boys' furnishings	6,116.1	3,036.2	.4
225	Knitting mills	6,336.0	3,683.9	1.0	234	Women's and children's undergarments	1,913.4	885.2	.4
252	Office furniture	857.3	340.1	1.0	236	Children's outerwear	1,194.9	600.3	.4
253	Public building furniture	471.8	218.5	1.0	365	Radio and TV receiving equipment	4,543.8	2,664.4	.4
254	Partitions and fixtures	1,225.4	531.1	1.0	211	Cigarettes	3,573.3	1,484.3	.3
259	Miscellaneous furniture and fixtures	576.4	261.0	1.0	379	Miscellaneous transportation equipment	4,012.8	2,662.6	.3
284	Miscellaneous converted paper products	7,672.0	4,039.2	1.0	272	Periodicals	3,238.6	1,239.3	.2
275	Commercial printing	8,298.8	3,214.2	1.0	274	Miscellaneous publishing	764.2	211.1	NA
278	Blankbooks and bookbinding	848.4	241.3	1.0	277	Greeting card publishing	738.7	268.3	NA
302	Rubber footwear	519.8	228.7	1.0	312	Industrial leather belting and packing	50.0	20.1	NA

TABLE IV.—INDUSTRIES RANKED BY ENERGY COSTS AS A PERCENTAGE OF COSTS OF MATERIALS

[Dollar amounts in millions]

SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of cost)	SIC code	Description	Value of shipments	Cost of materials	Purchased fuels and electric energy (percent of cost)
324	Cement, hydraulic	1,560.3	564.9	43.0	259	Miscellaneous furniture and fixtures	576.4	261.0	2.1
325	Structural clay products	1,115.2	386.6	21.2	317	Handbags and personal leather goods	509.2	209.5	2.1
266	Building paper and board mills	465.7	218.5	16.2	335	Nonferrous rolling and drawing	11,316.2	8,062.9	2.1
281	Industrial chemicals	16,524.3	7,545.1	14.8	355	Special industry machinery	5,186.4	2,168.5	2.1
322	Glass and glassware pressed or blown	3,052.0	1,009.3	14.5	364	Electric lighting and wiring equipment	4,832.2	2,030.5	2.1
321	Flat glass	811.1	240.3	14.4	343	Plumbing and heating, except electrical	2,207.0	1,109.3	2.0
263	Paperboard mills	3,536.4	1,885.5	13.6	373	Ship and boatbuilding and repairing	3,603.4	1,564.0	2.0
303	Reclaimed rubber	32.1	14.5	13.1	399	Miscellaneous manufactures	3,169.2	1,318.8	2.0
261	Pulpmills	841.8	496.4	11.6	194	Sighting and fire control equipment	35.0	10.5	1.9
262	Papermills, except building paper	5,825.7	3,229.6	11.6	243	Millwork, plywood and related products	5,395.6	3,155.9	1.9
332	Iron and steel foundries	4,977.5	1,956.8	10.6	265	Paperboard containers and boxes	7,116.5	3,970.9	1.9
326	Pottery and related products	717.8	217.7	8.9	299	Miscellaneous petroleum and coal products	668.0	396.2	1.9
347	Metal services, nec	1,484.9	516.8	8.9	361	Electric test and distributing equipment	4,618.7	1,825.6	1.9
331	Blast furnace and basic steel products	25,790.4	14,677.6	8.5	396	Costume jewelry and notions	1,227.6	507.7	1.9
333	Primary nonferrous metals	5,290.6	3,930.0	8.1	225	Knitting mills	6,336.0	3,683.9	1.8
279	Printing trade services	684.4	98.7	7.9	264	Miscellaneous converted paper products	7,672.0	4,039.2	1.8
339	Miscellaneous primary metal products	2,129.0	1,035.2	7.8	313	Footwear cut stock	234.0	124.7	1.8
329	Miscellaneous nonmetallic mineral products	3,314.5	1,409.2	7.7	316	Luggage	283.3	125.0	1.8
249	Miscellaneous wood products	2,039.0	1,028.2	6.9	369	Miscellaneous electrical equipment and supplies	3,900.3	1,733.6	1.8
191	Guns, mortars ordnance and accessories, n.e.c.	562.2	150.4	6.5	203	Canned, cured, and frozen foods	11,961.5	7,326.7	1.7
282	Plastics materials and synthetics	9,345.6	4,569.4	6.3	251	Household furniture	6,622.6	3,208.7	1.7
328	Cut stone and stone products	261.4	97.2	5.9	334	Secondary nonferrous metals	1,644.0	1,350.1	1.7
226	Textile finishing, except wool	2,113.6	1,177.3	5.6	384	Medical instruments and supplies	2,327.5	833.6	1.8
327	Concrete, gypsum, and plaster products	6,545.8	3,291.1	5.4	394	Toys and sporting goods	2,785.5	1,229.6	1.7
241	Logging camps and logging contractors	1,814.1	954.6	5.1	208	Beverages	18,330.8	8,855.1	1.6
336	Nonferrous foundries	1,919.6	868.2	4.9	227	Floor covering mills	2,678.8	1,776.0	1.6
286	Gum and wood chemicals	279.4	144.7	4.6	335	Hats, caps, and millinery	221.9	98.6	1.6
242	Sawmills and planing mills	5,267.7	2,804.0	4.5	344	Fabricated structural metal products	12,615.2	6,432.1	1.6
296	Paving and roofing materials	1,683.5	972.7	4.5	353	Construction and related machinery	9,498.8	4,544.2	1.6
221	Weaving mills, cotton	2,650.5	1,379.8	4.4	372	Aircraft and parts	18,432.6	7,820.6	1.6
223	Weaving and finishing mills, wool	546.8	296.1	4.4	-----	Grain mill products	11,209.6	7,787.9	1.5
298	Miscellaneous chemical products	3,571.3	1,723.0	4.4	-----	Confectionery and related products	3,442.3	1,827.1	1.5
307	Miscellaneous plastics products	7,765.0	3,354.9	4.0	-----	Manifold business forms	1,277.7	550.3	1.5
355	Fabricated rubber products, n.e.c.	3,496.0	1,475.0	3.8	-----	Soap, cleaners, and toilet goods	8,467.2	3,170.2	1.5
222	Weaving mills, synthetic	3,129.6	1,711.8	3.7	-----	Farm machinery	4,456.4	2,457.3	1.5
359	Miscellaneous machinery, except electrical	3,884.1	1,222.9	3.4	-----	Household appliances	6,061.6	2,911.6	1.5
283	Drugs	7,278.1	1,808.6	3.5	-----	Communication equipment	12,985.3	4,833.8	1.5
195	Small arms	379.7	129.1	3.4	-----	Musical instruments and parts	506.5	233.2	1.5
278	Blankbooks and bookbinding	848.4	241.3	3.4	-----	Books	3,681.9	1,220.6	1.4
354	Metalworking machinery	6,555.8	2,169.3	3.4	-----	Metal cans	4,159.4	2,429.4	1.4
287	Agricultural chemicals	2,751.3	1,607.7	3.3	-----	Engines and turbines	5,024.9	2,500.9	1.4
362	Electrical industrial apparatus	4,929.7	2,006.4	3.2	-----	Chewing and smoking tobacco	186.6	81.5	1.3
311	Leather tanning and finishing	838.3	498.5	3.1	-----	Men's and boy's suits and coats	1,892.1	858.7	1.3
206	Sugar	2,857.0	2,015.4	3.0	-----	Office and computing machines	6,909.7	2,811.9	1.3
345	Screw machine products bolts, etc.	2,620.1	1,065.3	3.0	212	Service industry	-----	-----	-----
385	Ophthalmic goods	565.2	176.6	3.0	-----	Cigars	359.3	140.5	1.2
291	Petroleum refining	24,583.7	20,091.9	2.9	233	Women's and misses outerwear	7,698.5	3,882.2	1.2
301	Tires and inner tubes	5,231.9	2,468.4	2.9	285	Paints and allied products	3,655.9	1,921.1	1.2
228	Yarn and thread mills	3,604.8	2,262.0	2.7	314	Footwear, except rubber	3,068.5	1,342.6	1.2
367	Electronic components and accessories	7,296.4	2,917.2	2.7	315	Leather gloves and mittens	92.1	48.7	1.2
342	Cutlery, handtools and hardware	4,485.3	1,709.5	2.6	-----	Railroad equipment	2,363.9	1,372.3	1.2
224	Narrow fabric mills	531.2	247.5	2.6	375	Motorcycles, bicycles, and parts	469.6	256.6	1.2
386	Photographic equipment and supplies	4,709.2	1,223.6	2.5	391	Jewelry, silverware & plated ware	1,559.8	824.5	1.2
229	Miscellaneous textile goods	2,438.5	1,489.1	2.5	202	Dairy products	14,813.3	10,923.0	1.1
252	Office furniture	857.3	340.1	2.5	209	Miscellaneous food and kindred products	12,580.7	8,651.8	1.1
275	Commercial printing	8,298.8	3,214.2	2.5	239	Misc. fabricated textile products	4,615.2	2,611.5	1.1
349	Miscellaneous fabricated metal products	6,022.4	2,783.4	2.5	193	Tanks and tank components	345.2	193.8	1.0
383	Optical instruments and lenses	385.6	120.8	2.4	319	Leather goods, n.e.c.	143.0	68.3	1.0
196	Small arms ammunition	381.9	186.8	2.4	232	Men's & boy's furnishings	6,116.1	3,036.2	.9
271	Newspapers	7,354.5	1,817.5	2.4	234	Women's and children's undergarments	1,913.4	885.2	.9
323	Products of purchased glass	1,155.6	600.0	2.4	238	Miscellaneous apparel and accessories	1,166.6	586.2	.9
348	Miscellaneous fabricated wire products	1,336.4	598.4	2.4	387	Watches, clocks, and watchcases	996.8	442.7	.9
356	General industry machinery	7,422.6	3,102.8	2.4	236	Children's outerwear	1,184.9	600.3	.8
381	Engineering and scientific instruments	1,105.0	408.6	2.3	371	Motor vehicles and equipment	58,138.0	37,575.7	.8
382	Mechanical measuring and control devices	2,275.9	740.9	2.3	211	Cigarettes	3,573.3	1,464.3	.7
254	Partitions and fixtures	1,225.4	531.1	2.2	201	Meat products	26,078.5	21,168.8	.6
302	Rubber footwear	519.8	228.7	2.2	272	Periodicals	3,238.6	1,239.3	.6
346	Metal stampings	7,095.7	3,407.6	2.2	365	Radio and TV receiving equipment	4,543.8	2,664.4	.5
395	Pens, pencils, office and art supplies	873.4	356.4	2.2	214	Tobacco stemming and redrying	1,408.7	1,286.7	.5
192	Ammunition, except for small arms	5,278.7	1,661.6	2.1	379	Miscellaneous transportation equipment	4,012.8	2,662.6	.5
205	Bakery products	7,357.2	3,221.7	2.1	274	Miscellaneous publishing	764.2	211.1	NA
244	Wooden containers	414.4	23.6	2.1	277	Greeting card publishing	738.7	268.3	NA
253	Public building furniture	471.8	218.5	2.1	312	Industrial leather belting and packing	50.0	20.1	NA

Mr. JACKSON. As these costs are passed on to the ultimate consumers, the inflationary impact of soaring oil prices multiplies several times over. The price of oil products in the past few months has increased dramatically: utilities are paying for residual oil 150 percent of the price they paid 3 months ago; gasoline and heating oil prices have risen as 50 percent and more in certain areas. Low- and fixed-income persons, small businesses caught under Cost of Living Council freezes, independent workers have all been caught in a crushing price squeeze. Clearly, this is not an equitable situation, particularly in the light of the profits being reaped by the oil in-

dustry, profits which have their origins in geopolitics and not in corporate business acumen.

I firmly believe we can satisfy both our longer term supply needs and our immediate need for equitable pricing, by adopting the provision in section 110 of the conference report. I urge the Senate to consider these facts carefully and to support passage of the conference report at the earliest possible date.

SENATOR RANDOLPH DISCUSSES ENERGY CRISIS
AND WHAT WE CAN DO ABOUT IT NOW

Mr. RANDOLPH. Mr. President, the energy crisis which has had a profound effect on life in this country, certainly since last fall, continues to force daily

adjustments in our traditional ways of thinking and acting.

The shortage of fuel, as we discuss this matter this afternoon, is just as severe, perhaps more so, as it was a week ago when the Senate voted to recommit the Energy Emergency Act to conference with Members of the House of Representatives. I felt at that time that the conference report was responsive to our needs, although we were not in complete agreement. I therefore opposed the recommitment.

After we went back into the conference, we worked for 3 consecutive days, for long hours and gave the matter careful consideration.

I think that we have strengthened the provisions, and in some instances readjustments were made which will be helpful. The basic values of the measure, as we had it at an earlier date, remain and will enable us to act forthrightly to conserve available energy supplies and use them in a manner that is equitable and in the best interests of the people of the country.

I must remind the Senators in the Chamber, and those who may read these remarks, that this measure was not hastily assembled during the first session of the 93d Congress.

Mr. President, I ask unanimous consent that Mr. Richard Grundy, of the staff of the Public Works Committee, be granted the privilege of the floor during the consideration of this matter.

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

Mr. RANDOLPH. Mr. President, the provisions in the bill were carefully considered. We have now given them, as I have indicated, further scrutiny and I hope that the matter will be acted upon either today or tomorrow in this body.

I do not believe that the delay is justified. This is urgently needed legislation.

I believe that we can agree that the executive branch has reacted to the energy crisis with limited legal authority. And I think that to solidify these efforts, we in the legislative body must cooperate.

I realize that the administration may not want to cooperate in the way that we are presenting this conference report to the Senate. However, this crisis has been a traumatic experience for millions of Americans. Except during wartime, the American people have not faced shortages of the type which now disrupt the mobile economy and the personal lives of people throughout the Nation. Until now, I think we can agree that much of our success in reducing the demand for energy has resulted from the self-discipline and voluntary cutbacks by companies and individuals.

The PRESIDING OFFICER. There will be order in the Senate. The Senator is entitled to be heard.

The Senator is entitled to be heard.

Mr. RANDOLPH. Mr. President, I realize that I am in the minority perhaps in the Senate and in the Congress in the advocacy of gasoline rationing. However, I know that State after State has begun to realize the importance of taking this step. We failed in the 1st session of the 93d Congress to impose gasoline rationing on the Nation. We should have done so. We lost in our effort by just a few votes.

The legislation pending before the Senate grants to the executive branch the authority to ration gasoline. This is an authority that should be used immediately.

I am convinced that motorists will more willingly accept a rationing system under which they know what they will receive, rather than the inequities, and there are plenty of them, and continued uncertainty of current conditions.

The administration has shown reluctance to ration gasoline. However, I feel strongly that delays and timidity in

taking the necessary steps will neither alleviate the crisis nor sustain public confidence in our ability to do this job.

Mr. President, I have for more than 15 years been deeply involved in matters relating to fuels and energy in the Senate. I have been disturbed and saddened by the failure of our country to have an overall policy dealing with fuels and energy.

I authored a measure which created the National Fuels and Energy Study which is now being conducted within the Senate Committee on Interior and Insular Affairs. I have worked as an ex officio member of that committee in that study.

So, the thoughts I express today have not been brought together hastily. My interest is not cursory. It has been founded in a study of the matter. Within the past 15 years the Public Works Committee has had an involvement. It has been primarily concerned with energy's relationship to environmental protection programs. The production of energy is closely tied to the Clean Air Act, which in 1970 formalized our commitment to ending, insofar as possible, of pollution in the air.

The legislation before the Senate contains provisions that modify some of the requirements of the Clean Air Act on a temporary basis.

Pollution reduction requirements relating to both stationary sources and automobiles have been revised in a realistic way to cope with the energy shortage.

I commend the members of the Public Works Committee for the action that has been taken. None of these actions will weaken the basic strengths of the Clean Air Act or the purposes of that legislation. However, I do feel that we have written into the conference report provisions that will ease the energy shortage. And we have not compromised the cause of a cleaner environment.

Mr. President, the shortage of oil and the development of new techniques now make it possible for generating plants to return to coal as a basic fuel.

The Energy Emergency Act allows at least 46 electric powerplants now fueled by oil to convert to coal. I think it is important that the Senate recognize that since much of the available coal used for this purpose has a high sulfur content, there could be a resurgence of air pollution without the installation of control devices for cleaning sulfur oxides from stack gases.

A major step in this direction took place recently when the Environmental Protection Agency determined that the technology to remove sulfur from stack gases is proven and reliable. The manufacturers of this equipment—known as scrubbers—are confident, and I have spoken with them, that it could be installed in all 46 powerplants eligible for conversion to coal within 4 years.

I repeat—and sometimes I am certain there are those who do not wish to have it repeated—that coal is our most abundant domestic fuel resource. The United States, in fact, possesses more than half of the world's known coal reserves.

I am from the State which has the largest underground coal production, and

I am acutely aware of its potential for making this country energy self-sufficient.

Questions have been raised about the ability of West Virginia coal to replace oil. I know that people have asked me recently: "What about the ability of West Virginia to mine the coal to replace oil on a large-scale or sustained basis?"

We in West Virginia know that much of our coal has a medium- to high-sulfur content, and its use would not be compatible with environmental requirements despite the oil shortage. The establishment of the reliability and availability of scrubbers at a reasonable cost should hasten their installation and create long-term markets for West Virginia coal.

Mr. President, I hope that my colleagues will listen carefully to these words:

Substantial quantities of oil could be saved by converting powerplants to coal. This potential is estimated to be more than 500,000 barrels a day—not a month nor a week, but, I emphasize, a day—or nearly one-third of the currently estimated oil supply shortfall.

I realize that many Members are not in the Chamber to hear these words, but it will be possible for them to read what I have said. We are also told that half of the 46 generating plants eligible could be converted to coal during the first quarter of this year, providing an almost immediate saving of 200,000 barrels of oil each day.

Twenty-three of these plants can be changed without any negative environmental effects. So I do want Senators to know that we are not rushing to burn coal in greater quantities unmindful of its impact on the environment. Even with the sophisticated equipment available to remove sulfur from stack gases, conversion to coal would not be permitted in areas where public health would suffer.

Finally, Mr. President, approval of the conference report does not mean that the Congress has discharged its duties with respect to energy. This measure is merely the first step in what must be an extended and searching examination of energy supplies and utilization. We need not panic over the current situation which, in the long run, may have beneficial results by stimulating us to plan realistically for the future.

The energy potential in our country is enormous, but we have to mobilize the enthusiasm, the imagination, the creativity, and the followthrough of our people to move forward. I think we have the qualities I have just mentioned. I know that the resources that are abundant, if we tap them, as we can. But I trust we have learned a lesson that will guide us in these efforts—that our goal must not be a return to the old ways of extravagant uses of energy.

So this conference report brings to us a challenge and a needed step in the direction of establishing rational policies for the development and the use of energy. It is a positive measure for meeting our current needs. And, as I have said earlier today on this floor, I am not a caustic or carping critic, but I do trust that the Members of this body will realize that we must face up to the urgency

for action, and our responsibility as citizens of the Republic. I cannot speak for what action the House of Representatives will take, or what its legislative or parliamentary problems may be. But I urge that we act today on this important matter. In my considered opinion, we will fail the country and the people if we allow this matter to be delayed and to go over until we return, perhaps on the 19th or the 20th of February after the recess.

Mr. President, as Senators know, the conference report on the Emergency Energy Act contains for the most part the same provisions that were in the conference agreement of last year. One such provision relates to the priorities for our Nation's schools in the allocation of fuels. During the debate on the conference report last December, I briefly outlined the intention of the conferees when language was inserted in the conference report on educational needs, and I questioned the able Senator from Washington (Mr. JACKSON) on this point. I ask unanimous consent that my remarks and the response of Senator JACKSON at that time be inserted in the RECORD.

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

Mr. RANDOLPH. Mr. President, I understand that the December 13 mandatory fuel allocation regulations proposed by the Federal Energy Office give our Nation's schools the place of high importance which they deserve and I am very pleased about that.

The Senator from Washington knows that a general purpose of this act and the mandatory Petroleum Allocation Act is to protect the public welfare and maintain all essential public services. In this connection I ask the Senator about the intent of this measure with regard to education. It is my impression that this bill is not intended to result in a forced closing of schools, and that the educational process and schools will continue with a minimum of disruption.

It is my understanding also that the conference report language on education, coupled with the Senate record on passage of the Emergency Petroleum Allocation Act, insures that education will be treated as a vital public service whenever priorities are established under section 4 of the Emergency Petroleum Allocation Act.

Does the able Senator from Washington concur in this analysis?

Mr. JACKSON. Mr. President, the Senator from West Virginia is correct in his analysis of the intention of this measure. The conferees report intends that education be considered a vital public service.

Mr. JOHNSTON and Mr. JAVITS addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JAVITS. Mr. President, will the Senator yield to me, to dispose of a matter which can be disposed of by unanimous consent?

Mr. JOHNSTON. I yield.

Mr. JAVITS. I thank the Senator.

WASHINGTON ENERGY CONFERENCE—SENATE RESOLUTION 279

Mr. JAVITS. Mr. President, yesterday the Senate adopted, during the morning hour, Senate Resolution 279, having to do with the Washington Energy Conference which convenes on Monday.

The resolution was sponsored by myself, together with the majority and minority leaders and other Senators.

At the time, I did not know that we would have a meeting of the Committee on Foreign Relations this morning. We had that meeting, I submitted that resolution to the committee, and the committee has expressed itself favorably to the resolution with two amendments.

These amendments, in my judgment and in the judgment of Senator Scott as a member of the Foreign Relations Committee, do not in any way materially affect the end result, and therefore, Mr. President, I ask unanimous consent that the Senate reconsider its action on Senate Resolution 279, so that the resolution may be presented to the Senate with the two amendments recommended by the Foreign Relations Committee, and that the resolution as amended may then be adopted.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

The clerk will state the amendments. The legislative clerk read as follows:

On page 2, line 7, after "(2)" strike "An effective plan" and insert "Procedures".

At the end of the resolution, add a new section 2, as follows:

SEC. 2. It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

Mr. JAVITS. Mr. President, this new section says:

It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

I hope that the Senate will adopt the resolution as amended.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments were agreed to.

The resolution as amended (S. Res. 279) was agreed to.

The preamble was agreed to.

Mr. JAVITS. Mr. President, I ask unanimous consent that a list of the cosponsors together with the text of the resolution as amended be printed in the RECORD.

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

The list of cosponsors is as follows:

Mr. JAVITS (for himself, Mr. MANSFIELD, Mr. HUGH SCOTT, Mr. ALLEN, Mr. BEALL, Mr. BIBLE, Mr. CASE, Mr. JACKSON, Mr. MATHIAS, Mr. MCGEE, Mr. PERCY, and Mr. TALMADGE) submitted the following resolution; which was considered and agreed to.

The text of the resolution as amended, with its preamble, is as follows:

Resolution expressing the sense of the Senate regarding the Washington Energy Conference

Whereas the oil embargo by certain states in the Middle East and the enormous increase in the posted price of crude oil threaten irreparable harm to the economies of all consuming countries of the world and ultimately to the producing countries themselves, and will result in balance of payments deficits of great magnitude for virtually every oil consuming country; and

Whereas these enormous transfers threaten

to destabilize the international monetary system, could lead to competitive devaluations, trade warfare harmful to all nations and a dangerous renewal of the arms race in the Middle East; and

Whereas the increased cost of imported oil for the developing countries in 1974 is estimated at almost \$10,000,000,000, more than the total amount of aid made available to these countries from all public sources in 1973; and

Whereas the Washington Energy Conference called by the President, is designed to provide a legitimate and essential forum for the discussion of the common problems faced by the oil consuming nations: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that the Washington Energy Conference should consider:

(1) Conservation measures in major oil consuming countries which are necessary to reduce demand, and should be a major part of the policy adopted in concert by the oil consuming nations;

(2) Procedures plan for the emergency sharing of oil resources which could be acted on subject to the constitutional processes of each country;

(3) Guidelines for bilateral agreements between individual oil consuming and oil producing countries, which in the present situation of embargo and skyrocketing prices could prove very harmful to the interests of the major oil consuming nations, and could incur the danger of introducing excessive and sophisticated arms into the oil producing nations beyond their legitimate needs for their own security;

(4) Coordination of research efforts in developing conservation practices and alternative sources of energy;

(5) The responsibility for and the means to help to alleviate the plight of the developing countries in the oil crisis; and

(6) Closer coordination of fiscal and monetary policies to prevent excessive strain on the international monetary system and the currencies of oil importing countries.

SEC. 2. It is further the sense of the Senate that the United States should continue to use its best efforts to bring about conditions of peace and stability in the Middle East.

Mr. JAVITS. Mr. President, I thank my colleague very much for yielding.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. JOHNSTON. Mr. President, the decision that this body will make by its vote on this conference report will be among the most important this Nation will ever face. We are going to determine, in my judgment, whether the United States will move in the direction of energy sufficiency, or guarantee that we will be dependent on foreign sources and be short of oil and energy in the years to come.

In that light, I am disturbed and very much afraid that a dangerous kind of atmosphere pervades this country and

the Congress. It is the mentality of a lynch mob. There appears to be an abiding conviction on the part of Members of Congress and the public that people and companies that search for and produce oil should be punished, that they are guilty of some personal kind of transgression that qualifies them for whipping at the public stock.

Frankly, I think it would be better if we could inflict that kind of corporal punishment because regardless of whether such punishment might be just or unjust, it would be cheaper for the country than to have this kind of atmosphere which, in turn, will result in very bad legislation. In recent weeks, we saw the specter of what this kind of lynch mob atmosphere can do to Congress. We saw the conference committee on this bill authorize and approve a bill on so-called "windfall profits" which no one—and I mean no one—was willing to speak in favor of and which even the proponents said was probably unconstitutional, unwise, and unworkable.

But for a filibuster on the floor of the Senate, that legislation would have been the law of the land. Cooler heads, luckily, prevailed, through the intercession of those not usually connected with the oil industry. But, now, Mr. President, we are faced with still another provision—not quite so bad as the so-called windfall profits provision, but a very, very bad provision that is difficult to defend. The provision in the conference committee's report relating to rollbacks is probably counterproductive and will guarantee, in my judgment, that we will not find new sources of oil. If we need to punish the oil companies and take from them the so-called windfall profits—and there may well be reason to re-examine the tax treatment given to oil companies in light of recent price increases—then there is a better way to do so than by the rollback provisions of the conference report.

In my colloquy with the distinguished chairman of the Committee on Interior and Insular Affairs just a few moments ago, we established that the provisions of this bill relating to old oil allow the oil companies to keep a \$1 per barrel windfall price increase recently granted by the administration. The provision relating to old oil, which amounts to over 70 percent of our domestic oil, does not give anyone the incentive to explore for oil. In my judgment, and as the chairman of the Committee on Interior and Insular Affairs has pointed out, this treatment of old oil is, in effect, a windfall profit in terms of incentives to produce more oil.

On the other hand, the price of new oil, which involves less than 30 percent of the oil produced domestically, does affect the incentives that people would have to drill for oil. It is the price of that oil, which is now on the average about \$9.50 per barrel and which, in some instances, has gone over \$10 per barrel, that will be rolled back to \$5.25, the same as the cost of the old oil.

It is a very expensive and chancy thing to explore for new oil. The easy sources of new oil all have been found. All of the shallow production, all of the obvious structures, have all been explored. The

oil to be found now either is in tight formations or in smaller formations that are difficult to find. Once found, production is not great, or is from depths much deeper than anything we find in a foreign country such as Saudi Arabia.

Therefore, the need to give incentives for finding new oil is dramatic. It is obvious. In fact, Mr. President, no one, in my judgment, can argue with the need to provide the incentives to find new oil.

At the insistence of some of us, hearings were called in the Committee on Interior and Insular Affairs on Thursday, Friday, and Saturday of this past week, with reference to a rollback in the price of oil. Experts testified at that time—not oil company experts, but experts in the field of economics, from universities such as Harvard. A number of questions were asked of those experts that bear directly on the question of the desirability of rolling back the price of oil. In this connection, it should be emphasized that the conference report would only have the effect of rolling back the price of new oil. Old oil, as I previously have noted, would be allowed to continue to sell at its present price of \$5.25 per barrel.

The first question put to the experts was: How much would we save on the price of a gallon of gasoline by rolling back the price of new oil 25 percent?

The panel of experts who testified on Saturday agreed unanimously that a price rollback on new oil would result in a savings of less than 1 cent per barrel. If we double the cut from 25 percent to 50 percent—the maximum amount that could be cut under the conference report—the savings might be as much as 2 cents per barrel.

Now, for the price of 1 or 2 cents per barrel, Mr. President, this country, this Senate, is asked to put itself on a course of reducing incentives to explore for hard-to-find, expensive oil.

During our hearings on price rollbacks, even Lee White, a former Chairman of the FPC and an advocate I believe of nationalization of at least part of the oil industry, agreed that the price of new oil is not the place to "punish" oil producers. In my judgment, and I believe in that of Mr. White, we would do better to do away with certain unjustified tax benefits such as the foreign depletion allowance. No one really defends that. Why do we not get at that? Or why not do away with excessive foreign tax credits? No one would defend those, and much more money is involved there.

Why not rollback the price of old oil—which represents approximately 70 percent of domestic crude—to its December price of \$4.25 and eliminate the \$1 per barrel windfall that was allowed despite the fact that it is not really a viable incentive to produce more oil? Why not disallow the present bonus barrel—so-called released oil?

There are many ways to save much more money than by rolling back the price of new oil. All the experts who have testified come to that conclusion.

The trouble is that we are trying to conduct the business of this Nation and of the Senate in an atmosphere that does not permit reasonable analysis of the is-

ues and adequate time for hearings. Indeed, I believe we are in the process of making one of the most important decisions that we may ever make in this country—the direction in which we are going on energy—yet we are making that decision in an atmosphere of irrationality and haste that I believe bodes ominously for this country.

Mr. President, this is no way to legislate; it is no way to determine the course of this country. Frankly, the atmosphere in this country is such that even in my own State of Louisiana, which is an oil-producing State, people are saying, "Let's get the oil companies." Perhaps we ought to get them. Perhaps they are guilty of some transgressions. But, let us not pull the whole Nation down in a desire to punish the oil companies.

In a rush to judgment unsupported by facts, unsupported by hearings, and completely contrary to what the experts say, the Senate is asked to be stampeded into a decision that virtually no one can support on any other basis other than to say that we have to have a decision and we have to have a vote now because the people want to punish the oil companies.

I hope the Senate will not do that. I hope instead that cooler heads will prevail; that we can save money for the consumer by different methods; that we can, when we finish our hearings and our legislation here, have legislation that does not take away the incentive necessary to produce new oil. Let us hope that these critical decisions will be made properly by the Senate, so that we do not sacrifice the future energy self-sufficiency of this Nation to short-term political expediency.

MESSAGES FROM THE PRESIDENT— APPROVAL OF A BILL

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on February 5, 1974, the President had approved and signed the act (S. 1070) to implement the International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

INTERNATIONAL ECONOMIC REPORT OF THE PRESIDENT— MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Banking, Housing and Urban Affairs. The message is as follows:

To the Congress of the United States:

Last year, when I submitted my first International Economic Report, the Nation had just concluded its involvement in a lengthy and tragic war. We were thus able to turn greater energies to building a more lasting and secure world peace.

A major part of our peace-building effort lies in resolving international economic problems, and today we can look back upon a year of progress on that

front. We have strengthened our competitive position in the world. We have moved ahead toward vitally needed reforms of the world economic structure and we have improved our trade balance beyond our expectations, reflecting our ability to compete more effectively at home and abroad with foreign producers. Our strengthened trade position has in turn contributed significantly to the expansion of jobs and income for our people, and has led to renewed confidence in the dollar in the world's money markets.

One of the greatest challenges facing the international community is to overhaul our world monetary and trading systems. During this past year, I have been heartened by the progress that the Committee of Twenty, under the auspices of the International Monetary Fund, has made toward reforming the international monetary system and by the way that transitional monetary arrangements have proven effective under conditions of stress. Meanwhile, over 100 nations, meeting in Tokyo this past September, opened a new round of international trade negotiations. And the trade legislation we submitted last April has moved through the House for further consideration in the Senate.

Despite this significant progress, 1973 was also a year in which new problems vividly brought home to us the degree to which our own economy is affected by developments elsewhere. This past year the major industrial nations experienced simultaneous boom conditions for the first time since 1951. This complicated economic policymaking, demonstrating that the same interdependence which can contribute so much to world prosperity through trade can also contribute to national problems. One such problem is inflation. While we continue to attack the causes of excessive price increases within the United States, we must also realize that inflation has been a worldwide problem driving up the cost of world-traded goods.

Two new problems also arose in 1973, reminding us of the impact that other economies have upon our own: last summer's food shortages and the current oil crisis. There was an unprecedented and unforeseen surge in international demand for American agricultural products last year. The causes ranged from poor harvests abroad to food policy shifts by foreign governments, affecting their demand for agricultural imports. These significant shifts could not help but have a strong impact upon our domestic economy: on the one hand, expanded sales helped the recovery of our trade balance and helped ensure our position as a reliable world supplier of agricultural goods; but on the other hand, world-wide shortages caused our food prices to rise significantly. A number of measures have now been taken at home and abroad to help prevent a recurrence of such problems. We have brought land back into production, we have taken every step we can to expand our harvests, and we have established an agricultural export monitoring system. In addition, we have called for a World Food Conference to

meet in Rome this year, where the newly developing problems of agricultural supply and demand can be addressed by both producer and consumer nations.

The second major problem—the oil embargo and its accompanying price increases—has given us further evidence of our interdependence with other nations. While our country is relatively less dependent upon foreign supplies for our energy than are most industrial nations, these developments are adversely affecting many sectors of our economy. Again, as we have done with regard to food shortages, we have taken vigorous actions to meet energy shortages. The actions taken by the Executive, the Congress, and especially by the American people have enabled us to make significant progress. The consumption of almost every form of energy has been dramatically reduced. But much more needs to be done in order not only to alleviate the current emergency but also to assure that the United States can develop greater energy resources of its own. This January, I submitted to the Congress my third special message on energy, outlining further needed legislation. I have also invited the foreign ministers of the major oil-consuming nations to Washington this month, initiating cooperative discussions on these problems. Those who will attend this conference recognize that the large price increases announced late last year can only create hardships for the major industrialized economies and could have a disastrous impact upon the world's poorest nations.

The new problems we face are of such enormity that there may be a temptation to delay further progress toward trade and monetary reform. Nothing could be more foolish. It is particularly important that we move forward in a multinational attempt to reduce trade barriers so that individual nations are not tempted to "go it alone" in seeking solutions. I consider it essential that we continue to construct a consultative framework in which new as well as old issues can be addressed. The current trade and monetary discussions provide such a framework and also allow us to continue our long-term effort to build a more effective world economic order. To make this possible, the Trade Reform Act should be promptly passed without restrictions upon our ability to end trade discrimination against other nations.

The Annual Report of the Council on International Economic Policy provides background and analysis which should be highly useful to the Congress as it considers these complex and important issues.

RICHARD NIXON.

THE WHITE HOUSE, February 7, 1974.

EXECUTIVE DEPARTMENTS' AND AGENCIES' REPORTS ON IMPLEMENTATION OF THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY) laid before the Senate a

message from the President of the United States, which, with the accompanying report, was referred to the Committee on Government Operations. The message is as follows:

To the Congress of the United States:

I am transmitting today the third annual report of each Executive department and agency on their activities during fiscal year 1973 under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

In general, the agencies' reports indicate that the Uniform Act has been well received by those displaced by Federal and federally-assisted projects and by the affected communities. The assistance provided by the Uniform Act largely compensates persons for the disruptions and inconveniences resulting from public acquisition. The payments made to persons who relocate have had a generally favorable impact on the public, and the down payment assistance provisions of the Uniform Act have resulted in increased home ownership opportunities for some displaced persons.

The agencies' reports indicate that the primary criticism directed toward the Uniform Act has been expressed on behalf of displaced small businesses. Agencies are not able to deal with the problems of displaced businesses as successfully as they can deal with those of individuals displaced from their homes. This matter will be reviewed to determine possible solutions.

During the past year, I transferred responsibility for executive branch leadership in the implementation of the Uniform Act to the General Services Administration. The Administrator has recently reported to me concerning accomplishments under this program and has also outlined plans to assure continuation of programs initiated by the Office of Management and Budget and to further improve the administration of the Uniform Act. I endorse these efforts and include his report as an attachment to this transmittal.

RICHARD NIXON.

THE WHITE HOUSE, February 7, 1974.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. HATHAWAY) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

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MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 184) to print as a House document the Constitution of the United States.

The message also announced that the House had agreed to the amendment of the Senate to the concurrent resolution (H. Con. Res. 425) providing for adjournment of the House from Thursday, February 7, 1974, to Wednesday, February 13, 1974.

The message further announced that the House had passed the bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings, in which it requests the concurrence of the Senate.

HOUSE BILL REFERRED

The bill (H.R. 5463) to establish rules of evidence for certain courts and proceedings was read twice by its title and referred to the Committee on the Judiciary.

ENERGY EMERGENCY ACT—
CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. BUCKLEY. Mr. President, I compliment the Senator from Louisiana for a thoughtful analysis of the present situation and for pointing out to this Chamber the extraordinary consequences to the future of this country if we step in the wrong direction.

Mr. President, last November, when the Senate version of the National Emergency Act of 1973 was being debated, I criticized the legislation for an indiscriminate delegation of authority to the Executive far beyond that required to enable the President to meet legitimate emergency needs, and for its failure to contain any measures designed to bring the emergency to an early end by stimulating an expansion of our domestic energy base.

After emphasizing the adverse impact on supply of the Federal Power Commission's regulation of the wellhead price of natural gas, I stated:

In the absence of such fundamental changes in federal policy towards energy pricing, we are destined to see the current energy emergency develop into a chronic one on the basis of which Congress will be asked to institutionalize the extraordinary and dangerous delegation of power that S. 2589 bestows upon the Presidency.

Mr. President, S. 2589, in its original form, was bad enough. But what has emerged from the conference committee

not only preserves the bad features of the original legislation, it has grafted in pricing provisions that are tantamount to a fraud on the consumer. While promising "price rollbacks" and an elimination of "price gouging" that on analysis will save the consumer no more than 2 or 3 cents per gallon of gasoline, it will cut back by a large margin the economic incentives that alone will enable us to work our way out of our domestic energy shortages and liberate ourselves from the world oil price structure mandated by a handful of oil exporting countries.

I respectfully submit that the "anti-gouging" provisions represent legislation of the worst kind. It represents in my judgment, an emotional rather than a rational reaction to developments that have such large significance for the future of the country that only the most thoughtful response is justified. While the Interior Committee held hasty hearings on the proposition of a price rollback, it was clear from the outset that they could provide no serious guidance in the formulation of policy. The first hearings were scheduled for Thursday afternoon, January 31, to be followed with hearings on Friday and Saturday, February 1 and 2, all in theoretical preparation for the deliberations of the joint conference committee beginning at 10 o'clock the following Monday morning. In other words, it was clear from the outset that there would be no opportunity for those hearing the testimony to evaluate it and to make recommendations for the benefit of the conferees.

In point of fact, the distinguished chairman of the committee, Senator JACKSON, made it clear at the outset that the only purpose to be served by the hearings was to confirm conclusions already set in concrete. I quote from his opening statement:

I can find no conceivable justification for current fuel price levels. By all evidence we have seen, Americans are paying unconscionable and unnecessarily high prices for essential petroleum products. . . . A rollback of petroleum prices to more reasonable and realistic levels is absolutely essential. That is the subject of these hearings today.

In support of his contention that any price on domestic crude oil in excess of \$7 per barrel was unreasonable and unnecessary in stimulating the vast expansion of exploration we must see in the next few years, the chairman cited, from time to time, statements made at an earlier hearing by the presidents of the seven largest international oil companies.

Yet the testimony given at the hearings by representatives of the domestic oil industry, and of the 10,000 independent wildcaters and producers that historically have accounted for between 75 and 80 percent of domestic discoveries, was dismissed out of hand. Their testimony, which I believe to be supported both by experience and commonsense, underscored the proposition that the current average price being paid for new oil—about \$9.50 per barrel—provided significant incentives for finding new oil and gas and extending the life of existing fields that in the aggregate would add significantly to our total domestic production.

I think it well to keep in mind that the large international companies do not represent the alpha and omega of wisdom on matters of petroleum. Because their operations are integrated, they can make up losses in one area from profits in another. A cynic, of course, might argue that the majors would support any price level that would restrict the activities of independents. They might also point out that the big international oil companies are net purchasers of domestic crude, and hence have a strong parochial interest in keeping prices down.

I, myself, am more persuaded by the argument that the heads of these vast companies were in part speaking out of timidity and in part reflecting the sheltered experience of the giant companies. Historically, they have not been willing to take the same geological risks as have the independents; and when independents at great risk have managed to prove up new geological prospects, the majors have always been able to buy in a special sense [this extra depth] their way into a participation. I would suggest, in other words, that the opinions of these seven gentlemen ought not to be considered a sufficient basis for measures that will have a profound effect on the rate at which we develop our domestic energy resources.

It could be stated, Mr. President, that the testimony offered by the representatives of the American Petroleum Institute and the Independent Petroleum Association of America was self-serving; and it is undoubtedly true that they view the welfare of the Nation through a perspective that reflects their own. It happens, however, that their testimony found ample support in that given by a panel of economists who testified on Saturday. Dr. Thomas Stauffer, research associate at the Center for Middle Eastern Studies at Harvard University, stated, for example, that while he considers econometric calculations to be unreliable, "engineering-type calculations lead to the suggestion that there should be about a 50-percent increase in potential production for every doubling of the price." He pointed out that—

Everything else remaining equal, an average price increase of 50 percent would permit the depths of the average well to increase from about 5,600 feet to perhaps 6,800.

He went on to say that—

means that 20 percent more sands may be tapped. More generally, however, three additional effects contribute to a still greater increase in production as a consequence of a price increase. First, it becomes economically justified to explore for smaller or less certain deposits in older, less shallow zones. Second, secondary or tertiary recovery projects may be implemented more thoroughly, increasing output both from new finds and also from older reservoirs. Finally, one can operate in deeper water offshore, increasing the scope for new discoveries, or one can develop lower-quality, higher-cost fuels when found.

Now, one can always argue with conclusions drawn by economists and quarrel with the policy objectives they define. What was striking about the testimony of the witnesses last Saturday, however, was the strength of their belief that to

proceed to legislate a rollback without adequate study of the consequences was nothing short of reckless. This was made explicit when I asked each of the economists at the morning panel to comment on the following statement contained in a telegram addressed to the Senator from Arizona (Mr. FANNIN) by Dr. E. Jackson Grayson, Jr., of the School of Business Administration of the Southern Methodist University:

In my opinion the energy pricing issue is far too complex to be handled in pending legislation without considerable additional investigation. The consequences of moving too quickly and without sufficient background information on such a measure could place this nation in greater international jeopardy by inhibiting rapid movement towards domestic energy self-sufficiency.

Each member of the panel of expert economic witnesses; namely, Dr. John H. Lichtblau, executive director, Petroleum Industry Research Foundation, New York City; Dr. Stauffer and Mr. Warren Davis, chief economist, Gulf Oil Corp., Washington, D.C., agreed vigorously with Dr. Grayson's position. When I asked whether the time elapsing between the close of hearings on Saturday afternoon and the opening of the energy conference at 10 a.m. the following Monday morning would allow for the accumulation of "sufficient background information," they each answered with an emphatic "no." When I asked them if they would consider it irresponsible to attempt to enact a pricing formula the following week, they answered with an equally emphatic "yes."

I then pointed out to the witnesses that the amendment to the Emergency Petroleum Allocation Act then under consideration would require the President—

To specify ceiling prices for sales of crude oil, refined petroleum products, residual fuel oil, . . . which avoid price increases resulting from the current energy emergency in excess of those that would have the function and effect of increasing long-run supply, diminishing long-run demand, and allocating said products to their most valuable uses.

As it was the consensus of their earlier testimony that even with the best of information it would be impossible to set such prices with any degree of precision, I asked whether in their judgment American consumers would be better served by having the ceiling price set \$2 too low or \$2 too high to achieve the statutory objective. Again, there was a consensus. It was that the long-term interests of the American consumer would be better served by an error on the high side. It was pointed out that even if the price of new and stripper well oil were to be rolled back to \$5.25 a barrel, the net impact on the consumer would be a saving of between 2 and 3 cents per gallon of gasoline. It has since been computed that even if all presently unregulated domestic oil were to be rolled back to zero, the savings would be in the order of 5 cents per gallon. They did concede that while even this much relief would be of some immediate benefit to the American consumer, it would constitute an eating

of one's seed corn at the expense of future crops.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. BUCKLEY. I am glad to yield.

Mr. TOWER. It occurs to me that if we have a rollback in the price of domestic crude, it is going to reduce the supply of domestic crude. It is automatic. There is a certainty about it. I grew up and I live in an oil-producing area. I can assure Members of the Senate this would be the case. That would mean that even if we could increase imports from Venezuela, we would be paying OPEC prices. So it would be replaced by crude costing two to three times as much. Therefore, I do not see how there could be any savings.

Mr. BUCKLEY. The Senator is correct. Even if the prices were to rise for new oil, in light of the international prices today, at least the money would be paid to Americans and it would be available for reinvestment in America to expand the base of supply for all Americans.

Mr. TOWER. The Senator is correct. I am saying we proceed on a set of false presumptions if we say that a rollback in the price of crude will result in gasoline costing less. I do not see where the savings will come. This is the kind of misinformation that has been dumped on the American people.

Mr. BUCKLEY. I fear the Senator is correct. This is something made totally clear by the witnesses before those hastily engineered hearings. Unfortunately, the Senate has not had the opportunity to digest that testimony in the normal committee fashion.

Mr. President, to continue with my statement, it may well be that some sort of limitation ought to be placed on the price of new oil produced within the United States, other than the ceiling that is in effect imposed by the world price of crude oil. It could well be that the sharp increases in domestic prices over the past 3 months will not level off, as many believe they are in fact doing. If so, the whole question ought to be considered independently of the Emergency Energy Act.

The fact is that the whole problem is so complex and the consequences of a wrong decision so deeply damaging to the American people and economy, we simply cannot move with the haste we have exhibited in this legislation. Because we are dealing with the price of incremental oil, a few weeks' delay simply will not spell disaster.

Furthermore, we should keep in mind that we are not operating totally in the dark on this question. At the end of World War II, we had serious shortages in domestic oil production and many at that time were predicting that the United States would never again achieve conditions of self-sufficiency. Nevertheless, when the price of oil was decontrolled, the price per composite barrel of oil and gas—stated in 1973 dollars—rose sharply from about \$2.40 a barrel to \$3.60 a barrel. At the same time, expenditures for exploration and development of new oil and gas reserves rose from less than \$3.4 billion to almost \$8.2 bil-

lion, with a resulting expansion of oil and gas production that not only made possible our vast development of natural gas, but which resulted in steady decreases in the price of oil and gas from a peak of \$3.60 in 1948 for a composite barrel to a low of \$2.20 in 1972.

This seems to me a clear-cut demonstration of the essential role played by price in stimulating investment and overcoming shortages. It is true that immediately upon a sudden rise in prices, significant profits are made. But experience also demonstrates that the resulting rapid expansion of capital investment brings ensuing profits back in line with average industry experience. I see no reason why we should not assume a repetition of this experience in the years immediately ahead if we allow economic nature to take its course; and in fact, the financial commitments now being made by every segment of the domestic industry indicates that this will in fact take place.

Mr. President, it is absolutely essential that we understand that we cannot begin to hope to achieve our objectives of substantial energy self-sufficiency in the 1980's unless incredibly large sums are raised and invested, much of them at very great risk. According to estimates made by the Chase Manhattan Bank, if we are to meet our objectives of substantial self-sufficiency, the oil and gas industry will have to invest an average of more than \$60 billion per year in the United States between now and 1985. This will not be done if we remove adequate incentives to test the deeper, more difficult, more risky targets.

It would seem, Mr. President, that the only advice followed by the conferees was that given at the first day of hearings by Mr. Lee White, the former Chairman of the Federal Power Commission. It was he who urged the Congress to set a specific figure rather than delegating the authority to the Executive which, in turn, would presumably try to accumulate the basic data required for a prudent judgment. The conferees have set their price at \$5.25, with some degree of flexibility under special circumstances for a rise to \$7.09. It is ironic to me that the day seems to have been carried by a man who as much as anyone, perhaps more than most, is responsible for today's significant shortfalls in that form of energy that supplies almost a third of our needs; namely, natural gas.

Mr. President, I urge that this legislation be defeated so that we may go back to the drawing board and draft legislation that will meet the needs of the present energy emergency without granting excessive authority to the Executive; legislation that will not condemn us to a condition of perpetual dependence on overseas sources of petroleum, by interrupting and interfering with the natural incentive of the marketplace.

ORDER FOR ADJOURNMENT TO 10 A.M.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Sen-

ate completes its business today, it stand in adjournment until the hour of 10 o'clock tomorrow morning.

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

NATIONAL EMERGENCY ACT OF 1973—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. MANSFIELD. Mr. President, in view of the fact that a unanimous consent was not attainable, I think the Senate should be on notice that there is always the possibility that there may be votes either today or tomorrow, and Senators should prepare themselves accordingly.

Mr. BELLMON. Mr. President, the issue before the Senate today is not simply the passage of S. 2589, or the rollback of crude oil prices. The issues, in my opinion, are three: Number one, does this Nation seriously intend to become self-sufficient in energy production from our own abundant resources? Number two, is it the considered position of the Senate that private energy industry should be denied the opportunity to solve the Nation's energy problems? And number three, does the Senate desire again for this country to become dependent on insecure foreign sources of energy?

We may as well face the facts. There is simply no way this country can again have all the oil and gas it needs or wants from traditional sources of petroleum. There simply is not enough available from the known or yet to be discovered zones in this country, or even Alaska, to provide all the energy this country needs from petroleum sources. There is no way for this Nation to be again fully supplied with energy unless we shift to newer or more costly sources of energy.

What I am saying is that in the future the United States of America must get its energy from coal, oil, shale, nuclear power, and probably other, more costly, and what we now consider more exotic, sources.

The best information we have is that oil from coal will cost, under present-day conditions, something like \$8.50 a barrel. Oil from shale will be just as costly.

Therefore, what we are saying, if we roll back crude oil prices, as provided in S. 2589, is that we are foreclosing, at least for the foreseeable future, the possibility of attracting investors to the notion of building the coal liquefaction or oil shale plants that finally have to become the source of much of the fossil fuels needed by the consumers of this country today. This is what is really at stake today. We are simply saying to the investors that we do not want them to

make the multi-million-dollar investments, over the next 5 to 10 years, in the kinds of plants that offer the only real hope for solving the Nation's energy problems.

It was my feeling, after the Arab oil embargo was put into effect, that the citizens of this country had reached the conclusion that they would never again want to get this Nation in the position of literally being held hostage, as far as national policy is concerned, by governments whose countries produce oil. By our consideration of S. 2589, Congress will be making it absolutely certain that, if this legislation becomes law, in the not-distant future we will again be importing far more energy from the Middle East than we should, thereby greatly jeopardizing this Nation's ability to survive in case of another oil embargo.

To me it is tragic that in a country like this, where we have perhaps one and a half trillion tons of coal, enough to last 500 to 1,000 years, we have had a policy for a long time of not doing enough to start to make it possible to bring coal into production in a form that will not be destructive to the environment through coal liquefaction and gasification plants. We now have an opportunity of creating a set of circumstances whereby this kind of plant can be built and where that form of energy can be put into production.

I believe this is the occasion when the Senate and the country need to think seriously about whether we are willing to pay the prices necessary to get the energy we need from the sources which are available in such abundance, as I have indicated in the case of coal.

The same can be said about oil shale. The only reason we do not have abundant energy from these sources today is that it has not become economical to produce from these types of fossil fuel.

I have been in consultation recently with some experts in coal gasification and coal liquefaction. There is no question that the technology exists. The factor missing is the economic incentive to get on with the job.

I recognize, and I think most people in the oil business recognize, that the price of any crude oil, particularly for new oil, and from stripper wells, jumped far higher than was indicated for the industry. Even though the price has jumped, it is still not as high as the prices we pay for oil from imported sources. But the price has risen and has started to bring into realization the investment that is required to produce oil from coal.

If we pass S. 2589, we are going to give an opposite signal. We are going to say to potential investors that the time is not yet ripe for them to make the multi-million-dollar investments, and that they can put their plans on ice until the next crisis starts.

The problem is that it will take several years to get these plants in operation. If we defeat S. 2589 and make it plain that we are interested in solving the problem, I believe we can make it possible for liquefaction plants to be under construction within 3 to 5 years, and thus obtain

a sufficient amount of crude oil from those sources.

My position on S. 2589 is not based simply on the fact that the prices of crude oil are unfair. Perhaps the traditional oil industry could live with them, and perhaps even prosper at the upper levels of prices anticipated by this bill. The problem is that new sources of energy simply cannot be brought into production under the terms of this legislation.

My opposition stems from my belief that the current energy crisis has been caused in the past by some unwise and short-cited governmental policies and practices, and that if we continue those practices, we are going to have a crisis for the indefinite future. The crisis will only delay construction, prolong the current shortages of energy, and delay the day when the Nation will again be substantially self-sufficient in energy and free from international energy blackmail.

In order for the United States to become self-sufficient in energy, it will be necessary for huge sums of money to be invested, searching for and developing new oil and gas reserves, opening of new mines, constructing coal liquefaction and gasification plants, and developing new types of energy sources. The imposition of a crude oil price rollback would only further impede the discovery of new sources of fuel.

The question the country and the Congress must face and solve is: Where will this huge sum of money come from, and will the private sector or the Government be in charge of developing the new energy sources and operating the plants once they are in place?

The adoption of S. 2589 is the first long step down the trail toward the nationalization of the Nation's oil industry.

I make this statement because the impact of S. 2589 is to make it difficult, if not impossible, for the private energy industry to accumulate the funds and to attract the investments that will be necessary for developing the abundant natural resources which the Nation fortunately possesses.

Without these funds, the private sector's ability to develop a solution to the Nation's energy shortage will be seriously and permanently damaged. Lacking new supplies of energy, the consumer will naturally blame the energy industry, and sooner or later will begin to insist that the Government move in to the vacuum.

When this happens, the American taxpayer will begin to pay the bill and Federal bureaucrats will begin to make the decisions as to where to drill oil and gas wells, where and when to open coal mines, and where to build the energy processing plants.

If experience in other countries means anything at all, the American taxpayer can expect the bureaucracy to fumble the ball as is done in so many other areas. Also the energy consumer can expect to pay a far higher price for his energy than he is now paying or will pay if private investors and private operators continue to be in charge of the energy industry.

Attractive as it may sound to soak

the energy companies because of an increased profit due to the Arab embargo of oil, the fact is that this section is totally counterproductive. Someone, either the energy consumer or the taxpayer, must provide the funds needed for a vast expansion of the Nation's energy industry. S. 2589 will not keep this investment from being made. Rather the impact of this bill is to deny to the private sector the funds necessary to expand the Nation's energy output and put the Government in the position of beginning to take over this large and vital section of the Nation's economy.

If this happens, the American people will pay much more for fuel. We will at the same time increase consumption. This will, of course, make the problem even more serious.

It is unfortunate, but it cannot be denied, that the energy industry, and especially oil companies, suffer from an image problem. Many Americans are skeptical about the present shortages of gasoline and other fuels. Even in Oklahoma, a State where thousands of citizens work actively in the petroleum industry, I found during the recent recess that a number of my constituents were not convinced that the energy crisis is real. If Oklahomans who live next door to oil workers and in the shadow of oil and gas wells do not fully understand the energy crisis, it is easy to appreciate the difficulty other Americans have in understanding the complex energy shortage which now faces the country.

Mr. President, I have before me some figures which show what has been happening in the oil industry. I believe that these will be helpful to understand the problems. If we look at the number of oil wells drilled over a period of years, going back to 1956, we will find that in 1956 there were 30,730 crude oil wells drilled. Incidentally, 21,838 of these were dry holes.

In 1960, 4 years later, the number dropped from 57,111 down to 44,000. In 1956 the industry discovered and developed 30,730 new crude oil wells. In 1960, that figure was down to 21,186. That is a reduction of about one-third.

By 1965, the total number of crude oil wells drilled was 18,761. And the total number of wells drilled, including dry holes, was 39,501.

By 1970, the number of crude oil wells drilled was 13,020. It had dropped from 30,730 in 1956. This is a reduction of far more than half.

In 1971, the next year, the number of crude oil wells drilled went down to 11,858. The total number of wells drilled, including dry holes, had gone down to 25,851.

In the next year, 1972, there were 11,306 crude oil wells discovered and drilled in the country.

During this period of time the consumption of petroleum, as I have just said, went up at a rapid rate. The average rate of consumption in the country has been going up from 500,000 to 700,000 barrels a day. And yet at the same time that we have been using more and

more, we have been producing less and less.

In 1956, there were 2,865,000,000 barrels of crude oil used in the United States.

In 1960, the figure was 2,974,000,000.

In 1965, the figure was 3,302,000,000.

In 1970, the figure was 3,958,000,000.

In 1971, the figure was 4,041,000,000.

In 1972, the figure was 4,168,000,000 barrels of crude oil used in the United States.

During this period of time when we almost doubled the consumption of crude oil, we reduced the number of crude oil wells from 30,730 down to 11,306.

Anyone who looks at these figures cannot escape the conclusion that we were heading toward the very kind of crisis which now exists.

During this period of time, year after year, we imported more crude. The amount of crude oil imported went from 341,833,000,000 barrels in 1956 up to 811,135,000,000 barrels in 1972. The country today has a real crisis. This situation has existed for many years. It came to public notice as a result of the embargo that was put into effect. Otherwise, it is possible that the country never would have realized the real situation that existed.

There is a widely held belief that the oil industry is a high-profit business. This concept reflects a basic misunderstanding of the industry and an inadequate grasp of the facts about its operations and economics. It confuses total profits with profitability, that is, the rate of return on investment.

Looking at profit in terms of the relationship of earnings to capital invested, oil companies over the last 20 years come in below the average of all manufacturing companies. According to data compiled by the First National City Bank of New York for a large group of oil companies over a 20½-year period—1952-71—the average rate of return on net worth was 11.9 percent, which compares to 12.2 percent for all other manufacturing companies. This so-so record has discouraged investors from making needed capital available for new energy developments. Unless the profit picture improves, investors will continue to stay away from the hazardous petroleum business.

This partially explains why we were not getting more oil wells drilled. Investors did not have the money available with which to drill wells. However, the main reason was that the price of petroleum went so low during this period of time that it was simply unattractive for the investors to take a chance and pay the cost of bringing oil into production.

Mr. President, I have before me a chart showing over this period of time to which I have referred, going back to 1952, year after year, that investments in other types of manufacturing industries produced a higher return than investments made in the petroleum area. It is only natural and logical that investors should look elsewhere for investments rather than to take chances.

Exploration for new oil and gas reserves has declined in recent years pri-

marily because of inadequate incentives. Recently, as profits have increased, this pattern has begun to improve. This improvement will continue so long as the funds for development are available.

Mr. President, during the last decade, the average price of a barrel of crude oil at the wellhead rose about 50 cents, or just over 17 percent. During the same period, prices of oilfield machinery rose 35 percent, well casing by 46 percent, and the average hourly wages in petroleum production rose 57 percent. In addition, the 1969 tax reform bill included a major disincentive to investors when it raised the industry's taxes by more than \$500 million a year.

In the case of natural gas, interstate prices are regulated at the wellhead by the Federal Power Commission. This regulation has led to artificially low prices, encouraged overutilization of gas, demoralized the coal industry, and discouraged the search for new supplies.

So, what I am saying is that all throughout this period when the country was using more and more oil, the Government, rather than providing an incentive to get more production, was doing one thing after another to discourage investment and driving investors into other areas. Accordingly, these actions made it more difficult for the industry to provide for the Nation's needs.

This is one reason that a lot of the developments that should have occurred in the United States took place in other countries, and it is one reason why, if we continue on this course, we are going to see this Nation remain in an energy-deficit status.

Mr. President, in our country and under our system, we know that when prices get high, it triggers a vital increase in production. This would not be significant if we lacked the resources from which to produce. But the fact is, as I have said earlier, that this Nation is blessed with abundant energy resources. So we can be certain that fuel prices will not remain high forever if the energy companies are allowed to increase supplies by plowing back profits into developing new energy sources. The free market will quickly increase the supply and bring costs lower, or at least keep them in line with the rest of the economy.

We have seen this happen time after time in other areas. For instance, only a year or so ago the Nation's supply of eggs was running far ahead of requirements. In the Committee on Agriculture and Forestry, we had legislation intended to bring about an orderly reduction of the Nation's laying flocks. This legislation failed. Accordingly a large number of egg producers went out of business, and now we see a sizable shortage of eggs, and the price has gone up to over a dollar a dozen.

In many respects, the fuel crisis is similar to the beef shortages of last summer. In that situation, when beef prices rose, consumption eased, the supply increased, and prices dropped. The same thing will happen if energy companies are left unfettered by excessive

Government regulations. The price adjustment may take longer because new energy sources cannot be developed overnight. Without attractive profit incentives or under a governmental bureaucracy, these increased supplies will not be forthcoming at all.

However, we can be certain we will have all the energy we need if we provide the incentives and make it possible for the energy industry to do its job.

Mr. President, the administration and the Congress have the opportunity to take action which will permanently solve the Nation's energy shortage. The course we choose now will have an immense impact upon the economic health and the security of our Nation.

The action we are considering today, as we consider the conference report on S. 2589, is exactly the wrong kind. We are here refusing to face the realities of the situation, and trying to kid ourselves that we can somehow establish artificial controls that will bring about a substantial reduction in the cost of energy to the consumer.

This is the same theory used by the Federal Power Commission over the years, as it pegged natural gas prices to an artificially low level. In this case the result will be the same as it has been with the case of gas, where the price is abnormally low, production is abnormally low, and as a result the consumers are forced to do without.

What we are saying today is that we would rather be temporarily short of energy, while we carefully work out a way of providing for our needs to the future. I urge that we not choose a short-sighted preventive course but rather that we give the private sector the time and the incentive to do the job. The conference report, if adopted, would be totally counterproductive, and I urge that we send it back to the conference committee, with instructions to bring us back legislation that will provide an incentive, and not a disincentive, to the private energy industry in the United States.

Mr. BENTSEN. Mr. President, this conference report may be good politics, but it surely is bad economics. It tries to repeal some of the basic rules of economics.

This is the product of the same conference committee that brought out a report before on which they tried to attach a so-called windfall profits tax that would have been an administrative nightmare. The problems with that provision were finally recognized by the Members of this body, and they recommended it.

Mr. President, I have served in this body now for 3 years. During that period, I have sought to watch, to listen, and to learn and to speak out when the occasion demanded. I have sought to represent my State, its constituency, and its interests. In the larger sense, I have sought to do what I thought best for my country.

In those 3 years, I have learned, and I hope I have contributed, in my personal endeavors in committee work, in my remarks on the floor, and in my votes.

I have sought to act on facts, on logic and on reason.

Because of that basic posture, far more than because I happen to be from the State of Texas, I find this particular piece of legislation objectionable.

Mr. President, when the Senate last considered this conference report on January 29, I stated that I would vote against it for a variety of reasons which I listed in some detail.

I never had the opportunity to vote against the report because a sufficient number of Senators recognized its defects and recommitted it to conference. Most of the debate at that time centered around an ill-conceived, hastily drawn, and demonstrably unworkable windfall profits provision which would have seriously hindered our efforts to become energy self-sufficient. However, that clearly was not the only reason for its recommitment. There were administrative, procedural, and environmental defects as well which are still very much a part of the bill.

Now we have a conference report with a provision rolling back the prices that has been written in haste and with high emotion, and where many Members of the Senate do not yet have any notion of its provisions.

Maybe it is not a criterion that we should have an understanding of the provisions of a report before we vote on it, but I would like to think we should. If we have learned anything from the last conference report that was brought in, we ought to be able to take some time to examine this approach, to see what it will do to the economy and to the energy situation.

Mr. President, it may result in a little bit cheaper gasoline. It is possible that it could reduce the price 4 cents a gallon, but I do not think that is what is going to happen, because it only affects new oil and the stripper oil, and that is only a small percentage of the total production in this country.

Nor do I think, in the long run, it is even good politics. I think what it really means is that the lines will get longer at the service stations, and people will go looking for additional service stations trying to find a few more gallons of gasoline.

It is paradoxical to me, when we are talking about self-sufficiency in energy in this country and trying to develop it once again, that we would put the incentives overseas, and, by our action, say that that is where capital ought to go, because that is where the high prices are.

That is really where the high prices are, and that is where we ought to have our concern, and try to do something about it.

I represent an oil State. I understand that sometimes a Senator from an oil State is suspect when he speaks to a question like this. But let me say how I think the problem can be attacked.

If you look at the profits of the oil companies, most of them are occurring on their overseas production. So we ought to be reexamining the tax structure over

there. We ought to be seeing if they are juggling those royalties to call them taxes, to get full tax credits instead of having them expensed against their income, and therefore paying lower domestic taxes.

One of the things I propose is to do away with the depletion allowance overseas. Why should we have the incentive over there, when we are trying to develop self-sufficiency here? I say keep it on the North American Continent, and bring some of these companies home. Let them do their drilling here.

Another thing I have proposed is that we change the provisions of future offshore drilling contracts to provide that once they have recovered their cost, we give a much higher percentage of the production to the Federal Government as payment for the right to drill on public lands for private profit, so that we will have a bigger reward for the taxpayers of this country. The major companies have entered into that kind of contract on offshore drilling with 11 other foreign countries of the world. Why shouldn't they do it for this country?

Moreover, we ought to accelerate the sale of offshore leases. We have the Gulf of Alaska, as large geographically as the whole Gulf of Mexico, stretching from the tip of Florida all the way to the tip of Texas, and containing many major structures. We do not know what these structures contain until we drill them.

But the major objective of our Government thus far has been to get the biggest bonus payment we can, and therefore to stretch out the sale of the leases over a long period. Mr. President, we ought to be making those leases and drilling those structures. That is the biggest bridge we can provide until we get to coal gasification and liquefaction. That is the fastest payoff for this country in trying to achieve self-sufficiency in energy.

Mr. President, the so-called emergency bill, which was pushed to the Senate floor in a crisis atmosphere after 3 frantic days of hearings and markups in November and passed before Thanksgiving is not the answer.

It is back without the windfall profits provision but with a hastily contrived provision requiring rollbacks of domestic crude oil prices which raises many of the same problems.

As I have said, Mr. President, this provision is probably good short run politics, but it is very bad economics.

It may be good short run politics because it addresses a legitimate problem of great public concern—oil prices that are too high. It is bad economics because it addresses the wrong oil prices—domestic, not foreign.

Of course, the price of oil in the world today is too high. In December, the typical bids in the world—not domestic markets—ranged from \$16 to \$17.50 per barrel.

That is simply too much money to pay for a barrel of oil. But before we take a step that is going to get us even further into this mess, perhaps we should remember how oil prices got that high.

What allowed the Arabs to triple and quadruple the price of oil in a year's time? And what allowed the Venezuelans to follow suit? And what allowed the Canadians to hit us with a \$6.50 a barrel "export tax" which now makes their crude oil cost over \$12 a barrel?

The answer is very simple. They have what everyone else in the world needs and, at least for the present, does not have an available substitute. That need not always be the case. I ask unanimous consent that an article from the January 5 Economist be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BENTSEN. Mr. President, in addition to describing how a free economy responds to a shortage such as this, the article mentions that for the last decade almost everything has been done to bring American production down. If we reverse this course, we should be able to make substantial gains on this problem. Substitutes for imported oil can be found.

But how is a rollback on the price of domestic crude oil going to help us find them? How is it going to help us get the marginal fields and the deep wells drilled? How is it going to make gasification of coal and production of shale oil economically feasible?

Next week in Washington there will be a meeting of consuming nations. The message which must come out of that meeting is that the world price of oil simply has to come down. Current world prices mean a \$50 to \$60 billion shift from oil-consuming to oil-producing countries. If prices do not come down, our allies and trading partners are going to be bankrupt, and the poorer nations of this world will be in abject poverty.

But what message will the U.S. Congress be sending the Arabs and their associates if we pass legislation which indicates we are more interested in a supposed 4-cent reduction in gasoline prices—which at best would only be temporary—then we are in self-sufficiency.

And this rollback would not even accomplish a 4-cent-a-gallon reduction. As indicated earlier, the rollback would only apply to 2.3 million barrels a day of the 17.5 million barrels of petroleum being used in this country. So we are talking about one-eighth of the supply. The 4-cent-a-gallon reduction assumes that all the crude oil reduction would be reflected in gasoline and then consider only the gasoline produced in domestic refineries. In addition, it assumes a rollback all the way to \$5.25 a barrel. Yet the proponents talk about allowing \$7.09 for new oil and stripper well production.

But that is what makes this provision more politically appealing. The Congress gets to vote for a rollback to \$5.25, and the executive branch is told that it has both the political and legal burden of justifying the higher price of \$7—a

price that is probably the absolute minimum necessary to bring on the additional production and alternate forms of energy necessary for us to become truly self-sufficient.

The result may be that we will never see that higher production or alternate fuels. I believe that this provision will be a good deal less popular as the lines for gasoline and unemployment compensation get longer.

But whatever the politics, I am very tired of seeing an issue which affects the job, the health, and even the safety of every American handled in as cavalier a manner as this one has been. There are some issues which can be politicized and exploited without doing great harm, but this is not one of them.

I am not committed to maintaining the status quo in our energy policy. Changes should be made. I have proposed altering the Federal offshore leasing program to greatly increase the share of oil and gas production the American citizen would receive from our public lands. I have introduced legislation limiting the depletion allowance to North America, and as a member of the Finance Committee, I intend to take a long, hard look at the way the foreign tax credit is being applied by oil companies operating abroad. I will also support a windfall profits provision to insure that no company or industry makes unconscionable profits of the troubles of this Nation. But all of these efforts should be directed at satisfying more of our energy needs from domestic sources—not less.

The irony of this rollback provision is that it falls far more heavily on independent producers committed to domestic production than upon the major oil companies. Independent producers have consistently drilled over three-fourths of the domestic wells in unproven areas.

They are the ones who find the new domestic oil, and they are the ones who operate the stripper wells in our marginal fields. They are also the ones who get hurt the most by this rollback. We penalize the same independent producers who are most likely to sell their product to the independent refinery who, in turn, is most likely to sell its product to the independent marketer.

The House Ways and Means Committee received some interesting testimony earlier this week that \$5 billion was expended in foreign oil and gas exploration and development last year—85 percent of that drilling was done by major companies. And there was also \$5 billion expended on domestic oil and gas exploration and development—85 percent of it done by independents.

It is these independents with their capital-raising ability who will be hurt by this provision. They finance most of their wells by selling interests to outside investors. If this measure passes, the only way oil prices could exceed these arbitrary limits would be for us to amend the statute. Can anyone blame an investor for not wanting to put his money in a recognized high-risk business whose costs are rising rapidly due to the steel

shortage but who will be unable to raise its prices without an act of Congress?

Industry will go where the profits are. This provision will simply encourage a flight of capital from production of domestic energy to foreign energy and from energy to other investments. It will not hurt the prospects for the major companies for last year, Exxon reported an 83-percent increase in profit from oil it sold abroad and only a 16-percent increase from business in the United States. The profits of Texaco and Gulf will not be materially affected. But it will affect the oilman who has been doing what we want him to do—produce American oil.

And worst of all, the adoption of this provision will tell the Arabs not to worry. We really are not serious about this business of self-sufficiency. Apparently, we prefer to be their hostages.

Mr. President, I urge the defeat of this conference report.

My specific additional objections are as follows:

The proposed administration of the program devised under the bill is left to an independent agency which has little clear authority and which provides no guarantee of continuity with the existing programs of the Federal Energy Office. Second, the bill contains a labyrinth of administrative requirements and procedures that may very well hamper rather than help efforts to curb energy consumption and increase supplies.

I am very concerned about the complex administrative and judicial procedures provided for in section 311 of the bill. The provisions of this section alter considerably the requirements of the Administrative Procedures Act and substitute a confusing amalgam of features contained in both the House and Senate bills. Some argue that the new Federal Energy Administration must be able to act with speed and without the delay of drawn-out administrative proceedings. I, for one, feel that regulations that will deeply affect the most essential aspects of our lives deserve the inspection and comment of the public. Just the brief experience we have had so far with the Federal energy allocation program demonstrates how monstrously complex the problems are when a Federal agency attempts to regulate some 200 million lives. With these programs there is a ripple effect which can magnify a bureaucratic bungle into a major catastrophe for whole segments of our society.

Another point of concern to me is the weakness of the administrative provisions of the bill and the unclear authority that is to be used in carrying out energy conservation programs. The bill establishes an independent agency to administer Federal energy programs and then says virtually nothing about how that agency is to be staffed, funded, or integrated with other Federal agencies. Congress has already made considerable progress on a separate bill, the Federal Energy Administration Act, which would provide us with a fully constituted and carefully considered energy administration to carry out what will be the most

crucial Federal program to be undertaken in decades. The House will soon be considering this legislation, and the Senate has already approved its version. I believe there is time to wait when the results will be so obviously better and the matter is so clearly important.

Congress has already acted on a number of legislative proposals which deal individually with the problems that this conference report addresses in a collective, haphazard fashion. We should give the legislative process a chance to work so that the programs we create will be well thought out and carefully constructed. The country expects us to act responsibly in the face of this crisis, and I do not believe the conference report we are considering lives up to those expectations.

EXHIBIT 1

THE COMING GLUT OF ENERGY

There is a case for arguing that the world is likely to be glutted with energy before the end of this decade. The present energy "crisis" is about the fifteenth time since the war when the great majority of decision-influencing people have united to say that some particular product is going to be in the most desperately short supply for the rest of this century. On each of the previous occasions the world has then sent that product into a large surplus within 5-10 years.

The reasons for this are now quite logical and rather technical. In modern conditions of high elasticity of both production and substitution, plus surprisingly equal lead times for many investment projects, we now generally do create overproduction of whatever politicians and pundits 5-10 years earlier thought would be most urgently needed, because both consensus-seeking governments and profit-seeking private producers are then triggered by that commentary into starting the overproduction cycle at precisely the same time.

ALL THE FALSE PROPHETS

In 1946-49 all agricultural experts forecast a permanent postwar shortage of temperate areas and especially of dairy produce; this led to butter mountains within a decade. In 1950-51 the Korean war boom was said to show that raw material prices would keep rising forever; instead, some took until 1970 to regain their 1951 peak. In particular, an international action group was set up in 1951 to deal with the world's "worst permanent bottleneck" of sulphur, shortly before the stuff became practically unsaleable. The future chief economic adviser to the British Treasury published his book on the world's lasting dollar shortage in 1953-54, which was the first of the world's twenty consecutive years of dollar surplus. Russia's first sputnik in 1957 was said to be so far ahead of the west's conceivable technology that it would leave America for the rest of our lives at the back end of a "missile gap"; within six years the Americans were preparing to fire surplus rockets at the moon. Then there was going to be a worldwide shortage of university graduates especially from the science departments; within a decade they were one of the bigger groups of the unemployed.

As the 1960s started, there were said to be limitless prospects for offshore funds and other equity investment media for the small man, for go-go business conglomerates, for high technology companies like Rolls-Royce; these were therefore the ventures that went bust (as property developers and then North Sea oil may in the 1970s). In the mid-1960s we were told it was impossible to bridge the

lasting technological gap between America and the rest of the world; this meant that the dollar would soon be devalued.

As a result of yesterday's trendiness, we have now created in the developed world an unfortunate excess of both birth control devices and anti-pollution controls, although the rearguard of yesterday's preachers about ever-rising birth rates and ever-increasing pollution is still infuriated when the figures are pointed out.

Energy has played its part in the game of cheat-the-prophet three times since the war. During the coal crisis of 1947, it was said that no coal miner in Europe or Japan need fear for his job during the rest of this century; within a decade a majority of European and Japanese coal mines had closed down. In 1956 France and Britain went briefly to war because the closing of the Suez canal for a week would starve Europe of oil and cause an insurmountable world shipping shortage, even although it was agreed that this invasion would put France and Britain into the Arabs' bad books for a millennium. Instead, Europe continued its quick switch to cheaper oil even when the canal closed again; the rear-admiral whom Mr. Macmillan appointed to ration Britain's share of world shipping was still recruiting staff when the biggest-ever laying-up of the world's surplus shipping began; within rather less than a millennium France and Britain are the Arabs' European powers.

EVER SINCE WATT

A product can be said to have an elasticity of supply of four within five years if a 10 per cent price rise (above the average of other price rises) is likely within five years to expand its production by 40 per cent above the rise that would otherwise have been expected; this is a convenient definition because then nobody can measure it exactly. For the last 200 years, energy seems to have had a higher elasticity of supply than anything else except transport. Indeed, the accelerating elasticity of supply of these two things is what the industrial revolution since Watt's steam engine has been largely about. A product generally has a high elasticity of supply (a) if it can be produced in many different ways; (b) if technology seems on the brink of bringing in more powerful new ways; (c) if the distribution system for it can be greatly improved. Gluts will also occur if (d) economies in the product's use seem fairly easy. Energy fulfils each of these conditions in profusion.

There are many thousand possible ways of releasing energy from storage in matter. They range from petty ways like 25 BTU per pound of matter by letting a pound of elastic bands untwist; through fairly petty ways, like 20,000 BTUs by burning a pound of petrol; through more sophisticated ways like 250 million BTUs from the fission of the U-235 isotope in one pound of natural uranium; up to 260 thousand billion BTUs from the fusion to helium of a pound of hydrogen. Note that this last system, in which the waters of the oceans could serve as a limitless reservoir of fuel, would therefore be more than 10,000,000,000 times more effective per pound of matter than burning a pound of the Arabs' oil. Of course, new technology will drive on towards the cleaner power sources nearer the top of the range.

The distribution of electricity—and, indeed, of all energy—is grossly inefficient. Look at the towering chimneys of your local power station to see how many of them throw up into the wasting air two-thirds of the heat and energy they could produce. Remember that those in control of most devices for bringing you the energy released from storage in matter have not been con-

cerned with economising on the use of that energy, because far too many distribution systems, from garages to ante-diluvian electricity transmission lines, are in the hands of monopolies (especially the worst sorts of monopoly, called public utilities) which do not have a competitive incentive to attract your custom by improving their technology.

Among possible economies in energy use, the Americans would save the equivalent of three-quarters of Britain's annual imports of oil if they used cars with the same economy of fuel consumption as Europe's. The whole advancing revolution of microminiaturisation with integrated circuits will be enormously energy-saving, because we are going to be increasingly able to put on to a chip the size of a postage stamp properly connected electrical circuitry which would previously have required great assemblies of machinery that would fill a room. Amazing savings in energy can be secured by even a small staggering of working hours (why not let Britain south of the Trent—but not north of it—go back to British Summer Time this winter?).

Above all, the greatest of the three main transport revolutions since the 1770s is now speeding towards us. It will clearly replace the internal combustion engine revolution as dramatically as that revolution replaced steam, and it happens to be extraordinarily energy-saving. This great new transport revolution is telecommunication. Because the businessman's future essential tool, the computer, talks to other computers by telecommunication, instead of by taking a walk, much of present business travel and then personal travel to work are going to become unnecessary in the main growth jobs in post-industrial societies. Even in the 1970s some of this travel will be replaced by a great growth in telex transmission, facsimile transmission by telecommunication, picture-phone, etc. As there is no logical reason why the cost of telecommunication should vary with distance, quite a lot of people by the late 1980s will telecommute daily to their London offices while living on a Pacific island if they want to; and temporary price rises for oil-driven travel in the early 1970s will now bring a few of these habits forward.

THE MULTIBILLION FACTOR EQUATION

Some critics say: "Which of these science-fiction inventions do you really expect will be operating within six or seven years?" The *pons asinorum* of economics is to recognise why that question is absurd. If you were so foolish as to try to draw up a computer model of energy economics over the next 6-7 years, you would have to combine the thousands of possible ways of producing energy, and of possible ways of changing distribution systems and consumption patterns for it, together with estimates of time lags for each, and today's prices for each, and of guessed elasticities of supply and substitution for each, into an equation with multibillion factors. Governments which produce "energy policies" do not work with multibillion factor models of this kind, but with the guesses of perhaps three boffins and a minister—which is why such policies have no serious chance of being right. Apostles of a free market say that it arrives infallibly at the best possible answer to the multibillion factor equation. Actually, it usually does something much less perfect but still rather useful: a free market will generally bring the mix of production-consumption-distribution patterns within the spectrum of the "several million possible answers" which are not wholly incompatible with the multibillion factor equation.

If you then change some price in the system rather marginally, a different but overlapping spectrum of "several million possible

answers" replaces the present spectrum; if the market has already rather haphazardly chosen one of the answers within the overlap, then neither production nor demand will change with the change in price, and both supply and demand are said to be surprisingly inelastic over that range of price. But if you change expectations about the price of the most important present energy source, namely oil, from under \$3 a barrel before this autumn to a level where people and governments and profit-seeking entrepreneurs actually believe that it is going to be over \$12 a barrel or \$17 a barrel (or whatever is the figure that the latest hopeful Arab or temporarily panic-stricken auction bidder last thought of), then people and governments and profit-seeking entrepreneurs suddenly believe that billions of possible new answers will be more profitable than whichever one of the "several million possible answers" is the one most people are using now. If other factors remained as now, they would be more profitable; but other factors won't remain as now, because the new ventures will themselves change them. It is because you cannot get many quarts into a pint pot—or an expectation of billions of possible answers into a situation where only a changing several million answers will at any one time be possibly logical—that forecasts of lasting shortage generally do lead nowadays, within a short time span, to embarrassing glut.

It is always most difficult to persuade people within the particular industry and within the scientific establishment to see this, because all their habits of thought are geared to the relationships existing within the multibillion factor equation now. So the only proper answer to the *pons asinorum* question "Are you relying on advances in magnetohydrodynamics, or solar energy, or fusion, or what?" begins "Well, now, an improvement in magnetohydrodynamics would affect the multibillion factors in the energy equation in the following multibillion ways". No economist can give that answer, because (a) no economist is clever enough, and (b) he would anyway be dead before he reached answer number multibillion minus one—and a hundred-year time-take-up for answering a question about what to do in the next seven years is not very useful. What an economist can say is that the recent wild changes in expectations about oil prices will lead to an energy glut, within a debatable time span, according to all that has been known up to now about the elasticity of supply for energy.

The most respectable argument on the other side is that the time lag may nevertheless stretch beyond the end of the 1970s, because of a supposed long lead time before changes can come into effect (which is true of some of the investment, but most unlikely of economies in demand), or (this is a better argument) because the elasticity of substitution from an oil-based to an another-energy-based system will be low since people are romantically in love with the expensive oil-using machinery such as motor cars which they possess. There are three answers.

WHY IT'S QUICKER THAN YOU THINK

First, the speed of change has in fact been very quick in the downward direction. People forget that from 1963 right up to the early 1970s the "oil question" in America meant that you should not allow Texan oil millionaires to make so much money. Indeed, it was this trendy populism in America in the past decade which created much of the present temporary energy "crisis". In 1954 American courts compelled a quite unprepared Federal Power Commission to regulate for the first time the prices charged for

natural gas; by 1970 the FPC had a backlog of over 2,000 producer rate cases in natural gas, which would have taken 13 years for it to give answers to. The price allowed for this environmentally clean and premium fuel was therefore so low and out of date that it not only made more production of natural gas uneconomic, but also distorted the market for other fuels and cut investment in them at just the wrong moment.

Through the years of gathering crisis, the price of gasoline in America was about half the price of petrol in most other countries. In President Nixon's first budget, as late as 1969, there was universal acclaim when he cut drilling for oil through reducing the rate of percentage depletion allowances for oil and gas from 27½ to 22 per cent. Then in 1970-72 environmental restrictions were directed most especially against the energy industries. By 1971 fewer exploratory oil wells were being drilled in America than at any time since 1947. One reason why Mr. Herman Kahn and others think that it is going to be very easy to step up output of energy in America is because they are among the few who remember that almost everything has been done for a decade to bring it down.

Secondly, the very low figures usually published for oil reserves round the world are mostly reserves discovered in days when just about the only known way of striking oil was to get a Texan to go and sniff for it. There really is now a much greater, and still expanding, ability to find the stuff by electronic sensors attached to computerised systems.

Third, it will gradually be realised that the mechanism through which the price of anything is determined—including oil—really is a bit more sophisticated than an Arab saying what he wants for it. So oil's price should come down rather sharply well in advance of the energy glut which its price rise this winter will now create; but this is unlikely to be in time to stop the energy glut, because the new investment and habits will already be in train. Until this winter, it had seemed marginally likely that the oil price would rise in 1970-80 by more than most other prices; the main consequence of the past three months is that it will now presumably rise by less.

Most of this article should not be regarded as good news for Britain. A main implication is that Britain's North Sea oil "bonanza" may very well come on full flow just when oil is coming towards glut. Another is that £1 billion being spent on Britain's coal mines will be wasted, because it will be surprising if by the mid-1980s any man-operated coal mines should remain open at all. A more tragic implication is that the most deserving charity of Christmas, 1980, will probably be to relieve Arab states ruined by their monoculture of unwanted oil—a charity which is likely to be mainly subscribed by rich Jews. Not enough tears seem to be raised by that.

Mr. DOLE. Mr. President, I have listened with interest to the remarks of the distinguished Senator from Texas (Mr. BENTSEN), and I share his views, and perhaps on the same basis, because I come from an oil-producing State.

I think what has happened, in oil parlance, is that the conference has met and met, and it brought forth a dry hole, so far as the conference report on the Emergency Energy Act is concerned. We are right back where we were at Thanksgiving and at Christmas, and we probably will be in the same situation 3 or 4 months from now if events continue at this rate.

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

Mr. DOLE. I yield.

Mr. BENTSEN. In oil parlance, it might be more properly termed a blowout.

Mr. DOLE. As the Senator from Texas said earlier, it might be good politics in the short run, but it is certainly bad economics in the long run.

I should like to address myself for a moment to what the conference report in its present form does and does not do.

In the first place, it seems to me that the entire section 110 would be subject to a point of order. I cannot find any reference to a rollback in either the House or the Senate bill. Perhaps that matter will be raised at an appropriate time.

As I recall our oil situation, approximately one-third of America's crude oil supplies come from imports which range in price from approximately \$9 to \$11 per barrel. The question will be asked, "Does the rollback have any effect on these prices?" Of course, the answer is, "No, it does not." It does not affect what we import. It does not affect one dime or one nickel or one cent per barrel what we import.

Aside from imports, the remaining two-thirds of America's crude oil comes from domestic supplies. For pricing purposes, this oil is further broken down into two categories: one, so-called old oil, which constitutes approximately 75 percent of our total domestic output; and two, so-called new and released oil and the oil which is produced by marginal or "stripper" wells.

The price of the old oil, which makes up some three-fourths of our domestic supplies, currently averages \$5.02 per barrel. Of course, the question will be asked, "Does the rollback affect these prices?" The answer is, "No, it does not." In fact, the rollback would simply confirm today's price levels for old oil, which is approximately three-quarters of total U.S. production.

So, as the Senator from Texas has said—and as I am certain would other Senators who represent, not major oil producers, but the independent sector of the oil industry, employing thousands and thousands of Kansans, Texans, Oklahomans, and others—we have a real concern.

What we have come to in the conference report on the Emergency Energy Act, is that we are dealing only with new and released oil and oil from stripper wells, a total of about 25 percent of domestic production, which is split approximately evenly between the two.

Then the question is asked, "Does the rollback apply to these prices?" The answer, unfortunately is, "Yes, it does."

In other words, the Senator from Washington is proposing, and the conferees have adopted, a rollback on what amounts to only about 16 percent of all oil—foreign and domestic—used in this country. The Senator from Washington is proposing this rollback on that oil which is newly discovered or produced

by wells which pump less than 10 barrels per day.

I fail to understand, if we have an energy problem and an energy crisis, as some would indicate, what the Senator from Washington expects a rollback of such a small fraction—one-sixth—of the crude oil used in this country to accomplish, or what effect it would have on our efforts to achieve domestic energy independence.

We have been making speeches and otherwise discussing energy independence by the year 1980. We have all discussed at great length windfall profits and excess profits. And I think every Member of this body and the other body understands very clearly that no one should be in a position to make an excess profit or a windfall profit at the expense of other Americans who are making sacrifices, and this applies to the oil industry.

But it is very difficult for anyone, particularly the small independent, with this great degree of uncertainty, the lack of direction on the part of Congress, and the lack of leadership on the part of Congress, to know what he should do in this field of exploration and development. How can anyone invest when, by the whim of a few conferees in Congress, they can roll back the price of oil by some \$4 or \$5 and then leave it up to the President to make any increase?

If we think about energy independence, we can understand the folly of this provision in the conference report. If we are seriously trying to achieve energy independence by the year 1980, then it is easy to see that a great mistake has been made.

I understand the politics of energy. I understand the energy in politics. But I fail to understand what the conference report produces insofar as energy is concerned. It discourages investors in this country from investing with some independent in new exploratory efforts. It takes away not only the incentive but any degree of confidence in price levels that might be present. As the Senator from Texas has just said, the Jackson amendment would perhaps close down a number of stripper wells that have just started to produce.

So I think we have a right to be concerned, not just because we are from oil-producing States but because we see the danger to the entire Nation, consumers as well as producers.

The major oil companies left my State many years ago. They have gone to more lucrative areas. They moved their operations overseas. The Senator from Kansas suggests, as do many others, that we take a look at foreign depletion allowances; that we take a look at the foreign tax credit; that we take a look at other areas. We should also take a look at Kansas industry or the Texas independents to see if, in fact, they have made a windfall or an excessive profit. But we should not launch some misguided attack which will fall heaviest on the independent producers without knowing if there is justification.

The Senator from Kansas is concerned about these points, because the independent sector is important to Kansas and to the Nation. The independent sector has historically drilled the great majority of the new wildcat wells in this country. They rely more on stripper well production, since more than 90 percent of all Kansas oil wells fall into the stripper category.

Thus, it appears to the Senator from Kansas that the amendment of the Senator from Washington would strike directly at the Kansas independent oil producer. It would threaten the Kansas independent's efforts to expand exploration for additional supplies of crude oil.

It would jeopardize the continued operation of many thousands of stripper oil wells in Kansas—and hundreds of thousands elsewhere. And most disturbing of all, the Jackson amendment would do all this damage to the independent oil industry and to the national interest of having adequate domestic supplies—without actually providing significant short-term price relief for the average consumer. Furthermore, in the long run the Senator from Washington's amendment would penalize the consumer by restricting expansion of domestic supplies with corresponding dependence on foreign oil and the continued need to pay for it.

So I suppose my questions boil down to this: Why adopt a scheme that will not really provide much relief to the consumer, because it affects so little of the crude oil actually used in this country? Why adopt a scheme that weighs heaviest on the independent segment of the oil industry while not having much impact at all on the giant major oil companies?

Why does not the Jackson amendment instead force a rollback on the prices charged by the major oil companies whose profits are such a great concern to the Senator from Washington? It would seem to the Senator from Kansas that a rollback on the prices of Exxon or Gulf or Standard or others would mean more to the average citizen than some misleading proposal that affects only about one-sixth of our crude oil and penalizes the Independent oil industry in Kansas and elsewhere.

The language of the conference report speaks of giving the President discretionary authority to increase certain crude oil prices by up to 35 percent. Furthermore, the report indicates that these increases are contemplated for oil produced from stripper wells, from secondary and tertiary recovery processes and other more costly methods.

But why give the President the authority to make these increases? If the need is so clear—as everyone is saying in describing why the conference report should be agreed to—if the need is so clear, and if we understand that without an increase we are, in effect, reducing total oil production, why does not Congress write it into the conference report? Why not go ahead and do it if we understand the need is there?

But even if such an increase were granted and assuming a price of \$7.09 were allowed, does not this price represent a rollback on new oil and stripper oil from current levels in the \$9 range? Yes, it certainly does.

As a Senator from an oil-producing State, I share the view expressed by the Senator from Oklahoma. I think the price of \$10 a barrel is excessive. I think the price of \$10 a barrel, whether it be from a stripper well or some other new oil, has gone up too rapidly, and I have told some of my constituents in the State of Kansas who are in the oil business they ought to be realistic, they ought to be responsible and reasonable, and that the consumer has a great interest in what happens. I have told them that the best way to damage their interest is to let the price of oil seek some arbitrarily high level and then the long arm of the Federal Government, as proposed by the conference report, reach out and cause great damage.

I would suggest that, in effect, we have said to the independent oil producer and anybody in America who wishes to invest, "We are not certain what may happen next week, we are not certain what happened last week or what might happen the following week so far as the industry is concerned."

I do not know how we can ask independent oil producers to go out and explore for more oil and gas when they really do not know what the rules may be from one week to the next or from month to month. Will they have \$9.51 prices as they do today—or \$5.02 or \$7.09? That is the question, and it is an important one. There is great uncertainty in the industry, and it arises from the lack of leadership in this time of crisis either by the executive branch or by the legislative branch. It makes it very difficult for the small businessman, the small independent producer, to know which way to go.

He has heard the politics; he has heard the rhetoric. He wants action—but meaningful action that will mean more energy for America. I think most responsible businessmen and those who work for the independent oil-producing industry understand the problem. But these are serious questions and I think they deserve serious answers if we wish to have adequate supplies of energy by 1980 or before.

I thought recommittal of the conference report earlier this session was totally justified. It appears to me now, that instead of an improvement, the present conference report after reemerging from the conference committee is at least as objectionable and poorly conceived as the previous version. So I would hope at the appropriate time that this matter would be sent back to the conference and that the conferees would understand that our goal in America is energy independence. And I would hope the conferees will realize that energy independence will not be achieved by destroying an industry or crippling the spirit of an industry which

is now engaged in exploration on a large scale for oil and gas.

So whenever the vote may come, today, tomorrow, a week from Tuesday, or the following week, next month, whenever it is, I hope that we keep in mind the record of the independent oil producer.

The Committee on Finance will begin hearings next week on responsible and effective measures to deal with excessive profits and obtain adjustments without destroying important segments of the energy industry.

The Finance Committee will be seeking to make certain that those who unfairly profit in any way because of the energy crisis will be dealt with effectively. There must be assurance that excess profits will either go to pay windfall taxes or be plowed back into the industry for greater exploration, research and development, or other positive goals.

I think the American people have a right to expect leadership from this Congress and I think the American people are waiting and will continue to wait for that leadership. If there is such a crisis in America, Americans must wonder why we spend so much time trying to pass the Emergency Energy Act and why in the process we have set about to destroy an independent industry in this country which employs hundreds of thousands of men and women.

As we face up again to the serious question I would hope if the provision is not subject to a point of order that the entire matter will be recommitted to conference where it can be studied and perhaps the politics left out and the energy put in.

I ask unanimous consent to have printed in the RECORD at this point a letter from a Kansas independent oil man, James C. Remsburg, to William Simon. This letter very clearly states the effects of the prevailing uncertainty on the industry and its efforts to expand oil and gas supplies.

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

SLAWSON DRILLING Co., INC.,
Wichita, Kans., December 28, 1973.

HON. WILLIAM E. SIMON,
Administrator, Federal Energy Office, Washington, D.C.

DEAR MR. SIMON: At a recent meeting of the Kansas Chapter of I.A.D.C. an attempt was made to assess the current Kansas drilling activity as well as the potential or maximum effort activity level. The published statistical data assuredly are indicative of comparative drilling activity, but in our opinion, do not accurately quantify total activity. Further, these data do not reflect available but inactive rigs. By count of those members in attendance, at least 83 rigs capable of drilling are presently located in Kansas. Of these, 52 were active, i.e., either engaged in drilling operations or had a contracted location awaiting them. This determination by representatives "on the front line" should be accurate and any errors would be those of omission. Incidentally, this count did not include the Shallow Eastern Kansas rigs. The significance of this determination to us, is that the total rig availability in Kansas has NOT yet been fully exploited.

It is tempting to rationalize the current

status by stating that Kansas operators simply have not yet had time to overcome the inertia resulting from a protracted unfavorable economic climate. While this is undeniable, there are several other conditions which deserve consideration. In retrospect, the almost continuous instability of the political climate during 1973 has hampered and delayed a concerted industry-wide effort to increase activity. Faced with a tax reform proposal, which if enacted would have crippled them, many independent operators deferred drilling wells until that issue was resolved. Shortly thereafter, following a desperately needed nominal crude price increase and in the middle of a subsequent increase equally as imperative, the threat of a price rollback once more throttled expansion plans. Ceiling prices were placed on "old crude" and the "two-tier pricing system" was enacted. Very quickly, the free market price of "new oil" caused a noticeable increase in Kansas drilling activity. However, the oil operator now faces the possibility of mandatory allocation as well as the possibility of excessive or "windfall" profits taxation. In this roller-coaster environment one has to marvel that the industry has geared up to the extent already exhibited.

Aside and apart from the considerations already discussed, labor availability for increased drilling activity has been a problem, but in Kansas at least, the situation is improving. In a classic example of "cause and effect", increased crude prices have allowed drilling prices to advance and this has been translated into higher wages. As a result, labor is beginning to flow into the oil fields instead of draining out as it has done for several years.

Of more vital concern, the shortage of oilfield tubular goods has caused cancellation of some drilling contracts and deferral of others. Hopefully, mill rollings during 1974 will be increased and this roadblock will be removed. Incidentally, one oilfield supply firm has received allocations of casing from two steel mills for wildcat wells drilled in Kansas. The allocation is relatively small, but this does indicate that positive efforts are being made to cope with the shortage. Given a more stabilized environment, it seems plausible that both labor and tubular shortages will moderate.

Based on personal experience, the past year has required almost week-to-week re-assessment of anticipated Kansas rig demand. However, our company did order, assemble, and start up a new rig during 1973. This rig commenced drilling operations in early October, approximately 150 days after equipment orders had been placed. At this time, we have an option on equipment for another new rig and have been informed that delivery on major items is now 150 to 180 days. Adding a rig-up time of approximately 30 days, we should have this rig operable in July or August, 1974. I am aware of one other new rig on order for a Kansas-based contractor, and understand that the lead time for it is essentially the same as ours.

In summary, I believe the general feeling of Kansas drilling contractors is one of optimism. Fully realizing that the operators need a more stabilized environment than they have had during 1973, the contractors anticipate a sustained increase in Kansas drilling, and are willing to meet the challenge.

Sincerely,

JAMES C. REMSBURG,
Vice-President.

Mr. DOMENICI. Mr. President, first I wish to associate myself with the remarks of the distinguished Senator from Texas

(Mr. BENTSEN) and the distinguished Senator from Kansas (Mr. DOLE).

I am not one who has second thoughts now about having voted to recommit the bill, because I did not vote to recommit it. There were those concerned about the independent small oil producers in this country that thought a vote not to send this bill back for further consideration would be proper because of the very vague and uncertain windfall taxes, which would certainly put them out of business. What I thought would happen has come to pass. The Senator from Texas (Mr. BENTSEN) used the word "cavalier" in describing the position that the conference took with respect to the whole problem of the economics of the small independent producer versus the huge integrated oil companies, which solved all the problems in a couple of days with a rollback.

I just want to make sure that every one of us who is going to consider this matter understands a couple of things about it which are very clear to me:

No. 1, it discriminates, without question, in two ways. First, it discriminates in favor of foreign oil, which we are now so concerned about, because there is no effort, and no possibility in this bill, to reduce the ever-increasing cost demanded for foreign petroleum coming into this country. In that respect, as we move from that, we move toward further rises in the price they seek from us and, second, further and further help develop the blackmail approach as a result of the resources of foreign countries, because they know they can get whatever they want from America in this approach.

Second, and equally important, it discriminates in a violent way against the nonintegrated producer and in favor of the integrated and big company which has production in America and overseas, because the big company that has production both here and there has part of the production frozen and as to that which comes from overseas, it is free to join in passing on right here at home the price which Venezuela and the Middle East pass on to it.

In that respect, most certainly one could conclude that the price will come down. But I ask this: How is the price going to come down and stay down if there is a shortage? By this approach we are going to minimize domestic exploration and maximize importation from the outside, and the importation will be at a higher price. So how can we here fill the demand existing from much of the country for lower prices when we say to those who want to charge the higher prices, "We are for you," while the independents all over the southwest of our country, who are exploring to find ways to get oil, even to going to secondary and tertiary levels to which they otherwise would not go, are told "Unless you can do it at about half the price that Venezuela and Canada and the Middle East charge, you cannot do it at all?"

It seems to me there is only one logical answer. Either the shortage is to be filled by America or the shortage is to

be filled by foreign oil. If that is the case, how can we have further production of domestic fuel when the price is frozen or rolled back when at the same time we pay a higher price for foreign oil, and when we are in this instance accelerating and enticing and discriminating against the independent producer of this country. To me the logic is inconceivable.

I admit that the prices of crude oil certainly have gone too high and too fast and that we must work in some way to see if we can get back into some kind of economic balance which will promote domestic exploration and development and at the same time we do not let this country become increasingly dependent on the whim of the foreign producer and on the whim of the foreign country in terms of price, as new sources of supply for this country become less.

It seems to me the approach—and I am not saying the approach in this bill, if everybody understands it, could not be the policy of this land—is a policy consistent with what everybody is saying we should not do, for it is not a policy directed at abundance, but it is a policy directed at an absence of abundance. It is not a policy of lower prices that develops the approach of finding alternate sources of energy, but one which will increase our dependence on higher-priced foreign petroleum products.

In conclusion, let me say that if indeed this is the course we seek and it is adopted as a national policy, let us understand that more venture capital that is going into high-risk situations is finding that it is going to have to produce new situations. The independent who is both exploring and finding new sources in the field, when faced with this competition from Venezuela and other places, will slow down, and another kind of rollback will take place, and that is a rollback in activity.

If I were convinced that, in spite of that, we might have a reasonable expectation of price stabilization to help the American consumer while moving into alternative energy sources, I would vote for such an approach, but it seems to me everything about that approach works exactly contrary to what we have been trying to do.

I compliment the Senator from Texas (Mr. BENTSEN) for his remarks and his very expert analysis of the difference between an integrated company and the American producer, the independent exploration company, for indeed the latter has as his only source of revenue the investing public of America. It is those people who will find the domestic crude oil. It is principally the independent here. That is not the same as when we talk about the integrated company or when we talk about the foreign invested money that will produce foreign sources of supply.

I yield the floor.

Mr. FANNIN. Mr. President, I ask unanimous consent that during debate and voting on the conference report S.

2589, the following members of the staff be given floor privileges:

David Stang, Harrison Loesch, Fred Craft, Roma Skeen, Maureen Finerty, Nolan McKean, Rick Davis.

Jerry Verkler, Bill Van Ness, Jim Barnes, Lucille Langlois, Arlon Tussing, Dan Dreyfus, Gren Garside, Rosemary Donnelly, Sam Marlair.

The PRESIDING OFFICER. 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, announced that the House had passed, without amendment, the joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub—No. 2).

ENERGY EMERGENCY ACT— CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. HELMS. Mr. President, in my judgment the conference report on S. 2589, the Emergency Energy Act, should not be approved by this body. Everyone knows the controversial history of this conference report, the unusual parliamentary proceedings which attended its birth, and the discrepancies which remain even after reconsideration. The distinguished Senior Senator from Arizona (Mr. FANNIN) detailed these on the floor the other day, expressing his frustration at the unconventional tactics which surrounded the shaping of this legislation.

It is clear that this is legislation which was conceived in haste, marked-up with slipshod recklessness, and which brought us into direct conflict with the wishes of the House of Representatives. Even now it is filled with duplication of effort, ambiguity of authority, and administrative nightmares. I have no doubt whatsoever that it will never accomplish what it sets out to do.

Moreover, I am convinced that the bill is wrong in its substance as well. If we were really serious about energy conservation we would seek every substantial means of cutting down on wasted energy. It was brought out on this floor that forced busing of school children was a luxury that we could no longer afford in a time of shortage. A substantial portion

of this body agreed that it is simply too great a waste of gasoline to continue forced busing at a time when it is proposed to shorten school hours, cut down on heat in schools, and even to close schools for extended periods. The House agreed completely and passed an amendment similar to the one I proposed in the Senate to cut out forced busing.

Yet despite the fact that a substantial portion of this body agreed three times to the proposition, and the other House agreed overwhelmingly, the House amendment was eliminated in conference. I recall a newspaper story at the time which reported—and, of course, I realize that not all newspaper reports are correct—that the distinguished chairman of the Interior Committee had argued in conference that to include the antibusing amendment would delay the bill in the Senate and perhaps prevent it from passing. At any rate, the amendment was deleted. It is also a matter of history that the bill was delayed anyway, indicating that the fears of many Members of both Houses were directed to other parts of the bill.

All of this goes to show that we are perhaps not really serious about the energy shortage. Yet the bill itself moves to involve the Federal Government more heavily in the decisionmaking about energy sources and use. It moves us toward rationing, it moves us toward Government control of personal mobility, and it moves us toward Government control of the essential business decisions of private enterprise.

Everybody is properly concerned about the energy crisis, with its shortages of gasoline, fuel oil, and gas. But, the last thing we need, and the worst thing that could happen, would be for the United States to move towards a nationalized oil industry. Yet, in this moment of frustration, that suggestion is being heard more and more often. It will be a sad day for America if it ever comes to pass.

It is not popular to dispute the loud political condemnations of the oil industry that are being heard with increasing fury. It is a natural desire on the part of the public to want to hear us politicians propose easy answers to difficult problems. The trouble is, there is no easy answer to difficult problems. The trouble is, there is no easy answer to this problem. We are not going to solve it by Federal controls, or by finding a political scapegoat. We have got to face up to the hard facts of life.

For many years now, our Federal Government, by one device after another, has been limiting the exploration for new domestic sources of petroleum. Therefore, production has been limited. Instead of developing new sources at home, we have been turning to foreign countries, and importing larger and larger amounts of oil. Our shortsightedness is now catching up with us. The crunch is on.

I hold no brief for the oil companies. I do not own even one share of stock in any oil company. And I do not like to

pay high prices for gasoline any more than any other citizen does. Still, in fairness, I think the American people ought to bear in mind that they still have more fuel available to them, at less cost, than any other country in the world.

My own view is that we ought to get busy with exploration for more sources of domestic petroleum, build some new refineries, and stop all of the name-calling. Otherwise, no matter what laws Congress passes, or what regulations the Federal Government imposes, the situation is going to get worse.

We ought to compare our situation, unpleasant as it is, with that of any other country in the world. Then we would be made aware of a fact that many people are forgetting—that the free enterprise system of competition is our best hope. Indeed, it is our only hope.

I realize that it is popular to vote to roll back prices. But I say we must look to the future. Such a move can have no other result than a further reduction of exploration and production of petroleum, thus further delaying the hope of an adequate supply in the months and years ahead.

I am sure I will be criticized for these thoughts, but I am convinced that there is no adequate substitute for the free enterprise system. Only through production and competition in the marketplace can we hope to enjoy lower prices for the goods we buy, whether they be gasoline, food, or whatever. We cannot improve upon the free enterprise system.

THE ENERGY EMERGENCY ACT: LESS THAN
WHAT IT APPEARS

Mr. McGOVERN. Mr. President, the new conference report on the Energy Emergency Act is a great improvement on the conference version which we re-committed on January 29.

But it falls far short of what we need.

The significant addition to this legislation is its provision for a rollback in the price of fuel. But it does not roll back far enough.

I applaud the improved version of the unemployment compensation guarantees for working men and women displaced by energy-related shortages. Nearly a quarter of a million people already have been put out of work.

And I am pleased that the wholesale retreat on the fight for clean air and clean water has been substantially modified.

It is, however, wholly inadequate to characterize this bill as any sort of major victory for the consumer, or for the Congress.

Under the formula we are asked to approve, the price for crude oil currently exempt from price controls—new oil—would be rolled back to \$5.25 a barrel with provisions allowing the administration to raise it back up as high as \$7.09 a barrel, but the President's recent \$1 a barrel increase on old oil would be allowed to stand.

The effect, according to advocates of this proposal, would reduce gasoline

prices by 4 cents a gallon and save consumers \$4 billion a year.

It is my belief, and that of many other Senators, that the price of controlled—old—oil should also be rolled back to the December price level. That would permit another 2.5-cent reduction in the retail price of gasoline and save the consumer \$2.5 billion more than what the conferees recommend.

Mr. President, I do not see the logic in retaining the \$1 per barrel price increase for old oil, particularly since it constitutes 71 percent of our domestic supply of crude oil. A higher price on already-flowing oil simply is not an incentive to the increased production of new oil.

What this rollback formula would do, in essence, is to write into law a decision by the administration which is unsupported and unsupportable, and is not in the public interest.

The only suggestion of justification that this administration has offered for its \$1 per barrel price increase for old oil is that oil producers need more money to invest in new production.

I think that the record increases in profits posted by the major oil companies last year provide more than enough basis for increased investment—and they got that even at the old prices. Beyond that, the increases retained in this conference report boost the price of crude oil well beyond what the industry itself says is necessary to stimulate exploration and production.

In December 1972, after an intensive 2-year study, the National Petroleum Council projected that the industry would need \$4.48 per barrel, using its "worst case" assumptions. Why should the Congress now give them a bigger windfall?

At the level I have suggested, \$4.25 a barrel for old oil and \$7 a barrel for new oil, the average price for all domestic oil would be about \$5.25 a barrel. Allowing for inflation, this is about what the industry said it needed.

My point, Mr. President, is that Congress should hold the oil companies to their word. We should not force the consumer to pay more than what the companies themselves say they need. Their excess profits ought to be not ratified but removed.

Mr. THURMOND. Mr. President, just over a week ago this body expressed its disapproval of a windfall profits section in the bill that is now before us again.

That vote of 57 to 37 sent the conference report back to the conference committee which has now, through the efforts of the distinguished chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) written a completely new section to roll back domestic crude oil prices.

Aside from the fact, or at least my opinion, that the conference committee has overstepped its authority in adding a completely new section that has not been considered by either body, and has ignored proposed legislation on windfall profits now being heard by the appro-

priate committees of both bodies, the price rollback requirement in the Energy Emergency Act would not accomplish its stated objective.

That objective, according to its sponsor, is to roll back gasoline prices by 4 or 5 cents a gallon and, I presume, comparable savings in the price of other refined products. However, what would it actually accomplish?

First, in taking such indiscriminate and punitive action against the entire oil industry—the shotgun approach—the rollback will hit hardest at the independent sector of the industry rather than the major integrated companies, the apparent target.

I believe everyone wishes to see fuel kept at a reasonable price. Certainly, the Senator from South Carolina does. But unless we are very careful in handling this matter, more harm can result than benefit.

Mr. President, as far as consumer savings are concerned, it will prove to be a cruel hoax. Even if crude prices are rolled back to the level called for in the rollback section, the possible cut in gasoline prices would be at best 1 or possibly 2 cents a gallon. The advocates of the proposal know that each dollar increase in crude price represents about 2½ cents in the price of gasoline at the pump. The rollback promises lower prices, but inevitably would lead to far higher prices and crippling shortages, and this is what concerns me deeply.

Mr. President, independent producers have found more than 80 percent of the new domestic oil in the last year, not the international companies, and independents operate most of the stripper wells in the United States. This action would grossly discriminate against the 10,000 small explorers and producers who are the best hope of increasing the Nation's energy supply and thereby bringing about an ultimate reduction in the price of fuel.

A rollback of new and stripper oil discriminates against the independents in favor of the international oil companies which would continue to be permitted to flow through the uncontrolled cost of imported oil that is priced at two to four times the proposed rolled back price of domestic oil.

Mr. President, it is a certainty that the result of the conference proposal would be substantial reductions in domestic crude oil supplies which will be replaced by foreign oil costing far more. It is a certainty that this action will accelerate our already intolerable dependence on foreign oil, a condition the conference report professes to deplore.

Mr. President, consumers today are paying 20 to 30 cents a gallon more for gasoline than they were less than 2 years ago. This is due primarily to increased prices for foreign oil, and to higher refining and marketing charges.

Therefore, the claim that this rollback of domestic crude oil prices would mean a substantial saving to consumers is incorrect. If there is a saving, it will be

temporary and amount to no more than 2 cents a gallon on consumer products. Within a short time there will be no price saving, and the only effect on consumers will be further dependence on foreign oil.

The level of U.S. dependence on foreign oil has doubled in just 5 years. Under the conference proposal, it will double again, in even less than 5 years. Domestic production has been declining, because of depressed and inadequate prices.

The rollback of new and marginal oil prices will aggravate this decline precipitously.

There has been much talk in the political community about "contrived" oil shortages. The conference proposal would result in a politically contrived shortage of a severity never before imagined. This is the way many people knowledgeable on the subject feel. The American people should understand now who should shoulder the blame.

Mr. President, the Wall Street Journal published an article dated February 7, 1974, under the column "Review and Outlook" entitled "Big Oil's Taxes." I think the article is worth reading into the RECORD at this point. It states:

Congress is worried about how to change the tax law in order to restrain oil profits. Clearly a number of items in the Internal Revenue Code work in the oil companies' favor, and it's worth thinking seriously about whether to change them. But serious thought quickly runs into certain realities.

The commanding reality is that if the energy crisis is to be solved, the world's petroleum industry, which is largely the U.S. multinationals, will have to invest \$1 trillion by 1985. Half of this will have to come out of industry profits. The Chase Manhattan Bank estimates that this will require an annual 18% earnings increase as an average over the 1970-85 period, a number some economists equate with a 15% to 20% return on shareholders equity. For all the talk of "windfalls" and "record profits," the industry's average return on shareholders' equity in 1973 was roughly 16%; Exxon, the leader, was at 19%.

These return-on-investment figures also tell quite a bit about the effects of oil-tax "loopholes." An industry benefitting from preferential tax treatment presumably would be an unusually profitable one. But prior to the current oil shortages, the oil industry's rate of return has been below average: in 1972 9.6% for oil and 11.8% for all industry. In 1972 Exxon earned a return of 12.5%, Gulf earned 3.6% and so on, while Cola-Cola returned 22.8%. So far as we can see, the only possible interpretation of this is that profit margins in the oil industry have been under competitive pressure, and because of the same pressure the effect of tax breaks has been passed along in lower prices to the consumer. Higher taxes on oil companies are likely to mean that oil prices settle out at a level higher than they otherwise would.

In other words, changes in the tax law would be harmful at worst and cosmetic at best. But especially in matters of equity, appearances do count. To judge by the tones of outrage, it makes people unhappy that some oil companies pay only 1% or 2% of total world-wide earnings in U.S. taxes. So perhaps raising that percentage would be a net addition to human happiness, even if it meant less profits to invest, or more likely, higher prices for oil products.

To figure out what changes to make toward

this end, consider Octopus Oil, a hypothetical integrated multinational. Last year its books showed \$1 billion in pre-tax earnings, and it paid only \$20 million in U.S. taxes.

Of the \$1 billion, half was paid in taxes to the Arabs and other producing nations. Since this payment is classified as a tax, it produces a "tax break" on U.S. taxes but is also included in pre-tax income. If it were an expense rather than a tax, it would be excluded from pre-tax income.

Of the other \$500 million, \$300 million was earned abroad. Of this, Octopus paid \$100 million in income taxes to foreign governments. Like all other American concerns operating abroad, it can take this \$100 million as an offset against American taxes on its foreign earnings. Otherwise American firms would be double taxed.

Since the \$500 million payment to producing nations is also considered an income tax, Octopus also gets to offset it against U.S. taxes. So throw the Arabs' cut back into the pot, bringing foreign earnings to \$800 million and foreign taxes to \$600 million. At 48%, the U.S. tax on \$800 million would be \$384 million, but this is more than offset by foreign taxes. Octopus ends up with a "surplus credit" of \$216 million.

Now, contrary to understanding of most of the oil industry's critics, these credits cannot be used to reduce taxes on income earned in the U.S. So Octopus still owes tax on the \$200 million earned at home. But it has domestic deductions: \$60 million for the depletion allowance, \$27 million for intangible drilling expenses, and \$40 million for accelerated depreciation of its capital equipment. That leaves \$73 million of taxable income, which at 48% yields \$35 million. But Octopus can also take a \$15 million investment tax credit for the new refinery it built in Skunk Hollow, Pa. And the Treasury gets \$20 million, or 2% of the company's world-wide pre-tax earnings of \$1 billion.

How should Congress increase Octopus Oil's taxes? It has little desire to eliminate accelerated depreciation or the investment tax credit; these apply to all of U.S. industry. There's little interest either in touching writeoffs for intangible drilling expenses; to do so would wreck domestic independents, who draw heavily on this provision when they hit dry holes.

The obvious target is the tax credit on the payment to the sheiks, which looks more like a royalty than a tax. On every barrel of oil the Arab governments levy a royalty of 12½%, counted by the oil companies as an expense, and an "income tax" of 55%, counted as a tax. The percentages are taken on the basis of the "posted price," set by the governments and having little relation to the actual price of anything. While not without parallels in other lands that produce, say, coffee or copper, the situation is highly artificial. Obviously, the Arabs decide what they want to charge for their oil, and then work backwards to get the tax rate and the posted price.

If the whole payment to the sheiks were treated as a royalty, Octopus would have \$300 million in foreign earnings, on which it would owe \$144 million in U.S. taxes, offset by \$100 million in foreign income taxes. Thus, its taxes would go from \$20 million to \$64 million. The consumer would pay \$44 million more for his oil. But, because Octopus' pre-tax net would be lopped in half by putting the sheik's \$500 million in the expense column, the offending percentage would rise from 2% to a more comforting 12.8%.

Prior to 1950 all such payments were in fact treated as royalties, but in that year, the Truman administration wanted to bolster the Persian Gulf against the Communist

threat by getting more money into Arab hands. By calling the royalty a tax, a switch worked out by the State Department, the U.S. oil companies could double their payments to the Arabs and get the difference back in their tax returns. Thus, U.S. taxpayers financed a foreign-aid program and never knew about it. In making the change the companies merely came out even, though we find it quite conceivable that in later years they found ways to take more of their profits at the tax-favored producing end of the business, and less on refining or marketing.

The problem is that such things get built into the system. By now the U.S. Treasury considers the payment a tax, mainly because that is the way other governments treat it. If the U.S. switched back and called it a royalty while other nations did not, Octopus Oil would be at a competitive disadvantage against British Petroleum and Royal Dutch Shell. It would find itself outbid on choice new concessions, and gradually have to retreat from foreign development. At some point the Arabs may "solve" the "problem" by themselves switching to a royalty label, but in the meantime Congress needs to ponder whether the cost of handicapping U.S. oil firms in foreign competition is offset by the benefit of changing that percentage from 2% to 12.8%.

Another target would be the depletion allowance, and there we would not encounter competitive problems. Indeed, Atlantic Richfield has offered to give up the depletion allowance if the price of oil is decontrolled so the marketplace can give it the funds it needs for investment. Some other large oil companies feel the same way, but are not saying so in public. Eliminating percentage depletion would increase Octopus' taxes to \$48.4 million, or 4.9% of its world-wide net including the sheiks' \$500 million.

Eliminating the depletion allowance and decontrolling prices is not an overwhelmingly popular course in Congress. For one thing, the Congressmen who want to tax the oil companies more are the same ones who want the consumer to pay less. Even among Congressmen who've learned there's no such thing as a free lunch, there's the problem of the oil millionaire.

The big companies don't care about depletion, so long as they get the return on investment they need to expand. But independent oil producers, who probably pay individual income taxes in the 70% bracket, care quite a bit. In fact, since these independents supply the major firms, the firms are loathe to alienate them by softness on depletion. It's the same in Congress. Herman Kahn of the Hudson Institute says every congressional district has one oil millionaire, who takes his Congressman hunting every year. This, not Octopus Oil, is the real "oil power" on Capitol Hill.

In trying to sort out the financial, political, diplomatic and cosmetic considerations, one can easily understand why Congress is having such a tough time working out an energy bill. But it seems to us a few constants do emerge: The oil companies need profits to reinvest, the consumer is ultimately going to pay for tax changes, and fiddling with the Internal Revenue Code is not exactly the first thing that needs to be done to solve the energy crisis.

Mr. President, this is a very complex question. It is one deserving of the utmost consideration of the Congress as well as the Nation, and it is one that should be looked into most carefully. It should not be gone into without thorough consideration and adequate hearings on

every facet of the matter, because what we ultimately want to do is two things: One, provide the necessary fuel for the people of America, and the next is to provide that fuel at a reasonable cost.

In trying to achieve those goals we must be careful that we do not take some step that will react and produce an opposite effect or will not produce the goals we set out.

Mr. President, I yield the floor.

Mr. BARTLETT. Mr. President, I ask unanimous consent that during the consideration of the conference report on S. 2589 and votes thereon, Mr. Tom Cantrell, Mr. Bud Scoggins, Mr. Jim Trickett, and Mr. David Russell, of my staff, be accorded the privileges of the floor.

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

Mr. BARTLETT. Mr. President, when there was discussion on this conference report this morning it was said that perhaps some of those who oppose the adoption of the conference report are guilty of foot dragging and are really not interested in providing solutions to the need of the Federal Energy Administrator for certain controls and certain powers that he does need.

I think nothing could be further from the truth, because, if the provision in this report which provides for the rollback and control of prices were removed, I would venture to say that all of those who have shown opposition to the entire report would be in support of it today and would have been very happy to have passed it before the Christmas recess if it had been just strictly the FEA provisions. Second, I would like to point out that those who are being characterized as foot draggers at this time on the matter of energy were those who, to a great extent, opposed the conference report before when there was another provision in it which called for a rebate on the so-called excess profits.

Some of us who were considered guilty of foot-dragging and of taking up a lot of time and of putting on a minifilibuster at that time, feel we were vindicated when, after lengthy hearings after the hearings were resumed after the holidays on the matter of excess profits, and when those provisions were better understood by the general public and by Members of the Senate, the vote to recommit was a substantial 57 to 37.

I would also like to point out that many of those of us who are showing opposition to the conference report today, and I think will later on, are people who really want to see the energy crisis resolved, who want to take a number of actions which will lead to an increase in domestic supplies of oil and gas and coal and other energy sources in the United States. Most of those of us who might be accused of foot-dragging are those who voted for the Stevens-Gravel amendment in the Alaskan pipeline bill, which legislated the Alaskan pipeline, and which is going to bring oil into the lower 48 at a much earlier date than otherwise.

Also, Mr. President, many of the ones

who were criticized for dragging their heels are the ones who supported the stripper well amendment which does provide a free price for about 12 percent of the crude oil production in this country. And in my mind, they still support this amendment which provides for additional oil for American consumers. It also provides an opportunity for additional oil right away because many of the stripper operators are making investments in their small wells and are successful in enhancing and increasing this production.

These same people feel, I think, that it makes sense to pay the operator of a stripper well, a small marginal well, \$9.50 a barrel for that production rather than have that production plugged and abandoned and then replaced with foreign oil that, on a spot market basis, can cost as high as \$22 a barrel.

Mr. President, I would also point out that those who have been criticized as foot-dragging are those who want to help solve the problem of deficient energy in this country by deregulating the price of new natural gas in interstate commerce. Many of the economists who have been before our committee have testified that this is the root cause of the energy crisis, that this is more than any other cause the reason that we do have a short supply today. And those same people who have been criticized for foot-dragging are the ones who are in favor of the proposals to site refineries and powerplants and for the siting of deepwater ports to provide additional refinery capacity for the oil and to permit the foreign oil to come into this country at cheaper rates.

In addition to this, Mr. President, I would like to bring out that this roll back provision addition to the FEA proposal in the conference report—and I am referring to the rollback of crude oil price provision—is very unusual, and it is quite far-reaching. Other than the price of oil, I cannot recall any particular commodity or natural resource that has a price that is set in cement, set in a legislative act.

In this case it would set the price at approximately \$5.25 a barrel.

Second, it is very unusual, because it rolls it back from the current price of approximately \$9.50 a barrel.

So, on both of those bases, it is a very far-reaching and restrictive type of price control. It would be very difficult to change it. And it is bound to be in existence for a long time.

In addition to rolling back the price to \$5.25 a barrel for domestic oil, it does provide that it can be increased upon request by the President under certain difficult conditions up to, but not to exceed, 35 percent of the \$5.25 price.

But increasing the price beyond \$5.25 means following the Administrative Procedures Act rather than just being at the discretion of the President or his agents.

A change is made in the Administrative Procedure Act just to apply to this matter of controlling the price of crude oil. That change shifts the burden of proof to the President who must support his price with substantial evidence

rather than just prove that he has not been guilty of arbitrary capriciousness.

This is another departure and another innovation that I believe should be the subject of hearings and the subject of discussions throughout the country to see whether or not this particular proposal, S. 2589, is really in the interests of the people of this country.

Also, there is another result of this conference committee report on S. 2589, and we do not know yet what that amounts to. For example, it would reduce, and I would think rather sharply, the tax revenues from the producing States. What that will amount to, I do not know. However, I certainly am confident that the Governors of those States, as they have been submitting their budgets to the legislatures of their respective States, have counted on this revenue and that the legislatures which are in session today are planning to use that money in the appropriations they are making for the next fiscal year.

Another thing—and we do not yet have an answer for that either, and it will certainly take a few days to obtain it—is how much less money will be available for investment in the domestic oil and gas industries. How much less oil and gas reserves will be found, because of this reduced price and reduced incentive and reduced amount of money to invest in the oil industry.

Mr. President, that will certainly have an effect on the investments that might otherwise have taken place in other fuels.

One of the values of a free market price is that it will tend to bring on other fuels, such as the extraction of oil from sand or shale, or liquefaction of coal, or coal gasification; all of which will reduce the sulfur content that sometimes violates the environmental laws.

To roll back crude oil prices at this time would tend to perpetuate our dependence on foreign sources for oil imports which has proved many times in the past, and currently to be unreliable.

I agree with Dr. Thomas Stauffer, research associate with the Center for Middle Eastern Studies of Harvard University, when he said that we are possibly "mortgaging our future supplies of energy in order to enjoy a very short-run dividend in the form of lower prices. This may be good politics, but it is bad economics."

Dr. Stauffer went on to point out that the hidden costs of energy shortages can be much much greater than the visible costs of higher oil prices. It is better to pay more and have energy than it is to pay less, and then to get less, and hence cause men's and women's jobs to be lost.

To adopt this price control ceiling provision would be to ignore history and to repeat the disastrous precedent of price regulation in the natural gas industry. In 1954, price controls on natural gas were initiated in the name of consumerism, but the results have demonstrated that they have not been in the consumer's interest. The policies of Chairmen Swidler and White have promoted the

waste of one of our cleanest energy sources, and at the same time have discouraged the exploration for more of this highly desirable fuel.

Because the price was so low, gas has been improperly used. It has been used by many industries under boilers rather than made available for consumer use in households.

It seems we do not learn our lesson. We had cheap, plentiful energy, but by trying to make it cheaper, we now have shortages of expensive energy.

We all have the desired goal of attaining energy self-sufficiency. I think it should be defined as having at least 85 percent of total consumption derived from domestic production. By any definition, price rollbacks are not the way to achieve self-sufficiency.

I might just go back and review quickly the history of the price of oil. First, because the price of gas was controlled and set at a very low level, and because gas is a desirable fuel, it competed very strongly with the price of oil and the price of coal, causing the prices in both cases, of oil and coal, to be lower than they otherwise would. Hence, supplies were lower, because there was less money to invest in the development of each.

In addition to that, there was a program called the mandatory import program, which was designed to provide a prop or support for our domestic industry, recognizing that it was important for us to have a strong domestic oil and gas industry, so that we would have ample supplies to take care of our needs, particularly in time of war, to provide for our national security, but also to provide for a strong economy.

But the mandatory import program was not administered that way. It was used, instead of as a prop, as a club over the heads of the oil companies, so that they would not raise the price of oil when there was a need to do so because of increased costs of labor, amounting to approximately 25 percent over a span period of some 13 years; because of the price of steel going up 40 percent during that same period, and the cost of a well to be drilled going up 75 percent.

The time period I am talking about is a period of 13 years beginning in 1957. The price of oil in 1957 was \$3.09 a barrel, and then it went down, and it stayed under \$3.09 until 1969, the 13th year of that period.

When it got back to \$3.09, the oil industry had had its costs increase about \$500 million because of the reduction of the depletion allowance from 27.5 percent to 22 percent.

In addition, at that same time, there was a desire by people from the consumer States to lower the \$3.09 price, and, because of this pressure, the President of the United States asked Secretary Shultz to appoint a committee, which was called the Reeder Committee, to make a study and submit its findings and recommendations to a Cabinet level Committee on Energy.

All of this was done, and the majority

of witnesses before the Reeder Committee recommended that the barriers provided in the mandatory import program be removed, and to allow the flood of cheap foreign oil come into this country.

It was suggested in their report that this action would reduce the price of oil in this country to \$2 a barrel. After 13 dry years of \$3.09 and less a barrel, \$2 a barrel would have so severely crippled the oil industry that we would have been at the mercy of foreign countries long before we were, and we would have been reduced to a much weaker condition.

So I think the history we have of both the oil and the gas industries shows very clearly that this is not in our interest today. What happened in the long, dry period of oil profits in the sixties? The number of independents was reduced from about 20,000 to 10,000. There was little incentive for exploration in this country, so the larger companies, the multinationals, went overseas for their exploratory operations. This, of course, fulfilled the desires of those in some of the consumer States, because the large companies were successful and were able to provide foreign oil at low cost and in large quantity. Up to a certain point, of course, this is very good; but when the amount coming in was such as to weaken the domestic industry severely, then it was obvious that the foreign oil would very quickly become expensive, and supplies would be in small quantity, as we see it today.

The Reeder report was strongly objected to by many people, who pointed out that we would be at the mercy of foreign nations, so far as our supply of energy was concerned. The Reeder committee argued that the supplies of the world were so large that the price would always be low. They just forgot one very important fact, and that is that political decisions can be made that will override economic estimations.

These proposals will make us more dependent upon foreign oil imported from the Middle East. We will be going down the same road again, by subsidizing foreign production, by arbitrarily restricting our own domestic supply, and by insisting on the purchase of foreign oil that is available.

If we are to maintain our worldwide commitments and remain a strong nation, the best alternative to importing oil is to strengthen the domestic oil industry at the fastest possible rate, rather than to weaken it by removing the price incentive.

Certainly we know that we are going to import more foreign oil, and to import more than we are now, and we also know that we will not be able to import it at the cheapest possible price. We know that if we strengthen our domestic industry, our chances to do this will sooner be improved.

This measure seems to be designed to perpetuate and exacerbate the present energy crisis. It almost seems that those who support this measure are not seeing the results that have occurred before and

that will happen again. To me, that is a kind of negative approach to the solution of the energy problems.

But the United States was not built on negativism. It was built on bold, positive steps to provide a plentiful supply of energy at the least expensive cost. This we want to achieve again, but we are not going to achieve it by sacrificing and going back on recent efforts to increase the supply of energy.

One of the witnesses before the Senate Committee on Interior and Insular Affairs commented that we are confronted with acute shortages in key areas and it seems imprudent, if not irresponsible, to reduce incentives for production until the implications and ramifications of such action are better understood. Otherwise, we shall resemble the farmer who decides to eat more in the short run by eating all of his seed corn. His belly is certainly more full for a few months but the price for such a short-lived bounty can be long years of unpleasant deprivation.

When controls are installed, it takes time to perceive the mistakes that have been made. And it takes additional time to rectify the mistakes even after they are evident. With this particular bill, the mistakes that can be corrected or the amount of correction that can be made is limited to 35 percent and then virtually made impossible to achieve by the other requirements that must be met.

There would be lengthy hearings and lengthy litigation that could have the effect of preventing any increase from the price of \$5.25 per barrel. We cannot afford the cost and the delay of more mistakes.

Mr. President, for a moment, I would like to clarify a common misconception about domestic crude oil production, and natural gas production for that matter.

The production from existing wells in the United States is constantly declining. To look at a graph of the annual production of crude oil in this country is misleading, because it shows that production increased until 1970 before the annual producing rate began to decline.

Actually, that curve could be split into two curves the sum of which would be the total curve. One curve would represent the decline from year to year in the producing rate of wells that existed on a base date. The other curve would represent additional production due to investments made to increase the producing rate by the drilling of new wells, workovers, secondary and tertiary recovery, and by other engineering breakthroughs.

In other words, if it were not for the continuing activity to increase production, the annual production would decline year after year. Lately, our increases to the producing capacity have not kept pace with the decline rate. The reason—we have not been active enough domestically—there has been a failure to provide the proper incentives for sufficient domestic ventures.

The proposal to rollback crude oil prices will erase the incentive that has existed over the past few months that

has generated tremendous activity in the oil fields in the United States to increase production. That production will have to be replaced by expensive and unreliable foreign oil.

It is very important for a businessman to have stability in his business because as he looks at the future to decide on the amount of his investment, he has to make certain calculations, and if he has a question as he does that, about the future income that he might expect from his production from oil and gas wells, he is going to have a question about what he will plan to invest in the drilling of new wells for oil and gas. So this bill's proposal puts into jeopardy the carefully thought out and planned budgets for the year 1974. Either action will delay it, but either delaying action to defeat this proposal or putting it into effect if it passes and becomes law, will prevent a rather sizable amount of money from finding its way into the ground in the form of new oil and gas wells to add to the amount of energy this country has available.

A couple of days ago, my staff learned of a group of investors from my State who had planned 10 days from now to drill a well that would replace a well with collapsed casing that had been plugged and abandoned. This was a well on which there was a history and good information on what to expect it might produce.

To drill this well will cost \$80,500. These men told us that they would not be able to justify drilling this well if they could not receive at least \$9.23 for crude oil to be produced from the well. Otherwise, they would receive a better return on their money if they put it in the bank at 5.5 percent interest.

Mr. President, this is only one of hundreds of wells that will not be drilled if the price of crude oil is rolled back.

I think everyone who has heard about the rollback price control provision has visions that this is going to result in a rather sizable rollback in the price of gasoline. But that is not going to be the case.

Let us investigate just how much the consumer is paying for the extra incentive provided by a price for new oil of \$9.50 per barrel and the price of \$9.50 for stripper oil and matching old oil barrel for barrel with the new oil. How much of a burden is it, really? In committee, and today on the floor of the Senate, the distinguished Senator from Louisiana (Mr. JOHNSTON) brought out the fact that approximately 29 percent of the domestic oil production is from wells with uncontrolled prices.

We import approximately 33 percent of the crude oil consumed in this country. So as a percent of the total oil consumed in the United States, both foreign and domestic, \$9.50 a barrel oil represents only 20 percent of the total consumption. Even if we rolled back the price of this \$9.50 per barrel oil to \$5.25 per barrel, the resulting reduction in the price for gasoline at the pump would only be 1.4 cents per gallon.

So if we use 10 gallons of gasoline a week, we are paying only 14 cents less for this new price to encourage greater drilling for oil and gas and to assure the fact that the life of the stripper wells will be lengthened and so that we will not be plugging a producing well. With the price of oil at \$5.25, they cannot make any money or operate at a profit and we will have to replace it with \$22 a barrel oil, which we are importing from a foreign country.

This 1.4 cents per gallon is what is greatly stimulating domestic activity and allowing wells to be drilled that otherwise could not be justified, and permitting stripper wells to continue to operate which would otherwise be plugged and abandoned.

If by some miracle the 35-percent increase provision could be activated by the President, and I have pointed out the problems he would have in raising the price from \$5.25 up 35 percent, the price then is about \$7.09; and if that is the price of new oil at the stripper well, then the savings we might expect if we received it all back as a consumer on the price of a gallon of gasoline, would be about eight-tenths of 1 cent. So, here again, the incentive would be taken out of the effort of the independents and the other companies to drill the number of wells that need to be drilled in order to be self-sufficient, for only eight-tenths of 1 cent or 1.4 cents, as the case may be.

Last Saturday, the Committee on Interior and Insular Affairs had four noted energy economists testify. They said, in essence, that it would be irresponsible for Congress to legislate a crude oil price rollback at this time. They stressed that more information on the effects of the rollback must be gathered.

I hope that this body will not act on a "seat-of-the-pants hunch" in such an emotionally charged issue. All we are doing is creating more uncertainty for those who could help to increase the supply of crude oil domestically.

Mr. A. V. Jones, the president of the National Stripper Well Association, has said that the current price level for stripper well oil has permitted 250,000 barrels per day of stripper well production that would not exist today at the old prices. The 250,000 barrels per day of additional oil produced from stripper wells is approximately equal to the amount of the daily consumption that has been saved by shutting down gas stations on Sunday and requiring a national speed limit reduction to 55 miles per hour. Whether or not these stripper wells continue to produce is directly dependent upon the price of oil. It depends on whether the revenues from the crude oil sold exceed the cost to produce that well. When the well starts to lose money, it is shut in and/or abandoned. To me, it does not seem to be in the consumer's interests to force currently producing domestic oil wells to be shut in and abandoned merely because the crude oil costs \$9.50 per barrel to produce, which is the case with some wells.

The demand for the 250,000 barrels of stripper oil will continue even after those wells are shut down. This means that we will have to import an additional 250,000 barrels of foreign crude, if it is available.

Somebody please tell me how paying up to \$20 to \$22 for foreign crude oil to replace \$9.50 domestic crude oil is in the consumers' interest. Not only is the price of crude oil doubled, which will raise the price of gasoline for the consumer, but also, the dollars are being drained from this country. Rather than being put into the hands of Americans, to in turn be put into the hands of other Americans to sustain jobs and productivity, the dollars will be put into the hands of foreign countries.

An oil well is somewhat like a person: As it becomes older, it costs more to keep it operating. So the point in the life of a stripper well at which it must be abandoned is directly dependent upon the price of crude oil.

A petroleum engineer on my legislative staff has estimated that for an average well, \$9.50 per barrel crude oil extends the producing life of that well from the 6.5 years at prices of less than a year ago to more than 10 years at current new oil prices, with consumers getting an extra 4 years of production from that well. The total amount of oil that this stripper well produces in its lifetime is increased by 20 percent, a very substantial factor.

This price rollback hits hardest at the independents because they end up with practically all of the stripper wells. In 1973, independents increased their drilling and workover activity more than the majors. Most drilling in Oklahoma and Texas is done by independents. The drilling activity in each of these States increased as follows: in Oklahoma, 28 percent; in Texas, 17 percent. That is compared to a nationwide increase of less than 10 percent—actually, 9.8 percent.

Another favorable offshoot of the higher prices allowed for new oil and stripper oil is that there is an incentive to work over a well to increase its production. There is an incentive to acidize the producing formation with acid, or to shoot it with nitroglycerin, or to perforate it with bullets in a zone that heretofore was not considered commercial, or to clean the reservoir so that production will be enhanced and increased.

All these actions can yield immediate results, immediate increases in production, if successful. That is right. We do not have to wait 2 or 3 or 4 years for these investments to increase production. With the proper incentive, they will continue to occur this year, as they have over the last 3 or 4 months. There has been a tremendous burst of activity in the oil fields. Let us not squelch that activity by our actions here today.

Mr. President, oil activity is booming in Oklahoma. For example, in the Osage country, the county of Osage, increased activity is a direct result of the oil and natural gas price incentives that exist currently.

An article in the Tulsa World of February 2, 1974, points out:

Leases that were passed in recent years are suddenly attractive. Pipelines that were not economically feasible are now being laid across the prairie. There is more leasing and drilling in this northern Oklahoma area than in years . . . Prices of \$9.50 per barrel of newly found oil and up to 65 cents a thousand cubic feet of gas is the difference.

These are low-cost wells, with a high probability of success, which in the past have not been drilled because at old prices they would have been unprofitable.

Our actions here today may prohibit the consumer from benefiting from the production from not only these wells but also hundreds of more across the country that will not be drilled at the rollback prices.

Mr. President, I ask unanimous consent to have this article printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BARTLETT. Mr. President, I should like to correct some inaccurate and misleading statements that may have been made by various government officials concerning the production of stripper wells.

It has been claimed that if a stripper well as producing perhaps 12 barrels—two barrels more than the amount that would qualify it for additional price—a person would be tempted to reduce the production in order to qualify for the higher price, to hold back his production—in other words, to cheat. This is impossible, because in order to qualify as a stripper well, a well must have produced 10 barrels or less on a lease basis last year. So any actions now could only be taken toward the future, next year. I do not think that necessarily would be a very enterprising thing to do.

The conference committee for the Mandatory Allocation Act wrote the stripper well provision in such a way as to preclude any consideration toward reducing the producing rate to become exempt from price controls or from allocation controls. The conference committee required—and the law now reads—that any well must be classified as a stripper well during the previous calendar year before it becomes exempt from allocation and price controls. Therefore, an operator would have to decrease his production for a full year before he could receive an uncontrolled price—a most questionable economic temptation.

Also, it is, by the same provision of law, a Federal violation—a felony—to reduce the producing rate of a well below the "maximum feasible rate of production and in accord with recognized conservation practices."

Mr. President, there is clearly much incentive to not reduce the producing rate of a well in hopes that it someday might be classified as a stripper.

Mr. President, let me point out that this price ceiling measure plays into the hands of the international major oil companies at the expense of the small independent producers of the United States and ultimately the consumers of energy in the United States.

The major oil companies in this country are crude oil buyers. They own large portions of the refining capacity in the United States and refineries must buy crude oil, much of it from small independent producers who historically have drilled about 80 percent of the wells in the United States. It is the independent producer that needs the increase in price of crude oil as well as the majors to have the revenues to drill the wells needed to provide us with sufficient energy.

What happens as the independent producer because of lack of proper incentive drills fewer wells and discovers less oil? We must buy foreign oil to replace that domestic production that is lost. Who sells the foreign oil to us? The major multinational oil companies.

I have pointed out before to this body that the profits of domestic operation is for both the majors and the independents have been insufficient over the years. The majors even now with the large profits that have been reported say that the largest portion of these profits was earned from oil produced overseas.

Mr. President, I maintain that the price ceiling proposal will have exactly the opposite effect of what is contended by its sponsors.

Let us look at what goes into making up the price for a barrel of crude oil in the United States. By telegram, on Monday February 4, the Chase Manhattan Bank indicated to me that 33 percent of the cost of crude oil was from imports at \$11 a barrel delivered price. Only 19 percent of the cost of crude oil came from decontrolled domestic crude oil at approximately \$10 a barrel. Only 48 percent of the cost of crude oil came from controlled domestic crude at \$5.25 a barrel.

If you combine all of these prices on a weighted average to get the average cost per barrel of crude oil in the United States, you get \$8.05. Of that \$8.05 a whopping \$3.63 is attributable to imports. The \$2.52 is attributable to controlled domestic crude at \$5.25 a barrel and only \$1.90 is attributable to the cost of uncontrolled domestic crude oil.

It seems evident to me that if we were truly working in the consumers interest we would be working to reduce that \$3.63 portion of the cost of a barrel of oil. The way to do that is to replace barrels of oil that are being imported with cheaper domestic production. Instead, we are here today talking about removing the incentives to do just that.

All this measure does is to insure that more oil will be sold to the United States from foreign sources. The consumer loses out because he will eventually pay a higher price for gasoline at the pump because higher foreign crude prices roll in.

Mr. President, I want to emphasize that this so-called bonanza, if I may be facetious, for the consumers will be very short term. And it will be only about 1½ cents at the gas pump. The consequences of this short term action would be higher prices in the near future as the imports of higher priced foreign oil are increased to make up for a lack of domestic supplies. That is if foreign oil is available at all.

As I have already discussed, if domestic supplies and foreign supplies are not forthcoming the devastating but very real result would be high employment and reduction in the growth of this country.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. BARTLETT. Certainly. I yield to the Senator from Louisiana.

Mr. LONG. Mr. President, the point this Senator would like to know about this matter is how one would go about deciding what a small producer with a rather large number of stripper wells would be permitted to receive for his oil. A man was in my office a few days back and he showed me his records on about 50 wells he has in one of the less profitable fields of Louisiana. There are a lot of fields of that sort. He is producing less than 3 barrels a day, but he had about 50 wells, so each one, multiplying his 50 wells by 2 barrels a day, that is 100 barrels a day, and that is enough to help.

In a month that would be 3,000 barrels and, of course, 3,000 barrels will make a lot of gasoline. This is a drop in the bucket compared with the overall problem but it helps and when one thinks in terms of hundreds of thousands of men producing from a large number of wells, although each produces a small amount of oil, it does help substantially.

How would that man go about knowing just what he is entitled to charge for his oil?

Mr. BARTLETT. He is just going to be up in the air because he has been getting in the neighborhood of \$9.50 for a few months. He has had a great incentive to look over his small wells and decide which ones he might fracture with nitroglycerin, or acidize, or reperforate, but he has incentive to increase that production.

But if he is compared to a man who has the same amount of production from one well there is a tremendous amount of difference in his costs. To the consumer it does not make much difference. A barrel of oil is a barrel of oil if it is of the same quality. So it is of great interest to the consumer to make sure the stripper, high cost, marginal oil not only is going to be continued, but will have the incentive to add to it and get additional oil. But if he has no incentive to invest because the prospects are good that this price could be rolled back to \$5.25 a barrel, then the consumer will have to pay to replace those barrels lost either by not working over or lost by plugging—the consumer will pay at rates of spot production as high as \$22 a barrel.

Mr. LONG. When a man works over his well to bring it back into production or to extend the level of the well, he makes a considerable investment, which he would expect to write off over a period of months or years—oftentimes over a period of years. Does he have any assurance just because he is permitted, let us say, to charge, as of now, \$9 for a barrel of oil, that being the world market price, that if the Arabs decide that they like this market enough to see fit to end the embargo, he is going to be permitted to

get that price just because he is permitted to charge it? Is he not confronted with the prospect that after he makes the investment to rework the well and to incur the additional expense which would be paid out over a period of time, he is not necessarily going to get the so-called \$9 or so-called higher price when the Arabs decide to end the blockade and decide that perhaps they would like to sell more oil in this country, and thereby produce the world market price in this country?

Mr. BARTLETT. The distinguished Senator from Louisiana makes a very good point. The history of foreign production has had a number of examples where the production has been disrupted for various reasons. I think oftentimes we think of the disruptions that have resulted from Arab nations, but this could come from a very friendly nation such as Canada, in which just recently production was reduced because it was in their best interest to reduce it, and also they increased the price because it was in their best interests to get the best price they could. We do not fault them for that.

The little producer that is looking forward to domestic oil that is still cheaper than the world price or replacement price does not know he is going to get that, so he is not going to make that investment until he is assured that conditions are stable in the oil industry, as far as the domestic price is concerned.

Mr. LONG. Should not we be carefully concerning ourselves here that we are providing adequate incentives for all those who we hope would be producing oil to be moving in that direction, to drill more wells, and to expand their productive capacity, to insure increased production, and also so we do not see people waiting in their cars four and five blocks to get gasoline?

Mr. BARTLETT. This is the fear I have. I fear many people think all we have to do is to ration, sacrifice, cut back in their own use, and that will solve the problem.

Unless we make the effort to bring on more domestic crude oil, gas, and other resources, to bring liquefaction and gasification of coal, extraction of oil from sand and shale, we will not become self-sufficient and foreign countries can just arbitrarily jack the price up and can then cut off our supply whenever they want to embarrass us or submit us to their will as far as foreign policy is concerned. That could become the case if we are not self-sufficient.

Mr. LONG. Has the Senator seen the article that appeared in this afternoon's newspaper quoting Mr. Swearingen, who is an officer of the Standard Oil Co. of Indiana, better known as American Oil Co. or Amoco? It is my understanding that that was a company which was going ahead to make major investments, running in the hundreds of millions of dollars, to open up the tremendous oil shale potential in this country by building a large plant to manufacture oil out of the enormous amount of shale which exists in the West. In that area there is enough energy, if we

can find the key to make it available, to provide this Nation's energy needs for hundreds of years.

Mr. BARTLETT. That is right.

Mr. LONG. He told me some time ago that he felt that if the long-term price of oil was to be \$7 a barrel, his company would be justified in going into the manufacture of oil from shale; and, looking at a price in that range, he concluded that they would be justified in making the investment that would lead it into the opening up of those vast resources for the American people—not subsidized, but making a free enterprise investment to make energy available to the people of this country. If we are now going to be told that oil is not to be permitted to sell at that price, what does that do to their investment?

I just read in that newspaper a statement by the same executive that it looks as though they will not be able to move into developing the shale, which is a tremendous resource of the future, which somebody should be moving to enter.

I say that as a Senator representing an oil-producing State. It does not necessarily benefit Louisiana to open up that vast resource in the West. The interests of Louisiana would not necessarily be served, but the national interest would certainly be served by opening up that vast resource of energy to the people of this country.

If the price is rolled back to the point that it discourages the development of new reserves, it makes it unsafe for people to make those investments, and what does that do to our future potential?

Mr. BARTLETT. It just makes it difficult or impossible to achieve. I have some of this same information from Mr. John Swearingen of Standard Oil of Indiana. I requested it and received it, and I think it would be good to have it in the RECORD:

The information follows:

Enactment of legislative proposal to roll back crude oil prices to fixed level of \$5.25 per barrel will drastically affect funds available for finding new domestic crude oil and will make present plans to develop synthetic energy sources such as Colorado oil shale clearly uneconomic. At that price level our recently acquired Colorado shale lease would not be economic for development under present technology, even though we have not paid anything as a lease bonus. We estimate \$5.25 ceiling price for crude oil would reduce funds available to Standard Oil of Indiana in 1974 by about \$200,000,000. This amount is more than one-third of our 1974 budgeted expenditures for exploration and development of conventional domestic crude oil. In addition, considerable recently stimulated recovery from marginal oil wells could not be sustained.

So I think this is a story that would be repeated over and over again by a big company, such as Amoco, but, so far as the drilling budget for 1974 is concerned, the stripper operator just is not going to be able with a price ceiling to do what he could without one.

Mr. LONG. That is a concern we ought to be thinking of. The oil companies are the principal energy companies, and if they are to find the funds to open up these new reserves, they are going to have to make enough money to pay for

those out of earnings. While we can find lenders who are willing to make loans on good business investments, the record in the oil industry tends to be that they would want a mortgage on something which one has which they know to be of value if they are to lend the money one needs to go into something which might be successful, and then again involves a substantial risk. They would lend money on the birds one has in his hand, one might say, so he could be encouraged to look for the birds in the bush, but they do not want to lend on the birds in the bush, because that is speculative, one might put it. It might be productive, and then again it might not.

Mr. BARTLETT. Mr. President, the Senator is exactly right. The revenues of the oil industry are such that the borrowings on what they are capable of making from the outside are not commensurate with other businesses such as manufacturing. However, it is still interesting to note that over the last 6 or 7 years the oil industry has spent almost the same amount of money each year, about \$8 billion, in exploration and development. And as time went on, their outside borrowings went up considerably because they were not able to generate internally the amount of money required. So, they were stretching their ability, as far as they could, to borrow more and more capital. However, one cannot borrow on that bird in the bush. One has to produce oil and have bankability, and that is judged on the proved reserves that have been developed and are produced and produced at a certain price.

When that price changes, the value of those reserves change automatically.

Mr. LONG. Mr. President, that is why it is standard for a person to borrow money on the well he has in order to provide the money to drill the next well.

Mr. BARTLETT. The Senator is exactly correct.

I would like to have the Senator's comments on this. I have not had a chance to research it, and I do not know whether I am even able to do it completely. However, this bill is very far reaching.

I cannot recall any other price control provision that was a rollback, one that would also set a fixed price, like setting it in cement, and leave it where it could only be increased to the level of 35 percent, and that might be impossible.

It would not be able to be raised as high as the person who would have the responsibility of raising it, the President of the United States, might deem to be necessary.

That would seem to be more restrictive and to be a provision that could really backfire on this Nation and be very difficult to change.

Does the Senator from Louisiana have any comment to make on that?

Mr. LONG. Mr. President, it might be very unpopular. It might be necessary, however, once one makes it that way. I can see the Senator's point. In other words, having fixed the price low, assuming that the price would be proper in the

first instance, when the costs go up, then the burden is on someone to change it.

Can one count on the Congress showing statesmanship and wisdom to do something that might be politically unpopular? That is not always the reliable thing to depend upon.

Mr. BARTLETT. Mr. President, I thank the distinguished Senator from Louisiana very much.

Mr. President, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks a chapter out of the supplemental interim report of the National Petroleum Council entitled "Emergency Preparedness For Interruption of Petroleum Imports Into the United States," under date of November 15, 1973, and a chapter from the supplemental papers to the interim report of November 15, 1973, under date of December 21, 1973.

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

(See exhibits 2 and 3.)

Mr. BARTLETT. Mr. President, I have said before that the effects of a shortage of oil supplies is much more severe than the effects of increasing prices on our economy. Bluntly, it gets down to the matter of slightly reduced spending money from the weekly check or no check at all. Studies by Chase Manhattan Bank and Wharton indicate that the effect of reduced oil supplies could raise the unemployment rate to 7.7 percent if we are short 3 million barrels per day. That 2½ million people that would be unemployed on account of reduced oil supplies.

Mr. President, I ask the Members of this body how many of our citizens will be unemployed on account of the 1.5 cent incentive paid at the gas pump?

Mr. President, the hazards to the economy are much more severe with shortages of energy than they are with higher priced energy.

Dr. Stauffer indicated that generally the multiplier effect of \$1 worth of energy yields approximately \$20 to \$21 to our gross national product. He estimated that a 2-million barrel shortfall of crude oil would yield a \$50 billion decrease in the economy, but a \$2 per barrel increase in the cost of crude oil would add only \$12 billion toward inflation. Also, the higher price paid for crude oil is kept within the American economy going from one pocket to another; and the transfer effect is minimal compared to the complete loss of dollars spent abroad for foreign oil to replace domestic shortfall.

Certainly, if a person of low means is burdened because of the high cost of fuel to heat his home and drive his car to work, this legislative body, the other House, and the executive branch can act to remedy that. However, the testimony we had showed that the impact on our economy is more severe because of the loss of sufficient energy than it is because of the higher prices necessary to bring about in a free market a building up and increasing of that energy to self-sufficiency.

Mr. President, I would like to leave one point with the Senate, that no fuel is like enough fuel.

Exhibit 1 follows:

EXHIBIT 1

[From the Tulsa World, Feb. 2, 1974]
ENERGY CRISIS BRINGS BOOM AGAIN TO OSAGE

(By Dayton Blair)

PAWHUSKA —The bonanza days of million-dollar lease sales under the big oak tree at the Indian agency here are long past.

But once again oil business is booming in the "Osage country," a direct result of the oil and natural gas shortage and escalating prices.

Leases that were passed by in recent years are suddenly attractive. Pipelines that weren't economically feasible are now being laid across the prairie.

There is more leasing and drilling in this northern Oklahoma area than in years, with natural gas the focal point of interest.

Prices of \$10 per barrel of newly found oil and 40 to 50 cents per thousand cubic feet of gas is the difference.

"With new oil bringing more than \$8 per barrel and natural gas prices more than 40 cents, the small producers are profitable," an area oilman said.

These aren't big wells. Most of them will range from about 1,600 to 2,300 feet in depth.

They can be drilled in five or six days in many cases, far less time and cost than deep production.

The last Osage Indian Agency lease sale brought bids totaling \$725,850, the highest total since April 1956. Agency officials noted that some of the tracts sold had been considered abandoned by previous operators.

One of the most active firms in the Osage fields presently is Dyco Petroleum Corp., headquartered in Minnesota.

"We have an extensive program going there right now," said Roy Reeves, production manager for Dyco in Tulsa.

"About 90 per cent of the wells will be gas wells. Of course, if we happen to get a decent oil producer, we're not ignoring it."

Reeves said his company has 10 wells waiting on completion equipment and will start a 20-well program on the National Zinc Lease east of Pawhuska.

"Nine wells west of Skiatook will be hooked onto a Phillips pipeline about April 1," he said.

Cost of drilling the wells, Reeves said, is only slightly more than \$10,000 for 2,500-foot wells and the company estimated 90 per cent success in its present program.

"We've had only four or five dry holes in this current series."

The new pipeline is a major factor in the revival. Low prices for gas plus the lack of pipeline connections made it impossible to show a profit before.

Phillips Petroleum Co. is building the pipeline that will go through the Avant-Skiatook area. Another one is being considered in the northern part of the county.

George Revard, a Tulsa contractor who has worked in the area for years, predicted a lot of activity in the Osage in the next year. He has plans to drill 27 wells on contract and then he hopes to drill some on his own.

Another operator looking for a good year here is L. H. Van Horn of Summit Drilling Co.

"The Osage offers low-cost wells with good availability of geographic data," he said. "You can miss, as any oilman knows, but your chances of success are somewhat greater than in other areas."

Howard Davis of Black Gold Inc., a Pawhuska-based well servicing firm, said he had found much of the current activity is sponsored by out-of-state money.

"A number of relatively new firms has been formed since the energy shortage became a focal point," he said. "It's a type of speculation for eastern money interests. If the programs are successful, they pay off well. If not, the charge-off can give the in for a tax break."

One advantage for the small independent here is the availability of information from logs of old wells and scout reports from the days when they weren't interested in gas. It gives the operator a head start to know the prospects.

Another advantage to the shallow wells is in finding pipe to set the well during drilling or after.

"You talk about strings of a thousand or so feet of small diameter pipe for an Osage completion, where 10,000 feet or more of larger pipe may be required for wells elsewhere," a pipe dealer said.

It was Oct. 23, 1937, when the discovery well was drilled in Osage County. That made a lot of people rich quickly.

Bids for leases were called out under the old oak tree, now a memorial site, so the auctioneer could get out of the sun.

This is a different type of oilman, a different era. But it's quickly getting back to a fever pitch as the country struggles to beat the oil shortage.

EXHIBIT 2

EMERGENCY PREPAREDNESS FOR INTERRUPTION OF PETROLEUM IMPORTS INTO THE UNITED STATES

NOVEMBER 15, 1973.

CHAPTER 2.—IMPACT OF IMPORT INTERRUPTION ON SUPPLY/DEMAND BALANCE

A 2.0 to 3.0 million B/D import disruption imposed upon an already tight supply situation in the United States creates a very difficult situation. Although everyone hopes for a cessation of the Mid-East conflict, with a prompt resumption of petroleum imports, nevertheless forward planning must recognize the possibility of continued oil disruption and the fact that the effects of the disruption will persist for several months after the restoration of some or all pre-denial of foreign oil production.

As indicated above, 30-35 days are required for new crude oil supplies to reach the United States after they are loaded in the Middle East. Furthermore, if the embargo continues for several weeks, U.S. inventories will be drawn down to abnormally low levels and will need to be rebuilt before normal operations are possible. Likewise European inventories must be restored before product imports can be expected from European refineries. Another aggravating factor which will extend the effect of the embargo is the current refining situation in the U.S. Refineries were running at peak capacity prior to the disruption, but many are now operating at less than full capacity, and this problem will be aggravated in the coming months. Reduced refinery runs resulting from the crude shortage is in effect lost output which cannot be made up at a later date.

Considering these factors, it is essential that the U.S. take immediate steps to curtail demand so that crude and product inventories are not excessively drawn down during the next 2 to 3 months. Although there is a great deal of uncertainty as to how long the disruption will continue and what the operating supply situation will be after the embargo is lifted, a review of the supply effects of the current denial illustrates what the impact of the disruption might be and the importance of taking immediate actions to curtail demand and augment supply.

For the purpose of quantifying the impact of the denial, it is assumed that the embargo would last through the first quar-

ter of 1974. The type and volume of imports denied are shown below:

	Volume (thousand barrels per day)
Crude.....	1,800
Products:	
Gasoline.....	80
Distillates.....	370
Heavy fuel oil.....	750
Subtotal.....	1,200
Total.....	3,000

The last actual inventory data available as of October 26, 1973, indicated total U.S. inventory of the three critical product groups, (gasoline, middle distillates, heavy fuel oil) was 515 million barrels (MMB) and crude oil inventory was 246 MMB. This is approximately 71 MMB below normal for products and approximately 14 MMB below normal for crude oil. Other products, such as liquefied petroleum gases (LPG), petrochemical feedstocks, asphalt, lubricating oils and coke, are not included. These other products, including unfinished oils, total approximately 250 MMB of inventory and are not available to meet major product (i.e., gasoline, distillate, or heavy fuel oil) demand. Stocks by major product groups, compared to generally considered "normal" levels for this time of the year, are as follows:

Stock	Inventory (MMB) as of Oct. 26, 1973		
	"Normal"	Actual	Difference
Gasoline.....	225	214	11
Distillates.....	298	244	54
Heavy fuel oil.....	63	57	6
Total.....	586	515	71
Crude oil.....	260	246	14

Minimum operable inventories for each product are not well defined. However, the Committee has estimated minimum inventories considered to be near the minimum under which reasonably uniform operations with only spot shortages can be maintained and before a physical breakdown occurs. Table 4 shows that if demand is not drastically curtailed inventories at the end of the first quarter 1974 will be hopelessly below minimum levels.

The total denial of 335 MMB represents

14% of total demand for the period November 15, 1973, to March 31, 1974, and 20% of demand for the period January 1, 1974, to March 31, 1974.

Figure 1 shows that the impact of the denial in the first quarter of 1974 will be significantly reduced if actions commence immediately to spread the required demand curtailment over a longer period of time. As indicated in Chapter Four a denial of petroleum products in the 8-10 percent range will begin to have very serious effects on the economy. This is particularly true for reductions in heavy fuel oil (HFO) which directly impact on industry operations. Where the reductions can be taken in less critical areas such as motor gasoline, the economic impact can be softened.

TABLE 4.—MAJOR PRODUCT INVENTORIES

[In millions of barrels]

	Normal	With- out denial	Effect of denial ¹	With denial	Memo oper- able mini- mum ²
Gasoline.....	247	225	(28)	197	195
Distillates.....	253	204	(30)	174	100
Heavy fuel oil.....	55	50	(31)	19	40
Total.....	555	479	(89)	390	335
Apr. 1, 1974:					
Gasoline.....	265	243	(111)	132	195
Distillates.....	149	125	(120)	5	100
Heavy fuel oil.....	46	42	(124)	(82)	40
Total.....	460	410	(355)	55	335

¹ Assumes 1,200,000 barrels per day crude oil and 8,000,000 barrels per day products denial from mid-November through yearend 1973; 1,800,000 barrels per day crude and 1,200,000 barrels per day products denial during 1st quarter 1974. Crude denials were converted to product effects based on the following yields for typical Middle East crudes: Gasoline—47 percent, middle distillates—35 percent, heavy fuel oil—less refining fuel consumed—16 percent.

² Operable minimum inventory results in spot shortages, but can meet required demand.

The seriousness of this situation can be better appreciated when the denial effects on specific product groups are examined. These data for the total U.S. are as shown below:

TABLE 5.—TOTAL UNITED STATES IMPORT DENIAL AND SUPPLY/DEMAND BALANCE, FIRST QUARTER 1974

[In thousands of barrels per day]

PAD districts	I	II	III	IV	V	Total
BASE SUPPLY/DEMAND BALANCE						
Local demand for products.....	8,205	5,117	3,433	445	2,574	19,774
Interdistrict shipments—products.....	171	139	4,057	88	30	.....
Total required supply.....	8,376	5,256	7,490	533	2,604	19,774
Supply:						
Interdistrict receipts—products.....	3,253	964	78	62	128	.....
Interdistrict receipts—crude.....	130	1,884	110	.....	30	.....
Interdistrict shipments—crude.....	-90	-40	-1,674	-350	.....	.....
Crude production.....	117	942	6,277	672	1,120	9,128
NGL production.....	22	245	1,376	46	36	1,725
Processing gain and other.....	50	126	227	10	97	510
Inventory draw.....	460	185	395	-40	40	1,040
Subtotal.....	3,942	4,306	6,789	400	1,451	12,403
Imports:						
Crude (offshore).....	1,237	200	595	.....	590	2,620
Crude (Canada).....	145	570	.....	75	260	1,052
NGL (Canada).....	5	75	.....	35	10	125
Unfinished (offshore).....	90	.....	6	.....	26	122
Products (Canada, offshore).....	2,957	105	100	23	267	3,452
Subtotal.....	4,434	950	701	133	1,153	7,371
PAD districts						
Total supply available.....	8,376	5,256	7,490	533	2,604	19,774
DENIAL						
Gross denial:						
1,800 crude (prorated on historical).....	-846	-135	-516	.....	-303	-1,800
1,200 products.....	-1,200	.....	.....	.....	.....	-1,200
Total.....	-2,046	-135	-516	.....	-303	-3,000
Emergency measures: ¹						
Additional crude production.....	.....	.....	281	.....	12	293
Additional gas production.....	.....	.....	150	.....	.....	150
Conversion oil to coal.....	95	130	.....	25	.....	250
Adjust processing gain.....	-6	-15	-21	-2	-10	-54
Net denial.....	1,957	-20	-106	23	-301	-2,361
Adjustment to base interdistrict shipments to equate denial across Nation:						
Crude.....	633	-358	-220	-55	.....	.....
Products.....	344	-235	-88	-21	.....	.....
Adjusted net denial proportionate to local demand PAD I-IV.....	-980	-613	-414	-53	-301	-2,361

¹ These offsetting measures require governmental action such as: approval of emergency MER increase; approval of certain third party gas sales; relaxation of sulfur restriction on plant emissions.

Product	Total demand in millions of barrels		Denial	
	4½ mos. Nov. 15 to Mar. 31	3 mos. Jan. 1 to Mar. 31	4½ mos. (mil. to lions of barrels) Nov. 15 to Mar. 31	Percent demand ¹ Jan. 1 to Mar. 31
Gasoline.....	1,052	698	111	11
Distillates.....	589	417	120	20
Heavy fuel oil.....	464	327	124	27
Total.....	2,105	1,442	355	17

¹ Based on demand for the major product groups only. As a percent of total demand the denial percentage figures are 14 and 20 for the 4½- and 3-mo cases, respectively.

There is no doubt that substantial curtailments of HFO and distillate consumption will be required. These effects will be heavily concentrated on the East Coast where imports of these products have been historically concentrated.

Although a complete analysis of geographical effects has not been performed, the potential impact on the East Coast is illustrated by the following:

PAD DISTRICT I

Product	Total demand in millions of barrels			Denial percent demand	
	4½ mo Nov. 15 to Mar. 31	3 mo Jan. 1 to Mar. 31	4½ mo mil-lions of barrels Nov. 15 to Mar. 31	Nov. 15 to Mar. 31	Jan. 1 to Mar. 31
Distillates.....	357	253	80	22	32
Heavy fuel oil.....	324	217	106	33	49

Another way an import denial must be considered is to estimate the point of impact of the denial and the demand by location and then determine the necessary logistic response to equitably distribute the denial geographically.

Table 5 shows a distribution of a 3.0 MMB/D denial based on demand and historical import patterns for the first quarter of 1974. Reductions to the gross denial are included for additional emergency oil and gas production and conversion from oil to coal, and increased operation of nuclear plants. The net denial then may require geographical reallocation to give equitable distribution of the shortfalls. The illustrative balance assumes a pro rata allocation of the net denial based on demand. An analysis of specific inter- and intra-district movements required by this allocation was not possible in the limited time frame of this report.

The allocation of crude and products to eliminate logistic bottlenecks and meet demand equitably will be a function of the demand resulting after all conversions and curtailments, the available sources of product, and the intervening refining and transportation systems. The detailed logistic analysis must include all affected parties and can be started only after the level of demand to be satisfied and crude and import product availability are established.

In summary, the impact of the Arab embargo on petroleum shipments to the U.S. will have a substantial impact and it will last for a long period of time after the embargo is lifted. The effects of the embargo can be significantly reduced if substantial reductions in demand are made immediately. The seriousness of the situation is not now apparent to the general public, but deferral of action until the situation becomes apparent will lead to very disruptive shortages by early in the first quarter of 1974.

CHAPTER THREE—AVAILABLE ALTERNATIVES FOR RESPONSE TO SHORTAGE

Emergency oil production

The Interim Report of the Emergency Preparedness Committee published estimates of the U.S. emergency oil production capacity. These estimates indicated that an average of 292 MB/D could be produced and delivered to refineries during a 90 day emergency, 331 MB/D could be delivered during a 6 month emergency. This emergency capacity builds up from an initial rate of 275 MB/D to a peak rate of 359 MB/D after about 3 to 4 months.

The emergency capacity consists primarily of production from NPR-1 (Elk Hills) and production in excess of the maximum efficient rate (MER) from several large Texas fields, such as East Texas, Yates, West Hastings, etc. The Texas fields are currently producing at their MER as established by the Texas Railroad Commission (TRC). Although these represent the maximum production rate which can be sustained without loss of recovery, the TRC does not establish emergency rates which could be produced for temporary periods. It is possible to exceed current rates in the high quality fields for short periods without significant reservoir damage. The precise volume and time period which production in excess of MER can be sustained depends on the individual field. The study has not considered producing in excess of MER for more than six months. Any production in excess of current MER would require recognition of an emergency situation by the appropriate regulatory agencies and a specific determination that the temporary production could not cause waste or reservoir damage. Also, any production of Elk Hills will require action by both the Executive and the Legislative branches of government.

Attainment of the estimated production volumes will require 2-3 months lead time and some investments in field oil and gas handling facilities. Also, in some cases gas flaring will be required. It should be emphasized that numerous legal problems can be encountered since there are substantial differences of opinion among operators regarding the effect of producing some of these fields at higher rates.

Conversion from oil to gas

Gas reserves in the United States which can be economically produced and delivered to market are fully committed to gas sales contracts, with the exception of uneconomic reserves or recently discovered reserves where time has not been sufficient to conclude sales and install necessary facilities to commence deliveries.

In an emergency situation, gas can be substituted for oil by many consumers who have dual oil/gas burning facilities. It has been estimated that capacity is available to burn in excess of 4 billion cubic feet per day (BCF/D) of gas in lieu of oil provided the

emergency gas can be made available where needed.

The multitude of gas contracts and number of gas producers make it extremely difficult to estimate volumes of gas which might be made available under emergency conditions. Available data indicate the spare capacity to deliver gas is small. Nevertheless, even a small volume of additional gas could play a significant role in alleviating the East Coast supply situation discussed in the preceding chapter.

It is estimated that perhaps as much as 1 BCF/D of gas could be produced under emergency conditions and delivered to customers currently burning oil. This would be equivalent to 150 MB/D of oil.

Under emergency conditions, mechanisms and incentives should be provided to release additional gas supplies by taking the following steps:

The FPC should be authorized to allow, for a temporary period, emergency third-party sales of available interstate gas in excess of that now being taken under existing contracts.

The FPC's current 6-month emergency gas sales program, wherein gas is allowed to be sold at market clearing prices, should apply to these incremental volumes.

Gas transmission companies should be encouraged to transport and exchange gas to load all trunk lines to full capacity and deliver available gas to industrial customers after the essential needs of its residential customers are satisfied.

Conversion to coal

Estimates based on FPC and other data indicate that oil and gas fired boilers and furnaces could be converted to coal burning to the extent of about 250,000 B/D over a three-month period. Sulfur restrictions would have to be relaxed to accomplish this. This consumption rate is equivalent to 23 million tons of coal per year. Reaching this rate of additional coal use is believed realistic as there is an inventory of about 12 million tons of coal available for boilers not yet converted.

Based on the assumption that during the first 90 days of an interruption the rate of conversion would be 150 MB/D converted to coal in the first month and the remaining 100 MB/D converted over the second and third months, it would be possible to maintain operation at the full 250 MB/D rate for approximately 120 days without replenishment of supplies.

If coal production and transportation were not expanded, however, at the end of 7 months from the beginning of conversion, the stocks at the above plants would have fallen to 2 weeks' supply and operation of these boilers would have to be progressively curtailed.

The coal industry is unable to increase production to supply plants burning fuel oil and natural gas on the East Coast without building new capacity which would require at least three years; however, a coal allocation program could be implemented that would divert a portion of current production to convertible plants. The logistic problem with respect to coal is critical, especially in the large eastern metropolitan areas. The supply of open-top hopper cars is tight, facilities for distributing coal to alongside plants in the east must be repaired, and delivery to these plants is uncertain due to a shortage of barges and towboats. Emergency measures such as a coal allocation program and diverting some transportation equipment to critical areas offers some short-term relief, but the distribution system will be cumbersome, inefficient and expensive.

Coal mining capacity is critical throughout the eastern coalfields. An allocation program offers only temporary relief. Railroad repair facilities have deteriorated in the same degree as the inventory of rolling stock. Permanent long-term solutions are needed.

An additional contribution coal could

make would be by increasing load factors on coal fired utility plants and thus reducing the oil/gas requirement of an electric power system. While this possibility has not been fully explored, it appears that existing transmission facilities are limited in their ability to distribute the added electricity to oil or gas consuming areas.

Nuclear power

Another potential means of assuring a degree of supply continuity during an import interruption is the expediting of nuclear plants already scheduled for operation. Conversely, slippages in operating schedules or deratings of existing plants would only serve to aggravate the crisis.

During the last quarter of 1973 and first 6 months of 1974, 12 nuclear power units are scheduled for commercial operation. These units total 9,800 megawatt (MW) of capacity equivalent to 300 MB/D of energy supply. Bringing these plants on stream promptly and at full capacity (instead of being derated) could make an additional 50 to 100 MB/D oil equivalent available during the first

EXHIBIT 3

EMERGENCY PREPAREDNESS FOR INTERRUPTION OF PETROLEUM IMPORTS INTO THE UNITED STATES

SUPPLEMENTAL PAPERS TO INTERIM REPORT OF NOVEMBER 15, 1973

Maximum production deliverable to refineries is limited by existing trunk line capacity of about 250 MB/D. Thus, for a short-term emergency, spare capacity in excess of MER at East Texas is a maximum of 40 MB/D and will average 40 MB/D for 6 months. Expansion of the East Texas Trunk Line System would require 12 to 18 months.

West Hastings

The MER for West Hastings field (Figure 10), effective January 1, 1974, is 75 MB/D. It is estimated that additional emergency production from this field of 45 MB/D for a total rate of 120 MB/D could be obtained. This would require substantial modifications to existing oil and gas handling equipment which would require a minimum of 90 days and would cost about \$3.5 million.

The maximum additional deliverable capacity at West Hastings is limited to a maximum of about 27 MB/D by existing trunk line capacity, and the average deliverable capacity for a 180-day period is about 13 MB/D.

Yates

The Yates field (Figure 11) is currently producing at an MER of 50 MB/D from about 600 wells. In an emergency, production from the field could be temporarily increased by 50 MB/D to a total of 100 MB/D. This increased production can be handled with only minor modifications to existing field oil and gas handling facilities. It may be possible to temporarily increase the field's production by as much as 100 MB/D (to a total of 150 MB/D during an emergency). However, this would require additional modifications to field facilities and special facilities to incinerate approximately 10 MMCF/D of gas which could not be handled in existing gas processing facilities. These modifications would require at least 3 months and cost several hundred thousand dollars.

Total temporary emergency capacity from Yates which is deliverable to refineries is estimated to be 60 MB/D with existing pipelines and some trucking. Thus, deliverable emergency capacity from Yates reaches a maximum of 60 MB/D and averages 55 MB/D for a 6-month period.

Tom O'Connor field

The Tom O'Connor field is currently producing at an MER of about 80 MB/D. Additional deliverable capacity through existing pipelines (and including some trucking) is estimated to be about 22 MB/D for a total

field rate of 102 MB/D. These rates can be handled with existing production facilities. It appears that temporary well capacity is sufficient to permit additional emergency production of up to 60,000 barrels per day or a total field rate of about 140 MB/D. However, these rates are limited by existing production and gas handling facilities and trunk line capacity.

Hawkins

The Hawkins field is currently producing at an MER of 112 MB/D. Although additional temporary well capacity of as much as 40 MB/D may be available, this capacity is limited by available gas handling facilities and by existing trunk line capacity. Total deliverable temporary emergency capacity at Hawkins is only about 5 MB/D.

Other fields

Eight other major fields, primarily located in Texas, are estimated to have small volumes of deliverable emergency capacity which total 78 MB/D. Small volumes of emergency producing capacity probably also exist in a number of scattered small fields. Based on data published by the American Petroleum Institute, it is estimated that the deliverable capacity in these fields may average as much as 94 MB/D during a 180-day emergency.

Summary of current emergency crude production capacity

The emergency producing capacity deliverable to refineries is summarized in Table 17 and is shown in Figure 12. The maximum deliverable capacity is 369 MB/D, and because of the lead times necessary to expand facilities in some cases, the deliverable emergency capacity averages 292 MB/D and 331 MB/D during the first 90 and 180 days of an emergency, respectively. These temporary emergency production rates in excess of MER can be sustained for about 6 months without substantial reservoir damage (except for Elk Hills, where the emergency production can be sustained for several years or more). The deliverable capacity builds up from about 275 MB/D at the start of an emergency to the peak rate of 369 MB/D after about 3 months.

Attainment of the emergency capacities in the field will require some gas flaring and investments of approximately \$8 million for additional field production facilities. These facilities can be generally added within the first 90 days of an emergency and should pay out based on the temporary additional production during the emergency.

The emergency production capacities in excess of MER estimated in this report differ substantially from the spare producing capacities estimated each year by the API. The principal reasons for this are differences in the definition of spare and emergency capacity. For example, the API defines spare capacity as the instantaneous rate which could be achieved at the field level on March 31 of each year. The API definition ignores pipeline limitations between the field and refineries and assumes that "intrafield equity considerations will be resolved." By contrast, the emergency capacities estimated in this study represent average rates for the period which can be produced and delivered.

TABLE 17.—SOURCE OF EMERGENCY CRUDE PRODUCTION CAPACITY, TEMPORARY CAPACITY IN EXCESS OF MER 1974

[In thousands of barrels per day]

Field	Current production	Maximum additional capacity deliverable to refineries	Average additional capacity deliverable to refineries for:	
			90 days	180 days
NPR-1 (Elk Hills).....	5	35	12	23
East Texas.....	210	40	40	40
West Hastings.....	175	27	0	13
Yates.....	50	60	50	55

Field	Current production	Maximum additional capacity deliverable to refineries	Average additional capacity deliverable to refineries for:	
			90 days	180 days
Tom O'Conner.....	80	22	22	22
Hawkins.....	112	5	5	5
Other major fields (8).....		78	78	78
All others.....		102	85	94
Total.....		369	292	330

¹ Effective Jan. 1, 1974.

It should be emphasized that numerous legal and administrative obstacles would have to be overcome before these capacities could be attained. The MER's for the Texas fields have been established by the Texas Railroad Commission. Action by this body will be required to exceed any current MER. This action would have to be based on a finding that the temporary higher production would not damage the reservoir. In addition, substantial differences of opinion exist among the operators in most of these fields regarding the MER, and in some cases litigation is involved. The higher emergency rates can be obtained by permitting all wells in the field to increase their production rather than by producing only certain selected wells. Although this would appear to be the most equitable approach, it is anticipated that controversies and possible litigation will result when production is increased unless the enabling legislation provides clear authority for emergency production. Also, attainment of the estimated emergency rates in many fields will require the relaxation of various environmental regulations, particularly those regarding gas flaring.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

Mr. HOLLINGS. Mr. President, on balance I support the conference report and intend to vote for it. I had been concerned about the coal conversion section, section 106 of the report, in that I feared that the language of that section might be interpreted to give the Federal Emergency Energy Administrator excessively broad discretion in his determinations of whether or not to convert major fuel burning installations to coal. I therefore offered an amendment in the conference to provide that no such installation could be ordered to convert if adequate supplies of other fuels were available. By that amendment I meant explicitly to insure that in the distribution of oil throughout this country the very first priority would be given to public health considerations. Thus if low sulfur fuel were available to a plant Federal officials would have been prohibited from allocating it out of the hands of such plant and converting the plant to coal when the result would be an adverse effect on human health. While that amendment did not carry, I was assured by many of the conferees voting against it that the basis of their vote was that they regarded it as redundant. In other words, they intended that under the case by case balancing approach required by section 106 the criterion of nonavailability of low polluting fuels was intended to be met before conversions could be authorized. I therefore rest assured that the Federal energy officials will observe this criterion in their exercise of the

balancing test and recognize that it is our intent that they do so.

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in Docket No. MC 43 (Sub-No. 2).

The enrolled joint resolution was subsequently signed by the Acting President pro tempore (Mr. METCALF).

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

ORDER FOR RECOGNITION OF SENATORS JAVITS, MATHIAS, KENNEDY, ROBERT C. BYRD, AND HARRY F. BYRD, JR.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated, Senators JAVITS, MATHIAS, KENNEDY, ROBERT C. BYRD, and HARRY F. BYRD, JR.

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

LEGISLATIVE PROGRAM AND PROCEDURES

Mr. MANSFIELD. Mr. President, upon the conclusion of business tomorrow, the Senate will adjourn until noon, Monday, February 18, 1974. The House will adjourn this evening until Wednesday, February 13, 1974. Thus the Senate will take 5 days off, the House will take 3 days off to afford Members the opportunity to return to their constituents.

The concurrent resolution which has been adopted by both Houses of the Congress provides for this recess. Through an oversight on my part, the resolution does not contain the language providing for a recall by the leadership of the Congress. It has been and will continue to be the leadership's intention to include this authority for all recesses and adjournments of the Congress in the future.

The sense of urgency for such a provision of recall by the leadership of the Congress was greatly reduced because of the shortness of the recess period, and by the fact that the House today agreed

to pass the legislation which was adopted unanimously in this body, the so-called Magnuson bill, 3 days ago.

That will be of some effect, I believe, in the alleviation of the plight of the truckers. The measure has the approval of the administration, and it tends to break down to a 30-day time period which would have to be gone through automatically in relation to this aspect of the ICC.

Mr. HUGH SCOTT. Mr. President, which we have already passed.

Mr. MANSFIELD. The Senator is correct. So it is on its way to the White House now. As I say, the sense of urgency for such a provision of recall by the leadership of the Congress was greatly reduced because of the shortness of the recess.

There will, however, be only 2 working days, Monday and Tuesday of next week, that neither House of Congress will be in session.

I just wanted to make that statement. The Senate will be in tomorrow. It is hoped some progress can be made in educating the Senate and the people about the 47 amendments which the distinguished Senator from Arizona alluded to, and that when we do get to a vote on this measure—and I assume it will be short on our return—we will all be well versed in all the facts.

Mr. FANNIN. Mr. President, if the Senator will yield, if I may comment on the statement of the majority leader—and I appreciate what he said—my reference was to 40 provisions, not 47 amendments.

Mr. MANSFIELD. I thank the Senator.

Mr. HUGH SCOTT. Mr. President, with the indulgence of the distinguished majority leader, I think it ought to be said that the majority and minority leaders do hope for, and will do our very level best to bring about, a vote at the earliest possible time consistent with the rules of the Senate and the privileges of all Senators.

Mr. MANSFIELD. I agree.

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

Mr. MANSFIELD. I yield.

Mr. ALLEN. It does not seem to the Senator from Alabama that the objection that was made this morning to agreeing on a definite time for voting on a motion to recommit, and then the final vote on the conference report, has hastened the time for the vote. The Senator from Alabama was wondering if the distinguished majority leader might possibly be disposed to renew his request for unanimous consent, since it is obvious that a Tuesday vote is an earlier vote than we might anticipate if it is left without a unanimous-consent agreement.

Mr. HUGH SCOTT. Before the distinguished majority leader replies, I might point out that the objection to a unanimous-consent request could only have the effect of delaying the vote, not expediting it.

Mr. ALLEN. Yes, that occurred to the Senator from Alabama.

Mr. HUGH SCOTT. And regardless of any requests to the contrary, that is the

fact; no agreement is no assurance to anyone as to when we will have a vote, if ever.

Mr. MANSFIELD. I agree with both Senators. I have given the matter some thought, and if Senators will indulge me, I prefer not to make that motion at this time unless those Senators are present who objected earlier today.

I have talked informally with Republican members of the committee, and I am of the belief that we will have no trouble on Monday a week in getting the agreement offered at that time, and, with their concurrence, approved.

Mr. ALLEN. I thank the distinguished majority leader. I am reassured by his statement.

Mr. FANNIN. Mr. President, I would hope, in accordance with what the distinguished majority leader has said, that we can arrive at an early vote, but I know that we had an understanding, and we were very hopeful that we could at this time make the agreement; and I assure him that from the standpoint of our desire we did. But I cannot give him any assurance that that can be done, because as one Senator I cannot give such assurance.

Mr. MANSFIELD. No, but I am sure, knowing the Senator as I do, that he will make every effort to assure that what we attempted today will become effective on Monday week.

(Mr. BARTLETT assumed the chair as Presiding Officer at this point.)

Mr. HANSEN. Mr. President, will the distinguished majority leader yield for a question?

Mr. MANSFIELD. Yes.

Mr. HANSEN. I would just like to observe, Mr. President, that there was a good-faith effort, as no one understands more clearly than the distinguished majority leader, on the part of those representatives of the Senate conferees on the energy bill to reach an accord, and their views unanimously, insofar as the representatives were concerned, were transmitted to the distinguished majority leader, and I am sure underrigged his making the unanimous-consent request this morning that we agree upon a time certain—4 p.m. Tuesday, February 19—to vote on two issues, the adoption of the conference report and/or the recommitment of that report to the conference committee.

I had occasion, earlier this afternoon, to observe that there was, in the opinion of this Senator at least, some demagoguery displayed this morning. I will leave it up to each individual Member to agree or disagree with me. But understanding, as I hope most Senators do, the extremely complicated provisions of this bill, it was not without some justification that there were those of us who felt that it was not fully understood, and I think that that statement has been borne out in the debate today on the basis of interrogatories that have been propounded by various Members who were conferees on that energy bill.

Moreover, the fact that the responses were not immediate, and that almost invariably, in order to make certain that an accurate response was given, it was necessary to turn to a staff man,

prompted me to observe that certainly not more than 11 Senators of the 100 who occupy positions in this body could have had more than a very cursory understanding of this energy bill.

Later this afternoon, it was my privilege to hear the present distinguished Presiding Officer of the Senate (Mr. BARTLETT) discuss at length with the distinguished Senator from Louisiana the ramifications of the impact that the rollback could have upon domestic oil production in the United States, and I hope that every Senator who votes when this issue finally does come before the Senate for a vote will take the time to read what was said by those two most knowledgeable energy experts. In the opinion of the Senator from Wyoming, they happen to know what they are talking about.

My point, Mr. President, is that failing, as we did this morning, to achieve a unanimous-consent agreement, despite my personal willingness to do all I can to see that the Senate has an opportunity to vote on this issue as quickly as I can conscientiously, and my belief that there is a sufficiently good understanding of the bill to permit a responsible vote by Members, I must say that I cannot guarantee that this same persuasion on my part will characterize the attitude of every other Senator in this body on either side of the aisle.

So I would just like to point out to my good friend the distinguished majority leader that I personally will do my best to cooperate, as I have earlier indicated, with him in getting the unanimous-consent agreement, but I would hope that it might not go unnoticed that those who spoke with what seemed to be some small degree of intemperance this morning would not be unaware of the fact that their remarks may not have been appreciated, perhaps, as much as they had hoped that they would be.

To my good friend from Montana I say simply that I will do my best to cooperate with him in trying to see that this issue, first, is understood by the people and by Congress, and then is voted upon just as expeditiously as possible, but I would feel constrained to observe that not everyone is entirely happy with some of the things that were said earlier today. If it should come about that we do not find ourselves able to agree by 4 p.m. on February 19, 1974, Tuesday after next, I hope that he might understand the blame for those who may make that accommodation impossible is not one freely assumed by those who may be constrained to object.

Mr. MANSFIELD. Mr. President, I appreciate the remarks of the distinguished Senator from Wyoming (Mr. HANSEN), but it is my belief that all Senators on both sides—all sides today—spoke in good faith. Certainly the fact that the distinguished ranking Republican member of the committee, the Senator from Arizona (Mr. FANNIN), pointed to the fact that there were 40 amendments—new amendments—new proposals in the conference report, that should be elucidated and made better known to the membership, was a point well taken. Also it was stated that it would take a

few days, really, to tell the Members of the Senate and the country just what the factors involved were.

I would assume, as I usually do, having such high regard for the Senate and its Members, that what would be readily attainable today would very likely be readily attainable on Monday, February 18, at which time, the Senate concurring, the unanimous consent request will once again be offered.

May I say that today we have spent more than 6 hours on debate on the subject of the conference report.

Mr. FANNIN. Mr. President, I want to express my appreciation to the Senator from Montana and to say, as I said earlier, that there were 40 sections in the report that should be studied, because one of the Senators thought we would just talk about the one provision. That was my point at that time and what I referred to later in discussing this matter with the distinguished majority leader. I will do my best, as I have stated to the Senator frequently, to try to come to a satisfactory understanding for a vote.

As I said during the afternoon, I was pleased to hear some of the debate that did bring up questions that should be very seriously considered. So I just say at this time, as I said before, that I can give no assurance other than my own assurance that I will cooperate in trying to bring a vote to the Senate floor at the earliest time consistent with what I think is proper in the handling of this legislation. I certainly will cooperate with the majority leader.

Mr. MANSFIELD. I appreciate the statement just made by the Senator from Arizona. I think the record should show that he was the one who initially came forward and indicated it would be possible to work out a time agreement, at which time a vote could take place, or votes could take place, and I commend him for his initiative.

Mr. FANNIN. The majority leader is correct and I regret it was not possible to do so.

Mr. MANSFIELD. So do I.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider a nomination for the Commissioner of Patents, which was reported earlier today.

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

The PRESIDING OFFICER (Mr. CLARK). The nomination on the Executive Calendar, for the Commissioner of Patents, will be stated.

COMMISSIONER OF PATENTS

The legislative clerk read the nomination of Curtis Marshall Dann, of Delaware, to be Commissioner of Patents.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

be notified of the confirmation of this nomination.

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

LEGISLATIVE SESSION

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

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

SENATE RESOLUTION 282—APPEARANCE OF SENATOR GURNEY AND PRODUCTION OF RECORDS IN CONNECTION WITH GRAND JURY PROCEEDING

Mr. GURNEY. Mr. President, I send to the desk a resolution and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk proceeded to read the resolution.

Mr. GURNEY. Mr. President, I ask unanimous consent that the reading of the resolution be dispensed with and that the resolution be printed in the Record.

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

The resolution is as follows:

S. RES. 282

Resolution relating to the appearance of Senator Gurney of Florida, of employees in the Office of Senator Gurney, and the production of Senate records, with respect to certain grand jury proceedings

Whereas certain grand juries in the United States District Courts in Florida are conducting investigations pertaining to Federal Housing Administration matters, and related issues in Florida;

Whereas Senator Gurney of Florida wishes to appear and testify voluntarily before these grand juries, but, by privilege of the Senate and under the Standing Rules of the Senate, he may not do so but by order of the Senate: Now, therefore, be it

Resolved, That by the privileges of the Senate of the United States no evidence in the possession and under the control of the Senate of the United States can, by the mandate of process of courts of justice, be taken from such possession or control but by its permission.

Sec. 2. By the privilege of the Senate and by rule XXX of its Standing Rules, no Member or employee of the Senate is authorized to produce Senate documents, papers, or evidence but by order of the Senate, and information secured by employees of the Senate in the performance of their official duties as such employees may not be revealed without the consent of the Senate.

Sec. 3. When it appears by the order of a court or of a judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that testimony of an employee of the Senate is needed for use in that court of justice or before that judge or legal officer for the promotion of justice and that such testimony may involve documents, papers, or evidence related thereto under the control of or in the possession of the Senate, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

Sec. 4. If the United States District Court for the Middle District of Florida, Jacksonville Division, or the United States District Court for the Southern District of Florida, Miami Division, should issue a subpoena ad testificandum or subpoena duces tecum to any employee in the office of Senator Gurney to appear before a grand jury of either court concerning Federal Housing Administration matters and related issues, that employee is authorized to appear before that court or Grand Jury at the time and place stated in the subpoena, and may testify to any matter determined by the court to be material and relevant to matters being investigated by either such grand jury, but shall not take with him any papers, documents, or evidence on file in his office, under his control, or in his possession as an employee of the Senate.

Sec. 5. If such court should issue a subpoena duces tecum to an employee in the office of Senator Gurney with respect to such matters being investigated by either such grand jury and determine the materiality and relevancy of the documentary evidence called for in any such subpoena, the said court, through any of its officers or agents, shall have full permission to attend with all proper parties to the case at a place under the orders and control of the Senate, to take at such place copies of such documentary evidence in the possession or control of the employee as the court has found to be material and relevant, and to take at such place such evidence of witnesses in respect to such evidence as the court or other proper officers thereof shall desire, except that the possession of such evidence by such employee shall not be disturbed and such evidence shall not be removed from their files or custody under the employee.

Sec. 6. Subject to the limitations hereinbefore stated, any employee in the office of Senator Gurney so subpoenaed, is authorized to supply certified copies of such documentary evidence as the court has found to be material and relevant to the matters being investigated by such grand juries. In addition, any such employee may answer questions asked by the Federal Bureau of Investigation concerning his official Senate duties, and exhibit to the Bureau Senate documents in his possession.

Sec. 7. The Senate gives permission to Senator Gurney of Florida to appear and testify before such grand juries.

Sec. 8. Copies of this resolution shall be transmitted to such courts and grand juries as respectful answers to any subpoena they may issue with respect to such matters being investigated by those grand juries.

Mr. GURNEY. Mr. President, the resolution has been cleared on both sides and with the majority leader and the minority leader. So far as I know, it is ready for adoption.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the resolution was considered and agreed to.

ENERGY EMERGENCY ACT— CONFERENCE REPORT

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel

distribution system, and for other purposes.

Mr. FANNIN. Mr. President, I ask unanimous consent that an article entitled "FPC Delay Points to More Costly Gas," published in the Washington Star-News of Wednesday, February 6, be printed at this point in the RECORD.

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

FPC DELAY POINTS TO MORE COSTLY GAS
(By Stephen M. Aug)

A last-minute effort by the Federal Power Commission to save a deal bringing gas to this country from Algeria has turned out to be a failure.

The United States may get the liquefied natural gas, but it will likely pay much more than the price on which the Algerians originally agreed.

Lawyers in this case—and in other cases in which Algerian deals have fallen through—appear universal in blaming continuing delays at the FPC for the problems.

"This is a world energy crisis and it's dog eat dog," said Charles E. McGee, a lawyer representing Easogas, and a veteran of 30 years of FPC practice. "Hell, they don't have to sell to the U.S. and wait for the FPC to get off its ass and do something—they have Japan, they have Italy, Spain, France, anywhere," he said.

The reason for McGee's unhappiness is the tardiness of the FPC, which has been considering since August 1972 a plan by Easogas LNG Inc., of Newark, N.J., to import in liquid form the equivalent of 4.72 trillion cubic feet of gas into the United States over the next 22 years.

The gas—which would be sold to consumers in New Jersey and New England—was to be priced at about 83 cents a thousand cubic feet at dockside in the United States (compared with an average wellhead price for gas produced in this country of about 22 cents).

The contract with Sonatrach, the Algerian government-owned oil and gas company, provided that the deal had to have FPC approval by last Jan. 1, or the contract would be void.

On Jan. 28, the FPC, in a 3-1 ruling, snatched the case away from a hearing judge and authorized the importation of the gas. The FPC majority said it was acting because the nation is "confronted with a national energy emergency."

The sole dissenter, Commissioner Rush Moody Jr., said, however, that the commission's action fooled nobody because it settled nothing. It did not decide whether the project is safe; whether the high price is justified; whether the plan is economical, or whether it can meet environmental safeguards. All are subject to further possibly lengthy hearings.

The action, he said, "would delight a snake oil salesman."

Apparently he was right. The Algerians who read Moody's dissent and the FPC order weren't fooled, gas industry sources said. While the contract isn't canceled, the price now is up for negotiation.

"Some people think we don't have a contract, which, of course, is entirely false," said McGee. "We do have a contract," he added, pointing out that the FPC ruling was simply an interim order.

"One of the problems we have with this contract," he said, is "we had to get this approval, but we also have to get the approval of the Algerian government, and the Algerian government doesn't give approval until after the party gets some kind of approval itself."

Thus, during the year and a half it took the FPC to act, world prices for natural gas

have soared, and problems between Arab nations and Israel have further complicated the energy picture.

The price agreed upon in the original deal was 45.75 cents per 1,000 cubic feet in Algeria, plus 38 cents for transportation—or 83.25 cents at U.S. dockside. This is subject to 1.5 percent annual escalation on the 45.75 cent price that began Jan. 1, 1973. The most recent deal with Algeria, by the Trunkline Gas Co., a subsidiary of Panhandle Eastern Pipeline Co., called for gas at dockside U.S. of about \$1 per 1,000 cubic feet.

McGee and his Easogas client—a subsidiary of Algonquin Gas Co., and a number of utilities—should consider themselves lucky. The fact that the FPC has failed to act entirely in another case, involving DISTRIGAS Corp., has doomed that contract with the Algerians entirely.

DISTRIGAS had a 20-year contract calling for 45 billion cubic feet of liquefied natural gas flowing every year starting in 1975 (compared with 240 billion for Easogas).

The DISTRIGAS contract was to expire Dec. 31 if the FPC hadn't acted. The commission didn't act (the matter is still in the hearing process).

As a result, according to John Cabot, a vice president of DISTRIGAS—a subsidiary of the Cabot Corp.—Algeria exercised its right and canceled the contract.

"We haven't started serious negotiations," Cabot said in a telephone interview from his Boston office, because "the market is so turbulent right now."

DISTRIGAS' application has been before the FPC since early autumn of 1972.

"We're a little frustrated," Cabot said, "You'd think we'd be heroes in an energy crisis, but there are a lot of complications along the way."

Mr. FANNIN. Mr. President, this particular article verifies the information given to us by Dr. Stauffer. In fact, it is a very good illustration of what we have been discussing for some time in the consideration of the deregulation of new natural gas.

Mr. President, let me make the record clear that before voting on the proposed legislation, every Senator is entitled to know the provisions in it, in order that he may decide whether he wants to oppose or support the conference report.

Second, the time involved in making it possible to have a complete analysis of the stipulation in the proposed legislation between now and when the Senate reconvenes on Monday, February 18, is certainly needed.

Third, the House of Representatives is now out of session and will be, as stated, until February 13. The House did not have the votes before adjournment to force the bill out of the House Committee on Rules, and there is no assurance that that can be done before the Senate returns. So there is no intention, or no assurance, at least, that there will be any delay by the Senate.

Finally, we who have asked for these discussions and analysis of the conference report are acting in the best interests of the Nation. We are not engaged in a filibuster. There is no filibuster at all. We are engaged in making certain that the provisions of the report are known and understood before the report becomes the law of the land.

We are fulfilling the duties our constituents elected us to do. We are fulfilling the duties imposed upon us as Senators by the Constitution. I feel that it is

highly essential that we do thoroughly discuss this measure. I sincerely hope that every Senator will read what has been placed in the RECORD, because it is most valuable in determining the problems and also the benefits of the legislation.

I hope that every Senator will consider the stipulations that I refer to at this time.

Mr. ALLEN. Mr. President, I wish to commend the distinguished Senator from Arizona for his efforts to bring the conference report to a vote. I think he has made a generous offer to agree to vote on the measure on the Tuesday following our return from the recess.

It seems passing strange to the Senator from Alabama that the Senators who say they want to vote on the conference report are the ones who are not agreeing to setting a time certain for a vote; whereas, the distinguished Senator from Arizona, who is said to be filibustering the conference report, is seeking to get a time agreement for a vote on the conference report. It certainly seems strange that the Senator from Arizona is being charged with delay, when he is trying to get the conference report to a vote at a given time. I commend the Senator from Arizona for his position, for his request that the vote be set for just as early a time as we are going to get a vote by discussing it. I feel that past experience has demonstrated that the quickest way to get a vote is to set a time certain, which the Senator from Arizona is willing to do. I commend the distinguished Senator from Arizona.

This is one of the most glaring objections I have to the tremendous price increases that have come in this whole field. It is certainly an unfair increase. I want to get the price of propane, along with that of gasoline and diesel and other petroleum and natural gas products, rolled back. I think the most glaring and outrageous price rise has been in the field of propane. I believe that permissible price increases are going to be spread out more equally and more evenly under the provisions of the conference report, and it is a very commendable report at that point.

The wisdom of the Senate in sending this conference report back to the conference committee some days ago has been justified, because this is a much better conference report than first came out. It underscores the position of the Senator from Arizona in pointing out that possibly improvements can be made if an opportunity is given to consider and study the various aspects of the report.

I might say that I am going to vote against recommitting the report. I am going to vote for the report. One reason, among many, is that consideration has been given by the conferees to rolling back the price of propane, which has been allowed to increase in price some 350 percent; whereas, in other areas there has been a much smaller increase. As the Senator from Alabama understands, the oil companies have been allowed to set their increase as much as they pleased, and a disproportionate share of the per-

missible increase has been placed on propane.

Propane is the poor man's, the rural man's, the noncity man's natural gas. He uses it for every purpose—for heating, for his chicken houses, for the small industries on the farm.

So I commend the Senator from Arizona for his willingness to set a time and his demand that a time be set. Still, he is charged with delaying the report, which the Senator from Alabama cannot understand.

Mr. FANNIN. Mr. President, I wholeheartedly agree with the distinguished Senator from Alabama. I thank him for his kind remarks.

We have made this attempt and have made it again and will be pleased if we can make it again.

I share his great concern about propane prices. I know quite a bit about that business. For the last several years, I have been trying to get additional quantities of propane. Not only have I asked for a research program on what can be done with respect to propane that is now wasted in many parts of the world, but also, I have talked about the salt caverns that can be washed down. We have them in my State, and probably there are some in Alabama and Minnesota and other States, and they can be utilized for the storage of propane gas. We are in short supply, and the price has gone completely out of reach.

We have to weigh that against the other stipulations in the proposed legislation. Although I am vitally concerned and certainly felt very pleased with the opportunity we had of trying to roll back the prices on propane, at the same time we must realize the consequences. If we wanted more propane, if we wanted to lower the price of propane, we could deregulate natural gas. Seventy percent of the propane is produced from natural gas. Only about 30 percent comes from refinery processing. So it is important to realize that although we do have that one stipulation in the bill, which the Senator very much agrees with, we have some very costly stipulations in the bill that I feel will be much more harmful.

We are talking about rolling back the incentive for the production of more oil. We are rolling back the price on the stripper wells. We have many stripper wells throughout this Nation, and the Senator from Wyoming has reported on that subject very eloquently. I think there are about 85,000 in Texas alone that produce an average of 3.8 barrels a day. It is a very costly process. As the distinguished Senator from Wyoming stated, one of the independent companies that reported about this processing stated that for every barrel of oil they produce, they have to dispose of two barrels of brine, which they have to dump into the gulf. In other words, it is a very expensive procedure. The distinguished Senator from Wyoming can explain this very thoroughly, because he has had contact with these people.

I assume that the Senator from Minnesota desires to speak, and I do not want to detain him, so I yield to him, and I will then continue my remarks.

Mr. HUMPHREY. I thank the distinguished Senator from Arizona.

Mr. President, I associate myself with the remarks of the distinguished Senator from Alabama, particularly as to propane. The people in my State are complaining, and rightly so, about the unbelievable price increase. The Senator from Alabama is right when he says that, for all practical purposes, it is the rural man's and the poor man's natural gas.

For example, in the poultry business in our State, it has been very costly. Many of our farm homes are heated with propane. Many of our small plants in small towns use propane as a fuel. It has become almost prohibitive to use it, and it has cut sharply into whatever earnings they had. It has really been most unfair. I thank the Senator from Alabama for speaking as vigorously as he has on this matter.

I also agree with the Senator from Alabama that the bill that came back is a better bill. I did not vote to send the bill to committee, and that perhaps was an error of judgment on my part. I felt rather strongly about the profits that some of the oil companies have been making and thought we ought to do something about that. I hope we shall do something about it, through the committee system we have in the Senate—the Committee on Finance—and the House Ways and Means Committee.

I believe the bill that has come back is a better bill. We need action on the bill, and we need action for one reason: The energy problem is the top, No. 1, issue that concerns the American people today. We are not going to get perfect legislation, and we know it. But in the meantime, we have to have something that will give the people in the administration the tools they need to do the job, and then we can hold them fully accountable.

I happen to think that Mr. Simon is doing a good job with the tools he has to work with, and I want him to do an even better job. I have visited with him personally. I have had good cooperation from his office, and he has appeared before committees I have had the opportunity to serve on. I think he is a responsible and a responsive public official.

I thank the Senator from Alabama for his comments.

Mr. ALLEN. Mr. President, I thank the Senator for his fine comments on this most important subject.

FISCAL YEAR 1975 BUDGET INCREASE HIDES ACTUAL DECLINE IN DOMESTIC PROGRESS

Mr. HUMPHREY. Mr. President, the 1975 budget has been greeted by the press with large headlines proclaiming it the largest budget ever sent to Congress. This is quite true but every new budget is the biggest ever because we are a growing nation. This 1975 budget is essentially a "standpat" budget. It makes no new initiatives. It moves us no closer to the goals we have set before ourselves. The President has discussed national health insurance, but the budget explains that this program is not to begin

until 1977. He has urged welfare reform, but there is no proposal in the budget. The administration has proposed raising the level of unemployment insurance benefits, but again not until 1977. With the exception of national defense, this is a do-nothing budget.

The second part of this document is called Perspectives on the Budget. However, the perspectives presented here are very carefully chosen. I would like to expand this perspectives discussion in a way that I hope will show more clearly the choices made in this budget. In a world of constantly rising prices, holding the dollar expenditures on a government program constant means a reduction in the level of real activity. Even when the dollar expenditures rise, they sometimes do not keep pace with inflation. Let me give an example: In 1974 veterans benefits are estimated to be \$13.3 billion. In 1975 they are estimated to be \$13.6 billion. On the surface this looks like a modest increase for veterans. However, if we look at both of these numbers in 1958 dollars, to take out the growth due to anticipated inflation, we observe veterans benefits actually declining by about \$350 million.

This is the story of the 1975 budget. Most programs are held constant or allowed modest increases. In fact, if we take out the functional category of national defense so that we are examining the civilian budget, and then look at these expenditures in constant dollars, the 1975 budget shows a very small increase. In constant dollars the civilian budget increased about \$5 billion from 1973 to 1974 and about \$3 billion from 1974 to 1975. If inflation is worse than anticipated, civilian programs will increase even less than the \$3 billion constant dollars estimated.

These modest increases are the result of Congress insisting that people who are dependent on social security and other income maintenance programs should have their benefits raised to keep pace with inflation. Every time Congress has wanted to raise social security benefits it has been opposed by the Nixon administration. This record of opposition is clearly documented in an article by John Herling, appearing in the January 26, 1974, issue of the Washington Post.

But income maintenance programs like social security are uncontrollable expenditures. They are uncontrollable because the administration cannot change them without coming to Congress for new legislation. If we want to see where the administration's priorities lie, we must examine the controllable expenditures—areas where there is some discretion. From 1974 to 1975, controllable outlays for civilian programs are projected to decline by about \$600 million. At the same time controllable outlays for defense programs are projected to increase almost \$4 billion. The \$600 million decline in controllable civilian programs is before any adjustment is made for inflation. When the effect of inflation is considered, outlays for these civilian programs will decline about \$1.3 billion in constant dollars. There is no doubt where this administration's priorities lie.

Mr. President, I ask unanimous consent that the Washington Post article, entitled "Social Security Record," be included at this point in the RECORD.

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

SOCIAL SECURITY RECORD
(By John Herling)

President Nixon's technique in grabbing credit where credit is not his due was incredibly illustrated when he signed the latest legislation calling for an 11 per cent increase in Social Security benefits.

As he signed the bill in San Clemente, he spoke with pride of the fact that Social Security benefits "have risen by 68.5 per cent since this administration took office five years ago."

What he did not say was that he and his top associates dragged their feet and tried to slow down Congress from enacting an increase in Social Security on the four separate occasions that Social Security benefits were raised.

Seventy-two year old Nelson Cruikshank, the vigorous president of the 4,000,000-member National Council of Senior Citizens, scorched the "dismal record" of the Nixon administration in its first five years. Not only has Mr. Nixon resisted adequate improvements in the Social Security system but, says Mr. Cruikshank, "he lacks a realistic income strategy for old Americans." But the President's effort to block improvements in Social Security benefits was thwarted by the Democratic Congress which attached Social Security increases to veto-proof legislation.

Here is the record, starting with his first year in office:

In April 1969, Mr. Nixon proposed a 7 per cent increase in benefits. Organized labor and the National Council of Senior Citizens lobbied hard against the administration's proposal. Whereupon, in September of that year, the President relented and said he would go with 10 per cent. But Congress insisted on a more adequate figure and in December, Congress tacked on a 15 per cent increase to the tax reform bill. Thereupon, the President reluctantly bowed and signed the bill on Dec. 30.

In 1971, Nixon proposed a 6 per cent increase in Social Security benefits, but Congress—again by oblique action—stiff-armed the President. In March of that year, it passed a 10 per cent increase which was tied to the debt ceiling bill.

In June 1972, Congress again circumvented the President. At first, he favored a 5 per cent increase but later agreed to a 10 per cent boost. Labor and senior citizens organizations insisted on a higher figure—20 per cent. This became law when Congress again attached the increase to the debt ceiling law.

In that presidential year, the re-election of the President was the main order of business. Without a flicker of embarrassment, President Nixon took the credit for the increase he had opposed. Every Social Security payment contained the following notice:

"Your Social Security payment has been increased by 20 per cent with this month's check by a new statute passed by Congress and signed into law by President Nixon on July 1, 1972."

Finally, the other day, the President signed the latest Social Security bill for a two-step 11 per cent increase, the first increase of 7 per cent to be effective in March and the second in June. But Mr. Nixon wanted no increase at all until July.

Actually, if the President had his way in the last five years, the Nixon increases in Social Security benefits would have amounted, at best, to no more than 28 per cent instead of the 68.5 per cent to which he now points with pride.

Mr. HUMPHREY. Mr. President, finally I wish to address the subject of

national defense, and I shall do so repeatedly on the floor. There is extra money in the budget for national defense. It is premature for anyone to say it is too much or that it is too little. I am not going to make that comment. It is more than \$6 billion over last year for national defense. There is another supplemental that provides a little over \$6 billion. In other words, approximately \$13 billion would be added to the fiscal year 1974 national defense budget.

The question before Congress is not so much the number of dollars we spend but what do we get for what we spend it for? What kind of defense structure are we getting? Does it meet the needs of the Nation? Are we following in the old tracks laid down long ago as part of the long cold war strategy and struggle? Does this defense budget meet the diplomatic initiatives we are engaged in? Does it face up to the world in which we live? Are we depending too much on the nuclear deterrent? Do we have a balance of forces?

Mr. President, I happen to believe that the Department of Defense is overstuffed with civilians. I happen to believe we have too many overseas bases, little ones many of them, but they are costly in terms of administration.

I do believe that some of our weaponry is overly sophisticated. Some of it was proven to be so in the recent October war in the Middle East. We can learn a great deal from that struggle, tragic as it was. We found that some of the equipment we thought was so good because it had all kinds of flares and gadgets on it, did not do the job.

So the Senator from Minnesota, rather than saying we should slash the defense budget by \$4 billion, \$6 billion, or \$5 billion, whatever the amount may be, and I think there can be justifiable cuts made, is asking that the appropriate committees of Congress make the kinds of comprehensive review of our entire defense structure that long has been needed. We have not had that kind of review since about 1960-61, and the world has changed a great deal since then.

It is with that thought in mind, and I shall press this case day after day, that I shall request that Congress take a look at the tremendous expenditures for national security.

I believe in national security. I do not think we can afford to find ourselves with weaponry that has little or no relationship to the realities of the world in which we live. But I want to make sure that we are not permitting our admirals, generals, and planners who have been accustomed to their ways, to set patterns in national security and national defense which give us too little security and all too little defense.

It has been said a number of times about an old ally of ours that the French in World War II were prepared to fight World War I with the maginot line mentality, as we referred to it, which had no relationship to the kind of blitzkrieg warfare which had become the new warfare of modern Europe. I hope and pray that we are getting the most for our dollar.

As I speak on the budget from time

to time, I shall examine it not only from the point of view of the amount of money we are spending but, more importantly, the product we are getting—do we need it and will it do the job?

Mr. HANSEN. Mr. President, I wish to compliment the distinguished Senator from Minnesota for bringing us the message he has just delivered. Earlier this afternoon in commenting upon a recognition that shall surely be given to the Senator from Texas (Mr. TOWER), I was impressed by the same strong logic with respect to our national defense that has prompted the Senator from Minnesota to speak as he has. I could not agree with him more.

I recall, as I am certain he will, that in a hearing the Vice President spoke to the William Randolph Hearst scholarship winners yesterday, and the Vice President took the occasion to comment on the progress that had been made in the solution of international problems or the start that had been made. He underscored the fact that much of the progress that can be claimed almost solely by the United States, and which must go in large measure to the Secretary of State, resulted from the fact that the United States of America is a strong Nation, it is a creditable Nation, and only America, of all the nations in the world today, in the words of the Vice President, and I am paraphrasing what he said, would have been able to have undertaken this tremendously important mission and to have been able as has so far been secured in bringing together two peoples who have been fighting not for centuries but for thousands of years.

While it is just a start, it is a start. The Arabs and the Israelis for the first time in I do not know how many hundreds of years are beginning to look at an alternative to war.

I think the thoughts expressed by the Senator from Minnesota underscore the necessity of our looking very closely at this budget. I do not doubt there are places where we may say more should be spent, and there may be other places where we may say less should be spent, but on one thing, and perhaps on many, the Senator and I are agreed—let us not make the fatal error of cutting the military budget simply because it happens to be the biggest one we have had. Wait and see what that budget has already achieved for America.

Mr. HUMPHREY. I thank the Senator very much.

ENERGY EMERGENCY ACT—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses to the bill (S. 2589) to authorize and direct the President and State and local governments to develop contingency plans for reducing petroleum consumption, and assuring the continuation of vital public services in the event of emergency fuel shortages or severe dislocations in the Nation's fuel distribution system, and for other purposes.

Mr. HANSEN. Mr. President, let me

say that there has been some excellent dialog here in the Senate today that will contribute significantly to a clearer understanding of what the so-called energy conference report can do and might do to, as well as for, America. I would hope that Senators not able to be here this afternoon will take occasion to read what is in that RECORD.

I spoke earlier about the number of Senators who have a very great, in-depth understanding of the energy business in America, and I certainly know that all of us will be better informed if we take occasion to read what they have said.

Because a number of excellent presentations have been made that I think should command the attention of all Senators. I ask unanimous consent that there may be included in the RECORD at this point various and sundry statements, editorials, and newsstories that I feel will contribute to the sort of understanding which I would hope might characterize each person's comprehension of this problem before eventually it is voted on by the Senate.

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

STATEMENT OF MR. ERVING WOLF

My name is Erving Wolf. I am Chairman of the INEXCO Oil Company which is a public company listed on the New York Stock Exchange. INEXCO is an exploration company with virtually all of its interests dedicated towards exploration in continental United States. We are one of the largest exploration companies in the United States and in 1972 and 1973 we attained the rank of being the 4th and 5th largest exploration company in footage drilled and wildcat wells drilled. During these years our exploration activities exceeded such companies as Atlantic Richfield, Union Oil Company, Signal Oil Company, Marathon and Standard of Ohio. Our 1974 Budget for domestic exploration is approximately \$30 million.

I have come to Washington today with the idea of lending some thoughts toward the current energy bill being considered by the Senate. I would hope that the Senate will pass a productive bill as opposed to one that might have some counterproductive thoughts in it.

I sincerely think that one of the most important things that the Senate should consider is a three-tier pricing system. Currently we have old and new oil. Under the category of new oil are stripper production and the improved production coming out of old oil fields.

The United States currently produces approximately 9 million barrels of oil per day. Of this amount approximately 25 percent is considered as new oil and 75 percent is old oil. Of roughly 2.5 million barrels of new oil, 2 million is stripper production and of the other 500,000 barrels, some of that was new discoveries whereas part of that was through upgrading existing oil fields that were previously discovered but came under the FEO new oil regulations. Basically, almost all of the new oil in the United States under FEO rules was old oil upgraded to a "new" status. It was placed there without any risk on the part of the operator.

The key to find new oil is through wildcatting. That is the only way we can significantly increase our domestic reserves and help our balance of payment. New Oil exploration looking for major reserves should be encouraged. Therefore a new set of economics should govern the pricing of totally new oil

found through wildcatting as opposed to an old oil field being put into a category of new oil. The independent oil companies are being put in a terrible bind by trying to roll-back the price of new oil to somewhere in the \$7.00/\$8.00 range. Basically the major oil companies do not do domestic exploration. Historically 85 percent of the newly discovered oil is found by independent oil companies. The major oil companies have just been the beneficiaries of four new profit centers which the independents do not share. Approximately 80-90 percent of all the old oil which was recently increased \$1.00 per barrel is owned by the major oil companies. Therefore they get another dollar a barrel on roughly 30 billion barrels of oil.

For the first time in history, refining and retailing of gasoline has become a profitable venture. Up until now the profit of the oil industry has been through finding low-cost production whereas basically refining and filling station operations merely were ancillary to production and were run on a basically low profit basis.

Another tremendous new source of revenue for major oil companies is the profitability of petrochemicals. I repeat the independent oil companies are not in refining, filling stations and petrochemicals and they did not have the tremendous reserves in the ground that the majors had that were the beneficiaries of the increased dollar. If we find new oil in the United States which is totally new oil then it should flow with world prices because if we don't find the oil in the United States then we will have to import oil. By finding oil in the United States we create new jobs and we use American labor and we use American pipe and supplies. If we send the dollar out of the country there is no telling that we will ever get this dollar back. So the instrumental profits that fall upon the country are much greater if we can let the new American oil float at a free world price because we add a lot to the economic stream. Also, the independents are beset by a number of higher costs in finding this new oil in addition to the normal risks. The price for drilling contractors has gone up tremendously. Drilling prices have increased 20 to 25 percent. The price of steel is up plus or minus 20 percent. The cost of leases are going up. Plus a number of the State governments are starting to impose higher severance taxes such as the State of Louisiana. For these reasons, I strongly suggest that the Senate give careful consideration to a possible third-tier which would be exclusive for totally new production which should float with the free world price. Unless we can accomplish this fact then domestic exploration of new reserves will not increase to a significant amount that will be meaningful to helping both the energy problem and the balance of payment problems.

[From the Wall Street Journal, Jan. 24, 1974]

TAXING "UNCONSCIONABLE" OIL PROFITS

Congress is back in session with oil industry profits on its mind and blood in its eye. And if the politicians were not sufficiently primed by their constituents to put the bite on oil profits, they will surely be aroused as the majors this week and next announce 1973 earnings. Exxon, the No. 1 company, got its spur in yesterday when it reported \$2.44 billion in profits, a 59% increase over 1972.

It may have been too much to expect that the White House, even in the best of times, could provide a degree of sobriety in this lynch-mob atmosphere. But with President Nixon having problems of his own, he's in no position to say anything that smacks of being soft on the oil tycoons. Instead, he vows to do everything in his power to prevent the big oil companies "from making an unconscionable profit out of this crisis." His plan to tax "windfall profits" through a graduated excise tax on domestic crude is already

being scorned on Capitol Hill as tokenism, so yesterday he served up stiffer and inordinately complicated measures.

The danger is that Congress, in swinging blindly, is apt to damage the nation's energy industry to an extent that will prolong the energy crisis indefinitely. Clearly there are items in the tax treatment of petroleum companies that could well be reconsidered on their merits, but the current mood of Congress is not problem-solving but retribution. Unless it sheds its conspiracy theories and punitive mood, it will damage not only the companies but the nation. In December it came within a whisker of passing a bill to hold the oil companies' profits to their 1967-71 average, which would have guaranteed a steady deterioration in the nation's energy supplies and put beyond hope any movement toward self-sufficiency.

We don't know precisely what goes on in the minds of the folks on Capitol Hill while they're thrashing about in this fashion. But they do act as if their picture of a petroleum company comes closer to being an editorial cartoon than anything else. The oil corporation personified is a large, paunchy Texan in a ten-gallon hat with dollar signs on his business suit. An enormous sack on his back, from which coins spill, contains unconscionable profits.

As it happens, a petroleum corporation, like all others, is not a person but a mechanism. Its aim is not simply to make profits, but to do so in a way that will enhance its longevity, i.e., its ability to earn more profits 10, 20 or 30 years from now. This means it can not spend current profits on champagne baths, bubble dancers and high living. It must spend those profits, directly or indirectly, to rebuild itself and to expand itself if those goods it produces are meeting increasing demand in the marketplace.

It spends them directly, using current profits and the promise of continuing profits to borrow, for capital expansion, increasing the research effort, exploring in less promising spots and recovering oil that previously could be brought up only at a loss. It spends them indirectly as dividends to its shareholders, which are in effect nothing more than an interest payment on the capital those shareholders have advanced. As dividends increase, more people with capital are attracted away from investments in widgets into investments in petroleum. With this, the corporation can raise new capital not only by borrowing at the bank, but by offering new shares in the equity markets.

The mechanism is now straining to renew itself in this fashion. Profits will not rise as dramatically in 1974 as they did in 1973, for the past year's profits benefitted from two factors that will not be repeated—the appreciation of the dollar in foreign exchange markets and the appreciation of inventories as oil prices rose. But in 1974 profits will be enough to insure that the corporations could raise the tens of billions of dollars they will need to spend in the years ahead. In announcing its \$2.44 billion in profits yesterday, for example, Exxon also projected capital expenditures of \$3.7 billion for 1974. The mechanism is working to get the United States out of the energy hole.

As it is, though, Congress is in a mood to punish the mechanism. Hold down prices. Tax away profits. Screw down dividends. "Listen, you paunchy Texan with the sack of coins on your back," they seem to be saying, "forget about banks and stock markets, equity, debt, dividends, shareholders and profits. Just go out and get the oil."

Is it any wonder, as Vermont Royster observed on this page yesterday, that the value of the oil companies on the stock markets is going down even as profits climb? What is in doubt is not current profits, but the longevity of the mechanism that produces them. With blood in its eye, Congress seems bent on smashing it. And if there are not sufficient

numbers of clear heads in Washington to resist this wrecking crew, there will soon be a lot more retribution and a lot less energy.

JACKSON: UNRECONSTRUCTED NEW DEALER
(By William Buckley)

The recent performance of Sen. Henry Jackson of Washington reminds us, sadly, that he is more than the shrewd legislative guardian of the nation's military security, and the leading legislative skeptic of the pretensions of detente. He is also an unreconstructed New Dealer, who probably lulls himself to sleep at night reading old speeches by FDR about the malefactors of great wealth.

There was the scene a fortnight ago, Jackson standing, his features poised in lofty derision while in the pit below him were seven men seated behind a long table. Those who looked at the photograph were vaguely surprised that the men looking up at Jackson weren't wearing earphones, the better to hear the polyglot prosecution as they did in Nuremberg a generation ago.

Such was the posture of the seven leading figures in the oil industry, while Jackson was acting the chief prosecutor: and the television news hummed out the beat—the malefactors of great wealth ride again, but Jackson will save you. He'll save us, all right; if you don't watch out.

During that hectic week all kinds of things were being said in the ambience of Jackson, wild talk about setting up a national utility to govern oil, one takes it, on the model of the way the British have handled their nationalized coal. There was talk of dire and dreadful and irresponsible profits. The news was that Standard Oil of Ohio "has reported a 24 percent gain in earnings for 1973."

In the kind of imagination to which Jackson is unfortunately pandering these days, a 24 percent profit rise suggests something translatable in terms of a 24 percent salary increase. It is of course nothing of the sort, and one despairs at the psychological opacity of American businessmen, who give out figures that beg to be misunderstood by the public, aided by concertmasters of the disposition of Jackson.

I do not have the complete figures for Standard Oil, but can only suppose that its profit is comparable to Mobil's in which case a 24 percent profit increase meant a quarter of a cent more per gallon of gasoline sold. That isn't the kind of thing that should get people sent to Nuremberg charged with crimes against humanity.

Meanwhile, what concretely does Jackson propose? Rationing, to begin with. Rationing is okay if there is a physical shortage: i.e., if a doctor or factory worker can't buy gas. But rationing because we have 17 million barrels of oil, whereas we could use 18 million barrels of oil, is on the order of rationing water when the rainfall drops by five percent.

Jackson wants to adjust the oil depletion allowance, lowering it for big companies, and raising it for small companies. Some people call that fine tuning. I call it flapdoodle. The large companies are best situated to attract massive capital needs for huge exploration ventures, and pipeline construction. The investment public is supposed to come up with \$15 billion for new exploration and development in the next two or three years. Who is going to put up that money? The characters in Art Buchwald's columns?

And then Jackson wants automobiles to consume less gasoline. So he proposes a bill which would require manufacturers to produce cars that will use less gas. Why, why, does Jackson desire to gild the lily? When gas goes up in price, automobile engines get smaller. Ask Europe. No silly laws: merely the high price of gas and, in some countries of Europe, a horsepower tax. Far better a tax, added to the price of gas, than outright elimination: the temptation of the bureaucrat, to

achieve ends by compulsory law rather than by institutional growth.

Jackson is a splendid man who has performed splendidly for his country. But he is desperately in need, right now, of post-New Deal instruction in economics, and in the nature of a free society.

[From the Wall Street Journal, Jan. 23, 1974]

PUZZLEMENT

(By Vermont Royster)

It's been hard to know who's right, the vocal politicians and self-appointed experts making journalistic headlines or those anonymous folk who haven't been putting their money where everybody else's mouth is.

The reference is to all those oil profits. For weeks now you could hardly pick up a newspaper or tune in the television without hearing somebody say the oil companies would reap exorbitant profits from us long-suffering home-heaters and auto-drivers. And that maybe they even plotted the whole oil shortage in cahoots with President Nixon. Meanwhile, every time you turned back to the stock market tables there were all those oil stocks dropping because nobody wanted to buy them.

One such headline read, "Crisis Not So Tough on Oil Firms." Another, "Oil Firms Gain, Crisis and All." Still another, "Is Crisis Work of U.S. Oil Firms?"

Then on the evening TV news there were those pictures of oil tankers lined up to discharge their precious loads while the voice-over wondered how there could really be an oil shortage unless those tankers and storage tanks were hoarding fuel against our distress. Sandwiched in were the film clips of this Senator or that Congressman or some instant expert like Ralph Nader inveighing against huge windfall profits.

And also the editorials. One at hand calls for an immediate special tax on oil companies to soak up "excess profits." And here is one that suggests King Faisal's turning off the tap was just an "excuse"; the oil shortage must in fact be the result of "purposeful action" by the international oil companies to reap greater profits at the expense of the American people.

Of course there have been a few voices saying yes, Virginia, there really is an oil shortage. Including the voice of William Simon, the energy czar, who by now ought to know as much as anybody about it. No matter. They have been drowned out.

A recent New York Times story, labeled an analysis, is fairly typical. After leading with the statement that the oil crisis is bad news for everybody except the oil industry, it cites oil industry profits in the first nine months of last year and then switches to the outlook for the "sales proceeds" of the oil companies in 1974. Since the price of foreign crude has more than doubled and therefore prices are rising also for the end product, the amount of money involved is, true enough, bound to increase. The story doesn't convert this, however, into any hard facts about actual profits.

United Press International also carried a long story about the rising indignation in Congress against the oil companies because (a) there really isn't any oil shortage and (b) the oil shortage is "primarily the work of U.S. petroleum companies rather than the Arab embargo." One of the factors cited for the "hostility" toward the oil majors was that they were getting some Arab oil into the country despite the oil embargo. It wasn't explained why this should be a cause of hostility rather than praise.

But meanwhile back on Wall Street all these windfall profits were sending oil stocks plummeting. Exxon fell from a 1973 high of 103 to close the year at 83, down 19%. Gulf from 29 to 20, down 30%. Standard of California from 37 to 27, down 27%. Texaco from 43 to a close of 25, down 41%. Moreover every

time the Mideast news was bad the oils led the stock market down. Only passing glimmers of hope for a return of Middle-East oil brought them up again.

It sure doesn't make much sense. You think all those smart people on Wall Street, or just ordinary investors around the country, would have snapped up those oil stocks if they really believed what they read in their newspapers or heard from Walter Cronkite. Maybe there's a commentary there on the credibility of the press.

Of course one explanation of the anomaly is the difference between political rhetoric and investment action. Rhetoric comes cheap, cash comes hard. You're apt to be more thoughtful before putting out money than putting out a political statement; the latter costs you nothing if you're wrong.

Also, it's perfectly true that last year saw the profits of the major oil companies rise precipitantly in the first nine months of the year when they had plentiful oil to sell. It's also true that in the first weeks after the Arab cutoff incoming oil kept the stockpiles up; it wasn't until last week that the inflow began to trickle down. And the reaction of most people, journalists included, was that if you didn't have an instant drop in supplies how could there be a crisis?

But there is another reason, I suspect, for the public suspicion that it is all some kind of a dire plot, one that has nothing to do with the facts and one that cannot be allayed by facts.

If we have a beef shortage a lot of people simply aren't going to believe that it's because of a failure of the feed crop, or because consumer affluence has increased the demand beyond the supply, or because inflation has made it impossible for farmers to grow beef at the ceiling price, or whatever the real reason may be. It's got to be a plot. "They" are conspiring to gouge "us."

The "they" varies with circumstance. Sometimes the impulse is to hang the butchers, they being closest at hand. Or maybe the middle-men, the meat-packers and wholesalers. But somehow when mysterious things happen there must be a "they" out there somewhere plotting against "us." In olden days the cure was to burn a witch.

Perhaps we do have here proof of the prevalence of witches. That is, maybe all those oil company people have been clever enough to corner the whole world's oil supply and are gloating over all those exorbitant profits they are going to glean from wrecking the economies of the United States, Great Britain, Japan and practically the whole Western world blithely unconcerned about the risk of being put to the torch.

If that isn't ridiculous, it's at least a puzzlement. For if it's true that all those exorbitant profits glitter while oil stocks languish, there must be an awful lot of dumb people on Wall Street.

[From the Chicago Tribune, Jan. 23, 1974]

CRISIS BLAME HINGES ON WHERE ONE SITS

(By Nick Poulos)

Looks like the hangin' posse has finally caught up with them thar "oil rustlers."

Sen. Abraham Ribicoff [D., Conn.] got the Senate investigation into the oil shortage off to a shootin' start Monday by charging that the petroleum companies are "cheating and misleading" the American people.

Ribicoff sounded as tho he has all the nooses ready and needs only a big sturdy tree to hold his hanging' party.

Evidence? Who needs that? Haug the scoundrels; they look guilty anyway.

Sounds like something right out of the pages of Van Tilburg Clark's "The Ox-Bow Incident."

Ribicoff apparently never did learn what capitalism is all about. So we shouldn't be too surprised that he has assumed the all-in-one role of judge, jury, and executioner.

But Sen. Charles Percy [R., Ill.] knows what capitalism is all about. He learned about it during the years he headed Bell & Howell Co.—before he became a professional politician.

Percy has joined the hangin' party.

With a straight face, no less, this ex-businessman who used to preach capitalism from the corporate pulpit is demanding to know whether the energy crisis is real or contrived.

And he also wants to know why the oil industry denies it is reaping windfall profits while it is reporting much higher earnings.

Good questions. But he's not the one who should be asking them. He already knows.

The oil company executives who were summoned to the inquisition denied—under oath—that they rigged the oil product shortage to make windfall profits. They characterized the charges as "wild and totally unsupported . . . absolute nonsense."

It's tough to keep an open mind on things these days. Even professional newspapermen fall victim to their prejudices.

In a preamble to a Q. and A. interview session with John E. Swearingen, chairman of Standard Oil Co. [Indiana], The Tribune's environment editor, Casey Burko, tells us what we can expect from this oilman before we have a chance to judge for ourselves.

"Much of what he [Swearingen] says echoes what other oilmen say and think about the oil shortage," Burko tells us.

"They often blame consumers and the federal government for the shortage, while avoiding giving details of their business. They are openly contemptuous of the judgment of anyone not in the oil industry."

"Swearingen's answers show how an oilman typically responds to questions about the oil shortage."

In his two-part Q. and A. encounter with Swearingen, Burko carefully skirts the fact that the lunatic element of the environmental movement has been responsible for part of the oil shortage.

The great oil discovery on Alaska's North Slope was made five years ago. But the environmentalists succeeded in preventing construction of a pipeline to get the oil out. They've also succeeded in preventing the oil companies from full-scale exploration offshore California and in the Gulf of Mexico.

The subtlety of Swearingen's parting shot in the Q. and A. endeavor may or may not have been lost on The Tribune's environment editor:

"It is automatically assumed that we are liars and connivers instead of trying to be decent citizens like newspaper people and senators are."

Economist Milton Friedman posed some challenging questions concerning the oil shortage in a recent Newsweek column:

"If the oil companies have conspired to create a shortage profitable to themselves, why have they been so slow to do so? They are no more powerful than they have been for many years."

"Why did they wait so long before squeezing the hapless consumer? And how do they make profits by having no oil to sell? By full-page advertisements urging consumers to economize on fuel?"

"This is simply the irrational search for a devil."

[From the Christian Science Monitor, Jan. 28, 1974]

OILMEN "STUNG"; EXECUTIVES EAGER TO EXPLAIN INDUSTRY'S SIDE OF SHORTAGES

(By Richard Nenneman)

NEW YORK.—"The oil industry is like someone who warned of a coming avalanche," said one company economist. "Most people got out of the way in time, but they're blaming us now for giving the warning."

A combination of a warm winter, the public's positive response to the call for conservation of energy, and some judicious oil-

company juggling of cargoes on the high seas have so far minimized the extent of the energy shortage.

But the oil industry, never a favorite in the public's eye, feels stung by the sudden attack against it and by the new problems its lack of credibility raises for its future.

And the industry is trying to do something about it. Proof of this is the ease with which this reporter obtained interviews with top oilmen during a week when many of them were also on the spot before the Senate Subcommittee on Investigations.

\$1 TRILLION FOR EXPLORATION

Beyond the problem of credibility is that of raising as much as \$1 trillion in the next decade for needed exploration and refinery building. That money has got to come from profits or new outside investment in the industry, or both.

Either way you slice it, the oil industry's immediate future hangs on whether it is allowed to proceed more or less like the rest of American manufacturers or whether it ends up being regulated like the public utilities.

Because of the size of the oil industry's operations—with the majors having their own sources of supply all over the world and also selling their products worldwide—it has been perhaps a natural target both for those who wanted to manipulate it for selfish ends and for those who are suspicious of bigness.

Both J. K. Jamieson, chairman of Exxon Corporation, and Herman J. Schmidt, vice-chairman of Mobil Oil Corporation, list the industry's size, as well as that of its major companies, as one of its main problems. Nine of the top 25 companies in Fortune's 500 list are oil companies. Exxon and Mobil are the two largest.

OTHER PROBLEMS CITED

What else ails the industry's image?

Both Messrs. Jamieson and Schmidt mention the public's image of the oil speculator, the guy who has suddenly struck it rich. Yet this image has little to do with the working reality of the major oil corporations, concerned with the worldwide production, transport, refining, and marketing of oil products.

The public deals with the oil companies on almost a daily basis, just as it buys milk and bread several times a week. But what it deals with in reality is an independent dealer sporting an oil company emblem out on the street. And whatever service that dealer gives is what the customer comes to identify with the company whose gasoline he is selling.

There is, further, confusion over high profits in absolute dollar amounts (because of the companies' size) and high profitability. The enormous jump in profits in 1973 brought many of the companies back only to the level of 1968 profits. For the last decade most of the oil companies have earned less on their investments than the average manufacturing company.

Then finally come the special tax provisions the oil companies enjoy, particularly the percentage depletion allowance. It sounds like a giveaway, and some of the companies now acknowledge that they may have fought too hard in the past to retain it as part of the tax code.

AN ALBATROSS

"Frankly," said one executive, "the oil depletion allowance is an albatross around our necks. Without it the public would have just as much oil, it would just cost more."

Said another oil official, "To the extent the depletion allowance can be called a loophole, I wish I had never heard of it."

Yet no one in the industry is publicly willing to recommend that it be abandoned without some quid pro quo. They point to possible inequities in changing any established system abruptly. In any case, whatever they think of depletion, they are unlikely

to publicly admit in advance of serious negotiations with tax-writing officials in Congress just what they could give up in this area without serious economic injury.

If it did not know it before, the oil industry certainly learned last week in Washington that it has a repair job to do on itself. Said E. Howard Hardesty, executive vice-president of Continental Oil Corporation, at its headquarters in Stamford, Conn., "Here we are trying to serve the best interests of the people, but apparently failing to communicate."

TERMINOLOGY BLAMED

Mr. Hardesty responded to the charge that the companies are extraordinarily secretive:

"We have delivered all the information the government wants except in one area. That has to do with our reserves." There, he explained, typical industry accounting methods take a conservative view. The government and many outside observers think that U.S. reserves, for instance, may be higher than the companies officially say they are.

"This is a question of terminology, of agreeing on what should be stated as reserves," said Mr. Hardesty. He agreed that more information could be developed for appropriate governmental use, but he warned against its being used to destroy the competitive nature of the business.

Mr. Hardesty has not hesitated to criticize the present adversary relationship that has developed vis-a-vis the oil industry, as he fears that if it is not effectively countered, it will only delay the solution of the nation's very real energy problem.

In a talk he gave a week ago, Mr. Hardesty said, "Our present energy crisis is being seized upon, by some extreme elements in our society, as the vehicle to move aggressively toward nationalization. As I watch the attacks on the petroleum industry by congressional liberals and media accelerate without regard to fairness or facts, I am convinced there is a conspiracy to exploit this period of hardship and confusion to destroy the industry."

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

HOW GOVERNMENT BURDENS OIL FIRMS

(By John Chamberlain)

Our populist liberals, who prefer being gypped by the invincible incompetence of government bureaucrats to taking their chances with a competitive economic system, are now in full cry about the alleged exorbitant profits of the oil companies.

But what are those profits? Oil industry profits on sales, in the third quarter of 1973, amounted to 8.3 per cent. This represented an improvement over 1972's third quarter figure, which was a modest 6.7 per cent [you could have done better than 6.7 at long-term compound interest at the savings bank]. But it has not been enough to build the new refineries and big tanker offshore unloading facilities that are needed all up and down the U. S. East Coast. As for extensive new exploration and drilling at an 8.3 per cent profit on sales, forget it.

California's Joe Shell, a former State Assembly minority leader who happens to be an independent oil producer, spoke his despairing piece in a radio interview conducted by Republican State Sen. H. L. Richardson at the capitol in Sacramento. Shell put it simply when he said that when you don't make a profit out of drilling for oil, you just don't drill. Attacking the California legislature, Shell remarked that it had placed every possible type of harassment on drilling. The extra costs, he said, had driven the independents to incorporate elsewhere, in Nevada or Texas.

In 1969 the Populist liberals in the U. S. Congress reduced the oil depletion allowance from 27½ per cent to 22 per cent. The sep-

arate oil-producing states followed suit with their own lowered depletion allowances. This reduced the capital available for new exploration by an amount that was just about proportional to the reduction in the depletion funds. Since only one new well in 25 turns out to be productive, this was bad enough for the nation. But according to Shell things were worse in California because the legislature added a special tax that effectively reduced the local depletion allowance to 17 per cent, far lower than elsewhere in the U. S. California production forthwith dropped from 1,050,000 barrels a day to 890,000 barrels in two and one half years.

Says Shell, "We talk about the farmers not being able to get enough fuel oil, and diesel oil, and gasoline in the San Joaquin Valley. Why? Because there isn't enough crude oil. You can't produce oil economically in that area, so the small refineries that provide the farmer with all that energy no longer have it. They are operating at 60 to 70 per cent of capacity in those refineries because they depend on local crude oil—domestic crude oil—they can't get foreign crude oil."

There are today 600 independent oil producers in California, down from 1,100. It used to take 120 drilling rigs working constantly to keep California production at a million-barrel-a-day level. But the burden of taxes has reduced the drilling rigs to below 30 working each day.

Commenting on Shell's observations, Richardson remarked that "government is like a cockroach—it's not what it steals from you that worries you, it's what it falls into and messes up." This should be engraved over every legislative portico in the nation. With due apologies to Archy the famous nocturnal, lower-case cockroach.

Despite the depressing effect of taxes on the petroleum industry, Rep. John Dingell [D., Mich.], who ought to be worried about keeping Detroit's automobiles on the road, still talks about "all those bloated oil companies." Even Sen. Henry [Scoop] Jackson [D., Wash.] has been deluded by the Populist liberal animus against the oil industry. It took courageous action by a small group led by Senators Paul Fannin [R., Ariz.], Dewey Bartlett [R., Okla.], Clifford Hansen [R., Wyo.], and Russell Long [D., La.] to delete a "windfall profits" clause from the Emergency Energy bill which is still awaiting passage in Congress.

Jackson is threatening to head a drive to restore the windfall profits section when Congress meets again. Jackson is ordinarily on the side of the free market system, and he is surely aware that if the Boeing planes manufactured in his home state of Washington are to be kept flying they will need fuel. Jackson's wholly laudable concern for the Israelis should also impel him to favor a more profitable local oil industry in America. So why should Jackson bow to Populist illogic on the oil investment issue? It's a mystery, that's what it is.

TESTIMONY BY THE HONORABLE GEORGE P. SHULTZ

Mr. Chairman and Members of the Committee: I am pleased to be with you this morning to discuss the fiscal effects of the energy problem and the Administration's

tax proposals which deal with aspects of this situation.

The proposals I will discuss today have several purposes. The first proposal is for an Emergency Windfall Profits Tax. It is designed to recover excessive profits from oil producers. The next group of proposals were among those I presented to your Committee last April. They affect incentives for the domestic production of oil and gas and include the proposals for a Minimum Taxable Income, for a Limitation on Artificial Accounting Losses and for an Exploratory Drilling Credit.

The remaining proposals are designed to eliminate several undesirable tax rules which now exist in connection with foreign oil and gas operations. Elimination of those rules would make foreign investment in oil somewhat less desirable than it now is. We believe these proposals relating to foreign operations to be important in the overall picture, but they are directed at limited situations and should not be confused with the broader effort to recover excessive profits.

Before I commence that detailed discussion, let me give you a brief overview of the problem.

THE OVERVIEW

Prior to the Arab bloc embargo, the United States demand for oil had increased to an annual rate of about 17 million barrels of oil per day, only 11 million of which were produced here. Our domestic oil output and capacity stabilized at about 11 million barrels per day around 1970. In fact, the current rate of exploration and development of new domestic reserves is barely sufficient to cover the natural decline in productivity from existing oil fields. This situation is attributable to a number of interrelated factors, including:

Government regulation of natural gas prices at artificially low levels since around 1960. Low gas prices obviously reduce the potential profitability of the gas discovery effort. Since most gas is "associated" with oil, whatever makes gas discovery less profitable makes the discovery of both oil and gas less profitable.

Rising costs of discovering additional on-shore reserves. After a century of intensive discovery effort, the remaining on-shore prospects are less attractive than off-shore prospects. The best on-shore prospects today are wells much deeper than most now in operation and they involve much higher discovery costs.

Delays in drilling outer continental shelf prospects. Although costly to drill, these prospects should yield large oil and gas capacities. The delays have been due in large part to government leasing policies and concerns with environmental questions.

Delays in the output from Alaskan and off-shore California fields. These fields should yield large oil and gas reserves but their production has also been delayed due to government leasing policies and concerns with environmental questions.

Government regulation of domestic crude oil prices. Crude oil prices were frozen at August 1971 levels until January 1973 when small price increases were allowed. "New oil" prices were freed after two years of controls in August of 1973, but "old oil" prices are

still controlled. The presence of price controls discouraged additional investment which could have increased productive capacity.

To satisfy our increasing energy demands in the face of the restrictions on domestic supplies resulting from the above factors, we turned increasingly to imports.

But under the mandatory import program that had been in effect since 1959, quotas existed which significantly limited imports of oil and refinery products. As demand grew but domestic production held steady after 1970, import quotas were increased, but not at a rate which kept up with increases in demand. Investment in additional refinery capacity in this country thus became unattractive because of the uncertainty that sufficient supplies of crude oil—either domestic or imported—would be available for refining. Accordingly, many U.S. companies built refineries offshore and most of the increase in U.S. imports took the form of refined products such as middle distillate fuels and, particularly, heating oils.

By the beginning of 1973, these domestic circumstances—controlled prices of oil and gas, rising discovery costs, delays in exploration and production for environmental and other reasons and a growing reliance on imports to satisfy increasing demands—converged with a growing foreign demand for oil stimulated by world-wide economic boom conditions. The result: world oil prices began to advance from their historical levels. And, when the dollar was devalued for the second time in February 1973, the dollar price of oil in world markets began to rise higher.

The continued high level of demand for oil through the first nine months of 1973 quickly brought foreign production to maximum short-run capacity, further increased world oil prices, and set the stage for the world crisis precipitated by the embargo invoked by Arab bloc producers in October 1973, and the consequent skyrocketing of oil prices.

Most of the profits produced by these very major increases in the price of imported crude oil have gone to the foreign governments that own or control the oil, in the form of higher taxes or royalties. However, a significant part of the increased profits from this source has gone to United States companies and individuals in the business of producing and shipping this oil, primarily as a result of sales in foreign countries and, to a lesser degree, as a result of sales to United States consumers.

Through the Federal Energy Office, the Administration has requested sacrifices in oil use from all citizens so that as little as possible disruption to our lives and our economy will result from the oil supply disruption. The Administration believes that it would be unfair for United States producers to be advantaged while their fellow citizens are making the sacrifices required, by retaining excessive profits from the abnormally high prices caused by the shortage.

Increased profits from higher prices to oil owners which occurred in 1973 are reflected in Table 1, which compares reported profits and rates of return on equity for the years 1969-1972 and the nine-month period ended September 30, 1973, for 22 of the largest United States oil companies. It is important to keep in mind that increased profits are not necessarily "excessive" profits.

TABLE 1.—NET INCOME AFTER TAX AND THE RATE OF RETURN ON EQUITY OF SELECTED OIL COMPANIES (1963-73)

[In millions of dollars]

Company	1973		1972		1971		1970		1969	
	Net income	Percent return ¹	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent
Total.....	9,087.3	15.1	5,951.7	9.7	6,007.3	10.2	5,556.7	10.4	5,549.9	10.9
Amerada Hess Corp. ²	151.8	23.5	46.2	8.3	133.3	24.0	114.0	25.7	86.5	23.7
Ashland Oil Corp.....	98.3	17.3	68.0	13.5	40.5	8.8	52.0	11.7	56.9	13.3
Atlantic Richfield Co.....	270.2	8.9	192.5	6.5	210.5	7.3	209.5	7.5	230.1	8.5

Company	1973		1972		1971		1970		1969	
	Net income	Percent return ¹	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent
Cities Service Co.	135.6	9.8	99.1	6.9	104.5	7.7	118.6	8.9	127.2	10.0
Clark Oil & Refining Corp.	30.5	29.9	8.3	9.8	3.6	4.7	10.8	14.0	13.0	18.7
Continental Oil Co.	242.7	14.0	170.2	10.4	140.1	9.1	160.3	10.7	146.4	9.8
Exxon Corp.	2,440.0	18.5	1,531.8	12.5	1,516.6	13.1	1,309.5	12.0	1,242.6	12.3
Getty Oil Co.	135.0	8.8	76.1	5.2	120.1	8.5	103.2	7.8	105.8	8.3
Gulf Oil Corp. ²	760.0	14.0	447.0	8.3	561.0	10.2	550.0	10.4	610.6	12.1
Kerr-McGee Corp. ²	58.8	10.8	50.6	10.1	40.7	10.8	35.9	10.3	33.6	10.3
Marathon Oil Co.	129.4	15.2	79.8	10.2	88.7	11.7	86.5	11.8	89.4	12.1
Mobil Oil Corp.	842.8	15.7	574.2	10.9	540.8	10.9	482.7	10.4	456.5	10.4
Murphy Oil Corp.	53.6	24.4	14.3	7.6	11.1	6.2	9.3	6.5	6.2	4.5
Phillips Petroleum Co.	230.4	12.1	148.4	8.1	132.3	7.6	132.3	7.8	127.8	7.7
Shell Oil Co.	332.7	10.9	260.5	8.9	244.5	8.7	237.2	8.6	291.2	10.9
Skelly Oil Co.	44.0	7.5	37.6	6.8	38.3	7.0	36.1	7.0	38.4	7.7
Standard Oil of Calif.	843.6	14.4	547.1	10.5	511.1	10.4	454.8	9.8	453.8	10.3
Standard Oil Co. (Ind.)	511.2	12.4	374.7	10.0	340.6	9.6	314.0	9.3	321.0	10.0
Standard Oil Co. (Ohio)	74.1	6.6	59.7	5.6	58.8	5.7	64.4	6.3	51.9	5.3
Sun Oil Co.	230.0	12.3	154.7	8.8	151.6	8.9	139.1	8.4	152.3	9.4
Texaco Incorporated	1,292.4	25.0	889.0	12.4	903.9	13.4	822.0	13.1	769.8	13.1
Union Oil of Calif.	180.2	10.6	121.9	7.6	114.7	7.4	114.5	7.6	138.9	9.5

Company	1968		1967		1966		1965		1964		1963	
	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent	Net income	Percent
Total	5,539.4	11.8	5,175.6	12.0	4,701.9	11.7	4,203.7	11.2	3,846.9	10.8	3,579.7	11.0
Amerada Hess Corp. ²	89.8	19.8	76.8	22.2	73.1	22.6	63.4	22.2	59.4	23.0	52.4	22.7
Ashland Oil Corp.	53.6	14.6	48.4	15.5	45.0	17.6	35.8	15.5	23.7	14.0	18.1	11.7
Atlantic Richfield Co.	105.8	7.8	130.0	10.2	113.5	9.4	92.1	8.1	47.1	7.3	44.0	7.0
Cities Service Co.	121.3	9.9	127.8	10.9	120.1	11.0	100.6	10.2	84.5	9.1	77.5	8.6
Clark Oil & Refining Corp.	12.1	20.4	11.5	23.4	9.6	24.2	8.7	27.8	2.1	9.8	1.5	6.8
Continental Oil Co.	150.0	10.6	136.1	10.1	115.6	10.3	96.2	10.2	100.1	11.1	87.4	10.5
Exxon Corp.	1,276.7	13.0	1,155.0	12.3	1,090.1	12.1	1,021.4	11.9	1,050.6	12.6	1,119.5	12.8
Getty Oil Co.	98.3	8.3	118.2	10.5	92.3	9.0	57.7	6.9	43.0	5.6	43.0	6.1
Gulf Oil Corp. ²	626.6	13.2	568.3	12.9	504.8	12.3	427.2	11.2	395.1	11.0	371.4	10.9
Kerr-McGee Corp. ²	36.4	12.0	32.1	11.5	33.0	12.9	25.1	14.6	20.7	14.7	18.8	15.8
Marathon Oil Co.	83.3	12.7	73.9	12.3	68.8	12.3	60.1	11.3	60.4	11.8	49.1	10.2
Mobil Oil Corp.	430.7	10.3	385.4	9.8	356.1	9.5	320.1	9.1	294.2	8.8	271.9	8.6
Murphy Oil Corp.	7.3	5.4	8.2	6.2	8.4	7.6	6.4	6.1	4.3	4.9	4.8	5.7
Phillips Petroleum Co.	129.9	8.0	164.0	11.0	138.4	10.3	127.7	9.9	115.0	9.3	108.1	8.9
Shell Oil Co.	312.1	12.3	284.9	13.8	255.2	13.4	234.0	13.4	198.2	12.3	179.9	12.0
Skelly Oil Co.	40.3	8.5	42.0	9.3	37.0	8.8	34.0	8.8	25.7	7.1	24.2	7.0
Standard Oil of Calif.	451.8	10.7	409.4	10.3	401.2	10.8	391.2	11.1	345.3	10.5	322.1	10.5
Standard Oil Co. (Ind.)	309.5	10.1	280.9	9.6	255.9	9.1	219.3	8.1	194.9	7.5	183.1	7.3
Standard Oil Co. (Ohio)	70.1	13.0	67.1	14.5	56.9	13.3	49.7	12.7	43.8	12.0	38.9	11.4
Sun Oil Co.	164.4	10.9	156.2	15.2	100.6	10.8	85.5	10.1	68.5	8.8	61.2	8.4
Texaco Incorporated	819.6	14.5	754.4	14.8	692.1	15.0	636.7	14.9	577.4	14.6	574.6	15.6
Union Oil of Calif.	149.8	10.9	145.0	11.2	134.2	11.2	112.8	10.4	92.9	14.7	55.2	9.9

¹ Equity as of Sept. 30, 1973.

² Full years income estimated on the basis of income reported for the 1st 9 months of 1973.

Source: Standard and Pears' Industrial Survey, Moody's Industrial Manual, quarterly financial statements filed with the Security Exchange Commission (10 Q forms), Office of the Secretary of Treasury, Office of Tax Analysis, Feb. 1, 1974.

Our preliminary investigation indicates that the 1973 profit increases are primarily attributable to foreign inventory profits from skyrocketing prices, increased profits from increases in foreign product prices and efficiencies in foreign refinery and other operations unrelated to the prices paid by United States consumers. A number of the companies have pointed out that the higher 1973 profits must be interpreted in the light of the lower than normal profits realized in 1972 and the several years immediately prior.

Whatever conclusions may be drawn from the 1973 figures, if the shortage in 1974 produces even higher prices for oil, that fact will cause increased profits to major oil companies from domestic oil sales. The estimated amount of increase attributable to this single element may be seen from Table 2.

TABLE 2

	Average price (dollar per barrel of crude) ¹	Annual profit after income tax (billions)	
		Increase ²	Total
1973			\$9.0
1974	6.50	\$1.7	10.7
	8.00	3.4	12.4
	9.00	4.5	13.5
	10.00	5.6	14.6

¹ The estimated average price for domestic crude oil as of January 1, 1974, is \$5.25 in the case of old oil and \$9.50 in the case of new oil.

² The increased net incomes shown for 1974 relate only to domestic crude oil production.

³ Estimated 1973 net income after taxes from table 1.

While the Administration believes oil owners should not be permitted excessive profits at the expense of their fellow Americans, let us be clear that United States oil prices must adjust upward if higher cost methods of extracting oil are to be used to satisfy our demands. Higher costs of producing oil will mean higher prices for oil. Producers will not produce unless prices cover their costs. And government production would be no solution, for a government producer would have the same costs, or, if less efficient, greater costs. However, short run price increases for oil above the level necessary to call forth the supplies we need give rise to windfall profits. Those windfalls may be taxed very heavily to the producers of oil without impeding the desired free market processes and without imposing additional costs on consumers.

The Windfall Profits Tax is designed:

First, to tax very heavily windfall profits to owners of oil.

Second, to avoid interference with the legitimate profit expectations which will be required to meet our demands and make us independent of foreign supplies, and

Third, to avoid any tax-generated increases for consumers.

ECONOMIC BACKGROUND

The ability of oil producers to increase the production of oil during the next two or three years is considered by experts to be quite limited. Prospects have to be found, geological and geophysical work has to be done, wells have to be drilled, pipelines have to be built and refineries may have to be expanded or built. Therefore, price increases do not have the effect of stimulating nearly

immediate supply increases as is the case with some other products, such as food-stuffs.

The expert consensus is that only a small amount of additional oil from domestic sources can be expected in the next 6 to 18 months. There are marginal wells which were previously capped and which might be economically produced now at the increased prices available for oil, but this supply source is not major in the overall context. Within 18 to 24 months oil could begin to be economically produced at current increased price levels by secondary and tertiary recovery methods. Over a three to five year period, significant additional production at current increased price levels could probably be obtained from new domestic prospects. And after three to four years, the Alaska pipeline should be completed.

In contrast to the short run, then, over a period of about three to five years, it is reasonable to expect that oil supplies can be increased significantly. Historically, the amount of the increase in supplies of oil has been at least 1 percent for every 1 percent increase in the price of oil.

Over each of the two five-year periods from 1953-1958 and 1963-1968, a price increase of 9 percent was followed by a productive capacity increase of 35 percent and an actual production increase of 17 percent. Additionally, available econometric studies indicate that oil supplies will be increased by at least 50 percent as a result of a 50 percent price increase, given sufficient time. Based upon these data, it is reasonable to assume that after about three to five years, and allowing for some inflation, if the price of oil in-

creases by about 50 percent from mid-1973 levels, to around \$7 per barrel, sufficient domestic oil supplies should flow to satisfy about 85-90 percent of our demands. Accordingly, we have for planning purposes estimated that the "long-term supply price" is about \$7 per barrel. But that \$7 per barrel figure is an estimate and the ultimate figure may be somewhat more or somewhat less.

Therefore, a tax which bites hard on immediate price increases should not interfere with the production of needed oil supplies if it gradually phases out so that after three years there will be no tax on oil prices at around \$7 or less per barrel.

TAXING THE WINDFALL PROFIT

A windfall profit is one resulting from a change in price caused by a circumstance which is accidental and transitory, such as a temporary shortage of a product because of a strike or, in this case, the cartel-embargo of foreign governments. It is difficult to separate ordinary market prices from prices which permit windfall profits in this context. The price of "new" oil produced in the U.S. rose from about \$4 to more than \$9, between May and December 31, 1973, because of our demands for that oil. That is a very major price increase and some price increase was necessary to call forth the needed additions to our domestic supplies which will occur over a period of three to five years. Over the near term, however, some part of that price reflects a windfall resulting from actions by the Arab-bloc nations.

Thus for the next year or two, the price rises which have already occurred are more than sufficient to call forth the additional domestic oil which will in fact be produced during that period. Some part of present prices produces windfall profit and additional price increases resulting from the cartel-embargo would be pure windfall.

A determination of the amount on which to impose the Windfall Profits Tax requires selection of a base amount which can be received without tax and from which to determine the taxable amount. In this respect it is similar to and will act as an excess profits tax. The Cost of Living Council's ceiling price as of December 1, 1973 (CLC Reg. § 150.353) was selected as the reference point for the base price. It is a known price and no new, separate or costly calculations will have to be made. It also significantly exceeds historical oil price levels and it was the maximum price permitted on any domestic production until late August 1973.

Under the Windfall Profits Tax, the rates of tax on selling prices of oil in excess of base prices range from 10% to 85% under the following graduated rate schedule:

TABLE 4.—(PER 42-GALLON BARREL OF CRUDE OIL)

Amount in excess of base price	Bracket rate (percent)	Bracket tax (cents)	Cumulative tax (cents)
0 to \$0.50.....	0	0	0
\$0.51 to \$0.75.....	10	7	2 1/2
\$0.76 to \$1.10.....	20	14	9 1/2
\$1.11 to \$1.70.....	30	21	27 1/2
\$1.71 to \$2.50.....	50	40	67 1/2
\$2.51 and over.....	85		

In accordance with Treasury regulations to be prescribed, the top level of the lowest bracket (initially 0 to \$0.50) and the bottom level of each higher bracket will be automatically adjusted upward monthly in the uniform percentage required to make the 10 percent rate of tax applicable after 36 months only to amounts in excess of the expected average long-run supply price of about \$7 per barrel. Each higher bracket will be adjusted upward to apply to a constant number of cents per barrel above the next lower bracket. That portion of the price increase which remains after payment of the above Windfall Profits Tax is subjected to ordinary income tax.

As you can see from Table 5, the Windfall Profits Tax on the oil will be large if the oil shortage is severe enough to cause large price increases in oil and modest if the shortages and price increases are modest:

TABLE 5.—NET PRICE RECEIVED BY OIL PRODUCER AFTER PROPOSED EMERGENCY WINDFALL PROFITS TAX

[Base price of \$4 per Barrel]

Price	Month						
	1	6	12	18	24	30	36
\$10.....	6.35	6.47	6.67	6.94	7.30	7.80	8.47
\$9.....	6.20	6.32	6.52	6.79	7.15	7.65	8.32
\$8.....	6.05	6.17	6.37	6.64	7.00	7.43	7.78
\$7.....	5.90	6.02	6.22	6.42	6.63	6.85	7.00
\$6.....	5.58	5.65	5.75	5.84	5.94	6.00	6.00

If we have underestimated the long-run supply price, the tax imposes little penalty. For example, suppose it turns out that three years hence a price of \$8, rather than \$7, is necessary to elicit a domestic supply equal to 85-90 percent of consumption at the then corresponding product prices. In that event, a tax would still apply but it would only be 22 cents a barrel, less than 3 percent of the price. Thus, producers who believe the \$7 price is too low can nonetheless proceed on the basis of their own price judgments in the knowledge that when the windfall disappears and their investments become productive, the tax should also disappear, and that even if the tax does not then disappear, it will impose only a minor and vanishing penalty. This is to be contrasted with the situation which would result if prices were controlled. A \$7 price ceiling would be equivalent to a 100 percent tax on prices above that amount, and if the long-term supply price should turn out to be higher than \$7—or if producers expect it to be—we simply would not get the supplies we need.

However, the tax rates and bracket changes have been designed so that an owner of oil will be discouraged from withholding production until after the tax rate declines or the tax expires. The price of oil is or shortly will be as high as it is likely to be for the next five years (in terms of 1974 dollars) and will begin a gradual decline to the long-term supply price. Higher prices now increase the incentives to increase supplies, and gradually increasing supplies will gradually reduce prices. Accordingly, apart from the tax, the owner of oil must attempt to produce the oil quickly to take advantage of the higher existing prices. Taking the rate of decline of the tax into account along with the expected price decline, we estimate that the gain from delaying production of oil to avoid the tax would be less than 1/2 of 1 percent per month on the average (see Table 6 below). Therefore, we believe that no sensible producer will fail to convert his oil to money since the value of the use of that money would be greater than the 1/2 of 1 percent per month he could gain by leaving his oil in the ground.

TABLE 6.—ILLUSTRATIVE EFFECT OF THE WINDFALL PROFITS TAX ON NET PROCEEDS REALIZED BY OIL PRODUCERS, FOR 2 PATTERNS OF OIL PRICES

Number of months after enactment	Hypothetical prevailing price of oil	Net producer proceeds	Average increase, per month (percent)
Pattern A:			
1.....	\$10.00	\$6.35	0.24
12.....	9.00	6.52	.59
24.....	8.00	7.00	.59
36.....	7.00	7.00	.00
Pattern B:			
1.....	9.00	6.20	
12.....	8.00	6.37	.25
24.....	7.00	6.63	.33
36.....	7.00	7.00	.45

The combination of graduated rates and a scheduled upward adjustment of the brackets accomplishes three major purposes: First, the graduated rates impose very high rates of tax on extraordinary price increases and "windfall" profits which are attributable more to an externally induced shortage in crude supplies than to long-run market conditions, but impose a lesser amount of tax on relatively small increases above the Cost of Living Council ceiling price.

Second, the automatic upward adjustment of the tax brackets recognizes that windfalls will be shortlived and that prices should peak in the near future and return to lower levels as they gradually result in greater supplies. Most important, it recognizes that if producers are to make the investments which will be required to make us independent, they must be able to count on an absence of burdensome special taxes on prices when those investments become productive several years hence.

Third, the phaseout of the tax as the windfall disappears assures that the tax will not cause higher prices for consumers, for the technical reasons I shall discuss later.

The tax will be imposed on the oil producer at the time of sale of the crude oil or at the end of the month in which produced if not sold. It is contemplated that the tax will be collected and remitted on a monthly basis as follows:

(1) The purchaser of crude oil will withhold and remit the amount of the tax from the sales price paid to the oil producer by the 15th day following the end of each month for all crude petroleum purchased during the month.

(2) In the case of crude produced but not sold, as in the case of an integrated producer, the tax will be paid by the producer by the 15th day following the end of the month of production.

In computing percentage depletion, the amount of the Windfall Profits Tax is subtracted from gross income from the oil property before computing percentage depletion. The effect of this is to deny percentage depletion on the amount of the windfall which is taxed away.

Because the period of extraordinary profits is expected to be limited in duration, it is important that Congress reconsider the tax after several years of experience. Accordingly, the tax is to expire by its terms 60 months after the date of enactment.

PRICE ROLLBACKS ARE NOT A REASONABLE ALTERNATIVE TO THE WINDFALL PROFITS TAX

It would be a fundamental mistake—for everyone except foreign oil producers—to roll back oil prices to some former level. The reasons are several:

First, consumers will end up paying about the same prices in any event. The most they would be spared is a few cents a gallon for a few months. (A \$1 reduction in the price paid for "new oil," for example, would translate initially into less than a one-half cent gallon decrease in the price of gasoline and the market would quickly offset that initial decrease.) The principal effect would be to shift profits from the U.S. to abroad.

Second, the mere presence of ceilings of any sort will tend to dampen the new investment required to produce the increased oil we need. Investors are understandably wary of activities which come to be governed primarily by the laws of politics rather than the laws of economics.

Third, ceiling prices which are less than the prices producers think will prevail will deter them from investing—regardless of whether it is the price authority or the producers whose cost assumptions are correct. Judgments on complex matters like this always differ. Even supposing the government's price controllers could correctly guess the long-term supply price and use

that as a ceiling, the ceiling would inhibit needed investment by producers whose judgments differ. In order to get to the long-term supply price, the ceiling would have to be set substantially higher.

Although it is plainly true, many observers fail to recognize that whatever we do with price controls cannot affect the price of the more than 30 percent of our oil we now import to satisfy our demands. The price of that oil fluctuates according to world demands and world supplies. Recognizing this, our Cost of Living Council rules permit refiners to pass through the foreign price they must pay. Thus, the prices of U.S. petroleum products are subject to controls, but the control system, in a sense, rides on top of the price of crude—and products go up in price when the world crude oil price goes up regardless of what we do to control the price of domestic crude oil. This means that the price levels at which no more petroleum products will be bought by consumers, the so-called "market clearing prices," cannot be controlled by controlling domestic crude oil prices. Consumers will eventually pay the same prices for petroleum products whether or not domestic crude prices are controlled. What we do when we control domestic prices at levels below world market levels is simply to permit our refiners to buy our domestic oil too cheaply—compared with world prices—and to bid higher for foreign oil to satisfy our consumers' demands. This, in turn, means that the larger amounts spent by consumers go not to domestic producers and to our government in taxes, but to foreign oil producers and foreign governments.

Of course, we could prevent this by denying U.S. consumers the right to buy the foreign oil products for which they are willing to pay or by not permitting cost pass-throughs for foreign oil prices. But if we do so, we will only be spitting ourselves since either of these measures will prevent foreigners from exporting oil to the United States at a time when we need it, before we have increased our degree of self-sufficiency.

Price rollbacks sound good to consumers until the consequences are appreciated. The consequences would be large transfers of dollars to foreigners and an ultimate reduction in oil for the U.S. consumers, all ironically incurred for price reductions which would be minor and evanescent.

WINDFALL PROFITS TAX COMPARED WITH ALTERNATIVE TAXES

We believe that the Windfall Profits Tax will be considerably more effective and efficient than would either an excise tax or an excess profits tax.

The Windfall Profits Tax differs from an excise tax in that it will in fact operate to tax profits, as the portion of the price to which it will apply is above the level required to cover costs in all but exceptional cases. At the present price of \$10 for new oil, the tax in its first month would exceed profits only if costs exceed \$6.35 a barrel (see Table 5)—which is hardly likely for production planned months ago when prices were much lower. (Prices were controlled at levels below \$4 until late August.) If in some small fraction of cases that should not be true, the tax could not exceed profits by more than a few cents per barrel.

An ordinary excise tax shares with the Windfall Profits Tax the virtue of simplicity but, in contrast, is not necessarily a tax on profits and is an undesirably blunt instrument to use in this case. Excise taxes are usually stated as so much per unit or as a percentage of the price of the unit. An excise tax stated as so many cents per barrel or gallon of oil would have to be paid regardless of the amount by which oil prices rose (or didn't rise). That is undesirable since the tax would not be related to the windfall. An excise tax stated as a percentage of the sales

price would tax more heavily those who produce oil of higher quality and price than those who produce oil of lower quality and price, which is undesirable since, again, the tax would not be related to the windfall.

A classic excess profits tax of the type in effect during World War II or the Korean War would be a nightmare of complexity and uncertainty. It would be very difficult to design and administer a tax which would not impair the ability and incentive of oil producers to make the investment necessary to produce the additional oil needed to make us independent.

While prior excess profits taxes differed significantly, they contained the common elements of (i) a determination of profit in excess of some base amount, (ii) the application of a high rate of tax to the excess amount and (iii) complex exceptions designed to alleviate the penal nature of the high tax rate in situations in which the general rule determination of excess profits yielded an inequitable result. The following problems existed in prior excess profits tax laws:

Determination of base period and fair rate of return

No period can be selected which was a normal period for all taxpayers. That is to say, during any taxable year or years selected, some taxpayers' rates of return on investment or profits will be higher or lower than others for many extraneous reasons, such as strikes, floods, etc. Two basic methods have been used to determine a normal profit for the base period. One method is to compute a rate of return on invested capital during the base period, treat that as a normal profit rate, and impose a tax on any profits realized in excess of that rate. The other is to treat the absolute amount of profits realized during the base period as normal profits and impose a tax on any profits realized in excess of that amount. Combinations of the two basic methods have also been used. The assumption of normality for any historical rate of profits or any absolute amount of profit for a particular taxpayer for a particular period is subject to challenge because of the infinite variations in taxpayers' situations. For example, during whatever base period is selected, some taxpayers' businesses were contracting, some expanding; some used heavy amounts of equity capital, some relied heavily on debt; some engaged in heavy research and development expenses, others maximized earnings by postponing research and development expenses, and on and on.

Exceptions for abnormalities

Because of the problems referred to above and others, complex machinery has always been required to adjust the inevitable inequities arising from the selection of base periods and the calculation of base period profits.

Administrative boards and courts become entangled for years over these questions. The World War II and Korean War excess profits tax cases spawned over 54,000 applications for over \$6½ billion of relief because of claimed abnormalities in the computation of excess profits. Thousands of lawsuits, the last of which has not yet been decided, required large expenditures of time and manpower for both government and taxpayer in complex economic arguments over how much was too much profit.

Incentive for wasteful expenditures

Since the tax is conventionally imposed at a high rate and only on net profits, it has the effect of causing expenditures which would not otherwise be made and which are wasteful. For example, the corporate taxpayer at a 48% income tax rate must use 52 cents of its own money for every \$1 expended. However, if the marginal tax rate is raised to 85% by the addition of an excess profits tax, only 15 cents of every \$1.00 of excess profits spent by the taxpayer comes from its

pocket—the other 85 cents will be taken in taxes if not spent. Experience teaches that this leads to wasteful practices and inefficiencies which increase or maintain product prices to consumers without creating corresponding benefits to society.

Applying an excess profits tax only to the net profit of oil production would be even more difficult, for the following reasons:

Increased coverage

The expected windfalls will accrue to all owners of oil, who include thousands of individuals, trusts, estates, specially taxed corporations such as insurance companies, and other corporations not generally associated by the public with oil companies. Accordingly, the windfall tax must apply to all owners of oil, not just to large oil companies, if it is to be effective. The World War II and Korean War excess profits taxes have applied only to corporate taxpayers. It is safe to say that as complex to administer as prior taxes have been, an excess profits tax affecting thousands of non-corporate taxpayers would be greatly more complex.

Determination of excess profits

It would be necessary to determine the excess profits from oil production alone if the tax were to be confined to the windfall. Complex allocations of income and expense would have to be made. In the case of the numerous individuals, estates and trusts who keep minimum formal records, the allocation problem would be even more sizeable.

Taxable income management

Taxable income management through wasteful expenditures would be easier to achieve for oil producers since their incomes are reduced currently through the deduction of most of the costs of new wells and percentage depletion. Wasteful drilling practices and wasteful expenditures for overhead items could reduce the impact of the tax to a large extent without corresponding benefits to society from productive new wells or research.

OTHER ASPECTS OF THE WINDFALL PROFITS TAX

The Windfall Profits Tax would tax only the person who has the windfall, the owner of crude petroleum. This can be illustrated by looking at gasoline price increases. From October 1, 1973, to late January 1974, average gasoline prices increased by 9.5 cents per gallon.

In the same period, average crude oil prices increased by between \$3 and \$3.50 per barrel or about 8 cents per gallon (there are 42 gallons to a barrel). The remaining 1½ cents of the 10 cent increase was permitted to refineries and distributors by the Cost of Living Council to offset higher costs based on a thorough evaluation of their costs and profits. The windfall profit is reflected in the 8 cents which inured to the owner of crude oil and he is the person who must pay the tax if the windfall profit is to be taxed. Refiners, wholesalers, and retailers of petroleum products have been permitted only price increases under the Cost of Living Council rules which reflected, on a dollar-for-dollar basis, the actual costs they experienced.

It should also be noted that the Windfall Profits Tax will tax similarly those oil producers who are similarly situated. A producer who receives a \$1 per barrel increase for low-priced oil with a base price of, say \$3.00, is taxed the same as a producer who receives a price increase of \$1 per barrel for his higher quality and higher priced oil with a base price of, say \$4.50. These relative base prices were previously established by market forces and are doubtless fairer than any which could be devised administratively.

The Windfall Profits Tax applies only to domestic production. It is not sensible to attempt to tax the windfall on imported oil for two reasons. First, anything which reduces the net price received by the foreign producer below what he would receive if the oil were sold in another country will only pre-

vent imports from coming to the United States. The oil will tend instead to be sold elsewhere if the net price to producers is higher there because of a U.S. tax. Second, the amount of windfall realized by the company from which the imported oil is purchased is limited—the windfall will be realized primarily instead by the foreign government. This is easily seen by looking at increases in reference or posted prices of oil by foreign governments, which have increased radically and repeatedly in recent months, to capture the windfalls from the operating companies. A tax or tariff on imported oil should be imposed only to discourage imports for national security or other reasons, which goes beyond what is appropriate at this time.

THE TAX IS NOT PASSED ON TO CONSUMERS

The consumer currently receives government protection against unfair price increases through a combination of price controls and allocation policies. The Windfall Profits Tax complements these rules and will not have the effect some claim of increasing prices to consumers. Statements to that effect indicate a lack of understanding of how the tax operates. A tax which is less than the windfall profit will always fall on the oil producer.

Why isn't the tax passed on to the consumer? It is because the producers of oil are willing, even if reluctantly, to take less for the oil than the amount consumers are willing to pay and are in fact paying. Producers made their decisions to produce oil expecting prices below the current higher prices which are all that consumers will pay. (If consumers were willing to pay more, and were permitted by price controls to do so, producers would already be charging it.)

If consumers will pay no more and producers are willing to take less, producers will absorb any tax which does not reduce their expected profit i.e., reduce it by more than the windfall profit. On the other hand, if the tax is more than the windfall, the tax could fall on consumers in varying degrees, depending upon supply response (the greater the supply response, the more apt the tax is to fall on the consumer). The following example may be helpful.

Suppose that producers are producing at full capacity and are willing to sell at a price of \$x. For extraordinary reasons the price rises to \$x+2, producing a "windfall" profit of \$2. That represents the maximum price that consumers are willing to pay because if they were willing to pay more producers would be charging more.

If a tax of \$1 is imposed it will not affect supply, since by definition the supply is the same at any level above \$x. If producers could previously have added \$1 to the price they would have done so already. If they now try to add \$1 to the price, demand will simply fall. Thus, the price to consumers will not change and the oil producers will have to pay the \$1 to the tax collector.

However, if there is no windfall profit in the price, a tax will affect the amount which oil producers are willing to supply and some part of the tax will inevitably be passed on in the form of a price increase, as a lesser supply will result in price increases. The greater the supply response (i.e., the greater the contraction in supply), the closer to the amount of the tax the price increase will tend to be.

PROPOSALS RELATING TO DOMESTIC INCENTIVES

Among the tax proposals which I presented to you in April 1973 were several which affect incentives for domestic exploration for and production of oil and gas. They are the proposals for the Exploratory Drilling Credit, for a Minimum Taxable Income and for a Limitation on Artificial Accounting Losses.

I said to you in April: "... the need is for new exploration in the United States which will add to the national wealth of known oil and gas reserves for the future and assure the continued availability at rea-

sonable prices at home—not abroad—of adequate fuel supplies."

To that end we proposed a new investment credit for exploratory drilling. This credit operates in much the same way that the investment credit operates, and we expect it to be similarly effective in encouraging new exploration.

The tax law now contains incentives for oil and gas production in the form of the percentage depletion allowance and the deduction for intangible drilling costs. Of these, the provisions for intangible drilling costs are the more effective incentive for new production because they relate to the drilling operation itself and because the deductions may be taken whether or not the drilling is successful. Percentage depletion, on the other hand, relates only to production, and is a more diffused incentive because its benefits are available only if the drilling is successful and then only over a period of years.

The new exploratory drilling credit is concentrated on the activities which are most needed, namely, the discovery of new fields and reservoirs. And since it provides a major and immediate benefit for drilling activity, it should have a significant incentive effect on that activity.

The existing incentives provided by percentage depletion and the immediate deduction of intangible drilling costs would be lessened respectively by the Administration's proposals with respect to Minimum Taxable Income (MTI) and Limitation on Artificial Accounting Losses (LA). These reductions in existing incentives, which are not large in relation to aggregate investment in the industry, are necessary for other reasons and are more than offset by the somewhat larger and more efficient incentives which would be provided by the proposed Exploratory Drilling Credit.

The purpose of both the MTI and LAL proposals is to stop the spectacle of high income taxpayers paying little or no federal income tax and thus to remove an element which tends to corrode the indispensable public confidence in our tax system. The Internal Revenue Code contains many preferences designed to provide incentives for particular activities. We believe that Congress should review them individually from time to time so that those which have become outmoded and unnecessary can be revitalized or eliminated. However, the pressing need at this time is to see that such provisions, in total, do not give rise to the public impression that tax laws apply unfairly in favor of the wealthy, who are the persons most likely to respond to the incentives. Thus, the Minimum Taxable Income proposal deals with existing incentives (leaving their reexamination to another day) and proceeds on the philosophy that while individual incentives may be good, there may be too much of a good thing. The Minimum Taxable Income proposal would place a limit on the aggregate amount of certain incentives which may be used by a particular taxpayer. Stated very roughly, the concept is that a taxpayer should not be permitted to use such incentives in an aggregate amount which exceeds half of his "economic" income. Just as the Code now places limits on particular incentives—such as the 50 percent of income limitation on the charitable deduction—the Minimum Taxable Income proposal would place a limitation on aggregate incentives.

In designing the Minimum Taxable Income provision, we were mindful that it would affect the use of percentage depletion in cases where percentage depletion in combination with other covered items exceeded half of the taxpayer's economic income. We concluded after careful consideration that, while individual taxpayers would complain, the proposal's effect on percentage depletion would be minimal in the aggregate and would not significantly affect capital investment

for increased production of oil and gas. Whatever slight adverse effect the proposal might have in that regard, we believe it is the necessary price of preserving public confidence in the tax system generally.

The LAL proposal also lessens somewhat the incentives provided by the immediate deduction of intangible drilling costs. In the case of producing wells, such deductions often create accounting losses even though the well is in fact profitable. Under the proposal such losses could be used only to offset income from oil and gas properties, and not to offset other income. The purpose of the proposal is to prevent high income taxpayers from eliminating their current taxable income from other sources by using deductions which do not represent economic losses. Drilling expenses incurred in connection with holes which turn out to be dry are not artificial losses and are unaffected by the proposal.

While the proposal limits the use of such artificial losses, it does permit their utilization against oil and gas income and in that sense provides an incentive to oil and gas investment which partially offsets the disincentive.

Looking at the April 30 proposals as a package, the proposals for MTI and LAL would reduce to some degree the existing incentives for investment in oil and gas, but the proposal for an exploratory drilling credit would, in terms of dollar benefits to taxpayers, more than offset the dollar detriments arising from those proposals. Thus, when both proposals are considered together, the dollar tax incentives offered for investment in oil and gas remain essentially unchanged—but a significant portion of those dollar incentives has been rechanneled to operate in a much more efficient way to produce new oil and gas resources.

Thus, we urge your Committee to act promptly on the proposed exploratory drilling credit, but to keep in mind that it must be considered in the total context of the proposals for Minimum Taxable Income, to which we hope you will also accord a high priority.

PROPOSALS RELATING TO FOREIGN OPERATIONS

As a part of the program to make our nation independent in energy resources, we believe it desirable, within the limits of fairness, economic efficiency, and national energy to emphasize incentives for domestic exploration as distinguished from foreign exploration. With that in mind, we presented to you last April a proposal relating to the recovery of foreign losses that are deducted against United States income. We now have two additional proposals relating to foreign operations which we ask that you consider.

THE FOREIGN TAX CREDIT

All of these proposals require an understanding of the international system for avoiding double taxation of income earned in one country by a citizen of another country.

The major nations of the world have a network of systems designed to avoid excessive double taxation of income. Those systems vary in detail but fall into two general categories. Under some systems, income earned abroad is simply not taxed in the home country. France, and the Netherlands, for example, have systems which generally follow that basic concept. Other countries, including the United States, Great Britain, Germany, Canada, and Japan—our major trading partners—have tax credit systems.

The basic concept of a tax credit system is that the country in which the business activity is carried on has the first right to tax the income from it even though the activity is carried on by a foreigner. The foreigner's home country also taxes the income, but only to the extent the home tax does not duplicate the tax of the country where the income is earned. The duplication is eliminated by a foreign tax credit. For example, if a U.S. corporation were taxed at a 20 percent rate in country x on its income

from operations in country x, the U.S. would not duplicate country x's 30 percent tax on that income.

But since the U.S. corporate income tax rate is 48 percent, the U.S. would collect—i.e., "pick-up" the 18 percent which remained over and above the 30 percent collected by country X. Technically the result is achieved by imposing a hypothetical 48 percent U.S. tax on the income earned in country X, with the first 30 percentage points rebated by a credit. However, if the foreign rate were 48 percent or more, there would be nothing left for the U.S. to pick up and thus no tax payable to the U.S. on that foreign income.

Not that the foreign tax credit only affects income earned in some foreign country through activities conducted in that country. Income arising out of operations conducted in the U.S. and the taxes on that income are totally unaffected by the credit.

The following table permits one to understand the fact that high taxes are being paid by the oil industry to foreign governments on the large proportion of non-U.S. income that is earned by these corporations; that the United States gives a credit for U.S. taxes on the foreign source income that results in an excess credit; that these credits do not reduce U.S. income taxes on the income earned from U.S. operations; and that the same basic tax credit principle operates for all U.S. industries, not merely oil.

It is also important to note that the satisfactory functioning of this credit system depends upon reciprocity among nations. Thus, the U.S. reciprocally has the first right to tax income of foreigners arising out of operations in the U.S., and the home foreign countries either give those foreigners a credit for the U.S. tax or they exclude the U.S. income entirely from the home country's tax base.

When Congress wrote the basic tax credit provisions in 1918 and when the question of oil country taxes first became controversial twenty-odd years ago, circumstances were different from what they are today. Most foreign countries today have income tax rates nearly as great or greater than the U.S. tax rate. Thus, after our companies have paid their tax abroad, there is little or nothing left for the U.S. to "pick-up" on that foreign income unless we wish to impose a tax which duplicates the foreign tax. It has been the broad position of our government, under this and previous administrations, that the avoidance of double taxation is a sound principle and that we should continue to participate in the international system designed to avoid it. If we were now to withdraw from the system, we would invite retaliation and discrimination from other nations and would be required to rethink and renegotiate international arrangements. Excessive tax burdens would be imposed on U.S. companies operations abroad and their international competitive position would be severely affected.

In summary, the basic foreign tax credit must be understood not as a tax loophole or positive incentive to foreign investment, but rather as part of a system designed to allocate primary taxing jurisdiction to the government within whose borders the income is earned. The system does not reduce the total tax bill of U.S. companies below the amount they would have paid to the U.S. if the income had been earned here. They are excused from paying U.S. tax on foreign income only to the extent that they have paid an equivalent tax on that income to a foreign government. We must accept the fact that other countries now impose taxes comparable to ours, so that the U.S. now collects little or no tax from operations conducted by its corporations in most major foreign countries.

There still remain, however, certain "tax haven" countries which impose little or no

tax, and there exist also some countries where the tax rates are much higher than U.S. tax rates. Much of the complication in the present system arises out of the desire of taxpayers either to average or not to average (depending upon the circumstances) the income and taxes of high tax and low tax countries.

At the present time, the oil producing countries impose taxes at very high rates. If these taxes were expressed as a percentage of taxable income as defined by our rules, they would be in the neighborhood of 90 percent. But if they were only as high as our corporate income taxes, namely 48 percent, the U.S. would still collect no tax on earnings in those countries. However, the difference of 40-odd percentage points between those rates and U.S. rates produces very large "excess tax credits" which, under existing rules, can be used to eliminate the tax that the U.S. would otherwise "pick up" in the low tax, tax haven countries. One of the proposals I shall discuss later deals with an aspect of that fact.

RECOVERY OF FOREIGN LOSSES

The April proposal with respect to the recovery of foreign losses is directed to a situation that arises because a taxpayer with losses in a foreign country can deduct those losses against income earned in the U.S. in the year of the loss. When the foreign operation becomes profitable in a later year, the foreign country often collects tax on the profits without regard to the prior loss, and if that tax is as large as our 48 percent tax, the resulting credit will absorb any U.S. tax on those foreign earnings. The result is that the United States shoulders the burden of the start-up deductions, but the foreign country collects the tax when the operation becomes profitable. Such losses often arise in connection with the exploration for oil or gas deposits abroad, involving large intangible drilling and development costs.

The April proposal would modify the foreign tax credit provisions to require that where a United States taxpayer has deducted foreign losses against United States income, such losses would be taken into account to reduce the amount of foreign tax credit claimed by such taxpayer on foreign earnings in later years. This would eliminate the present situation which permits the current deduction of intangible drilling costs and other start-up expenses in a foreign country against United States source income and then permits a foreign country to claim the full income taxes on the profits, with a United States tax credit for such taxes when production begins. The proposal, by restricting this possibility, would eliminate a present United States tax benefit for commencing foreign drilling operations. The estimated revenue gain from this proposal is \$100 million annually after five years.

ELIMINATION OF PERCENTAGE DEPLETION IN THE CASE OF FOREIGN OIL AND GAS PRODUCTION

Percentage depletion was first allowed in 1926. Through the years it has been retained as an incentive for exploration for new reserves.

Percentage depletion has been available regardless of whether the producing property is located in the United States or in a foreign country. However, from time to time adjustments have been made in rates and rules, and under existing law percentage depletion is unavailable, or available at a lower rate, for foreign production of a number of minerals other than oil and gas. In the case of oil and gas the depletion deduction is and has always been available abroad to the same extent as in the U.S.

In recent years, percentage depletion on foreign oil and gas has not produced a benefit in many, if not most, cases because of the generally high foreign taxes imposed abroad. (The precise amount of the hypothetical U.S. tax is irrelevant, if the foreign tax is in any

event higher, so that the foreign tax credit eliminates the U.S. tax.) However, there is a potential benefit for production in countries with lower tax rates.

It is now apparent that our primary aim should be to encourage the exploration for new sources of oil and gas in the United States. There is no longer any policy support for giving special encouragement to oil and gas exploration and production abroad. Thus, we now propose that the Internal Revenue Code be amended to provide that percentage depletion shall not be allowed with respect to oil and gas wells located in foreign countries. The percentage depletion allowance for oil and gas would be limited to wells located in the United States, in its possessions, in the Commonwealth of Puerto Rico or on the outer continental shelf.

Because the taxes of the major countries where oil and gas is now being produced by U.S. companies are now imposed at rates equal to or in excess of those which would be imposed by the U.S., no major revenue effect is expected from this change, although it may have a significant effect on some producers. The estimated revenue gain is \$50 million.

We are not now proposing any change in the percentage depletion deduction available for other natural deposits located in foreign countries. However, that question should be examined from time to time and adjustments made when appropriate.

EXCESSIVE FOREIGN TAX RATES

Using artificially high posted prices for oil and high tax rates, many oil producing countries now collect "income taxes" on petroleum profits which greatly exceed income taxes normally collected by governments on other business activities. This has created what we believe to be a distortion in the normal and equitable operation of our foreign tax credit system.

We continue to support the principle of avoiding double taxation through a tax credit system. But like other basically sound principles, it can be subject to distortion and abuse in particular situations. The special problem that we are dealing with arises particularly where the taxing authority and the ownership of the oil are embodied in one and the same entity, which thus has the power to extract payments from oil producers in the form of taxes or in some other form, at its discretion. The high artificial posted prices on which the taxes of a number of oil producing countries are based have created legitimate concern over whether the payments treated as creditable tax are "income taxes" or taxes "in lieu of a tax on income." It is argued that these payments, at least in part, more realistically represent some other business expense.

Business expenses are excludable or deductible from gross income, but they may not be credited against U.S. income tax. Foreign income taxes, on the other hand, may be either deducted from income or credited against U.S. tax, at the option of the taxpayer. Thus, if the tax law allows payments which in substance are not income taxes to be treated as income taxes, taxpayers will receive larger credits than they should. When the amount of the "tax" payment on foreign oil production exceeds the U.S. tax on the same income, the excess payment gives rise to an excess foreign tax credit which may be used as a credit against U.S. tax on income from other operations in that country, or on income from other foreign countries, depending on whether the foreign tax credit is computed on the per-country limitation or the overall limitation.

In the case of oil production, foreign producing countries generally base their tax on the "posted price" for crude oil. The posted price is a fictitious price which may or may not have any relationship to the market value of the oil. It is, however, almost always higher and has moved dramatically higher in

recent months. As the posted price has risen, the foreign taxes have gone higher. This has led to greatly increased excess credits for taxes paid the oil producing countries.

Under the tax credit system, as the foreign tax rate goes up, the U.S. tax goes down, until the foreign rate becomes 48 percent and the U.S. rate becomes zero. Thereafter any increases in the foreign rate have no further effect on the U.S. rate on the foreign income but simply create "excess credits," which most companies cannot use. However, companies electing the "overall limitation" on the foreign tax credit, may average foreign tax rates so that "excess credits" in one country may, in effect, be used to pay U.S. taxes with respect to income earned in another foreign country which imposes little or no tax. While we believe this result to be satisfactory in general, we believe it leads to a distortion of the credit mechanism in the case of oil companies under present circumstances.

The total amounts of these payments to the foreign producing countries, and the effective rate of taxes have grown so large that, whether or not they technically qualify as "income taxes," we do not think that we should continue to treat them entirely as an income tax for tax credit purposes since they exceed normal levels of taxation and can affect very significantly the U.S. treatment of other foreign source income of U.S. oil companies. For a number of years, the existence of increasingly large excess tax credits was of minor importance because there was no U.S. tax payable in any event, and the companies simply accumulated excess credits which they could not use.

It now appears, however, that major international oil companies are beginning to engage more heavily in foreign operations other than oil extraction, including operations such as shipping, which are subject to little or no foreign tax. The number of companies electing the overall tax credit limitation appears to be increasing, and the income from these low-taxed foreign operations is thus shielded from U.S. tax by using the excess credits resulting from the extremely high "taxes" paid to the foreign governments on the foreign oil and gas income.

Our proposal would continue the foreign tax mechanism substantially as it has existed over the years, and it would not tamper with the basic definition of an income tax. We do not underestimate the ability of foreign oil producing countries to design the structure of their levies to correspond to any definition of an income tax that we require. But under our proposal only a reasonable part of the foreign income tax would be treated as a creditable tax. The balance would be treated as an expense. We propose to use U.S. tax levels as a standard in determining what is a reasonable level of foreign tax to be creditable. Thus in the case of these foreign taxes on oil and gas production, we would treat as creditable only an amount equivalent to the U.S. tax on the same income—i.e., in most cases the 48 percent general corporate rate or, the lesser 34 percent rate for Western Hemisphere Trade Corporations, as the case may be.

Since the expense part of the tax is deductible in determining taxable income, the determination of the creditable portion must be made by an algebraic formula. The explanatory material in the Appendix sets forth this formula and shows how it is derived. Its practical result is that foreign oil production will no longer generate excess foreign tax credits.

For purposes of applying these rules, the foreign oil taxable income of the taxpayer and the foreign tax paid with respect to that income would be determined separately for each foreign country, and the proposed new limit on creditable taxes would be computed

separately for each foreign country. After application of the limit, the creditable taxes would be aggregated with other creditable taxes and subjected to the normal per-country or overall limitation on the foreign tax credit. Excess tax credits accumulated in taxable years beginning before the effective date of this proposal could be carried over to years beginning after the effective date of this proposal as under present law, but would be denied to the extent that they could not have been utilized had this change not been enacted. The proposal would become effective with respect to taxes paid during, or accrued with respect to, taxable years ending after December 31, 1973.

It is not possible to estimate the revenue gain from this proposal with precision because its enactment will cause taxpayers to change their operations in ways which we cannot predict. If more companies were to devise ways to use the excess credits generated under the present system, the revenue loss could be in excess of \$1 billion a year. The proposal would foreclose that possibility. If the proposal were applied to existing patterns of operations we would expect it to produce revenues of about \$400 million a year over current levels. However, taxpayers can be expected to change their procedures to reduce that amount substantially.

It has been suggested that the proper approach to this problem is to deny the foreign tax credit entirely with respect to the existing taxes on oil income. We believe that our proposed limitation is far more desirable. The result of denying the credit would be to subject U.S. companies to higher tax burdens than their foreign competitors. The step of denying any tax credit should not be taken unless it is determined that United States oil companies should not participate in foreign oil and gas production.

It has been suggested that the problem in this area is that the international oil companies are paying absurdly low taxes, sometimes alleged to be on the order of 2 or 3 percent, and that those taxes should be raised to the level of other U.S. companies. This is a simplistic way of looking at the problem. The fact is that these companies are paying high taxes on their foreign production. It is true that these taxes are not being paid to the U.S., but it is also true that there is no reason under the international system that they should be paid to the U.S. If a U.S. company can go to Saudi Arabia, find and produce oil, take it to Japan or Western Europe, sell it at a profit, pay reasonable taxes to the countries concerned, and repatriate the after-tax profits to the U.S., U.S. policy-makers should not be dismayed; they should be pleased.

We are all upset because the price of oil is high, but the reaction should not be to strike out blindly at the most available target. The approach of our proposal is not a vindictive one. We are not trying to penalize oil producers. Nor are we trying to restrict U.S. companies to U.S. business. What we are suggesting is a technical change which will remove the possibility of the oil producers obtaining an undue benefit from changed circumstances.

In conclusion, let me emphasize our conviction that all of these proposals, together with those which we made last year, are of great importance to our nation's welfare. We urge that you give them a high priority. The Treasury Department will be pleased to assist in every way it can.

DETERMINATION OF CREDITABLE PORTION OF FOREIGN INCOME TAXES ON OIL AND GAS PRODUCTION

Many countries collect income taxes on oil and gas production at excessive levels. The Treasury proposal would characterize part of those income taxes as deductible expenses.

The method of dividing foreign income taxes between a portion which would be creditable against U.S. taxes, and the remainder, which would be characterized as an expense, may be described in three steps:

(1) The creditable portion of the tax would be equal to the U.S. tax rate applicable to corporations times foreign source petroleum income defined according to U.S. law. (The rate would be 48 percent for corporations other than Western Hemisphere Trade Corporations and also for individuals, trusts and estates, but would be 34 percent for Western Hemisphere Trade Corporations.)

(2) Foreign source petroleum income defined according to U.S. standards would be equal to the fair market value of the petroleum, less royalties, lifting costs, and other allowable expenses, and less that portion of foreign income taxes which is characterized by the U.S. as an expense.

(3) The portion of the foreign income tax characterized as an expense would be equal to the total foreign income tax less that portion of the foreign income tax which is creditable against U.S. taxes.

Each step in the apportionment of foreign income taxes depends on some other step. Thus, to determine the creditable portion of the foreign tax, it is necessary to express the principle as an algebraic formula. The general statement of the principle is that the maximum creditable portion (M) of the foreign income tax (T) is equal to the U.S. tax rate (R) times the excess of foreign petroleum taxable income computed without deducting any portion of the foreign tax (I) over the deductible portion of the foreign tax (T-M). This may be expressed as the equation:

$$M = R [I - (T - M)]$$

This equation may be simplified into the form:

$$M = R + I - R(I - T)$$

In most cases R will equal 48%, and the equation may be further simplified into (approximately): $M = .923(I - T)$.

In the case of a Western Hemisphere Trade Corporation, R=34%, and the equation becomes (approximately) $M = .515(I - T)$.

In practical terms, under the proposal, foreign petroleum ventures would no longer generate "excess" foreign tax credits. This is illustrated by the following table:

	Present law	Proposal
Calculation of foreign tax:		
Posted price, per barrel	\$11.65	\$11.65
Royalty (12.5 percent)	-1.46	-1.46
Lifting, etc., costs	-.20	-.20
Income as defined by foreign government	9.99	9.99
Foreign income tax (55 percent)	5.49	5.49
Calculation of U.S. tax:		
Fair market value	7.65	7.65
Royalty	-1.46	-1.46
Gross income	6.19	6.19
Depletion allowance (22 percent of \$6.19)	-1.36	0
Lifting, etc., costs	.20	.20
Portion of foreign income tax recharacterized	0	-5.03
Taxable income for U.S. purposes	4.63	.96
U.S. income tax (48 percent)	2.22	.46
Calculation of credit:		
Maximum credit for foreign income tax	2.22	.46
Excess foreign tax credit	3.27	0
Portion of excess disallowed because of depletion deduction	-.65	0
Available excess credit	2.62	0

Under the proposal, excess foreign tax credits carried forward from years prior to the effective date of the proposal would still be characterized as excess credits available

in the future to the extent they would have been used if the proposal had not become law. The excess foreign tax credits from such years would not be converted into deductions. If they were deductible from taxable income, the result would be a substantial revenue loss. The additional deduction would typically exceed taxable income before the deduction leaving the companies with a loss which they could offset against taxable income from U.S. sources.

For example, assuming that the figures shown in the table apply in 1973 and 1974, an excess credit of \$2.62 from 1973 would more than offset the taxable income for U.S. purposes of \$0.96 for 1974, leaving a net loss in 1974 of \$1.66. This loss could be used to offset U.S. source income of an equivalent amount, on which the U.S. government would lose the tax of 48 percent or \$0.80.

Treatment of a portion of the foreign income taxes as deductible cannot result in a reduction of U.S. taxes on U.S. income except in the unlikely case in which the foreign income taxes together with the costs associated with the petroleum exceed the value of the foreign petroleum. This case is particularly unlikely under our proposals because of the denial of a deduction for percentage depletion.

STATEMENT BEFORE THE COMMITTEE ON WAYS AND MEANS, HOUSE OF REPRESENTATIVES, WASHINGTON, D.C.

(By John J. Christmann)

Mr. Chairman and Members of the Committee:

My name is John J. Christmann, an independent oil and gas producer from Lubbock, Texas. I am a graduate Petroleum Geologist and Engineer, have been actively engaged in the exploration and production phase of the petroleum industry since 1936, and have held a Professional Engineers Certificate in Texas and New Mexico since 1944. I am presently serving as Chairman of the "National Energy Policy Committee" of the Texas Independent Producers and Royalty Owners Association which represents some 3000 members.

The purpose of my remarks here is to impress upon everyone concerned with our energy problem the vast difference between the International Integrated Companies and the Domestic Independents. Few people realize that 80% of our domestic search for new reserves has been done by this little known segment of the vast and complex Petroleum Industry.

The following figures for 1973 from the Texas Railroad Commission will shed some light on present Texas production:

1. Total daily production, 3,550,000 BOPD.
2. Independents (3000), 1,200,000 BOPD.
3. Stripper Wells (84,000), 319,000 BOPD (10% Total).
4. Stripper well reserves, 1.85 billion barrels.
5. Average daily production (stripper), 3.81 BOPD.

Oil and gas wells are like people—they have a limited life span and the older they get the more their maintenance costs. Per cent of produced water increases, equipment breakdowns and replacement mount in number and cost while production and revenue decrease. We have recently paid \$0.42 per barrel to dispose of salt water produced with the oil which sold for less than \$3.00 per barrel, and some months produced twice as much water as oil. This one cost alone decreased the value of the oil to \$2.18 per barrel to the producer. Add to this the pumpers' salary, electric bill, production taxes, bookkeeping and engineering supervision and the net value to the producer approaches \$1.00 per barrel.

Should an equipment failure occur and require a work-over rig, the cost of this is

\$35 per hour (minimum of eight hours), plus numerous additional charges for various tools and equipment needed. The average cost of a work-over on a 5,000 foot well will run between \$1,200 and \$2,400. Simple arithmetic shows it will take 530 days of production to pay for the work-over with no profit to the producer, and he is still paying all of the above operating costs from other profits.

For the above reasons many stripper wells were just temporarily abandoned when a failure occurred. With present prices for stripper well oil these wells can economically be repaired and placed back on production to recover the 1.85 billion barrels they are capable of producing. Any rollback of prices will cause rapid abandonment of many of these wells and lose forever the reserves which they would produce.

From the production figures sighted in paragraph 2 above it is evident that the Major Integrated Companies must purchase from Independent Producers one third of the Texas Production to supply their refineries. The other two thirds they already own. Therefore a rollback in price would reduce input refinery cost to the Major Companies substantially, but I doubt that the consumer would find this reflected on the gas pump.

As an independent producer I am a small interest owner in a gasoline plant in West Texas. The casinghead gas is processed through this plant and produced as dry gas, gasoline, butane, and propane. These products are sold to Phillips Petroleum Company at the plant for the following prices:

Butane .0625 (December 1973).

Gasoline .0775.

Propane .1309.

The gasoline I sell to Phillips, which is further refined and graded, I now buy back from Phillips at \$0.43 per gallon more than I sold it to them for, \$0.09 of which is tax paid to local, state, and federal governments. These facts are presented to show that it is not the producer nor the price of the raw product which is the major cause of today's high product prices.

The price of all items such as casing, tubing, pumps, rigs, line pipe, trucks, tractors, labor has been rapidly rising over the past 18 years the producers have been under FPC price control of natural gas, the most desirable fuel which has held down the price of the competing fuels of oil and coal to an uneconomic level.

If the present level of prices for crude oil are allowed to stand, many previously uneconomic wells will be returned to production, a number of known fields previously uneconomic because of price will be developed and produced and the search for new reserves will again become an attractive gamble for the wildcatter who is the man to regain America's self-sufficiency in energy.

The tax incentives should be increased for domestic producers and the tremendous foreign tax credits which have moved all of our domestically needed capital to foreign lands should be changed to encourage that investment in our own country.

I, with three partners, drilled 56 gas wells in the San Juan Basin of New Mexico in the early 1950's at an average cost of \$125,000 per well. In 1954 when FPC price controls were established at 12¢ per MCF for our gas we were unable to retain these wells and produce them to pay for their drilling and equipment. These were sold to a gas company and our debts retired.

We then took our remaining capital and went to Alberta, Canada where we could drill a well for \$35,000, sell the same volume of gas at 26¢ per MCF and have 33 1/3% depletion. The economic comparison is ridiculous, since the gas we sold in Canada was sold at the Canadian border to El Paso Natural Gas Company for 35¢ per MCF and mixed

with the 12¢ U.S. gas to be sold to the "Government Protected Consumers" in California.

This resulted in many operators going to Canada with their exploration dollars that had previously been spent in the U.S. and little or no new gas being found in the Western U.S.

It is my sincere belief that any action taken with regard to taxes and price controls of the Petroleum Industry MUST be separated into two classes. One, the domestic independent explorer and producer and two, the International Integrated Oil Companies.

The domestic producer has been a captive of the Integrated Companies who own all of the pipe lines, refining and marketing facilities. The national interest will best be served by giving the Domestic Independent sufficient incentive to again launch the needed exploration program to find and develop the needed reserves.

FUELS, FEEDSTOCKS AND THE FUTURE—4TH ANNUAL INDUSTRY CONVENTION, THE SOAP AND DETERGENT ASSOCIATION

(By C. Howard Hardesty, Jr.)

You should have invited the Shah of Iran to be your speaker. He has more money, more oil, and more credibility. The other day, he observed that the industrial nations should ban the burning of petroleum and reserve it entirely for petrochemical manufacturing. The high importance he recently attached to petrochemicals is one of the most sensible statements to come out of the Middle East. America's "burn-it-up" philosophy is coming to an end, but the present stringency will force us to continue burning—wasting if you will—oil and gas. For the moment we have lost our options on sensible energy usage. When we have intelligently developed alternative sources of energy, then the Shah's recommendation will have a chance.

The fates of the soap and detergent industry and the energy industry, for better or for worse, are closely tied. Unfortunately, at the moment, that means that most energy-industry problems flow downstream to you. When we're short of oil and gas, you are short of feedstocks. When the price of crude oil and feedstocks soars, detergent manufacturers are directly affected. There is no question that your industry must be allowed to buy competitively and pass these costs through to market. Without this right, you will lose out to other consumers of scarce materials.

In my original preparation for this visit, considerable thought was devoted to the details of the proposed allocation of feedstocks and projections of their availability in the days immediately ahead. Because, as economist Walter Heller said last week, "all forecasts are subject to change without notice", I concluded that our time together could more wisely be spent exchanging views on a matter of vital importance to all of us—preservation of the American economic system—some still call it the free enterprise system.

The very future of our free enterprise system is in grave jeopardy. It is my strong personal conviction that our present energy crisis is being seized upon, by some extreme elements in our society, as the vehicle to move aggressively toward nationalization. As I watch the attacks on the petroleum industry by Congressional liberals and media accelerate without regard to fairness or facts, I am convinced there is a conspiracy to exploit this period of hardship and confusion to destroy the industry.

The credibility of business generally, and the petroleum industry particularly, is at a very low ebb. Permit me, therefore, to place several burning national issues in factual perspective. Then, we can think aloud about possible solutions and answers. I refer to

just two questions. First, is the energy crisis, real or contrived? Second, are the profit increases of the petroleum companies in 1973 unreasonable? If Americans understand the true nature of our nation's energy problems and are not fooled into thinking that their hardship and inconvenience are generating "windfall profits", calm thought will prevail and our democracy will respond intelligently. So far, calm thought is not prevailing.

First: Is the energy crisis real, or was it contrived in order to raise prices, overcome environmental restrictions and improve profits?

Last year, it seemed to us that the public was becoming aware of our energy problems. Surveys of public opinion bore this out. Even in Washington, the attitude seemed to be—"We have a problem. Let's get on with solutions." The conclusions of the National Petroleum Council study were becoming more widely accepted. The President outlined the extent of the problem in his energy messages. A Federal Energy Office was established. A procedure for allocating scarce materials was proposed. A touch of realism began to creep into price controls. Authority to proceed with the Alaska Pipeline seemed imminent, and an accelerated energy research and development program was being formulated. The gears of democracy were meshing—slowly to be sure—to meet a national challenge.

Just when we seemed to be pulling ahead, we have been confronted with a rapidly deteriorating national scene. Suddenly, the effort to increase energy supplies is being superseded by a concerted effort to destroy private enterprise and institutions that have served this nation so well throughout its history. In their place a vast cumbersome government bureaucracy of agencies and restrictive regulations would be erected.

Why is a systematic, intelligent approach to a serious problem deteriorating into a national shambles?

First, the outbreak of hostilities in the Middle East and subsequent crude oil embargoes telescoped the time frame for effective national response. The energy problems projected for 1975 or beyond were upon us in 1973.

Second, among many who had decried industry warnings, there arose a fear that the public would hold them responsible for the impending economic impact and attendant hardships. Those who stand for election become vulnerable when the electorate is disturbed. This led many in political life to embark upon an unrelenting crusade to find a scapegoat. Facts that are the basis of intelligent decision making quickly became subservient to fiction and distortion. As a natural consequence, confusion reigns.

Third, for many reasons, our problems at this moment are less severe than forecast. Instant authorities on the energy crisis are crying out in disbelief and anger, saying, "It can't be so. I still have a job. There is heat and light in my home. Those who projected shortages must have been deceiving us. It must be a fraud." And they seem sorry that the potential tragedy has momentarily been averted.

Well, our energy problems are real. They have not been contrived. They still exist and are the result of our nation's action and inaction during the 60's, the 70's—even into 1974. What errors have we made?

1. By regulation of prices, the United States encouraged demand for natural gas and discouraged aggressive exploration for reserves.

2. Environmental extremism has discouraged use of coal, offshore leasing, Alaska Pipeline construction, new refinery construction, deep water ports and has spawned cars with ever increasing appetites for gasoline.

3. By discouraging development of domestic energy reserves, we have also increased our dependence upon foreign energy materials from sources over which we have no control.

4. Through price controls, we destroyed the ability of the free market mechanism to respond and develop additional supplies.

Economist Milton Friedman recently highlighted the situation when he wrote:

"The oil problem offers a particularly clear illustration of how the price system promotes both freedom and efficiency, how it enables millions of us to cooperate voluntarily with one another in our common interest. It brings out equally why the only alternative to the price system is compulsion and the use of force. It is a mark of how far we have gone on the road to serfdom that governmental allocation and rationing of oil is the automatic response to the oil crisis."

C. Jackson Grayson, Jr., who administered federal price controls and then got out, warns, in the *Harvard Business Review*, "The free market system is in danger of collapse under central economic controls."

Grayson is convinced that our economic system is shifting from a free-market economy to one that is centrally directed and under public control. The danger he sees in present wage-price controls is that the public forgets what profits are all about. Those interested in promoting a centralized economic system can use controls as a convenient stone for grinding political axes.

The true remedy? Grayson echoes Friedman when he says:

"... no one in any society has been able to come up with a central planning model that is more effective than the seemingly uncoordinated actions of the market-place ... Why not return to the one planning system we have that works—the price system?"

The United States has the strongest economy in the world. In most circles, this nation is the most envied. We owe a good deal of that advantage to the years of cheap and abundant energy provided by the petroleum industry. Just how cheap has it been? The United States has only 6 percent of the world's population, but it consumes 30 percent of the world's energy. Industry critics rattle off these figures. But they do not mention that for 20 years we've used that 30 percent of the world's energy for only 12 percent of the world's cost of energy. This illustrates that the petroleum industry has served the country well. Historically, petroleum products have been the most stable element of our economy. At the same time, the very abundance of low cost energy masked its importance to our way of life. The minute scarcity arises, how the wolves come out of the woods!

The petroleum industry has not overstated the problems that face us. When the Middle East embargoes were announced, they were not difficult to compute. Industry and government had a firm fix on inventories, demand, and supply. If the flow of crude oil from the Middle East were cut back 25 percent; if the flow of refined products from the Netherlands, Italy and the Caribbean were reduced as announced; if demand remained constant; then substantial shortages would quickly occur. Personal and economic hardship would soon follow. There was unanimity in this conclusion. Shortages of 2 to 3 million barrels a day were forecast by industry and government. No one misled anyone. No one contrived the possibility of hardship. It could have been and still can be very real.

Fortunately, during the past 60 days this nation has been blessed by several fortuitous events. Not all Middle Eastern nations reduced their production by 25 percent. Not all Middle Eastern nations embargoed shipments to the extent originally threatened. The oil companies were able to reschedule the destinations of some crude oil shipments. It is generally estimated that between 700,000 and 1,000,000 barrels a day of embargoed oil have been made available to the United States. Is this a result we should complain

about? Is there a culprit we should seek out? Wisdom dictates otherwise.

At the same time, demand for most products has been reduced as a result of allocations, voluntary conservation, greater efficiency in energy use, and also because we have had a much milder winter than normal—12.5 percent fewer degree days in the current heating season than last season. Should we complain and find the culprit that did all these good things? Again, wisdom dictates that we congratulate, not condemn.

As Churchill said:

"We have benefited enormously from criticism and at no point have we suffered from any perceptible lack thereof . . ."

As an industry we don't mind being criticized except when the criticism is aimed squarely at our destruction. Coinciding with all of this destructive criticism has been a massive effort by industry to operate refineries at highest possible levels, maximize distillate production and to locate every barrel of non-embargoed oil for the American consumer regardless of cost. I don't think this is wrong and I caution those who are conducting witch-hunts to take a few moments to think constructively rather than deliberately seeking to mislead the public about industry efforts.

Let me give you an example of the kind of distortion of facts that is occurring. Mobil opened a new refinery in Joliet, Illinois. This meant that it had an immediate sharp increase in refinery capacity. But a new refinery doesn't begin operating at peak capacity on Day One. So Mobil had a sizeable decline in the percentage of its capacity that was operating—even though its total production was up. Yet this data was used in a report prepared by the staff of one of Senator Jackson's committees to "prove" that refinery production was not being maximized so as to create a shortage. You read the charge. Have you read the answer? It was in the fine print.

Incidentally, that same Joliet refinery made news for another Senator, Stevenson, from Illinois, recently chastized the petroleum industry for failing to expand refinery capacity, saying that the industry hadn't opened even one refinery. Somehow he overlooked a new one in his own home state. This is an obvious and I believe deliberate unfairness to the newspaper reader and T.V. viewer. No wonder they question our integrity.

I wholeheartedly welcome Mr. Simon's use of a team of auditors to examine industry data. Such an examination will prove their accuracy.

Now, what about petroleum industry profits? Every major T.V. network and liberally oriented newspaper and newsweekly has described—*ad nauseum*—oil industry profits as "high", "unconscionable", "fantastic", "unreasonable" or "windfall". Day after day, after day, after day, we read of increases of 240 percent; 150 percent; 90 percent; and so on. Most frequently these shockers are headlined along with a charge by some member of Congress, such as Aspin, Stevenson or Mondale, who refers to increases but never bothers to relate profits to investments, risk or comparison with other businesses. Even grade school textbooks on economics do that. Well, what are the facts?

The facts are that oil company earnings, measured by return on invested capital, have lagged behind all manufacturing industries for most of the last decade. During 1973, the petroleum industry has experienced sharp increases in earnings as compared to the prior year, 1972, a depressed year for the industry. *Business Week* surveyed petroleum industry earnings for the nine months ending September 30. That survey reflects that the composite rate of return on equity for the 31 oil companies was 13.2 percent. In the same nine months, 880 companies in 36 industries had a mean return of the same 13.2

percent—and 19 of those 36 industries had a higher return than that of the petroleum industry. So—in terms of return on investment, the petroleum industry was precisely at or close to the average level for all of American industry. And if that is unconscionable, then we are in good company—fully half of American industry is in the same boat. In the first nine months of 1973, oil industry profits were up 47 percent over 1972. The First National City Bank of New York reported that the average increase for all manufacturing during the same time was 35 percent. Iron and steel was up 89 percent. Nonferrous metals, up 75 percent. Paper and paper products, up 60 percent. Media, by the way, had a pretty good year themselves. ABC was up 45 percent and the *Washington Post* 57 percent. *The New York Times* had a whopping increase in earnings of 93 percent.

I cannot recall seeing a single *New York Times* editorial criticizing its own profits as "unjustified". I have not seen one T.V. spectacular rationalizing why there should be strict controls over energy, but not over media prices and profits.

Incidentally, while Conoco was generating a miserly 38 percent increase in third quarter profits in 1973 over 1972, the *Times* was boosting its profits by 113 percent. And over the latest 12 months, the *Times* has earned a 16.6 percent return on equity, while we at Conoco have had to get along on 12.3 percent. Is there any doubt in your mind about the relative risks of our businesses or respective needs for profits in order to expand capital investments?

A final note on profits. Conoco's profit growth has come principally from foreign operations because of one-time inventory adjustments to reflect increased values of inventory. Price controls have kept domestic oil and gas earnings increases to about 7 percent.

For many years, Conoco has conducted a very aggressive program to develop new supplies of oil and gas in many countries, with its greatest effort concentrated in the United States. In more recent years, we have undertaken programs to develop new supplies of coal and uranium in the United States, and these efforts have been larger than the average for the energy industry. These programs have required substantial amounts of internally-generated funds and extensive external financing. Our capital investment of \$1.4 billion in the last three years is about three times our earnings in this period. I'm proud of this record and I think that if the American public knew what we and other energy suppliers did with profits, they would understand and approve not only our profits but the magnitude of their reinvestment.

That leads me to my reasons for saying there has been a conspiracy to destroy the industry. If media were conveying an objective presentation of facts regarding the energy crisis, the public and government would not be responding negatively today. To the contrary, this nation would be responding in a constructive fashion to developing new sources of energy.

Apparently, many in media are not interested, for I have tried. On December 6, I appeared before the Haskell Subcommittee and testified as to concentration in the energy industry, presented an analysis of industry profits, and refuted allegations of contrivance and conspiracy. Although Morton Mintz of the *Washington Post* and the wire service were present during the testimony, and, although a press release was widely distributed, not one T.V. network or anti-business newspaper mentioned the rebuttal. That same newspaper had headlined every unsupported charge against the industry. Two weeks later, in a Ft. Worth speech, with widely distributed press releases, I repeated the facts and asked media generally to do a documentary or an editorial

on why higher rates of return and profit increases are good for media, but bad for the energy industry. None took me seriously. I can only conclude that there is a large and important part of the communications industry that does not want the facts and both sides of this issue disclosed to the public. At the same time our critics in Congress continue their cheap shots while ignoring factual answers to their distortions.

Concern that media will not approach the energy problem objectively has prompted industry to resort to advertising to tell its side of the story. The same Congressional liberals, afraid that the facts would become widely known, suggested legislation and regulations which would prevent even this approach. Why are they so afraid of the truth?

This is a discouraging period. At Conoco, we are getting ready to begin, in 1975, our second century of service to the American people. Yet at the same time, we see our first century of endeavor, responsibility, citizenship and positive contribution to the American way of life forgotten overnight. Now, a handful of misguided zealots threaten to deliberately undermine a responsible industry that has been alerting Washington to the dangers of inaction and pointing to the vital need for a coordinated national effort.

The soap and detergent industry can't shake its head and say, "That's too bad, but it's your problem." It's more than that, for all industry and everyone in this nation would be hurt by an ill-advised and emotional anti-business response in Congress. If the petroleum industry is so crippled by taxes and regulations that it cannot aggressively expand energy supplies, your industry will be directly affected. If the marketplace is controlled and government is substituted for private industry, where will it stop? Who will be your supplier of feedstocks? Slowly the institutions that have made America great will be destroyed not by accident, but by design.

Further, it disturbs me deeply that legislative processes that have stood the test of time, and have permitted all sides of an issue to be aired, are now being eroded at a frightening rate. When legislation can pass Congress without critical committee analysis and review, then the democratic process has been bypassed. If tax measures can be passed without review by the House Ways and Means or Senate Finance Committees, then we have aborted an essential ingredient of a legislative process designed to prevent emotional and arbitrary action.

There are sensible and rational answers to this nation's energy problems. We can weather the storm without widespread hardship and economic loss if we respond intelligently. Adequate supplies of energy will not flow from the destruction of private industry. Rather, they will flow from a cooperative effort between government and industry, assisted and encouraged by the public. Let's capitalize on our strengths, minimize our weaknesses, face our challenges as partners and be guided by the truth. It has been a successful formula in the past and it can resolve our present difficulties.

The *Wall Street Journal*, in an editorial entitled "The Great Oil Conspiracy", summed it up pretty well when it concluded,

"To us, all of this looks a good deal less like a conspiracy than like each company trying to cope on its own. Yet the conspiracy theory will no doubt thrive, nudging Congress to take all manner of punitive action against the companies, action that will prolong, not shorten, the energy crisis. We only hope that enough people can conceive that just as a nation's foreign policy can be distorted by believing in bogeymen in pin-stripes, so energy policy can be warped by visions of bandits in the boardrooms."

As my final note, allow me to repeat what, for months now, I have felt called upon to tell the nation: The only conspiracy I have witnessed is the one of industry critics who have consistently delayed and frustrated sensible energy programs for the past 10 years.

Mr. HANSEN. Mr. President, I would like to call my colleagues' attention to what members of the Sierra Club feel to be the critical deficiency of this conference report as regards the environmental provisions. These views were informally transmitted to me by the Sierra Club, and I call them to my colleagues' attention in the hope that knowledge of the Sierra Club's position will be of assistance in formulating a position in the conference report.

I ask unanimous consent that the informal notes that were transmitted to me may also be included in the *Record* at this point.

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

STATEMENT

There are other concerns to the Conference Report which must adequately be examined. One issue was raised by Senator MUSKIE that perhaps there has been too much haste in considering proposed changes to the environmental sections of the report, specifically the clean air act provisions. This was one of the reasons the Senate recommitment the first conference report; to further examine possible problems in this area. And the conference did reexamine these issues and did make changes here.

But I understand there are still problems which merit a further examination. Senator MUSKIE has just expressed reservations now with what has been done in the name of immediate speed. I understand environmental and public health organizations still have objections to what was done in the clean air sections and particularly in the coal conversion section. This issue should be reopened and adequately discussed.

As I understand the objections, under Sections 106 and 201 fuel burning stationary sources such as electric powerplants would be allowed to switch to the burning of coal without being prohibited from the burning of that coal until January 1, 1979 "by reason of the application of any air pollution requirement." This would allow powerplants to burn coal uncontrolled in heavily populated and polluted areas of the country regardless of whether there would be a violation of the national primary air quality standards, which are set to protect the public health. A number of Senators have raised this issue and have recommended that when the consideration is given to ordering powerplants to convert to coal such ordering should not be allowed if it is determined that the conversion would result in a violation of health standards and that fuel is available which would meet those standards. Time is needed to reconsider this very important public health issue which is being decided.

Mr. HANSEN. Mr. President, let me say further that one of the interesting agreements reached by the conferees, not unanimously but by most of the conferees, was to invalidate the so-called stripper well amendment which was part of the Alaska pipeline bill. Despite the fact that there was no such provision in the bill before the Senate, nor was there any such provision in the bill before the House, the conferees in their wisdom decided to strike down that amendment.

I call this fact to my colleagues' attention, suggesting that they give serious consideration to the fact that, in the opinion of the Senator from Wyoming, a valid point could be raised as to the germaneness and the propriety of the conferees in embarking upon a new, uncharted area insofar as action by either body of the Congress was concerned previously, including this provision in the conference report.

I have no further observation to make on that other than to make note of the fact that it seems to me a question could validly be raised as to the propriety and the germaneness of that provision.

Mr. President, I know that we will be in session tomorrow. I am certain that all of us want to try to help resolve this very vexing, very troublesome problem before the people of the United States. I know that a great many Senators are rightly and properly concerned, as is the Senator from Wyoming, with rising prices, with inflation; but there are some of us who are even more concerned with the very distinct possibilities that what are already short energy supplies could become even more difficult to come by if this conference report is accepted.

This afternoon, the record will disclose there was a great amount of testimony from knowledgeable people, not alone in business, but in positions of economic scholarship as well, attesting to their nearly unanimous conviction that this indeed will be one of the results of the implementation of this conference report.

I was in California during Christmas-time, and I remember very well seeing headlines in the Los Angeles Times in Christmas week, 1973, which stated that there were some 32,000 people out of work in the State of California as a direct consequence of the energy shortage in America.

No one wants to pay a higher price for fuel, no one wants to add any increased heat to the already too rapidly burning fires of inflation, but I can assure you, Mr. President, that there is one catastrophe that could exceed even that in its chaotic impact upon the American way of life and upon our ability to continue the credibility and believability that we presently enjoy worldwide, and that would be to have our economy grind to a halt, to have more people thrown out of work, to have our ability to keep our commitments worldwide diminished because of a lack of energy.

We already know that, with the Arab oil boycott, it was necessary to ship from Norfolk, Va., oil to fuel our fleet in the Mediterranean. Think, if you will, Mr. President, what could happen to America if we further disrupted our domestic petroleum supply.

It has been pointed out that 13 percent of all the oil that this country domestically produces today comes from stripper wells.

I say that I can think of nothing—no one single thing—that could be more devastating to those goals which we hope America soon shall achieve than to be denied that precious flow of oil upon which most of the jobs, most of the productivity, and indeed the standard of living of America, depend.

Mr. FANNIN. 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.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, February 7, 1974, he presented to the President of the United States the enrolled joint resolution (S.J. Res. 185) to provide for advancing the effective date of the final order of the Interstate Commerce Commission in docket No. MC 43 (Sub-No. 2).

SENATE CONFIRMATION OF DIRECTOR AND DEPUTY DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 37.

The PRESIDING OFFICER (Mr. CLARK) laid before the Senate the amendment of the House of Representatives to the bill (S. 37) to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes, which was to strike out all after the enacting clause and insert:

That the first two sentences of section 207 of the Budget and Accounting Act, 1921 (31 U.S.C. 16) are amended to read as follows:

"Sec. 207. There is in the Executive Office of the President an Office of Management and Budget. There shall be in the Office a Director and a Deputy Director, both of whom shall be appointed by the President, by and with the advice and consent of the Senate."

Sec. 2. The amendment made by the first section of this Act shall take effect—

(1) insofar as such amendment relates to appointments to the office of Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office;

(2) insofar as such amendment relates to appointments to the office of Deputy Director of the Office of Management and Budget, immediately after the individual holding that office on the date of the enactment of this Act ceases to hold that office; and

(3) immediately as to such vacant office or offices, if the Office of the Director or the Office of the Deputy Director of the Office of Management and Budget is vacant when this Act is enacted.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, may I say that this matter was previously agreed to as we have just done. On January 28, the Senate concurred in the

House amendment. The distinguished majority leader later vitiated the action. The majority leader has now asked me to restore the action of the Senate. This is what is being done at this time.

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 legislative clerk proceeded to call the roll.

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

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR THE RESUMPTION OF CONSIDERATION OF CONFERENCE REPORT TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the orders previously entered for the recognition of Senators have been completed, there be a period for the transaction of routine morning business not to exceed 15 minutes, with statements made therein limited to 5 minutes; at the conclusion of which the Senate resume its consideration of the now pending conference report.

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

PROGRAM

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

The Senate will convene at the hour of 10 a.m. tomorrow.

After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for 15 minutes and in the order stated: Senators JAVITS, MATHIAS, KENNEDY, ROBERT C. BYRD and HARRY F. BYRD, JR.

There will then be a period for the transaction of routine morning business for not to exceed 15 minutes with statements limited therein to 5 minutes each.

At the conclusion of the routine morning business, the Senate will resume its consideration of the National Energy Emergency Act conference report.

Yea-and-nay votes could occur thereon.

ADJOURNMENT TO 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move in accordance with the previous order that the Senate stand in adjournment until the hour of 10 a.m. tomorrow.

The motion was agreed to; and at 5:47 p.m., the Senate adjourned until tomorrow, Friday, February 8, 1974, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate February 7, 1974:

DEPARTMENT OF THE TREASURY

Jack Franklin Bennett, of Connecticut, to be Under Secretary of the Treasury, vice Edwin S. Cohen, resigned.

DEPARTMENT OF STATE

Armistead I. Selden, Jr., of Alabama, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Fiji, to the Kingdom of Tonga, and to Western Samoa.

NATIONAL LIBRARY OF MEDICINE

The following-named persons to be Members of the Board of Regents, National Library of Medicine, Public Health Service, for the terms indicated:

Term expiring August 3, 1976:

Eddie G. Smith, Jr., of the District of Columbia, vice Max Michael, Jr., term expired.

Ethel Weinberg, of Pennsylvania, vice George William Teuscher, term expired.

Term expiring August 3, 1977:

John William Kauffman, of New Jersey, vice William O. Baker, term expired.

Joseph Francis Volker, of Alabama, vice Jack Malcolm Layton, term expired.

IN THE COAST GUARD

The following officers of the Coast Guard for promotion to the grade of lieutenant (junior grade):

Raymond K. Kostuk	Bienvenido Abiles
LaIRD H. Hall	Winston S. Jones
Gordon N. Hanson	Thomas F. Dolan
John J. A. Murray, Jr.	Jeffrey A. Hibbitts
John T. Sugimoto	Gary B. Coye
Dennis G. Beck	Richard A. Knee
Steven C. Borloz	Stephen R. Osmer
Benjamin J. Stoppe, Jr.	James W. Norton
Larry R. Ganez	Bruce E. Nelnick
Richard E. Meed	William R. Armstrong
Gary L. Frago	Robert W. Zider
Patrick M. Stillman	Charles F. McCarthy, Jr.
Dennis M. Egan	Marlin L. Shelton
Fenn F. Shade	Edward J. Peak
David A. Rogers	Thomas N. Gilmour

Richard J. Sellers	Hampton E. Beasley, Jr.
Craig P. Coy	Patrick J. Popieski
William H. Wissman	Martin C. Eger
Christopher C. Burns	Stephen R. Campbell
Arthur E. Crostlick	John W. Whitehouse
Joseph A. Stimat	William F. Carson III
Arthur R. Butler	Ronald C. Gonski
Michael B. Garwood	Phillip T. Bird
Norman B. Henslee	William B. Wittmeyer
Dennis D. Rome	John J. O'Neill, Jr.
Edmond P. Thompson	Phillip C. Smith
Dirk D. Young	Herbert R. Williams
Robert J. Wells, Jr.	Alan D. Summy
Terry W. Newell	Rex A. Buddenberg
James W. Gormanson	Carl R. Smith
Harry W. Forster, Jr.	Gordon J. Lawrence II
Steve S. Sheek	Galen W. Dunton
James H. Richardson	Thomas J. Meyers
James R. Matwick	James E. Whiting
Lawrence G. Brudnicki	Francis J. Kishman, Jr.
Samuel R. Brooks III	Jan E. Terveen
John S. Merrill	James M. Copper
James M. Alderson	Joseph H. Jones, Jr.
Thomas J. Love	James W. Meyer
Christopher C. Oberst	Willard M. Collins
William M. Bannister	Mark D. Noll, Jr.
Frederic R. Gill	Gary M. Hell
Jimmy Ng	Melvin H. Demmitt
Danny D. Benefield	Michael D. Hathaway
Joel D. Gunderson	F. F. Litchlitter III
John C. Malmrose	Tim B. Doherty
Richard T. Buckingham	Wayne H. Ogley
Walter G. Johnson	James W. Underwood
Robert C. Mueller	Edwin E. Rollison, Jr.
Charles F. Klingler	Woodrow P. Vaughn
Joseph M. Kyle, Jr.	Hugh T. H. Grant
John R. Shannonhouse	John A. Martin
Thomas D. Yearout	Danny J. San Romani
Charles B. Williams	Gary R. Westling
Clay A. Fust	Steven D. Poole
James F. McCarthy III	Richard W. Withers
Narrie A. Travis, Jr.	Christopher H. Waring
James McEntire, Jr.	James L. Rohn
Henry F. Bailey IV	Edward E. Page
Erroll M. Brown	Dennis J. Gillespie
Michael D. Shilde	Bradley J. Niesen
	Gary L. Swan
	Robert D. Innes, Jr.

Robert W. Vall	David L. Walts
William B. Turek	John P. Foley
Paul L. Barger	Gregory D. Lapp
Dean L. Harder	Paul J. Howard
Bruce C. McCurdy	Timothy C. Healey
Loren M. Marovelli	Kirk A. Smith
Michael W. Ragsdale	Norman D. Robb
William H. Fels	Francis J. Sambor
Robert F. Duncan	Michael M. Matune, Jr.
John M. Gray III	John J. Giglio
John M. Crye	Glenn A. Gipson
John G. Calhoun	Carlos M. Morales
John W. Larned	Richard W. Fish
Scott L. Anderson	Dennis A. Sande
Kevin J. Scheid	Dennis E. Oldacres
Craig A. Leisy	Frederick L. Johnson
John A. Rodgers	Anthony Dupree, Jr.
Stephen P. Ziomek	Ronald L. Endsley
Charles A. Farnsworth	William P. Foreman
William P. Foreman	Gary C. Rowland
Thomas C. Paar	John L. Congdon
Thomas C.	Richard W. Tate
Melsenzahl	John C. Luther
John K. Synovec, Jr.	Grover C. Breckenridge
Kenneth A. Forsythe, Jr.	James D. Jones
James H. B. Morton, Jr.	James E. Andrews
David L. Engan	Mack E. Moody
Jeffrey A. Hill	William H. Bourland
Harold E. Bianey, Jr.	Joseph A. Walker, Jr.
Michael P. Decesare	Norman K. McBride
Robert R. Halleck II	Kenneth R. Grover
Joseph E. Blanchard	William J. Thrall
Merritt H. Aurich IV	Joseph W. Thibault
Steven B. Spencer	Robert E. Drake, Jr.
Douglas S. Neeb	Robert C. Winter

CONFIRMATION

Executive nomination confirmed by the Senate February 7, 1974:

U.S. PATENT OFFICE

Curtis Marsall Dann, of Delaware, to be Commissioner of Patents.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

EXTENSIONS OF REMARKS

WHO REPRESENTS OLDER AMERICANS?

HON. JOHN R. RARICK

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 7, 1974

Mr. RARICK. Mr. Speaker, it seems that every lobby group in Washington is in the business of publishing "voting compilations" for the Congress. They select a handful of isolated votes, rate Congressmen on a scale of zero to 100 based on those votes, then proceed to broadcast which Members are for or against the aims of the special interest group publishing the scorecards.

The danger in this time-honored Capitol Hill tradition is that the votes selected may not always represent a Congressman's true attitude on the overall issue. A case in point occurred just a few weeks ago.

I am sure that the other 28 Members and 6 Senators were as surprised as I was to learn that we had attempted to "hoodwink" the elderly voters. This amazing bit of misinformation was con-

cluded by the National Council of Senior Citizens, based on 10 votes selected by the organization. Those of us who have always tried to cast our people's vote for the benefit of all our citizens, including the elderly, found this conclusion perplexing.

Of the 726 votes and quorum calls during the 1973 session, the group selected 10 votes that were supposed to represent "the needs of America's elderly." A closer look at the selection would lead one to question whether those votes were more representative of the thinking and aims of big labor bosses, rather than votes crucial to older Americans. Every vote called for additional government spending. By now we should have learned that additional inflationary spending and more big brother Government only adds to the burden of every citizen. This is especially true of the elderly in this country living on a fixed income. They of all people can least afford a soaring inflation rate.

But the National Council of Senior Citizens, an offspring of the Senior Citizens for Kennedy and Johnson organization from the early 1960's, chose votes of questionable benefit to the elderly.

Casting a vote for pirating our Federal aid to highways trust fund, increasing the cost of food by extending the minimum wage bill, socializing the legal profession under Government control, or deteriorating medical services under non-medical people would not be in the best interest of the great majority of our elderly citizens.

The organization's close ties with the AFL-CIO and the National Democratic Party makes their vote choice understandable. NCSC's national president, Nelson A. Cruickshank, formerly of the AFL-CIO's social security division, apparently continues to follow his former employer's goals in his new position. I understand that the group receives some of its financial support from big labor, and borrows freely from the COPE staff on occasion. In the last election it endorsed and actively supported Senator McGOVERN's campaign. The NCSC has an active public relations oriented lobby organization at the national level, but their grassroots membership is relatively small, between 200 to 300,000 members.

It is always to the benefit of lobby groups for Congressmen to side with them on an issue. The real measure of a