committee or subcommittee may delete from the copies of transcripts that are required to be made available or furnished to the public pursuant to subparagraph (3) any portions which it determines by vote of the majority of the committee, or subcommittee consist of material specified in subdivision (A), (B), (C), (D), or (E) of subparagraph (1). A separate vote of the committee or subcommittee shall be taken with respect to each transcript. The vote of each committee or subcommittee member participating in each such vote shall be recorded and published. In place of each portion deleted from copies of the transcript made available to the public, the committee shall supply a written explanation of why such portion was deleted and a summary of the substance of the deleted portion that does not itself disclose information specified in subdivision (A), (B), (C), (D), or (E) of subparagraph (1). The committee or subcommittee shall maintain a complete copy of the transcript of each meeting (including those portions deleted from copies made available to the public) for a period of at least one year after such meetings.

"(5) A point of order may be raised against any committee or subcommittee vote to close a meeting to the public pursuant to subparagraph (1), or against any committee or subcommittee vote to delete from the publicly available copy a portion of a meeting transcript pursuant to subparagraph (4), by committee or subcommittee members comprising one-fourth or more of the total membership of the entire committee or subcommittee. Any such point of order must be raised before the entire House within five legislative days after the vote against which the point of order is raised, and such point of order shall be a matter of highest privilege. Each such point of order shall immediately be referred to a Select Committee on Meetings consisting of the Speaker of the House of Representatives, the majority leader, and the minority leader. The select committee shall report to the House within five calendar days (excluding days when the House is not in session) a resolution containing its findings. If the House adopts a resolution finding that the committee vote in question was not in accordance with the relevant provision of subparagraph (1), it shall direct that there be made publicly available the entire transcript of the meeting improperly closed to the public or the portion or portions of any meeting transcript improperly deleted from the publicly available copy.

"(6) The Select Committee on Meetings shall not be subject to the provisions of subparagraph (1), (2), (3), or (4).

THE CHARLESTON TEXTBOOK DISPUTE

HON. EARL F. LANDGREBE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 8, 1974

Mr. LANDGREBE. Mr. Speaker, parent and miner protests in Charleston, W. Va., have been prominently featured in the news in the recent month. The parents of Kanawha County have finally read for themselves some of the textbooks which their children are required to use in compulsory classes supported by tax money exacted from their parents. What they find is that the textbooks are designed to separate the children from their parents and their culture, in too many cases. One columnist for a West Virginia newspaper recently took a look for himself at these textbooks, and saw what the parents were talking about. He concludes with words with which I find myself very much in agreement:

Historically the goal of education has been to raise the level of society, but these books take the reverse view and aim to level society to the lowest common denominator. If that is the goal of education, then we don't need to spend a lot of money to do it. It would occur naturally.

I insert the full text of the comments from the West Virginia newspaper to show that there is a genuine problem with elementary and secondary education there:

MUST EDUCATION CORRUPT?

I have looked at examples of the new English books that are proposed for Kanawha County schools, and I am horrified. I expected them to have some objectionable things in them after I heard the WCHS-TV editorial try to justify one book about a queer person. Curtis Butler explained the "queer" really didn't mean what we thought it did, that "queer" only meant unusual, and, if you didn't believe this, you could look it up in the dictionary. This doesn't quite jibe with the rest of the content, however, which is supposed to be relevant—that is, to relate to the language of the real world that people live in and to use language the way it is used today. It would be hard to find a person today who doesn't consider that "queer" means homosexual, yet that thought is not supposed to enter our minds.

I object to this literature because I see very little in it that is inspiring or uplifting. On the contrary it appears to attack the social values that make up civilization.

Repeatedly it pits black against white accentuating their differences and thereby, stirring up racial animosity.

It dwells at length on the sexual aspects of human relationships in such an explicit way as to encourage promiscuity.

The theme of pacifism runs throughout. It repeatedly and continuously depicts the horrors of war without ever suggesting, so far as I could find, the possibility that men have fought wars because conditions were intolerable and that some things are worth fighting for.

It concentrates on the sordid aspects of life without ever suggesting that there is, or can be, a beautiful aspect. By so doing it promotes hopelessness and fails to motivate upward.

One example of the content that I object to is found in the supplementary reader entitled, "War and Peace". This "poem to be read aloud" consists of 26 lines starting with "BombA, BombB, BombC" and continuing through the alphabet to the last line, "BombZ". That is the entire poem. One thing is sure—it shouldn't be hard to memorize.

Another poem has the line, "Christ said that when one sheep was lost, the rest meant nothing anymore." It is hard to imagine how a philosophy could be so completely distorted.

Another book gives examples of answers to use when accused of shoplifting to avoid prosecution. These are not just isolated examples. It was the extent of this type of propaganda throughout the books that shocked me. Time tested literary classics are crowded out by the type of writing I have described. You have to look through the books to believe it, and every parent and taxpayer should take the time to do it.

Aside from the fact that the philosophy is revolutionary and appears to attack the accepted values of our society, the series really doesn't do a very good job of teaching grammar. The course suggests that there are many dialects within our society and that the grammatical forms commonly accepted as right are not necessarily the correct ones, that expressions like "he dont understand" can be perfectly acceptable. It appears to promote the use of "aint" as acceptable.

I use "aint", but I always know it is not correct, and, furthermore, I didn't have to go to school to learn to use it. This brings up the real objection to this curriculum: Why spend money to teach the very things that uneducated people do naturally? Historically the goal of education has been to raise the level of society, but these books take the reverse view and aim to level society to the lowest common denominator. If that is the goal of education, then we don't need to spend a lot of money to do it. It would occur naturally.

SENATE—*Wednesday, October 9, 1974*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

Hear the words of the prophet Isaiah: *"They that wait upon the Lord shall renew their strength; they shall mount up with wings as eagles; they shall run, and not be weary; and they shall walk, and not faint."*—Isaiah 40: 31.

Help us, O Lord, to run when we can, to walk when we ought, and to wait when we must. May the pace of our work be consistent with the urgency of our Nation's needs. Help us to create great programs and to attempt great deeds. When we are uncertain give us the wisdom and grace to seek Thy clear guidance.

We pray in His name, who is the Way, the Truth, and the Life. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, October 8, 1974, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

The PRESIDENT pro tempore. The nomination will be stated.

FEDERAL RESERVE SYSTEM

The second assistant legislative clerk read the nomination of Philip Edward Coldwell, of Texas, to be a member of the Board of Governors of the Federal Reserve System.

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

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

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

LEGISLATIVE SESSION

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

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

ANNOUNCEMENT OF POSITION ON A VOTE—FEDERAL ELECTION CAMPAIGN ACT AMENDMENTS OF 1974—CONFERENCE REPORT

Mr. GRIFFIN. Mr. President, on yesterday I was called to the White House for a conference with the President and Secretary Kissinger in connection with the continuing resolution, at the time when the Senate voted on the adoption of the conference report on the election reform measure. I was a conferee, and I signed the conference report. I should like the RECORD to show that if I had been here, I would have voted "yea" in favor of the adoption of the conference report.

QUORUM CALL

Mr. MANSFIELD. Mr. President, on the 5 minutes allocated to me, pending the arrival of the distinguished Senator from Nebraska, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDENT pro tempore. It is so ordered.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Nebraska (Mr. CURTIS) is recognized for not to exceed 15 minutes.

TIME FOR A NEW LOOK

Mr. CURTIS. Mr. President, I believe that the time has arrived for us to take a new look at expanding the welfare state. I believe that the time has arrived for us to examine the proposal for national health insurance.

The President of the United States has declared that inflation is our No. 1 problem. However, it is true that every person in the country knows that it is our No. 1 problem. A great many households find it difficult to make ends meet. All costs are soaring. Life insurance becomes of less and less value. We have reached a point where, due to inflation, it is almost impossible for someone to acquire a home from earnings.

There are two courses open to us. One is to go to the causes of inflation and whip inflation. The other course is to use inflation as a means further to socialize the country. I think history has proven that it is excessive spending, deficit spending, on the part of the Federal Government and the mounting national debt that have been the primary causes of inflation.

There are those who will contend that inflation is caused by a great many other forces. Those forces, no doubt, have had a part. But the fact remains that every year that the Federal Government spends huge amounts more than it takes in and the national debt goes up, there follows disastrous inflation. We cannot escape it. That is a fact. The pattern is well established. Excessive spending, always asked for and voted for on the basis of solving some urgent problem, produces a mounting debt, then a surge of inflation. That is the historical pattern.

How does all this translate into the daily lives of our people?

It means that when the Federal Government spends excessively, way beyond all the money that it can collect in taxes, it has to borrow.

How much money would the Federal Government get if it attempted to borrow money at the interest rate we were paying 30 years ago? How much money could the Federal Government borrow if it tried to borrow at 3.5 percent, or 4, or 5? It would not get any. Therefore, in order to keep this bubble afloat of excessive spending, we have to go into the marketplace and bid high for the money.

What happens when we do that? We dry up all the money for other activities, and we have a recession along with inflation. We also bid up the interest rate so that everybody else has to pay high interest.

About 4 or 5 weeks ago, the Government put on a special drive to sell certain securities, and it seems to me that the interest rate was something like 8.75 percent—a Government bond paying that amount. I do not know what happened elsewhere, but out in Nebraska, the people lined up to buy those bonds.

They did so in the city of Lincoln, Nebr., which, compared with the great cities of the country, is very small, although we are very proud of it as our State's capital of some 150,000 people.

In a matter of just a few days, Uncle Sam took $15 million out of the city of Lincoln.

There was $15 million that could have been loaned for the needs of agriculture.

There was $15 million that could have been loaned to businessmen to extend and operate their businesses and create more jobs.

There was $15 million that could have been loaned to build homes.

There was $15 million that could have been loaned to buy homes.

And, oh, yes, there was $15 million that could have been loaned to students.

Our money was gone. Our rate of interest was bid way up beyond the reach of people to pay.

Some people say, "Well, the answer is to have the Government make the loans to students, to farmers, to businessmen, to homebuyers, and homebuilders." Of course, we have to do some of that. But when we run away from tackling the real causes of inflation, we add momentum to our vicious cycle.

The Government causes inflation, but the Government is the biggest victim of inflation. When costs soar, it costs us more for retirement, for salaries, for national defense, for building highways, for caring for the poor. Everything costs more. So it goes on; we have that vicious cycle.

I do not need to state that it is difficult to cut expenses. It is difficult. Oh, we can cut some here and there, and we ought to. And it all adds up to quite a sum. But there is one thing that we can do: We can stop expanding the U.S. Government. That is what causes it.

The people of the country elevate individuals to high office, and there is a desire in some of us to make a name for ourselves, by starting a new program as a monument to ourselves.

So they dream up something new, and they start talking about it. When they first start to talk, there is no demand at home for it. But they keep on plugging it and they keep on plugging it, and pretty soon people begin thinking it is a pretty good idea, and there is a demand for it.

The first step in reducing Government expenditures and fighting inflation is to stop expanding the Federal Government. I want to be specific. Let us talk about medical care.

We have a program for the aged: Medicare. Oh, this program ought to be improved. It is bureaucratic. It has a lot of things wrong with it. We ought to improve it.

We have a program for the poor, called medicaid. We could recite a long list of things that are wrong with medicaid, that ought to be improved, and we should do that.

But when aspiring politicians get up and talk about national health, what are they talking about? They are saying, "Let us have the Government underwrite the medical costs for people who are neither poor nor aged."

If we are going to underwrite medical

costs for people who are neither poor nor aged, why do we not underwrite their grocery bills? Why do we not underwrite all their other bills? Are we to become a nation where no one stands on his own feet?

Then what happens to all these noble and great undertakings to lower Government expenses, and thus stop inflation?

If we were to enact one bill such as national health insurance, the cost to the Federal Government the first year is estimated at $5.9 billion. So we would wipe out by one vote on this floor and one on the House floor, and one signature by the President, more than we can possibly save by retrenching. We would not only wipe out all that we save, we would be out the expense of putting in motion all the paraphernalia of publicizing and promoting a fight against inflation.

Mr. President that $5.9 billion is peanuts. That is the administration proposal. It is bad, and ought to be forgotten. We should not expand the welfare state until we have put our financial house in order. I do not think we should do it then, but we certainly should not even discuss it before that happens.

There is competitive bidding going on in this Government today. The previous administration thought that it could recommend a national health program that would cost only $5.9 billion. But we have other bidders in this Chamber; and one bid for national health insurance is $80 billion a year.

Well, of course, we would probably resist that and end up somewhere between. But I, for one, do not want my country to commit suicide inch by inch any more than I want it to commit suicide all at once. And if we are serious about this fight against inflation, the first and easiest thing to do is to stop expanding the Government

It is very simple. It is an inflexible rule of politics: You can refuse to give, but you cannot take away.

Take a businessman. He can say to his employees, "I would like to raise your pay, but I cannot do so now." They are disappointed, very disappointed, but there is no serious problem on hand. But suppose he says, "I am going to take away the raise I gave you 6 months or a year ago." Then he has problems on his hands. If you doubt it, try it in your own office. We can refuse to give, and it will be accepted and people will live with it somehow, though they will be disappointed; but we cannot launch out into a national health program and then, after 2 or 3 years, say "This is too expensive" and withdraw it.

Back to this $5.9 billion, which is the first estimate on the lowest bid in this effort to glorify politicians, the $5.9 billion is no doubt far too low. It would cost much more than that, and that particular proposal would also place a burden on employers, a compulsory burden, in what it would require them to carry.

We must keep in mind, Mr. President, that the burdens of Government are cumulative. It is not only high taxes, but then along come the unreasonable regulations of the Environmental Protection Agency. And it is not only those two things; then come the regulations of the Pure Food and Drug Administration piled on top of that. And that is not all. Then come the additional burdens which the Occupational Safety and Health Act, OSHA, imposes on people. And it does not end there. The wage-and-hour inspectors come around and look at your books, and they impose some more burdens. And so on—more agencies and more agencies and more agencies.

Mr. President, there is only one reason why the exponents of big government have not totally destroyed private enterprise in this country, and that is that private enterprise is a lot stronger than anyone believes. It is the greatest system on earth. I happen to believe that individuals who are not ill or subject to some disaster, and who are not aged, have the capacity to provide for their own wants and needs, with the exception of those wants and needs which, by their very nature, should be handled through a community-like activity.

Mr. President, the inflation has grown so much that just a show, a pretense of fighting it, would be a cruel deception on the American people, and could possibly continue the inflation until disaster would be our lot. We owe it to ourselves, to the country, and to the entire world to preserve this Nation of ours. It is time not only for fighting inflation, but for some bare knuckles fighting, some unpopular fighting. It may be time to separate the men from the boys.

Mr. President, I yield the floor.

Mr. McCLURE. Mr. President, will the Senator from Nebraska yield?

Mr. CURTIS. I am happy to yield to the distinguished Senator from Idaho.

Mr. McCLURE. I commend the Senator from Nebraska for some clear thinking and straight talk, the kind of thing this Nation very badly needs in leadership today.

I think it is wise to note that this follows on some straight talk from the President of the United States yesterday in his efforts to bring inflation under control.

Mr. CURTIS. I thank my distinguished colleague.

THE WELFARE SYSTEM

Mr. McCLURE. Mr. President, a columnist writing in the October 8 edition of the Washington Post has brought to light another example of the type of conduct which explains why American citizens hold their Government and its appointed and elected officials in so little respect. It seems that a group of 180 welfare officials went on an expensive spree in the Virgin Islands to talk about such matters as the distribution of food stamps. It will not be comforting to those who receive the stamps to realize that sumptuous meals and round trips to exotic resorts come out of the budget of an agency set up to relieve their most basic needs. It does nothing to relieve the burdened taxpayer who counts on the Congress to provide proper oversight of such programs.

Mr. Robert Carleson, the U.S. Commissioner of Welfare, has reported on Federal and State audits which have turned up some salient facts about the welfare system; 10.2 percent of those on welfare are totally ineligible; 22.8 percent are receiving overpayments, while 18 percent go underpaid. The result is a yearly loss to the Nation of over $1.17 billion. Mr. Carleson points out that—

> This situation cannot be tolerated since we know that ineligibility and overpayment hurt both the people who must pay the bill as well as the truly needy recipients who receive inadequate benefits because limited funds are spread so thinly.

Mr. President, the strongest implication of this situation is its inflationary impact. We are spending too much money. And we are not even spending it well. The people of the United States are not going to be fooled with bandaid programs or scapegoats for the inflation which lowers the purchasing power of their dollar and ravages their savings. They are going to be watching for the Members of Congress who accept their tax dollars and then represent them by voting for more and more inflation.

Representative SCHERLE put it this way:

> William Simon, Secretary of the Treasury, and Francine Neff, U.S. Treasurer, recently made the news with a wistful jest—that the new dollar bills bearing their names be printed in red ink. These redbacks, they suggested, would remind the people of our Federal debt; unfortunately, the public cannot check Federal spending. Even if they do not make their way into general circulation, these redback dollars or scarlet-colored checks could be used to pay salaries of spendthrift Government officials and prodigal Members of Congress, serving as a constant reminder that they are the people responsible for making the taxpayer "see red."

Mr. President, I ask unanimous consent that Mr. Carleson's remarks be included in the RECORD at this point.

There being no objection, the remarks of Mr. Carleson were ordered to be printed in the RECORD, as follows:

PARTIAL TEXT OF REMARKS TO BE DELIVERED BY THE HONORABLE ROBERT B. CARLESON, U.S. COMMISSIONER OF WELFARE, BEFORE THE AMERICAN LEGISLATIVE EXCHANGE COUNCIL, AUGUST 17, 1974

For several years the States have been told by the Department of Health, Education, and Welfare that the family welfare program would be Federalized and, indeed, the trend had been to adopt regulations that reduced the States' flexibility in administering their welfare programs. As a result, the States have had very little incentive to improve the management and effectiveness of their welfare grant programs.

Reviews in 1973 by State and Federal audit teams have turned up high rates of error in eligibility and overpayment in the welfare system, ranging up to 52% of the caseload. Nationally, 10.2% of the persons on the AFDC are totally ineligible, another 22.8% are receiving overpayments, and 8% are receiving underpayments. These are not "nickels and dimes"; the same study shows that annually over $1.17 billion is misspent in overpayments or payments to ineligibles. This situation cannot be tolerated since we know that ineligibility and overpayment hurt

both the people who must pay the bill as well as the truly needy recipients who receive inadequate benefits because limited funds are spread so thinly.

We believe that the real answer to reforming this system lies at the State and local levels. The audits referred to earlier were *State* audits conducted under Federal guidelines. The success of welfare reform in California, West Virginia, and other States following their lead demonstrates that welfare can be reformed without Federalization. California has found that a comprehensive reform of its system has caused a dramatic reduction in the welfare rolls resulting in record tax reductions and permitting significant increases in welfare benefits to the truly needy. Because of these successes, a new message is coming from the Department of Health, Education, and Welfare: the family welfare program is best reformed at the State and local rather than the Federal level.

Federal welfare regulations have been changed to permit States greater flexibility in the administration of their systems. For too long, those at the Federal level had been trying to "dot all the i's and cross all the t's" in welfare policy. Through the new regulatory changes, these decisions will be made by the States; however, the new policies are not automatic. The revised Federal regulations will remove "straitjackets" which have kept the States from doing the most effective job of responsibly administering their welfare programs. Although the States are not required to make use of these new tools, it will most certainly be in their best interest to do so.

As California and West Virginia have found, a more effectively administered welfare system provides very significant economic benefits to both the taxpayers and the truly needy citizens of the State. That should be incentive enough for cleaning up welfare. However, because the Federal Government finances at least half the cost of family welfare grants, if it is to permit greater flexibility it must expect accountability from the States. If a State does not choose to make use of the new tools and permits excess errors to continue in its welfare system, overpayments or payments to ineligible persons will not qualify for Federal funding. Because errors in the present system were caused partly because of former Federal regulations, the States are being given a reasonable period of time to reduce their rates of error. In 1973 and the first half of 1974, the States completed a very comprehensive quality control audit of their systems and have been encouraged without penalty to uncover all errors and fraud. Starting on July 1, 1974, each State will be expected to reduce its ineligibility and overpayments error rates to at least a level of 3% and 5%, respectively, by July, 1975. To the extent that a State fails to meet its goal, Federal matching funds will be denied.

However, I have real confidence that the States will be able to reduce their rates of error as they utilize the flexibility made available to them in the new Federal regulations. The new regulations will permit them to verify facts supporting eligibility in all categorical assistance programs, streamline the fair hearing process to facilitate the removal of ineligible persons from the welfare system, and to provide for recoupment of overpayments where the recipient has the ability to pay.

The goal of a family welfare system should be to meet a temporary condition of need and to enable a family to become self-supporting and independent of welfare. While we recognize that there are a few families which because of disability and for other reasons may be dependent upon welfare for a significant period of time, the overriding assumption should be that all the resources of welfare-related agencies should be directed toward enabling the family to achieve self-support. To be effective this means more than just sending welfare checks. All resources in the community, including jobs, training, and social services, must be coordinated to achieve this goal of self-sufficiency. Because the solution to a family's problem involves resources and opportunities existing only at the State and local levels, States and counties are in the best position to insure that family welfare is in fact a temporary condition.

As U.S. Commissioner of Welfare, I have been directed by Secretary Weinberger to work with Governors, Legislators, State welfare directors, and other State and local officials to encourage them to reform their welfare systems utilizing the experience of the successful reforms in California, West Virginia, and elsewhere. Comprehensive studies have been completed or are in process in New Hampshire, Pennsylvania, Michigan, and Illinois. The Secretary has asked me to find out from these Governors and other State officials where other Federal welfare regulations are impeding effective State and local administration so that we can consider changes. And, when a State feels that it can solve an administrative problem in a better way, we will welcome applications for waivers of Federal regulations to enable the State to test and demonstrate new techniques. Through effective State action with Federal cooperation, the Nation's welfare system is being reformed and public confidence, which is so vital to the success of any governmental program, will be restored.

As a result of these efforts, the national AFDC rolls have been dropping. We announced our new approach in March, 1973. The following month the national rolls dropped and continued to drop for seven of the nine months after March. For the first time since the AFDC program started in 1938, the 1975 Federal budget calls for a reduction in spending in this Nation's largest and most explosive welfare category. 1973 was the first year in 20 years that the national AFDC rolls have dropped. In addition, in fiscal year 1974, at least $800 million estimated to be needed by the States was not spent despite the fact that at least 25 States increased benefits to truly needy families during the year. All because the States are cleaning up their welfare rolls.

If we succeed in each State, the winner will be the taxpayer, those who pay the bill, and the truly needy, those for whom the welfare system exists.

ORDER OF BUSINESS

The PRESIDENT pro tempore. Under the previous order, the Senator from Connecticut (Mr. WEICKER) is recognized for not to exceed 15 minutes.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I yield back the time allotted to me.

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

ROUTINE MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements limited therein to 5 minutes.

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MARRIAGE LICENSES IN THE PANAMA CANAL ZONE

Mr. McCLELLAN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2348.

The PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to the bill (S. 2348) to amend the Canal Zone Code to transfer the functions of the clerk of the U.S. District Court for the District of the Canal Zone with respect to the issuance and recording of marriage licenses, and related activities, to the civil affairs director of the Canal Zone Government, and for other purposes, as follows:

Page 2, lines 2 and 3, strike out "office of the civil affairs director of the Canal Zone Government.", and insert "Governor, or his designee."

Page 2, line 23, strike out "civil affairs director", and insert: "Governor,".

Page 3, lines 4 and 5, strike out "civil affairs director,", and insert: "Governor,".

Page 3, lines 6 and 7, strike out "civil affairs director," and insert: "Governor,".

Page 3, line 10, strike out "civil affairs director," and insert: "Governor,".

Page 3, line 24, strike out "civil affairs director." and insert: "Governor,".

Page 4, line 9, strike out "marriage;" and insert "a marriage;".

Page 4, lines 18 and 19, strike out "civil affairs director of the Canal Zone Government," and insert: "Governor,".

Page 4, line 22, strike out "civil affairs director,", and insert: "Governor,".

Page 5, line 2, strike out "civil affairs director," and insert: "Governor,".

Page 5, lines 22 and 23, strike out "civil affairs director of the Canal Zone Government.", and insert: "Governor, or his designee.".

Page 5, line 25, strike out "civil affairs director,", and insert: "Governor,".

Page 6, lines 10 and 11, strike out "civil affairs director of the Canal Zone Government.", and insert: "Governor, or his designee.".

Page 6, line 25 strike all after "the" over to and including "Government," on page 7, line 1, and insert: "Governor,".

Page 7, lines 18 and 19, strike out "civil affairs director of the Canal Zone Government,", and insert: "Governor,".

Page 8, line 3, strike out "civil affairs director,", and insert: "Governor,".

Page 8, line 9, strike out "civil affairs director," and insert: "Governor,".

Page 8, line 14, strike out "repealed.", and insert: "repealed, and items (5), (6), (7),

and (8) shall be redesignated (4), (5), (6), and (7) respectively.".

Page 8, line 18, strike out "'marriage;'", and insert: "'a marriage;'".

Page 8, lines 21 and 22, strike out "civil affairs director of the Canal Zone Government", and insert: "Governor, or his designee,".

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the Senate agree to the amendments of the House.

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

THE CONSIDERATION OF CERTAIN MATTERS ON THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 1167, 1169, and 1175.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will state the first bill by title.

ANNUAL REPORTS TO CONGRESS ON NUCLEAR INFORMATION

The bill (S. 3802) to provide available nuclear information to committees and Members of Congress, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Atomic Energy Act of 1954 is amended by designating the present text subsection "a." and by adding the following as subsection "b.":

"b. The members of the Joint Committee who are Members of the Senate and the members of the Joint Committee who are Members of the House of Representatives shall, on or before June 30 of each year, report to their respective Houses on the development, use, and control of nuclear energy for the common defense and security and for peaceful purposes. Each report shall provide facts and information available to the Joint Committee concerning nuclear energy which will assist the appropriate committees of the Congress and individual members in the exercise of informed judgment on matters of weaponry; foreign policy; defense; international trade; and in respect to the expenditure and appropriation of Government revenues. Each report shall be presented formally under circumstances which provide for clarification and discussion by the Senate and the House of Representatives. In recognition of the need for public understanding, presentations of the reports shall be made to the maximum extent possible in open sessions and by means of unclassified written materials.".

SMALL BUSINESS EMERGENCY RELIEF ACT

The Senate proceeded to consider the bill (S. 3619) to provide for emergency relief for small business concerns in connection with fixed price Government contracts, which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Emergency Relief Act".

POLICY

SEC. 2. It is the policy of Congress to provide relief to small business concerns which have fixed-price Government contracts in cases where such concerns encounter significant and unavoidable difficulties during performance because of the energy crisis or rapid and unexpected escalations of contract costs.

DEFINITIONS

SEC. 3. As used in this Act—

(1) the term "executive agency" means an executive department, a military department, and an independent establishment within the meaning of sections 101, 102, and 104(1), respectively, of title 5, United States Code, and also a wholly owned Government corporation within the meaning of section 101 of the Government Corporation Control Act; and

(2) the term "small business concern" has the same meaning as such term is given under section 3 of the Small Business Act.

AUTHORITY

SEC. 4. (a) Pursuant to an application by a small business concern, the head of any executive agency may terminate for the convenience of the Government any fixed-price contract between that agency and such small business concern, upon a finding that—

(1) during the performance of the contract, the concern has experienced or is experiencing significant unanticipated cost increases directly affecting the cost of contract compliance; and

(2) the conditions which have caused or are causing such cost increases were, or are being, experienced generally by other small business concerns in the market at the same time and are not caused by negligence, underbidding, or other special management factors peculiar to that small business concern.

(b) A small business concern requesting relief under subsection (a) shall support that request with the following documentation and certification:

(1) A brief description of the contract, indicating the date of execution and of any amendment thereto, the items being procured, the price and delivery schedule, and any revision thereof, and any other special contractual provision as may be relevant to the request;

(2) A history of performance indicating when work under the contract or commitment was begun, the progress made as of the date of the application, an exact statement of the contractor's remaining obligations, and the contractor's expectations regarding completion thereof;

(3) A statement of the factors which have caused the loss under the contract;

(4) A statement as to the course of events anticipated if the request is denied;

(5) A statement of payments received, payments due, and payments yet to be received or to become due, including advance and progress payments, and amounts withheld by the Government, and information as to other obligations of the Government, if any, which are yet to be performed under the contract;

(6) A statement and evidence of the contractor's original breakdown of estimated costs, including contingency allowances and profit;

(7) A statement and evidence of the contractor's present estimate of total costs under the contract if enabled to complete, broken down between costs accrued to date of request, and runout costs, and as between costs for which the contractor has made payment and those for which he is indebted at the time of the request;

(8) A statement and evidence of the contractor's estimate of the final price of the contract, giving effect to all escalation, changes, extras, and other comparable factors known or contemplated by the contractor;

(9) A statement of any claims known or contemplated by the contractor against the Government involving the contract in question, other than those referred to under (8) above;

(10) An estimate of the contractor's total profit or loss under the contract if required to complete at the original contract price;

(11) An estimate of the total profits from other Government business, and all other sources, during the period from the date of the first contract involved to the latest estimated date of completion of any other contracts involved;

(12) Balance sheets, certified by a certified public accountant, as of the end of the contrator's fiscal year first preceding the date of the first contract, as of the end of each subsequent fiscal year, and as of the date of the request together with income statements for annual periods subsequent to the date of the first balance sheet; and

(13) A list of all salaries, bonuses and all other forms of compensation of the principal officers or partners and of all dividends and other withdrawals, and all payments to stockholders in any form since the date of the first contract involved.

DELEGATION

SEC. 5. The head of each executive agency shall delegate authority conferred by this Act, to the extent practicable, to an appropriate level that will permit the expeditious processing of applications under this Act and to ensure the unformity of its application.

LIMITATIONS

SEC 6. (a) The authority prescribed in section 3(a) shall apply only to contracts entered into during the period from August 15, 1971, through April 30, 1974.

(b) The authority conferred by this Act shall terminate December 31, 1975.

Mr. CHILES. Mr. President, the bill we are considering today is intended to provide relief to small business concerns holding fixed-price Government contracts who may be on the verge of losing their business as a result of unanticipated inflation after price controls were lifted.

I want to add my personal compliments to Senator HATHAWAY and the other members of his Small Business Government Procurement Subcommittee who devoted so much effort to shed some light on the seriousness of the problem and to find an acceptable solution to it.

As I stated before the Government Operations Committee, we cannot emphasize too strongly that the economic squeeze being placed on small businesses throughout the country by fixed-price Federal contracts has reached disasterous proportions and will lead to the demise of many. They, and the agencies, have no recourse. We feel a deep sense of obligation for the Congress to act now to provide relief. I would like to conclude some legislative history on the essence of the relief envisioned under the bill.

There is but one form of relief a contractor may receive under this bill and that is a release from his obligation to perform. There is no intent to provide a contractor with additional money in an effort to reduce his losses under certain

Government contracts. As stated in the committee report, our concern is with preventing a contractor from incurring further losses which he may not be able to absorb.

To accomplish this intent, we have suggested that for administrative purposes the agencies follow the established regulatory procedures normally exercised under termination for convenience. However, in keeping with our intent, there is a need to make clear that the agencies recognize that, although they will be using existing procedures, a termination under authority of this bill is not a "termination for the convenience of the Government" in the literal or usually used sense of the term. Nor is such a termination necessarily in the best interest of the Government. This is a termination initiated at the contractors' request, for his convenience, and in his best interest.

Customarily, the termination for convenience clause is implemented after a determination has been made that such an action is in the best interest of the Government. Because it is in the Government's best interest, the contractor is entitled to a reimbursement of costs actually incurred before cancellation plus a reasonable profit on that work. However, recognizing the unique circumstances envisioned by this bill which make such a termination an act in the best interest of the contractor, it should be clear to both the agencies and the eligible contractors that, consistent with the history of this bill, a Government contract may be terminated under existing procedures, but without costs, if such an action will help prevent the demise of a current supplier.

Using the Department of Defense Armed Services Procurement Regulations as an example (ASPR 7-103.21), the existing termination for convenience regulations would entitle the contractor to full reimbursement, at contract prices, for work completed, and for costs incurred on work terminated. Under the eligibility requirements specified for this bill, there would be no allowable profit adjustments since the contracts would be causing losses. Under no circumstances would a contractor be permitted to recover any amount greater than the total original contract price.

It was suggested that, in some instances, it may be cheaper to simply renegotiate the existing contract. However, it would be tremendously difficult to legislate the equitable application of "cheaper." The administrative burden of making such a cost comparison in each case would be tremendous. The estimates would also be subject to much uncertainty, speculation and challenge. There would also seem to be a fundamental problem with insuring equity and uniformity if we leave to the agencies the discretion to make value judgments on whose contracts to terminate and whose to amend. It would appear that one party could walk away from his contract with nothing more than the assurance he can lose no more money while another party would be reimbursed for his losses and even given the opportunity to enhance his profits. Who, I would ask, should be empowered to make this kind of a value judgment?

Mr. President, we would hope that in this manner we can be fiscally responsible and yet preserve the many small businesses which have served us well.

The amendment was agreed to.

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

FEDERAL GRANT AND COOPERATIVE AGREEMENT ACT OF 1974

The Senate proceeded to consider the bill (S. 3514) to distinguish Federal grant and cooperative agreement relationships from Federal procurement relationships, and for other purposes, which had been reported from the Committee on Government Operations with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Federal Grant and Cooperative Agreement Act of 1974".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) there is a need to distinguish Federal assistance relationships from Federal procurement relationships and thereby to standardize usage and clarify the meaning of the legal instruments which reflect such relationships;

(2) uncertainty as to the meaning of such terms as "contract", "grant", and "cooperative agreement" causes operational inconsistencies, confusion, inefficiency, and waste for recipients of awards as well as for executive agencies; and

(3) the Commission on Government Procurement has documented these findings and concluded that a reduction of the existing confusions, inconsistencies, and inefficiencies is feasible and necessary.

(b) The purposes of this Act are—

(1) to characterize the relationship between the Federal Government and contractors and other recipients in the acquisition of property and services and in the furnishing of assistance by the Federal Government;

(2) to establish Government-wide criteria for selection of appropriate legal instruments to achieve uniformity in the use by the executive agencies of such instruments, a clear definition of the relationships they reflect, and a better understanding of the responsibilities of the parties;

(3) to promote increased discipline in the selection and use of contracts, grant agreements, and cooperative agreements and to maximize competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements; and

(4) to require a study of the relationship between the Federal Government and grantees and other recipients in Federal assistance programs and the feasibility of developing a comprehensive system of guidance for the use of grant and cooperative agreements in carrying out such programs.

DEFINITIONS

SEC. 3. As used in this Act, the term—

(1) "State government" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State, and any multi-State, regional, or interstate entity which has governmental functions;

(2) "local government" means any unit of government within a State, a county, municipality, city, town, township, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, other intrastate government entity, or any other instrumentality of a local government;

(3) "other recipient" means any person or recipient other than a State or local government who is authorized to receive Federal assistance and includes any charitable or educational institution;

(4) "executive agency" means any executive department as defined in section 101 of title 5, United States Code, a military department as defined in section 102 of title 5, United States Code, an independent establishment as defined in section 104 of title 5, United States Code (except that it shall not include the General Accounting Office), a wholly-owned Government corporation; and

(5) "grant or cooperative agreement" does not include any agreement under which only direct Federal cash assistance to individuals, a subsidy, a loan, a loan guarantee, or insurance is provided.

USE OF CONTRACTS

SEC. 4. Each executive agency shall use a type of procurement contract as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the instrument is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government; or

(2) whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate.

USE OF GRANT AGREEMENTS

SEC. 5. Each executive agency shall use a type of grant agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient in order to accomplish a public purpose authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) whenever no substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

USE OF COOPERATIVE AGREEMENTS

SEC. 6. Each executive agency shall use a type of cooperative agreement as the legal instrument reflecting a relationship between the Federal Government and a State or local government or other recipient—

(1) whenever the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State or local government or other recipient to accomplish a public purpose authorized by Federal statute, rather than acquisition, by purchase, lease or barter, of property or services for the direct benefit or use of the Federal Government; and

(2) whenever substantial involvement is anticipated between the executive agency, acting for the Federal Government, and the State or local government or other recipient during performance of the contemplated activity.

AUTHORIZATIONS

SEC. 7. (a) Notwithstanding any other provision of law, each executive agency authorized by law to enter into contracts, grant

or cooperative agreements, or similar arrangements is authorized and directed to enter into and use contracts, grant agreements, or cooperative agreements as required by this Act.

(b) The authority to enter into grant or cooperative agreements shall include the discretionary authority, when it is deemed by the head of an executive agency to be in furtherance of the objectives of such agency, to vest in State or local governments or other recipients, without further obligation to the Federal Government or on such other terms and conditions as the agency deems appropriate, title to equipment or other tangible personal property purchased with such grant or cooperative agreement funds.

STUDY OF FEDERAL ASSISTANCE PROGRAMS

SEC. 8. The Director of the Office of Management and Budget, in cooperation with the executive agencies, shall undertake a study to develop a better understanding of alternative means of implementing Federal assistance programs, and to determine the feasibility of developing a comprehensive system of guidance for Federal assistance programs. Such study shall include a thorough consideration of the findings and recommendations of the Commission on Government Procurement relating to the feasibility of developing such a system. The Director shall consult with representatives of the executive agencies, the Congress, the General Accounting Office, and State and local governments, other recipients and other interested members of the public. The results of the study shall be reported to the Committee on Government Operations of the Senate and the House of Representatives at the earliest practicable date, but in no event later than two years after the date of enactment of this Act. The report on the study shall include (1) detailed descriptions of the alternative means of implementing Federal assistance programs and of the circumstances in which the use of each appears to be most desirable, (2) detailed descriptions of the basic characteristics and an outline of such comprehensive system of guidance for Federal assistance programs, the development of which may be determined feasible, and (3) recommendations concerning arrangements to proceed with the full development of such comprehensive system of guidance and for such administrative or statutory changes, including changes in the provisions of sections 3 through 7 of this Act, as may be deemed appropriate on the basis of the findings of the study.

REPEALS AND SAVINGS PROVISIONS

SEC. 9. (a) The Act entitled "An Act to authorize the expenditure of funds through grants for support of scientific research, and for other purposes", approved September 6, 1958 (72 Stat. 1793; 42 U.S.C. 1891, 1892, and 1893), is repealed, effective one year after the date of enactment of this Act.

(b) Nothing in this Act shall be construed to render void or voidable any existing contract, grant, cooperative agreement, or other contract, grant, or cooperative agreement entered into up to one year after the date of enactment of this Act.

(c) Nothing in this Act shall apply to the disposal of surplus property as that term is defined in section 3 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 472).

(d) Nothing in this Act shall require the establishment of a single relationship between the Federal Government and a State or local government or other recipient on a jointly funded project, involving funds from more than one program or appropriation, where different relationships would otherwise be appropriate for different components of the project.

(e) The Director of the Office of Management and Budget may except individual transactions or programs of any executive agency from the application of the provisions of this Act. This authority shall expire one hundred and eighty days after receipt by the Congress of the study provided for in section 8 of this Act.

The amendment was agreed to.

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

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

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

The assistant legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE PRESIDENT

A message from the President of the United States was communicated to the Senate by Mr. Marks, one of his secretaries.

REPORT OF THE NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY—MESSAGE FROM THE PRESIDENT

The PRESIDING OFFICER laid before the Senate a message from the President of the United States submitting the annual report of the National Advisory Council on Economic Opportunity, which, with the accompanying report, were referred to the Committee on Labor and Public Welfare. The message is as follows:

To the Congress of the United States:

Enclosed herewith is the seventh annual report of the National Advisory Council on Economic Opportunity. I should note that many of the observations and conclusions of this report are at variance with policies of this Administration.

GERALD R. FORD.

THE WHITE HOUSE, *October 9, 1974.*

MESSAGES FROM THE HOUSE

At 9:37 a.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. BRADEMAS, and Mr. QUIE were appointed managers of the conference on the part of the House.

ENROLLED BILLS SIGNED

At 12:55 p.m., a message from the House by Mr. Berry, one of its reading clerks, announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution:

S. 1794. An act to amend section 308 of title 44, United States Code, relating to the disbursing officer, deputy disbursing officer, and certifying officers and employees of the Government Printing Office;

S. 2220. An act to repeal the "cooly trade" laws;

S. 3362. An act to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River Power System, and the proceeds of revenue bonds, and for other purposes; and

S.J. Res. 123. A joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:35 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the Speaker has affixed his signature to the following enrolled bill and joint resolution:

H.R. 11541. An act to amend the National Wildlife Refuge System Administration Act of 1966 in order to strengthen the standards under which the Secretary of the Interior may permit certian uses to be made of areas within the system and to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses; and

H.J. Res. 1131. A joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes.

The enrolled bill and joint resolution were subsequently signed by the Acting President pro tempore.

At 5:45 p.m., a message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1769) to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes.

At 6:05 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 13113) to amend the Commodity Exchange Act to strengthen the regulation of futures trading, to bring all agricultural and other commodities traded on exchanges under regulation, and for other purposes.

At 6:33 p.m., a message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11510) to reorganize and consoli-

date certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. STENNIS, from the Committee on Armed Services, without amendment:

H.R. 15148. An act to extend the time limit for the award of certain military decorations (Rept. No. 93–1249).

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

S. Res. 347. A resolution to authorize the Committee on Commerce to make an investigation and study on the policy and role of the Federal Government on tourism in the United States (Rept. No. 93–1250).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with amendments:

S. 2854. A bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to advance a national attack on arthritis (Rept. No. 93–1251).

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

S. 3871. A bill to authorize the Administrator of the Federal Energy Administration to conduct a study of the energy needs of the United States and the methods by which such needs can be met, and for other purposes (Rept. No. 93–1253).

By Mr. KENNEDY, from the Committee on Labor and Public Welfare, with amendments:

S. 32. A bill to amend the National Science Foundation Act of 1950 in order to establish a framework of national science policy and to focus the Nation's scientific talent and resources on its priority problems, and for other purposes (Rept. No. 93–1254).

By Mr. McCLELLAN, from the Committee on Appropriations, with amendments:

H.R. 16900. An act making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes (Rept. No. 93–1255).

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

S.J. Res. 236. A joint resolution to provide for the indemnification of the Metropolitan Museum of New York for loss or damage suffered by objects in exhibition in the Union of Soviet Socialist Republics (Rept. No. 93–1256).

By Mr. CANNON, from the Committee on Commerce, with amendments:

S. 3481. A bill to amend the Federal Aviation Act of 1958 to deal with discriminatory and unfair competitive practices in international air transportation, and for other purposes (Rept. No. 93–1257).

By Mr. RANDOLPH, from the Committee on Public Works, with amendments:

S. 3563. A bill to authorize the construction of a highway bridge across the Snake River between Clarkston, Wash., and Lewiston, Idaho (Rept. No. 93–1258).

By Mr. EAGLETON, from the Committee on the District of Columbia, with amendments:

H.R. 15643. An act to reorganize public higher education in the District of Columbia, establish a Board of Trustees, authorize and direct the Board of Trustees to consolidate the existing local institutions of public higher education into a single Land-Grant University of the District of Columbia; direct the Board of Trustees to administer the University of the District of Columbia, and for other purposes (Rept. No. 93–1259).

By Mr. LONG, from the Committee on Commerce, with amendments:

H.R. 13296. An act to authorize appropriations for the fiscal year 1975 for certain maritime programs of the Department of Commerce (together with supplemental views) (Rept. No. 93–1260).

By Mr. CANNON, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 116. A concurrent resolution authorizing the printing of additional copies of Senate hearings on the marihuana-hashish epidemic and its impact on U.S. security (Rept. No. 93–1261).

S. Res. 359. A resolution increasing the limitation on expenditures by the Committee on the Judiciary for the procurement of consultants Rept. (No. 93–1262).

S. Res. 361. A resolution authorizing the printing of the compilation entitled "Toward a National Growth Policy: Federal and State Developments in 1973" as a Senate document (Rept. No. 93–1263).

S. Res. 383. A resolution authorizing the printing of additional copies of the report entitled "Executive Orders in Time of War and National Emergency" (Rept. No. 93–1264).

S. Res. 406. A resolution authorizing supplemental expenditures by the Committee on the Budget for inquiries and investigations (Rept. No. 93–1265).

By Mr. CANNON, from the Committee on Rules and Administration, with an amendment:

S. Con. Res. 99. A concurrent resolution authorizing the printing of additional copies of the National Nutrition Policy Study hearings and panel reports of the Senate Select Committee on Nutrition and Human Needs (Rept. No. 93–1266).

By Mr. CANNON, from the Committee on Rules and Administration, with amendments:

S. Res. 393. A resolution authorizing the printing of the report entitled "The Cost of Clean Air" as a Senate document (Rept. No. 93–1268).

S. Res. 389. A resolution authorizing supplemental expenditures by the Committee on Government Operations for inquiries and investigations by the Permanent Subcommittee on Investigations (Rept. No. 93–1267).

S. Res. 403. A resolution authorizing supplemental expenditures by the Committee on the Judiciary for an inquiry and investigation relating to administrative practice and procedure (Rept. No. 93–1269).

ENERGY REORGANIZATION ACT OF 1974—CONFERENCE REPORT (REPT. NO. 93–1252)

Mr. RIBICOFF submitted a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11510) to reorganize and consolidate certain functions of the Federal Government in a new Energy Research and Development Administration and in a Nuclear Energy Commission in order to promote more efficient management of such functions, which was ordered to be printed.

STATE DEPARTMENT-USIA AUTHORIZATIONS, 1975—CONFERENCE REPORT

Mr. SPARKMAN submitted a report from the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3473) to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

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

Mr. STENNIS. Mr. President, from the Committee on Armed Services, I report favorably the nomination of Gen. Andrew Jackson Goodpaster, U.S. Army, to be placed on the retired list in that grade. I ask that his name be placed on the Executive Calendar.

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

Mr. STENNIS. Mr. President, in addition, there are 2,721 in the Army for promotion to the grade of colonel and below; in the Navy and Naval Reserve there are 381 for promotion to the grade of captain and in the Marine Corps there are 441 for appointment in the grade of colonel. Since these names have already appeared in the CONGRESSIONAL RECORD and to save the expense of printing on the calendar, I ask unanimous consent that they 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 CONGRESSIONAL RECORD of September 24, 26, and October 2, 1974, at the end of the Senate proceedings.)

By Mr. EAGLETON, from the Committee on the District of Columbia:

Carl H. McIntyre to be Director of Campaign Finance in the District of Columbia.

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

ENROLLED BILLS SIGNED

The PRESIDENT pro tempore today affixed his signature to the following enrolled bills which were previously signed by the Speaker of the House of Representatives:

H.R. 7954. An act to direct the Secretary of Agriculture to release on behalf of the United States conditions in a deed conveying certain lands to the State of New York and to provide for the conveyance of certain interests in such lands so as to permit such State, subject to certain conditions, to sell such land; and

H.R. 9054. An act to amend the act entitled "An act to authorize the Secretary of Agriculture to execute a subordination agreement with respect to certain lands in Lee County, S.C."

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, October 9, 1974, he presented to the President of the United States the

following enrolled bills and joint resolution:

S. 1794. An act to amend section 308 of title 44, United States Code, relating to the disbursing officer, deputy disbursing officer, and certifying officers and employees of the Government Printing Office;

S. 2220. An act to repeal the "cooly trade" laws;

S. 3362. An act to enable the Secretary of the Interior to provide for the operation, maintenance, and continued construction of the Federal transmission system in the Pacific Northwest by use of the revenues of the Federal Columbia River power system and the proceeds of revenue bonds, and for other purposes; and

S.J. Res. 123. A joint resolution authorizing the procurement of an oil portrait and marble bust of former Chief Justice Earl Warren.

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. FULBRIGHT (by request):

S. 4103. A bill to authorize certain officers and employees of the Department of State and of the Foreign Service to carry firearms for the purpose of protecting designated individuals. Referred to the Committee on Foreign Relations.

By Mr. EAGLETON:

S. 4104. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits. Referred to the Committee on Finance.

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

S. 4105. A bill to provide for establishment of the Father Marquette National Memorial in St. Ignace, Mich., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 4106. A bill for the relief of Cipriano Dural Luna, his wife, Ester Atega Luna, and their daughter, Carmelita Atega Luna. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for Mr. COOK):

S. 4107. A bill to establish the Red River Gorge National Park, Ky., to deauthorize the Red River Lake project, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BENTSEN:

S. 4108. A bill for the relief of Manuel Suarez and his wife, Aurora Garcia Suarez. Referred to the Committee on the Judiciary.

By Mr. HATFIELD:

S. 4109. A bill to direct the Secretary of Agriculture to convey certain lands to the State of Oregon by and through its Department of Transportation. Referred to the Committee on Agriculture and Forestry.

By Mr. BROCK:

S. 4110. A bill to amend title 10, United States Code, to establish Armed Forces engineering and technology academies, to provide qualified and specially trained personnel for the Armed Forces by authorizing the establishment of a Reserve Enlisted Training Corps and by authorizing a special scholarship program under which persons would receive education and training in critical specialties needed by the Armed Forces, and to amend chapter 34 of title 38, United States Code, to authorize tuition assistance payments to eligible veterans pursuing a course of education or training under such chapter. Referred to the Committee on Armed Services.

By Mr. MATHIAS:

S. 4111. A bill to provide for the striking of medals in commemoration of the 200th anniversary of the signing of the Declaration of Independence by Charles Carroll of Carrollton. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. TALMADGE, Mr. NUNN, Mr. ERVIN, Mr. HELMS, Mr. MATHIAS, Mr. HUGH SCOTT, Mr. PELL, Mr. PASTORE, and Mr. GURNEY):

S. 4112. A bill to authorize the establishment of the Eutaw Springs National Battlefield Park in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. ROTH (for himself, Mr. BUCKLEY, Mr. CURTIS, Mr. PROXMIRE, Mr. MCCLURE, and Mr. HARRY F. BYRD, JR.):

S. 4114. A bill to authorize the President to reduce Federal expenditures and net lending for fiscal year 1975 to $295,000,000,000. Ordered held at desk.

By Mr. HUGH SCOTT:

S. 4113. A bill to insure that budget outlays by the U.S. Government during the fiscal year ending June 30, 1975 do not exceed $300,000,000,000. Ordered held at the desk.

By Mr. PASTORE:

S.J. Res. 248. A joint resolution assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship. Referred to the Joint Committee on Atomic Energy.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. FULBRIGHT (by request):

S. 4103. A bill to authorize certain officers and employees of the Department of State and of the Foreign Service to carry firearms for the purpose of protecting designated individuals. Referred to the Committee on Foreign Relations.

Mr. FULBRIGHT. Mr. President, by request, I introduce for appropriate reference a bill to amend the act of June 28, 1955 (22 U.S.C. 2666), in order to authorize certain officers and employees of the Department of State and of the Foreign Service to carry firearms for the purpose of protecting designated individuals.

The bill has been requested by the Department of State and I am introducing it in order that there may be a specific bill to which members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when it is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD at this point, together with the letter from the Assistant Secretary of State for Congressional Relations to the President pro tempore of the Senate dated September 24, 1974.

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

S. 4103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the Act of June 28, 1955 (22 U.S.C. 2666), is amended to read as follows:

"Under such regulations as the Secretary of State may prescribe, security officers of the Department of State and the Foreign Service who have been designated by the Secretary of State and who have qualified for the use of firearms, are authorized to carry firearms for the purpose of protecting heads of foreign states, official representatives of foreign governments and other distinguished visitors to the United States, the Secretary of State, the Deputy Secretary of State, official representatives of the United States Government, and members of the immediate families of any such persons, both in the United States and abroad, when such protection is determined by the Secretary of State to be necessary."

DEPARTMENT OF STATE,
Washington, D.C., September 24, 1974.

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

DEAR MR. PRESIDENT: Enclosed is a draft bill to amend the Act of June 28, 1955, (22 U.S.C. 2666). This provision of law authorizes security officers of the Department of State and the Foreign Service, who have been designated by the Secretary of State and who have qualified for the use of firearms, to carry firearms for the purpose of protecting heads of foreign states, high officials of foreign governments and other distinguished visitors to the United States, the Secretary of State and the Under Secretary of State, and official representatives of foreign governments and of the United States attending international conferences or performing special missions.

The lamentable increase in international terrorist acts has demonstrated the necessity for somewhat broader and clearer authority to provide protection to persons who by their position, activities, or family relationships are exposed to special risk of terrorist attack. For example, recent terrorist acts demonstrate that the effective protection of any public figure frequently requires not only the protection of his own person, but also of the persons of members of his immediate family. We believe this authority exists for the categories of persons mentioned in the existing legislation, but clarification would be most desirable. Experience has also shown that it may be important to provide personal protection for individual diplomats or members of their immediate families on occasions other than at international conferences or during special missions.

The proposed legislation would authorize the Secretary of State to direct that protection be provided to official representatives of the United States Government and to members of their immediate families in cases where the Secretary determines such protection to be necessary. We strongly believe that the Secretary requires the increased authority provided by the proposed legislation to permit him to offer full protection to persons who are subjected to extraordinary personal danger to themselves or their families in the performance of their diplomatic duties.

The enclosed draft bill would in no way interfere with the protective functions of other agencies of the Federal Government. Nor is it anticipated that additional manpower or funds will be required to implement the proposed legislation. Rather, we hope that the legislation will give the Department the flexibility necessary for the most effective use of existing security resources in instances of know threats against foreign officials in the United States, official Americans engaged in international affairs, and members of their immediate families. In view of the ever-increasing threat of terrorist acts against such individuals, we urge early and favorable consideration of the draft bill.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of the proposed legislation.

Respectfully,

LINWOOD HOLTON,
Assistant Secretary for Congressional Relations.

By Mr. EAGLETON:

S. 4104. A bill to amend title XVI of the Social Security Act to permit individuals who are residents in certain public institutions to receive supplementary security income benefits. Referred to the Committee on Finance.

Mr. EAGLETON. Mr. President, I send to the desk for appropriate reference a bill to amend title XVI of the Social Security Act to remove the prohibition against supplementary security income payments to persons in public nursing and domiciliary facilities whose care is not, or could not be, covered by the State's medicaid program.

Section 1611(e) of the Social Security Act now makes ineligible for SSI payments all persons in public institutions with one exception; persons in public nursing homes whose care is covered by Medicaid may receive a reduced SSI payment of $25 per month for their personal expenses. The same provision for a reduced benefit applies to persons receiving Medicaid-covered care in private nursing facilities.

There are persons in my State, however, and presumably in other States, who are residents of public nursing or domiciliary facilities who are receiving only personal care or residential care as distinguished from nursing care. Under present law, these persons are ineligible for SSI payments although persons receiving the same type of care in private facilities are eligible.

I can find no reason to continue this discrimination against residents of public nursing and domiciliary facilities. The bill I am introducing today would eliminate it.

To put this matter in some perspective, the prohibition against public assistance payments to persons in public institutions is not unique to the SSI program but dates back to the original Social Security Act of 1935. That act prohibited the payment of old age assistance to persons in public institutions for essentially two reasons.

First, it was the hope of those who authored that legislation that cash assistance to the elderly poor would enable them to live independently in their own homes and avoid the indignity of spending their last days in public almshouses or county poorfarms. Second, care provided in such public institutions was, at that time, clearly recognized to be the responsibility of State or local governments. Therefore, it was determined that Federal old age assistance funds should not be used to relieve local governments of that responsibility.

Those two very legitimate reasons for banning public assistance payments to persons in public institutions in 1935 no longer exist today. Although enactment of the Social Security Act did have the effect of temporarily reducing institutionalization of the elderly and, in the process, of closing down public poorhouses, in the long run cash assistance has not eliminated the need for institutional care for the elderly. In fact, that need has increased over the years and a private nursing home industry has grown up to fill the need. Today, when counties, cities, or other units of local government provide nursing or domiciliary facilities for their elderly citizens they assume that function voluntarily and not as an inescapable responsibility.

In 1950 the Congress recognized these changed circumstances when it amended the Social Security Act to exempt from the prohibition persons in public "medical" institutions. The House committee report explained the reasons for the amendment:

> Your committee is of the opinion that aged persons should be able to receive State-Federal assistance payments while voluntarily residing in public medical institutions, including nursing and convalescent homes. In some communities, existing public facilities would then be enabled to admit old-age assistance recipients in need of long-term care who are now denied admission because of the financial burden that would be imposed on the local unit of government. Moreover, if State-Federal old-age assistance is payable to aged persons residing in public medical institutions, it is possible that many communities will develop additional facilities for chronically ill persons, and thereby assist in meeting the increasing need for such facilities by the aged population.

The SSI law, enacted in 1972, while conforming to the general thrust of the 1950 amendment, narrowed the eligibility of those in public medical institutions by confining it to persons receiving medicaid-covered nursing care. As a result, many elderly people in public nursing facilities in Missouri are being determined to be ineligible for SSI payments.

I believe the same considerations which led the Congress to make old age assistance payments available to persons in public medical institutions in the 1950's now argue for making SSI payments available to persons in public nursing and domiciliary facilities who are receiving personal or residential care.

In Missouri, we have what I understand may be a rather unique brand of public nursing home. In 1963, in response to the need for more and better nursing facilities in outstate Missouri, the legislature enacted a law providing for the creation of public nursing home districts for the purpose of establishing and operating nursing facilities. Today there are 22 nursing homes established by these public districts. Another eight districts have not been organized but have not yet purchased or constructed nursing facilities. Tax moneys raised by the nursing home district are used primarily for debt service and not for the operation of the home or to subsidize the care of individual residents. These are nonprofit homes which endeavor to provide high quality care at the lowest possible cost to their residents. In addition to the 22 district nursing homes, there are a roughly equivalent number of county nursing homes in Missouri.

In recent months, the Social Security Administration has identified these nursing homes as "public institutions" and the process is now underway by which persons in these homes receiving SSI payments will have those payments terminated. The obvious result will be a hardship to these elderly people and their families and serious curtailment of the ability of public nursing facilities to accept elderly persons who do not have the financial resources to pay for the cost of their care.

A very legitimate question to be asked in connection with the amendment I propose is whether it could in any way encourage the provision of substandard care. The answer to that question is "no."

First, section 1616(e) of the Social Security Act now provides that the Federal Government will not share, by means of SSI payments, in the cost of skilled nursing care or intermediate care when that care is provided in a facility that does not meet medicaid standards. My amendment does not circumvent that provision; rather it incorporates it in order to make clear that it will be applicable to public as well as to private facilities. This, of course, does not preclude the provision of nursing care in nonmedicaid facilities; it simply means that financial assistance for such care must come from non-Federal funds.

Second, my amendment requires that those public facilities caring for SSI recipients must meet applicable State licensing standards or such higher standards with respect to safety and sanitation as may be required by the Secretary of Health, Education, and Welfare. This requirement guarantees that SSI funds will not be channeled into public facilities which constitute a hazard to the health and safety of their residents.

Mr. President, in summary, my amendment recognizes that public nursing and domiciliary facilities may provide care for elderly persons as good as—or better than—they would receive in private facilities. Its purpose is to guarantee that persons in nursing and domiciliary facilities, whether public or private, are treated equally under the SSI law.

I ask unanimous consent that the text of the bill be printed in the RECORD. Also, I ask unanimous consent that there be printed in the RECORD a letter to me from James B. Cardwell, Commissioner of Social Security, dated August 20, 1974, concerning the ruling that nursing homes established by public nursing home districts in Missouri are "public institutions."

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

S. 4104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 1611(e)(1) of the Social Security Act is amended—

(1) in subparagraph (A) thereof, by striking out "subparagraph (B)" and insert-

ing in lieu thereof "subparagraphs (B) and (C)", and

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

"(C) The provisions of subparagraph (A) shall not be applicable to any individual who is a resident of an institution which is principally a skilled nursing facility, nursing home, intermediate care facility, or residential facility and which is not principally a hospital, sanatorium, rehabilitation center, correctional institution, or schools or training facility; except that the provisions of this subparagraph (C) shall not be applicable to any individual—

"(i) for any month with respect to which the provisions of subparagraph (B) are applicable to such individual,

"(ii) for any month throughout which such individual receives from such institution care which constitutes any medical or other type of remedial care for which payment could be made under a State plan approved under title XIX in an institution certified under such title, or

"(iii) during any period for which such institution fails to meet applicable requirements of State law with respect to licensing of institutions or applicable standards established by State law for the licensing of institutions, or, if the Secretary finds that such requirements or standards are inadequate, fails to meet such standards relating to safety and sanitation as the Secretary shall by regulations establish."

(b) The amendments made by subsection (a) shall become effective on the first day of the month following the month in which this Act is enacted.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Baltimore, Md., August 30, 1974.

Hon. THOMAS F. EAGLETON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR EAGLETON: This is in response to your inquiry concerning the decision to terminate supplemental security income payments to persons residing in nursing homes established by nursing home districts in Missouri.

As you know, the Social Security Act makes ineligible for supplemental security income payments persons who are inmates of a public institution. Section 416.231(b)(2) of the Code of Federal Regulations defines a public institution as "an institution that is the responsibility of a governmental unit, or over which a governmental unit exercises administrative control."

Administrative control of a facility means that a governmental unit (or its designated agent) through appointment or election selects the board members or top administrative level of the facility. The Regional Attorney in Kansas City has ruled that nursing homes in the State of Missouri which were organized and built under a statute providing for nursing home districts are clearly under administrative control of a governmental unit. The statute designates the districts as political subdivisions and for each district establishes a board of directors which appoints the administrator of the nursing home.

Although the nursing homes are not financed by taxes, the governmental unit exercises considerable fiscal control. The nursing home district board of directors approves the budget and exercises control of obligations. The fact that a governmental unit exercises control of financial matters is an indicator that the facilities are public institutions.

I appreciate your views and share your interest in seeing that eligible individuals receive all possible assistance under the supplemental security income program.

I hope this information will be helpful to you.

Sincerely yours,
JAMES B. CALDWELL,
Commissioner of Social Security.

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

S. 4105. A bill to provide for establishment of the Father Marquette National Memorial in St. Ignace, Mich., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the ranking minority member of the Interior Committee from Arizona (Mr. FANNIN) a bill to provide for establishment of the Father Marquette National Memorial in St. Ignace, Mich., and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the executive communication accompanying the proposal from the Secretary of the Interior be printed in the RECORD at this point in my remarks.

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

U.S. DEPARTMENT
OF THE INTERIOR,
Washington, D.C., September 25, 1974.

PRESIDENT PRO TEMPORE,
U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To provide for establishment of the Father Marquette National Memorial in St. Ignace, Michigan, and for other purposes."

We recommend that this bill be referred to the appropriate committee and that it be enacted.

Public Law 89-187, enacted September 15, 1965, established the Father Marquette Tercentenary Commission. Section 2 of the Act provided—

". . . the Commission shall investigate, in cooperation with the Secretary of the Interior, the desirability and suitability of establishing a permanent national monument or memorial to commemorate the historical events associated with the life of Father Jacques Marquette in the New World. The Secretary of the Interior shall submit a report of such investigation to the President for transmittal to the Congress, together with any recommendations which the President may deem appropriate."

Pursuant to this mandate, the commission, on December 11, 1973, proposed establishment of the Father Marquette National Memorial at St. Ignace, Michigan.

Our proposal would authorize the Secretary of the Interior to designate the Father Marquette National Memorial following conclusion of an agreement between the Governor of the State of Michigan and the Secretary providing for the location, design, construction, and operation by the State of the memorial, and upon the Secretary's determination that the State has acquired sufficient lands to constitute an efficiently administrable memorial. The bill also would authorize the Secretary to assist in the development of the memorial following conclusion of the aforementioned agreement. For this purpose the bill would authorize appropriation of $500,000.

St. Ignace is an appropriate location for this memorial inasmuch as there Father Marquette established a mission in 1671, embarked on the historic exploration of the Mississippi River, in company with Louis Jolliet, in 1673, and was buried in 1678. The site of his grave and mission has been designated a National Historic Landmark. The proposed Father Marquette National Memorial would be funded jointly by the State of Michigan and the Federal Government, and would be owned, developed, and administered by the State as a state park. The cost of the memorial is expected to total approximately $2 million.

Enactment of the legislation will represent a fitting and meaningful step in commemorating the advent and history of Father Marquette in North America.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely yours,
CURTIS BOHLEN,
Acting Assistant Secretary of the Interior.

By Mr. STEVENS (for Mr. COOK):

S. 4107. A bill to establish the Red River Gorge National Park, Ky., to deauthorize the Red River Lake Project, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, on behalf of the distinguished Senator from Kentucky (Mr. COOK), I introduce a bill to establish the Red River National Park in Kentucky.

I ask unanimous consent that a statement prepared by Senator COOK, together with certain correspondence to which he refers in his statement, and the text of the bill be printed in the RECORD at this point.

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

STATEMENT BY SENATOR COOK

Mr. President, I send to the desk today legislation to create the Red River Gorge National Park, to deauthorize the proposed Red River Lake on the Red River in Powell County, Kentucky, and to authorize the study and development of potential water supply and local flood protection proposals. My primary purpose in introducing this legislation today is to put the Congress, the Corps of Engineers, and others, on notice so that they are aware of the tremendous support for this proposal in the Commonwealth of Kentucky, and so that all further deliberations on the lake proposal will take this fact into consideration.

The Red River Lake was authorized by the Congress in the Flood Control Act of 1962, on the Red River, a tributary of the Kentucky River. When the Red River Lake project was initially conceived, it was designed to accomplish three objectives: The development of a new recreational facility; the creation of a water storage system that would provide water supplies for 12 central Kentucky cities; and flood protection for the residents of Clay City and Stanton, Kentucky. After considerable study of this project, however, I can confidently assure my colleagues today that these three initial objectives of the project no longer provide sufficient justification to support the lake's construction.

There is no question that an objective of providing an adequate supply of water to serve twelve cities including the city of Lexington would weigh heavily in favor of the project's construction. However, earlier this

year all twelve cities which originally expressed an interest in water supplies for their communities have indicate the project is not worth the cost to their governments. As these cities are no longer interested in participating in this aspect of the project, I submit additional studies of whatever future water needs, which would be required to relieve any drought equal to that of 1930, would be a more appropriate course to pursue at this time. As long as these cities feel no immediate need for water supplies from the lake, studies, as provided in my bill, can be conducted in a timely manner to develop proposals to meet future water supply needs.

There is no question that recreational facilities such as those planned in conjunction with Red River Lake are desirable. However, I believe the Red River Gorge already provides a recreational experience so unique and appealing that it should not be replaced by another standard recreational form. The miles of beautiful paths and the variety of plants and wildlife provide a recreational experience that is not duplicated anywhere in the world. Having recently completed several tours of the area, and a canoe trip down the river, I strongly believe this magnificent area should be left intact. More than one million people visited this area last year, and they did not need a lake to attract them. Certainly a lake would be necessary to draw additional families to enjoy what nature has created over the centuries.

Finally, the project was designed to provide flood protection to the communities of Clay City and Stanton. These communities have sustained extensive flood damage in the past, and I firmly believe it is essential that action be taken to prevent a recurrence of those disasters. It seems to me, however, that Clay City and Stanton, as well as the areas in the flood plain downstream, could and should be protected by a project limited to that objective, and one which would not result in the massive dislocation of families or the destruction of an incredible natural resource. The Red River Gorge is viewed as one of the truly unique sections of naturally free flowing river remaining in this country. Without a lake, the gorge offers Kentuckians and people throughout the Nation an opportunity to view a magnificent natural area in its wild state as it has existed since before Daniel Boone. The people of the Commonwealth have concluded that should the lake be constructed, our legacy in the Red River Gorge will be needlessly lost forever. My proposal, Mr. President, will preclude the destruction of this area, and at the same time provide for the study and development of alternative means of flood protection for Clay City and Stanton and other areas along the Red River.

I have spent a great deal of time and effort in the past working for the cancellation of the Red River Lake project. Briefly, I would like to recount several of these initiatives to allow my colleagues a better perspective of the issues at hand and an understanding of the project's status.

Only this past spring, at my urging, the Senate deleted the fiscal year 1975 appropriations for this project from the Senate's version of the Public Works Appropriations bill. Unfortunately, the funds for the Red River Lake were reinserted in conference committee over my strong objections, and the legislation appropriating $500,000 for continued construction of the project is now law.

A local citizens coalition has recently filed suit in the U.S. district court for the western District of Kentucky seeking to halt the Red River Lake project. Subsequently, the court has asked the Corps of Engineers to reexamine the project's environmental effects for a 60 day period and has provided a 30 day comment period for the plaintiffs to examine these further studies. This time period is due to expire at the end of November.

I have asked the General Accounting Office, in a letter dated 11 July 1974, to conduct a formal audit of the Red River Lake project because of my concern that the Environmental Impact Statement (EIS) filed by the corps with the Council on Environmental Quality (CEQ) on 3 July 1974 presents a grossly inaccurate assessment of the project's economic, social, and environmental impacts. The General Accounting Office is presently reviewing all the information relative to this project, and I have been assured that a final report will be available in several months. Mr. President, I am confident the findings of the GAO will substantiate the conclusion that Red River Lake is no longer justified.

On August 9, 1974, in a letter to Mr. Russell W. Peterson, chairman of the President's Council on Environmental Quality, I explained in some detail my arguments against the EIS for the Red River Lake project. This letter raised the issue of an inadequate assessment by the Corps of Engineers of the project's adverse environmental effects and requested the CEQ to ask for additional studies prior to their approval of the EIS.

I ask my colleagues to particularly note Mr. Peterson's comments which stress CEQ's belief that the "corps' final EIS on the Red River Dam and Lake leaves unanswered a number of issues which should have been properly addressed in that document."

I have provided this background of what has transpired relative to the proposed Red River Lake to stress not only my extreme interest in the project, but also that of a great many Kentuckians. We believe the project should be immediately canceled, but also that certain legitimate needs in the area should be met. We also believe we must have the foresight to act to save this grand canyon of the east; anything less would be shamefully neglectful and thoughtless.

Consequently, the legislation I introduce today is designed to accomplish these purposes: first, the bill would create the Red River Gorge National Park to preserve for the benefit, recreational use, enjoyment, inspiration, and scientific study, certain lands including the gorge of the Red River, together with unique natural arches and bridges, primitive forests, wilderness rivers and streams, and a rich diversity of botanical and wildlife species. The 25,663 acres designated 29 August 1974 as the Red River Gorge Geological Area would be transferred from the jurisdiction of the Forest Service of the U.S. Department of Agriculture to the sole and exclusive jurisdiction of the Secretary of the Department of the Interior.

The Secretary, under this bill, shall administer the recreation areas and conservation areas in a manner which will best afford (1) conservation of scenic, geological, scientific, historic and other values contributing to the public enjoyment; (2) protection of the area from degradation; (3) public outdoor recreation benefits; and (4) such management and utilization of renewable natural resources and the continuation of such existing uses and developments as will promote and are compatible with, or do not significantly impair, public recreation and conservation of the scenic, scientific, historic and other values.

Secondly, the bill would deauthorize the proposed Red River Lake as described in House Document No. 423, Eighty-Seventh Congress, second session, and prohibit any department or agency of the United States from assisting by loan, grant, license, or otherwise in the construction of any water resources project which the Secretary of Interior determines would have a direct and adverse effect on the values for which the Red River Gorge National Park is established under this act.

Thirdly, funds available by prior authorization and appropriations acts for the planning, acquisition, and construction of Red River Lake shall be available to the Secretary of the Army for the following two purposes: to study and develop alternative means of providing flood protection for Clay City, Stanton, and other areas along Red River for which the Red River Lake would provide flood protection; and to study and develop alternative sources of water supply in lieu of water supplies from Red River Lake. The Secretary is required to report his findings to these studies to the Congress no later than six months following the enactment of this Act.

Mr. President, I strongly urge the Senate to act quickly upon this bill so that—after many years of controversy and national attention and publicity—the Red River Gorge can be preserved, and through the establishment of a national park, the gorge can be enjoyed by this and future generations.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., July 11, 1974.

Hon. ELMER B. STAATS,
Comptroller General of the United States, General Accounting Office, Washington, D.C.

DEAR MR. STAATS: It is my judgment having studied the feasibility of the proposed Red River Lake project in Kentucky on the Red River, a tributary of Kentucky River, at mile 42.3, and about 6 miles east of Stanton, Kentucky, that the Final Environmental Impact Statement transmitted by the Secretary of the Army to the Council on Environmental Quality July 3, 1974, presents a grossly inaccurate assessment of the project's economic, social and environmental impacts. As there is reason to believe substantial irregularities have been employed in the formulation of the cost-benefit analysis for the project, I believe ample justification exists for auditing Corps of Engineers' applied methods and procedures resulting in the questionable 1.7 to 1.0 ratio for the Red River Lake project.

The Corps of Engineers alleges at page 3 of the Environmental Impact Statement that the "total average annual benefits of $2,469,000 accrue from the project purposes in the following approximate percentages: general recreation, 40.9 percent; flood control, 46.8 percent; water supply, 5.8 percent; fish and wildlife recreation, 1.5 percent; and redevelopment, 5.0 percent."

However, in the Environmental Impact Statement under review by the Secretary of the Army only two weeks ago, the following percentages represented the total average annual benefits of the project: "general recreation, 43.5 percent; flood control, 41 percent; water supply, 7.5 percent; fish and wildlife recreational, 4 percent; and redevelopment, 4 percent." As no reasonable explanation of these most recent figures has been offered in the Impact Statement, I can only conclude no totally accurate figures have been associated with the project. Additionally, it appears any figures presented by the Corps of Engineers are managed in such a way as to suit the purposes of the corps.

I submit that the testimony presented by the Corps of Engineers to the Chairman of the Public Works Subcommittee of the Senate Appropriations Committee, Senator Stennis, illustrates the wanton disregard to adherence of strict procedures in formulating a cost-benefit analysis. The

Corps testimony reads as follows: "Any development of this type (Red River Lake) will result in alterations of existing environment. The net value of a project must be determined by weighing the overall benefits that will accrue from a project with the total costs or negative impacts. A problem arises in that many of these impacts relate to intangible values such as aesthetics or sociological impact. As these factors are subjective in nature and vary with each individual it is virtually impossible to measure them in quantitative terms." In the same testimony the Corps spokesman also states that ". . . Since no generally accepted technique is yet available for calculating the intrinsic value of environmental qualities and translating the findings to an economic value, the studies for the Red River project do not include such an evaluation."

The implicit conclusions from these statements are clear. If by its own admission the Corps of Engineers is not able to calculate the value of environmental qualities, an integral part of any water resource development project, the cost-benefit analysis cannot possibly be accurate. I further submit for what other purpose is an Environmental Impact Statement prepared if not to calculate environmental qualities.

Aside from the objectionable general conclusions presented in the Final Environmental Impact Statement, I cannot help but feel there is a necessity in investigating the contradictions in the benefits presented by the Corps to fully determine where the truth lies. The discharge of an audit by the General Accounting Office at the earliest possible date is essential in meeting this responsibility to the American people and the Commonwealth of Kentucky.

Sincerely yours,

MARLOW W. COOK,
U.S. Senator.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., August 9, 1974.

RUSSELL W. PETERSON,
Chairman, Council on Environmental Quality, Washington, D.C.

DEAR MR. PETERSON: During the course of the past year, I have conducted an exhaustive study of the proposed Red River Lake Project in Kentucky on the Red River, a tributary of the Kentucky River, at mile 42.3, and about 6 miles east of Stanton, Kentucky. After a thorough review of the factors concerned, I have arrived at the conclusion that the Final Environmental Impact Statement transmitted by the Secretary of the Army to your office July 3, 1974, and published in the Federal Register July 12, 1974, presents a grossly inaccurate assessment of the project's economic, social, and environmental impacts. As there is reason to believe substantial irregularities have been employed in the formulation of the cost-benefit analysis for the project, it is my strong belief that ample justification exists for the Council on Environmental Quality to disapprove the Final Environmental Impact Statement for the Red River Lake.

The Corps of Engineers alleges at Page 3 of the Environmental Impact Statement that the "total average annual benefits of $2,469,000 accrue from the project purposes in the following approximate percentages: general recreation, 40.9 percent; flood control, 46.8 percent; water supply, 5.8 percent; fish and wildlife recreation, 1.5 percent; and redevelopment, 5.0 percent."

However, in the Environmental Impact Statement under review by the Secretary of the Army only two weeks prior, the following percentages represented the total average annual benefits of the project: "general recreation, 43.5 percent; flood control, 41 percent; water supply, 7.5 percent; fish and wildlife recreation, 4 percent; and redevelopment, 4 percent." As no reasonable explanation of these most recent figures has been offered in the Impact Statement, I can only conclude no totally accurate figures have been associated with the project. Additionally, it appears any figures presented by the Corps of Engineers are managed in such a way as to suit the purposes of the Corps. On this basis alone, the Council would be justified in asking for further study and consideration of the calculation of benefits and costs.

My interest in the Red River Gorge has been a substantial and long standing one. On April 25, 1974, I testified before the Public Works Subcommittee of the Senate Appropriations Committee and on that date addressed the following remarks on the Red River Lake project: ". . . It is my firm conviction, after extensive reviews, a personal tour of the area, and interviews with many of the residents of the Red River Gorge, that the project should be immediately cancelled, and that no further funds should be appropriated for the project." As Exhibit One please find a copy of my remarks to the Subcommittee.

As you know, the Senate passed H.R. 15155, The Public Works for Water and Power Development and Atomic Energy Commission Appropriations Bill, 1975, on August 1, 1974, by a 78–17 vote. In adopting this legislation, no funds were included for further construction of the Red River Lake. However, on August 8, 1974, the House-Senate Conference Committee reinstated the House-approved appropriation of $500,000 for the project. House Report No. 93–1274 is attached as Exhibit II for your consideration. The action of the Conference Committee relative to Red River Lake is regrettable. Although construction may now continue for another year, I remain convinced there can be no question but that the Corps of Engineers has failed to consider the monumental adverse effects to the spectacularly scenic Red River Gorge should the Lake be constructed, and further submit the project's adverse environmental effects were not adequately raised or discussed in the EIS. The Gorge has been viewed for many years as one of the truly unique sections of the naturally free flowing river remaining in this country. Without a Lake, the Gorge offers Kentuckians and people throughout the Nation an opportunity to view a magnificent natural area in its wild state as it has existed since Daniel Boone. Should the Lake be constructed I maintain the essence of the Red River Gorge will be lost for future generations.

At page 27 of the Final Environmental Impact Statement it is reported ". . . about 964,000 visitors utilized the area in 1972," and at page 3 the Corps states "four recreation areas will be developed as part of this project. A total of 690 acres will be acquired for specific use recreation lands. These lands will be used to develop facilities to handle the projected 590,000 visitor days annually of water oriented recreation. This visitation is expected to increase to an ultimate level of 1,090,000 by the year 2030."

Simple mathematics will prove the unquestionable destructive impact this amount of visitation would inflict on the Gorge. The total annual visitation to the Gorge projected by the Corps of Engineers if the Lake is constructed equals 1,590,000. In a 365 day year, an average of 4,356 people would visit the Gorge every day. With an average of 10 hours of daylight per day, 435 people would visit the area every hour. Averaging 3 people per car, some 145 cars would travel to the area per hour, equaling almost 3 cars per minute or 1 car every 20 seconds. I submit that with this tremendous amount of visitation, the Red River Gorge cannot survive another 25 years! It appears that omission of this consideration could well render the EIS inadequate.

On July 30, 1973, in accordance with Section 102 (2) (C) of Public Law 91–190, the U.S. Forest Service submitted to your office its Environmental Statement for Red River Gorge Unit-12. In this statement the Forest Service proposes that approximately 25,663 acres of the Red River Gorge Unit in the Daniel Boone National Forest be managed under the authority in Title 36 CFR 251.22, as the Red River Gorge Geological Area; and that approximately 16,360 acres be managed for multiple resource benefits of timber, wildlife, recreation, water and minerals; and, that the unit be managed in accordance with the unit plan, as detailed in the Appendix.

At page 12 of the Forest Service's Management Plan for the Red River Gorge Unit, the Forest Service emphasizes: "the Area will be managed for recreational use, watershed protection and wildlife management substantially in its natural condition. Emphasis will be upon controlled dispersed recreational use. Recreation utilization will be pointed toward primitive-level experience. Aggressive fire protection, application of road and trail construction standards and protection from pollution will be the main components of watershed protection. Wildlife management will be directed to maintenance of a broad range of game and nongame species, with special emphasis on viewing wildlife." At page 24 of the Plan, the Forest Service stresses the following impacts of the Plan: "preserve the Gorge; preserve the ecology of the area, even to restricting the use of many areas to the public; allow no developments below cliff line, and more specifically, upstream from the steel bridge; and, make unique scenic and scientific features available for public use and enjoyment."

The U.S. Forest Service, in its foresight, has devised a plan to protect the Red River Gorge from being overrun and totally destroyed in the future. However, should the lake be constructed and attract 590,000 visitors in addition to the 1,000,000 people presently drawn to the area, the essence of the scenic area will be lost. I submit, therefore, that Forest Service's plan should be inaugurated in a timely fashion to protect the Gorge, while at the same time, the Corps of Engineers' plan to construct a Lake in the Gorge be cancelled. What the people of the Commonwealth of Kentucky desire is protection of the Gorge. The Forest Service has such a plan. This plan alone must be the only alternative for the Red River Gorge. As the Red River Gorge attracts numerous visitors yearly without a lake, justifying a lake at nearly 50% of the benefits for recreational values is the height of folly in light of the presently existing situation.

I further submit that testimony presented by the Corps of Engineers to Chairman John Stennis of the Public Works Subcommittee of the Senate Appropriations Committee not only illustrates the wanton disregard to adherence of strict procedure in formulating a cohesive plan to protect the environment of the Gorge, but also highlights the argument of instituting only the Forest Service's Management plan. The Corps spokesman states that ". . . it must be acknowledged that there is generally no accepted technique available for evaluating the intangible values of environmental quality and aesthetics."

In this same testimony in response to a question from Chairman Stennis asking if the impacts of this project have been considered and the social cost for losses of a natural area been taken in account in the

development of this project, the same spokesman stated: "Any development of this type will result in alterations of existing environment. The net value of a project must be determined by weighing the overall benefits that will accrue from a project with the total costs or negative impacts. A problem arises in that many of these impacts relate to intangible values such as aesthetics or sociological impact. As these factors are subjective in nature and vary with each individual it is virtually impossible to measure them in quantitative terms." The spokesman further states that ". . . since no generally accepted technique is yet available for calculating the intrinsic value of the environmental qualities and translating the findings to an economic value, the studies for the Red River project do not include such an evaluation." This testimony is attached as Exhibit Three.

The implicit conclusions from these statements are clear. By its own admission the Corps of Engineers is not able to calculate the value of environmental qualities, an integral part of any water resource development project, the input of cost-benefit analysis cannot possibly be accurate. I further submit a very basic question for consideration—for what other purpose is an Environmental Impact Statement prepared if not to calculate environmental qualities? Corps spokesmen have asked, "How much is the natural environment of the Gorge worth in dollars?" The best answer might be: "Build another Red River from scratch and duplicate its unique ecosystem. Whatever the cost is, that is how much I believe the natural Red River is worth."

By virtue of the above remarks, the Corps of Engineers may be violating Section 102 (2)(b) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(b) which requires the Corps to "identify and develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision-making along with economic and technical considerations." By Section 101(b) of NEPA, 42 U.S.C. 4331 (b) the Corps is required to "use all practical means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences."

I do not believe, and I trust you will agree, that all "practical" means have been considered by the Corps to protect the environment of the Red River Gorge. Consequently, I was prompted on July 11, 1974, to request that Elmer Staats conduct a formal audit of the entire project. A copy of this request is Exhibit Four.

The Corps of Engineers alleges in the EIS and other written reports and oral statements that flood control is one of the purposes for going forward with this project. The dam costing some $32,000,000 (July 1973 prices) would provide protection for Clay City (population 974) and Stanton (population 2,037). The EIS states "the proposed improvements in the Kentucky River Basin are part of a comprehensive plan to provide flood control and allied purposes both within the Kentucky River Basin and along the mainstream of the Ohio River.

While I remain sympathetic with the legitimate concerns of the residents in the Gorge area that local flood control be provided, the Flood Disaster Protection Act of 1973 (Public Law 93-234), although not a panacea to all of the ill effects of flooding, represents a major breakthrough toward flood-plain protection and disaster relief. The Department of Housing and Urban Development has identified 231 areas in Kentucky as being prone to flooding. This list of areas in Kentucky is attached as Exhibit Five. As you know, property owners in these areas must purchase flood insurance to be eligible for any new or additional federally related financial assistance for any buildings located in areas identified as having special flood hazards. All identified flood or mudslide prone communities and counties must enter the program by July 1, 1975. Powell County and the cities of Clay City and Stanton are listed by HUD as having special flood or mudslide hazards. Consequently, I believe the Flood Disaster Protection Act of 1973 is an economic tool for preventing future incompatible development in flood-prone areas as well as for compensating losses due to flooding.

In passing Public Law 93-234, Congress believed "it is in the public interest for persons already living in flood prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters." This program in the Department of HUD insures protection in the event of floods. This form of protection is certainly less expensive than the construction of a $32,000,000 structure which will perform the same function.

With regard to this flood insurance program, the Corps admits it should reduce the need for large flood protection projects in the future. However, they are quick to say it does not adequately address the needs of existing development on flood-prone lands. To this argument I would ask whether this country can realistically afford to dam every river, stream and creek which occasionally floods and occasionally causes economic loss?

I maintain that if the Congress is to provide protection supplemental to the protection provided by P.L. 93-234, less costly measures should be considered. For example, two local protection projects were evaluated for Clay City, consisting of a levee and combination of channel diversion and levee. The first plan was determined to have an economic ratio of 0.37 to 1.0 and the second plan a ratio of 0.66 to 1.0. Although this indicates that a local protection project would not be a favorable economic investment, it would be far less costly, and a much more reasonable means of providing that protection. It should not be given less intensive treatment in the EIS because there may be less of a potential for its construction.

In addition, I call to your attention section 73 (a) of the recently enacted Water Resources Development Act of 1973 (Public Law 93-251) which states that ". . . In the survey, planning, or design by any Federal agency of any project involving flood protection, consideration shall be given to nonstructural alternatives to prevent or reduce flood damages including, but not limited to, flood-proofing of structures, flood plan regulation, acquisition of floodplain lands for recreational, fish and wildlife, and other public purposes; and relocation with a view toward formulating the most economically, socially, and environmentally acceptable means of reducing or preventing flood damages." I believe these alternative measures have not been adequately addressed by the Corps in their EIS, and I further believe that the Corps began their plans at Red River Gorge with a preconceived plan to construct a lake, and only perfunctorily considered the alternate measures to satisfy the requirements of NEPA. If the Federal Government is at all concerned with sound economics, alternatives to construction of the proposed dam should be more adequately studied. We should focus solely on the objective of providing flood protection to Clay City and not continue to hold Clay City's safety hostage to the major undertaking of the Red River Dam.

I also believe the provisions of the Endangered Species Act of 1973, Public Law 93-205, have not been complied with during consideration of the Corps' plans to build the Lake. P.L. 93-205 in Section 2(b) states "the purposes of this Act are to provide means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section." Section 2 (c) states that "it is further declared to be the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act."

These provisions have been blatantly ignored by the Corps of Engineers. "The EIS at pages 17 and 18 addressed endangered and rare species. It states "there are five species noted in a 'Preliminary Survey of the vacular Flora of the Red River Gorge of Kentucky' whose distribution within the state is confined to the Gorge. One of these species, a rare indigenous goldenrod is known to occur nowhere else in the United States except Powell and Menifee Counties. . . . The other two species . . . are found on the lower slopes and streambank. These two species may be affected by the project; however, as their location with respect to pool levels is not precisely known, the project's impact on them cannot be determined." If the Corps admits "these species may be affected by the project" the provisions of P.L. 93-205 must preclude their being threatened or endangered.

The last objective of the proposed project is to provide a water storage facility to serve central Kentucky, including Lexington and twelve other cities. Despite the fact that all of the cities involved have indicated the project is not worth the cost to their governments, the Corps maintain 5.8 percent of the benefits of the project are derived from water storage.

Lexington Mayor H. Foster Pettit, in a statement last fall, explained his reasoning for not having the City of Lexington participate in the water program storage. He stated: "I have received a letter last month from the Corps of Engineers which states that the Red River Lake would provide the necessary augmentation of flows in the Kentucky River for a 1930 type drought only until the year 2010. And, thereafter, because of increased population and water usage, the cities which depend on the Kentucky River for water supply would be forced to look for an additional source in times of extreme drought. Even if the construction of the Red River Dam were to proceed quickly, it is unlikely that it could be completed before 1980. Consequently, the creation of the Red River Lake would provide a guaranteed source of water for Lexington equal to the need of a 1930 drought for a period of not more than 30 years. This is particularly disturbing when the unique character of the Red River Gorge which will be substantially damaged by the creation of the Dam is considered. This trade off alone causes me to believe that the Dam should not be constructed. I therefore believe that another more permanent solution to the key problem of water supply must be sought." I include the full text of Mayor Pettit's remarks as Exhibit Six. I agree with Mayor Pettit's remarks, and believe the alternatives discussed at pages 61-62 of the EIS are potentially more advantageous than the proposed water storage plans of the Corps of Engineers.

In conclusion, I submit the EIS does not sufficiently address all the environmental

facts. Responsible discussion of scientific opinion suggesting opposing alternatives or views have not been presented or discussed. At this time independent experts are preparing widely divergent conclusions which differ significantly with those submitted by the Corps. This information is essential to the assessment of a significant environmental threat and should be considered before the EIS can be found adequate. The Council on Environmental Quality should not pass judgment until all this information is completed and submitted. The damage from failure to consider this information in its entirety will result in the loss of objective choices between alternatives. To act now without complete data would initiate an irrevocable process which might be despised for generations to come.

Sincerely yours,

MARLOW W. COOK,
U.S. Senator.

EXECUTIVE OFFICE
OF THE PRESIDENT,
Washington, D.C., September 4, 1974.

Hon. MARLOW W. COOK,
U.S. Senate,
Washington, D.C.

DEAR SENATOR COOK: I would like to thank you for your letter of August 9, 1974 in which you provided the Council with extensive and comprehensive comments on the Corps of Engineers' proposed Red River Lake Project in Kentucky. As I am sure you are aware, the Council has received a large volume of correspondence regarding the Red River Project, and much of this correspondence has contained information which we have found to be helpful in our evaluation of the environmental impact statement.

We believe that the Corps' final environmental impact statement on the Red River Dam and Lake leaves unanswered a number of issues which should have been properly addressed in that document. These include a more precise discussion of the impact of the project on the unique resources of the Gorge, including those plant and animal species that are rare and endangered; a full exploration of the secondary (development) impacts which will be stimulated by the construction of the lake; and a more careful consideration of structural and nonstructural alternatives to the multi-purpose dam and lake. In addition to these issues, we believe that the project's benefit-cost ratio deserves a more careful analysis, especially with regard to estimated recreational benefits.

The Council has raised these points with the Secretary of the Army in a letter dated August 12, 1974 (enclosed). We have also asked that the Corps of Engineers refrain from taking administrative action on the Red River project until these issues are resolved.

We understand that a local citizens coalition has filed suit in the U.S. District Court for the Western District of Kentucky, seeking to have the Red River Project halted on those NEPA issues that are raised in your comments and in our letter to the Army. This case has been delayed in order to allow the Corps an opportunity to study these issues and to formulate an appropriate response.

We hope that the Corps of Engineers' reevaluation of its proposed Red River Project will result in a solution that will meet the legitimate flood control needs of the area and preserve the natural beauty of the Red River Gorge.

The Council will continue to follow the Red River Project, and we will be happy to share with you any new developments as they occur.

Sincerely,

RUSSELL W. PETERSON,
Chairman.

S. 4107

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 "Red River Gorge National Park Act of 1974".

SEC. 2. (a) In order to preserve for the benefit, enjoyment, recreational use, inspiration and scientific study of present and future generations certain lands in the State of Kentucky, including the gorge of the Red River, together with unique stone arches and natural bridges, unspoiled forests, wild streams, a rich diversity of botanical and wildlife species, and other geological and scenic wonders, lands referred to in subsection (b) of this section are hereby established as the "Red River Gorge National Park" (hereinafter referred to as the "park").

(b) Lands owned by the United States, administered as a part of the Daniel Boone National Forest by the Forest Service, United States Department of Agriculture, within the area designated August 29, 1974, as the Red River Gorge Geological Area under title 36, Code of Federal Regulations 294.1, together with any other Federal lands within such Area, are hereby transferred from the jurisdiction of the Department of Agriculture, and from other Federal agencies having jurisdiction over any such lands, to the sole and exclusive jurisdiction of the Secretary of the Interior for the purposes of this Act.

(c) The Secretary of the Interior shall administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535) in a manner which will best afford (1) preservation and conservation of scenic, geological, scientific, botanical, wildlife, historic and other values contributing to the public enjoyment; (2) protection of the Area from degradation; (3) public outdoor recreation benefits; and (4) such management and utilization of renewable natural resources, and the continuation of such existing uses and development, as will promote and be compatible with the preservation and conservation of the aforementioned values.

SEC. 3. Notwithstanding the provisions of the Flood Control Act of 1962, as amended, or any other law, the authorized plan for flood control and other purposes for the Kentucky River and tributaries, Kentucky, as described in House Document Numbered 423, Eighty-seventh Congress, second session, is hereby modified by deauthorizing the Red River Lake project, Red River, Kentucky, in recognition of the environmental concerns and values expressed by the people of the State and Nation concerning the preservation of Red River Gorge, the natural stream, and adjacent areas.

SEC. 4. (a) The Secretary of the Army, in cooperation with other Federal agencies, is directed to utilize the unexpended balances of any funds authorized and appropriated for planning, acquisition, and construction of Red River Lake to study and develop (1) alternative means of flood protection for Clay City and Stanton and other areas along Red River, Kentucky, and (2) alternative sources of water supply in lieu of water supply from the proposed Red River Lake.

(b) The Secretary of the Army shall report to the Congress his findings, conclusions, and recommendations with respect to the alternatives described under subsection (a) no later than six months following the date of the enactment of this Act.

SEC. 5. Notwithstanding any other provision of law, or any authorization heretofore given pursuant to law, no department or agency of the United States shall construct, or assist by loan, grant, license, or otherwise the construction of, any water resources project which the Secretary of the Interior determines would have a direct and adverse effect on the values and purposes for which the park is established under section 2 of this Act.

SEC. 6. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. BROCK:

S. 4110. A bill to amend title 10, United States Code, to establish armed forces engineering and technology academies, to provide qualified and specially trained personnel for the Armed Forces by authorizing the establishment of a Reserve Enlisted Training Corps and by authorizing a special scholarship program under which persons would receive education and training in critical specialties needed by the Armed Forces, and to amend chapter 34 of title 38, United States Code, to authorize tuition assistance payments to eligible veterans pursuing a course of education or training under such chapter. Referred to the Committee on Armed Services.

MAINTAINING THE MOMENTUM OF THE ALL-VOLUNTEER ARMED FORCE

Mr. BROCK. Mr. President, I believe that if this great country is to succeed in its quest for an All-Volunteer Armed Force of nearly 3 million Americans—active and reserve—then the time has come for an objective and realistic reappraisal of the manpower requirements of our Volunteer Armed Forces.

It may be argued by some that such a reappraisal is not necessary at this time, since the AVAF is only a year old. However, we must remember that no country in the world has ever attempted to create a volunteer armed force on such a magnitude as ours. Therefore, with no precedents to guide us, it is only through continuous objective and realistic reevaluations that we will be able to sustain and improve our present volunteer system.

The manpower requirements of our Volunteer Armed Forces stem from two major areas: Quantitative needs and qualitative needs. While there is some difference of opinion, most officials tend to agree that the quantitative manpower requirements of our All-Volunteer Armed Force can probably be met in the long run.

On the issue of qualitative manpower requirements, the immediate outlook, as well as for the future, is open to question. Yet, in today's world of sophisticated weaponry, it is qualitative manpower, more so than quantitative manpower, that is the primary scale to be used in weighing the success, or failure, of an All-Volunteer Armed Force.

The critical question for us here today is whether or not our present recruiting programs can meet the qualitative, as well as the quantitative, manpower needs of the future. I submit that question has not been answered.

Even in the short-lived history of the All-Volunteer Armed Force in this country, definite trends have already emerged with respect to the "quality" of volunteers. Martin Binkin and John Johnston, in their report for the Armed Services Committee, entitled "All-Volunteer

Armed Forces: Progress, Problems, and Prospects," reported the following:

The quality of volunteers, as measured by the Armed Forces Qualification Test (AFQT) has generally improved since fiscal year 1970. There has been a steady but modest decline in enlistees with above average AFQT scores, a moderate increase in those with average scores, and—of most importance—a steady decrease in enlistees with below average scores.

As measured by educational attainment, however, modest declines in proportions of Army and Navy enlistees that had completed high school were experienced in fiscal 1973, principally because of large accession needs. Among "true" volunteers—those freely choosing military service and not influenced by the draft—the proportion of Army high school graduates dropped from almost 60 percent in fiscal 1972 to under 50 percent early in fiscal 1973.

While neither of these indicators, standardized test scores or levels of education, directly relate to job performance, they are significant in one respect—that is, they both indicate a deficiency in the number of volunteers with "above average" intelligence. It is these "above average" volunteers that are needed to fill the "qualitative" manpower requirements of our volunteer system.

Certainly it is encouraging that there is a decrease in the number of below-average scores among enlistees, but the decrease in above-average scores is equally discouraging. These are the men and women most readily trained to become the highly qualified technician needed to maintain the proper maintenance and functioning of the sophisticated weaponry and support equipment of our age.

It is a waste of the taxpayers' money to spend billions of dollars on research and development of new weapons, if we are unwilling to establish programs to meet the "qualitative" manpower requirements necessary to operate this weaponry.

Furthermore, "qualitative" recruits are needed to fill key leadership positions. The new infantry tactics place even more responsibility on today's combat leader. The new theme, "follow me, do as I do," can only be properly executed by a "qualitative" leader who knows exactly what he is doing.

The emerging trends indicate that the present recruiting programs will probably be unable to fill the necessary quota of "qualitative" volunteers. What is needed are new programs, programs which would recruit better educated, technically qualified, civilian trained Americans to help fill the void in "qualitative" manpower requirements.

So there is no misunderstanding of my intentions, however, let me first say that these remarks are in no way meant to downgrade the existing volunteer system. The All Volunteer Armed Force is, and can continue to be, a viable and practical alternative to the bonds of conscription. However, we must not let ourselves be lured into a false sense of security. In any program, especially one of this nature, there is always room for improvement.

So it is today, in this vein, that I introduce a bill creating programs and incentives which will provide additional motivation for high-caliber, prospective enlistees.

Since the All Volunteer Forces Quality and Incentive Act of 1974 is both lengthy and complicated, I would like to briefly highlight the important aspects of this significant proposal.

Title I of the bill would establish technical service academies for enlisted men. Essentially, these would be 2-year junior colleges for leadership and technical training, patterned after our present service academies for officers. Nominations and appointments to these technical service academies would be made, as nearly as possible, in the same manner as appointments are made to present military academies.

While attending an academy, a student would be eligible for pay benefits, which would increase according to the number of months spent at the academy. During his second or senior year, a student would receive one-half the amount of the pay grade E–3.

Fields of study would include electronics, aviation mechanics, nuclear energy, space sciences, marine engineering, and any other field as determined by the needs of the military department concerned.

Upon graduation from the academy as E–4's, trainees would then serve a 4-year active duty obligation.

Title II of the bill calls for the establishment of a Reserve Enlisted Training Corps—RETC—at selected existing vocational institutions, enabling graduates of these schools to enter the Armed Forces at higher enlisted grades. The RETC program, which is designed as a parallel to the ROTC program, would offer enlistment incentives in the form of payments of $75 per month to each student enrolled in the program.

Furthermore, full tuition scholarships would be available for students demonstrating outstanding leadership and learning potential. Upon graduation, students under the regular RETC program would serve an active duty obligation of 2 years, while students participating in the scholarship program would serve 4 years on active duty.

The RETC program is designed to produce technically trained men of the kind and quality needed by specialized units of the Armed Forces.

Title III would establish the Armed Forces critical speciality scholarship program. This program would essentially be an expansion of the current Armed Forces health professions scholarship program to include critical skills other than in the health professions. This program would be "open" for any area deemed critical by the Secretary of Defense, with both enlisted men and officers being eligible for participation.

Title IV would increase the present GI bill to include tuition costs, as computed on a national average. Participants in this program would earn one "academic" year for each year served on active duty, with a maximum of 4 academic years per participant.

In conclusion, let me reemphasize that the present recruiting programs are not fulfilling the necessary "qualitative" manpower quotas. The future success of an all volunteer armed force depends on our willingness to take innovative actions as problems arise. The bill I introduce today is an attempt to take a significant and legitimate step in filling the "qualitative" gap in our all volunteer Armed Force.

I ask unanimous consent that the bill be printed in full in the RECORD at this point.

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

S. 4110

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 "All Volunteer Armed Forces Quality and Incentive Act of 1974".

TITLE I—ARMED FORCES ENGINEERING AND TECHNOLOGY ACADEMIES

SEC. 101. (a) part III of subtitle A of title 10, United States Code, is amended by adding at the end thereof a new chapter as follows:

"Chapter 106.—Armed Forces Engineering and Technology Academies

"Sec.
"2150. Establishment of engineering and technology academies.
"2151. Command and supervision.
"2152. Students: appointment.
"2153. Students: requirement for admission.
"2154. Students: agreement to serve for four years.
"2155. Students: organization; service; instruction.
"2156. Students: clothing and equipment.
"2157. Students: deficiencies in conduct of studies; effect of failure on successor.
"2158. Pay.
"2159. Enlisted grade upon graduation.

"§ 2150. Establishment of engineering and technology academies

"(a) The Secretary of each military department shall establish, at such location as the Secretary concerned deems appropriate, an engineering and technology academy at which persons shall receive highly skilled training in the technical fields necessary to the military department concerned, including, but not limited to, the fields of electronics, aviation mechanics, nuclear energy, space sciences, and marine engineering. The organization of each academy shall be prescribed by the Secretary of the military department concerned.

"(b) Persons appointed to such academies shall be graduated at the end of two years and shall be awarded an appropriate degree which shall be the equivalent of a junior college degree.

"(c) There shall be a Superintendent and a Commandant of Students at each academy detailed to these positions by the President.

"(d) The permanent professors of each academy shall be appointed by the President by and with the advice and consent of the Senate.

"(e) The Secretary concerned may prescribe the titles of the departments of instruction and the professors of the engineering and technology academy under his jurisdiction. However, the change of the title of a department or officer does not affect the status, rank, or eligibility for promotion or retirement of, or otherwise prejudice, a professor of such academy.

"§ 2151. Command and supervision

"The immediate government of an engineering and technology academy is under the Superintendent, who is also the commanding officer of such academy and of the military post on which such academy is situated.

"§ 2152. Students: appointment

"(a) There shall be enrolled each year such number of students in each academy established under this chapter as may be prescribed by the Secretary of Defense, subject to such limitations as may be hereinafter prescribed by the Congress.

"(b) Nominations and appointments to each academy shall be made as nearly as possible in the same manner as appointments are made to the military academies under chapters 403, 603, and 903, respectively. The Secretary of Defense shall prescribe the manner in which nominations and appointments shall be made.

"§ 2153. Students: requirement for admission

"(a) To be eligible for admission to an engineering and technology academy a person must be at least seventeen years of age and must not have passed his twenty-fifth birthday on July 1 of the year in which he enters an academy.

"(b) A person must meet such physical and mental requirements as the Secretary concerned may require.

"§ 2154. Students: agreement to serve for four years

"(a) Each person who is a citizen or national of the United States shall sign an agreement that, unless sooner separated, he will—

"(1) complete the course of training at the academy to which he is appointed; and

"(2) enlist in the Army, Navy, or Air Force, as appropriate, for at least four years immediately after graduation.

If the student is a minor and has parents or a guardian, he may sign the agreement only with the consent of the parents or guardian.

"(b) A student who does not fulfill his agreement under subsection (a) may be transferred by the Secretary concerned to the Reserve of the military department concerned in an appropriate enlisted grade and, notwithstanding section 651 of this title, may be ordered to active duty to serve in that grade for such period of time as the Secretary prescribes but not for more than four years.

"§ 255. Students: organization; service; instruction

"(a) A student shall perform duties at such places and of such type as the President may direct.

"(b) The course of instruction at any engineering and technology academy is two years.

"(c) The Secretary concerned shall so arrange the course of studies at an engineering and technology academy that students are not required to pursue their studies on Sunday.

"(d) Students shall be trained in the duties of members of the branch of the armed forces of which the academy they attend is a part.

"§ 256. Students: clothing and equipment

"(a) The Secretary concerned may prescribe the amount to be credited to a student, upon original admission to an academy, for the cost of his initial issue of clothing and equipment. That amount shall be deducted from his pay. If a student is discharged before graduation while owing the United States for pay advanced for the purchase of required clothing and equipment, he shall turn in so much of his clothing and equipment of a distinctive military nature as is necessary to repay the amount advanced. If the value of the clothing and equipment turned in does not cover the amount owed, the indebtedness shall be canceled.

"(b) Under such regulations as the Secretary concerned may prescribe, uniforms and equipment shall be furnished to a student at an academy upon his request.

"§ 257. Students: deficiencies in conduct or studies; effect of failure on successor

"(a) A student who is reported as deficient in conduct or studies and recommended to be discharged from an academy may not, unless recommended by the Secretary concerned, be returned or reappointed to such academy.

"(b) Any student who fails to pass a required examination because he is deficient in any one subject of instruction is entitled to a reexamination of equal scope and difficulty in that subject, if he applies in writing to the Superintendent within ten days after he is officially notified of his failure. The reexamination shall be held within sixty days after the date of his application. If the student passes the reexamination and is otherwise qualified, he shall be readmitted to the academy. If he fails, he may not have another examination.

"(c) The failure of a member of a graduating class to complete the course with his class does not delay the admission of his successor.

"§ 258. Pay

"(a) During the first three months of his training, a student is entitled to pay in an amount equal to one-half the amount that a member of the armed forces in the grade of E–1 (less than two years' service) is entitled.

"(b) From the fourth to the twelfth month, a student is entitled to pay in an amount equal to one-half the amount that a member of the armed forces in the grade of E–2 (less than two years' service) is entitled.

"(c) During the second year of his training, a student is entitled to pay in an amount equal to one-half the amount that a member of the armed forces in the grade of E–3 (less than 2 years' service) is entitled.

"259. Enlisted grade upon graduation

"After graduation from an engineering or technology academy and enlisting in the armed forces a person shall be entitled to the grade of E–4."

SEC. 102. Section 802 (article 2) of title 10, United States Code, is amended by adding at the end thereof a new paragraph as follows:

"(13) Students of an engineering and technology academy established under chapter 106 of this title."

SEC. 103. Section 101(21)(D) of title 38, United States Code, is amended by striking out the semicolon before "and" and inserting in lieu thereof a comma and the following: "or as a student at an engineering and technology academy established under chapter 106 of title 10;".

TITLE II—RESERVE ENLISTED TRAINING CORPS

SEC. 201. Part III of Subtitle A of title 10, United States Code, as amended by title I of this Act is amended by adding at the end thereof a new chapter as follows:

"Chapter 107.—Reserve Enlisted Training Corp

"Sec.
"2161. Definititons.
"2162. Establishment.
"2163. Eligibility for membership; monthly payment.
"2164. Failure to complete program or to enlist.
"2165. Financial assistance program for specially selected students.
"2166. Waiver of training; delay in starting obligated service; release from program.
"2167. Field training; practice cruises.
"2168. Logistical support.
"2169. Personnel: administrators and instructors.

"§ 2161. Definitions

"In this chapter—

"(1) 'program' means the Reserve Enlisted Training Corps of an armed force; and

"(2) 'member of the program' means a student who is enrolled in the Reserve Enlisted Training Corps of an armed force.

"§ 2162. Establishment

"(a) For the purpose of preparing selected students for enlisted service to the Army, Navy, Air Force, or Marine Corps, the Secretary of each military department, under regulations prescribed by the President, may establish and maintain a Reserve Enlisted Taining Corps program, organized into one or more units, at any junior college which offers technical training of the kind and quality needed by specialized members of the Armed Forces.

"(b) No unit may be established or maintained at an institution unless—

"(1) the senior commissioned officer of the armed force concerned who is assigned to the program at that institution is given the academic rank of professor;

"(2) the institution fulfills the terms of its agreement with the Secretary of the military department concerned; and

"(3) the institution adopts, as a part of its curriculum, a two-year course of military instruction which the Secretary of the military department concerned prescribes and conducts.

§ 2163. Eligibilty for membership; monthly payment

"(a) To be eligible for membership in the program a person must be a student at an institution where a unit of the program is established; however, a student at an institution that does not have a unit of the Corps is eligible, if otherwise qualified, to be a member of a unit at another institution if the course of training at the institution which he is attending has been approved by the Secretary concerned. A person must also—

"(1) be a citizen of the United States;

"(2) be selected under procedures prescribed by the Secretary of the military department concerned;

"(3) enlist in a Reserve component of an armed force under the jurisdiction of the Secretary of the military department concerned for the period prescribed by the Secretary;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program;

"(5) agree in writing to serve on active duty in the Armed Forces for two or more years; and

"(6) complete successfully—

"(A) the two-year Reserve Enlisted Training Corps course; and

"(B) field training or a practice cruise of not less than six weeks' duration which the Secretary concerned may require.

"(b) A member of the program shall be paid $75 per month each month he is a member of the program.

"(c) This section does not apply to a military trainee under section 2165.

"§ 2164. Failure to complete program or to enlist

"A member of the program who does not complete the course of instruction, or who completes the course but declines to enlist if requested by the Secretary of the military department concerned, may be ordered to active duty by the Secretary of such military department to serve in his enlisted grade or rating for such period of time as the

Secretary prescribes but not for more than two years.

"§ 2165. Financial assistance program for specially selected students

"(a) The Secretary of the military department concerned may appoint any person as a military trainee in the Reserve of an armed force under his jurisdiction.

"(b) To be eligible for appointment as a military trainee under this section a person must—

"(1) be a citizen of the United States;

"(2) be specially selected for the financial assistance program under procedures prescribed by the Secretary of the military department concerned;

"(3) enlist in the reserve component of the armed force in which he is appointed as a military trainee for the period prescribed by the Secretary of the military department concerned;

"(4) contract, with the consent of his parent or guardian if he is a minor, with the Secretary of the military department concerned, or his designated representative, to serve for the period required by the program; and

"(5) agree in writing that he will serve in the armed forces for four or more years.

"(c) The Secretary of the military department concerned may provide for the payment of all expenses in his department of administering the financial assistance program under this section, including tuition, fees, books, and laboratory expenses. At least 50 percent of the military trainees appointed under this section must qualify for in-State tuition rates at their respective institutions and will receive tuition benefits at that rate. A military trainee shall be paid $75 per month each month he is a member of the program.

"(d) A military trainee, upon satisfactorily completing the academic and military requirements of the two year program and enlisting in the armed force which paid his tuition and expenses, shall be entitled to the military grade specified by the Secretary concerned.

"(e) A military trainee who does not complete the two year course of instruction, or who completes the course but declines to enlist in the armed force which paid his tuition and other expenses, may be ordered to active duty by the Secretary of the military department concerned to serve in his enlisted grade or rating for such period of time as the Secretary prescribes but not for more than four years.

"(f) In computing length of service for any purpose, a member of the armed forces may not be credited with service as a military trainee.

"(g) Not more than the following numbers of military trainees appointed under section 2165 of this title may be in the financial assistance programs at any one time:

"Army program: 3,250.

"Navy program: 3,000.

"Air Force program: 3,250.

"§ 2166. Waiver of training; delay in starting obligated service; release from program

"(a) The Secretary of the military department concerned may excuse from a portion of the prescribed course of military instruction, including field training and practice cruises, any person found qualified, on the basis of his previous education, military experience, or both.

"(b) The Secretary may, upon request of a military trainee, delay the commencement of such trainee's obligated period of active duty for any reason the Secretary deems in the best interest of such trainee and the armed forces.

"(c) The Secretary of the military department concerned may, when he determines that the interest of the service so requires, release any person from the program and discharge him from his armed force.

"§ 2167. Field training; practice cruises

"(a) For the further practical instruction of members of the program, the Secretary of the military department concerned may prescribe and conduct field training and practice cruises which members must complete before they are enlisted

"(b) The Secretary of the military department concerned may—

"(1) transport members of, and designated applicants for membership in, the program to and from the places designated for field training or practice cruises and furnish them subsistence while traveling to and from those places, or, instead of furnishing them transportation and subsistence, pay them a travel allowance at the rate prescribed for cadets and midshipmen at the United States Military, Naval, and Air Force Academies for travel by the shortest usually traveled route from the places from which they are authorized to proceed to the place designated for the training or cruise and return, and pay the allowance for the return trip in advance;

"(2) furnish medical attendance and supplies to members of, and designated applicants for membership in, the program while attending field training and practice cruises, and admit them to military hospitals;

"(3) furnish subsistence, uniform clothing, and equipment to members of, and designated applicants for membership in, the program while attending field training or practice cruises or, instead of furnishing uniform clothing, pay them allowances at such rates as he may prescribe; and

"(4) use any member of, and designated applicants for membership in, an armed force, or any employee of the department, under his jurisdiction, and such property of the United States as he considers necessary, for the training and administration of members of, and designated applicants for membership in, the program at the places designated for training or practice cruises.

"§ 2168. Logistical support

"(a) The Secretary of the military department concerned may issue to institutions having units of the program, or to the officers of the armed force concerned who are designated as accountable or responsible for such property—

"(1) supplies, means of transportation including aircraft, arms and ammunition, and military textbooks and educational materials; and

"(2) uniform clothing, except that he may pay monetary allowances for uniform clothing at such rate as he may prescribe.

"(b) The Secretary of the military department concerned may provide, or contract with civilian flying or aviation schools or educational institutions to provide, the personnel, aircraft, supplies, facilities, services, and instruction necessary for appropriate instruction and orientation for properly designated members of the program.

"(c) The Secretary of the military department concerned may transport members of, and designated applicants for membership in, the program to and from installations when it is necessary for them to undergo medical or other examinations or for the purposes of making visits of observation. He may also furnish them subsistence, quarters, and necessary medical care, including hospitalization, while they are at, or traveling to or from, such an installation.

"(d) The Secretary of the military department concerned may authorize members of, and designated applicants for membership in, the program to participate in aerial flights in military aircraft and indoctrination cruises in naval vessels.

"(e) The Secretary of the military department concerned may authorize such expenditures as he considers necessary for the efficient maintenance of the program.

"(f) The Secretary of the military department concerned shall require, from each institution to which property is issued under subsection (a), a bond or other indemnity in such amount as he considers adequate, but not less than $5,000, for the care and safekeeping of all property so issued except uniforms, expendable articles, and supplies expended in operation, maintenance, and instruction. The Secretary may accept a bond without surety if the institution to which the property is issued furnishes to him satisfactory evidence of its financial responsibility.

"§ 2169. Personnel: administrators and instructors

"The Secretary of the military department concerned may detail regular or reserve members of an armed force under his jurisdiction (including retired members and members of the Fleet Reserve and Fleet Marine Corps Reserve recalled to active duty with their consent) for instructional and administrative duties at educational institutions where units of the program are maintained."

TITLE III—ARMED FORCES CRITICAL SPECIALTY SCHOLARSHIP PROGRAM

SEC. 301. Part III of Subchapter A of title 10, United States Code, as amended by titles I and II of this Act, is further amended by adding at the end thereof a new chapter as follows:

"Chapter 108.—Armed Forces Critical Specialty Scholarship Program

"Sec.

"2171. Definitions.

"2172. Establishment.

"2173. Eligibility for participation.

"2174. Members of the program: active duty obligation; failure to complete training; release from program.

"2175. Members of the program: numbers appointed.

"2176. Members of the program: exclusion from authorized strengths.

"2177. Members of the program: service credit.

"2178. Contracts for scholarships: payments.

"§ 2171. Definitions

"In this chapter—

"(1) 'Program' means the Armed Forces Critical Specialty Scholarship program provided for in this chapter.

"(2) 'Member of the program' means a person enlisted in a reserve component of the armed forces who is enrolled in the Armed Forces Critical Specialty Scholarship program.

"(3) 'Course of study' means education received at an accredited college, university, or institution approved by the Secretary of Defense leading to proficiency in a critical specialty specified by the Secretary of Defense.

"§ 2172. Establishment

"(a) For the purpose of obtaining adequate numbers of commissioned officers and enlisted men on active duty who are qualified in various specialties critically needed by the armed forces (other than the health professions), the Secretary of each military department, under regulations prescribed by the Secretary of Defense, may establish and maintain a critical specialty scholarship program for his department.

"(b) The program shall consist of courses of study in critical specialties (other than the health professions) designated by the Secretary of the military department con-

cerned and approved by the Secretary of Defense, with obligatory periods of military training.

"(c) Persons participating in the program shall be enlisted members in reserve components of the armed forces. Members of the program shall serve on active duty in pay grade E–1 with full pay and allowances of that grade for a period of 45 days during each year of participation in the program. They shall be detailed as students at accredited civilian institutions, located in the United States or Puerto Rico, for the purpose of acquiring knowledge or training in a designated critical specialty. In addition, members of the program shall, under regulations prescribed by the Secretary of Defense, receive military training and instruction.

"(d) Except when serving on active duty pursuant to subsection (c), a member of the program on a two year scholarship shall be entitled to a stipend at the rate of $75.00, and a member of the program on a four year scholarship shall be entitled to a stipend at the rate of $100.00.

"§ 2173. Eligibility for participation

"To be eligible for participation as a member of the program, a person must be a citizen of the United States and must—

"(1) be accepted for admission to, or enrolled in, an institution in a course of study, as that term is defined in section 2171 (3) of this title;

"(2) sign an agreement that unless sooner separated he will—

"(A) complete the educational phase of the program;

"(B) agree in writing that upon completion of his course of study he will serve on active duty as provided in section 2174; and

"(C) because of his sincere motivation and dedication to a career in the uniformed services, participate in military training while he is in the program, under regulations prescribed by the Secretary of Defense; and

"(3) meet the requirements for appointment as a commissioned officer or for enlistment, as the case may be.

"§ 2174. Members of the program: active duty obligation; failure to complete training; release from program

"(a) A member of the program incurs an active duty obligation. A member of the program on a two year scholarship incurs an obligation to serve on active duty for four years as an enlisted member. A member of the program on a four year scholarship incurs an obligation to serve on active duty as a commissioned officer for four years and to serve in the Ready Reserve for a period of two years after his release from active duty.

"(b) A member of the program who, under regulations prescribed by the Secretary of Defense, is dropped from the program for deficiency in conduct or studies, or for other reasons, may be required to perform active duty in an appropriate military capacity in accordance with the active duty obligation imposed by this section.

"(c) The Secretary of a military department, under regulations prescribed by the Secretary of Defense, may relieve a member of the program who is dropped from the program from any active duty obligation imposed by this section, but such relief shall not relieve him from any military obligation imposed by any other law.

"§ 2175. Members of the program: numbers appointed

"The number of persons who may be designated as members of the program for training in each critical specialty shall be as prescribed by the Secretary of Defense, except that the total number of persons so designated in all of the programs authorized by this chapter shall not, at any time, exceed 2,500.

"§ 2176. Members of the program: exclusion from authorized strengths

"Notwithstanding any other provision of law, members of the program shall not be counted against any prescribed military strengths.

"§ 2177. Members of the program: service credit

"Service performed while a member of the program shall not be counted—

"(1) in determining eligibility for retirement other than by reason of a physical disability incurred while on active duty as a member of the program; or

"(2) in computing years of service creditable under section 205, other than subsection (a) (7) and (8), of title 37.

"§ 2178. Contracts for scholarships: payments

"(a) The Secretary of Defense may provide for the payment of all educational expenses incurred by a member of the program, including tuition fees, books, and laboratory expenses. Such payments, however, shall be limited to those educational expenses normally incurred by students at the institution and in the course of study concerned who are not members of the program.

"(b) The Secretary of Defense may contract with an accredited civilian educational institution for the payment of tuition and other educational expenses of members of the program authorized by this chapter. Payment to such institutions may be made without regard to section 3648 of the Revised Statutes (31 U.S.C. 529).

"(c) Payments made under subsection (b) shall not cover any expenses other than those covered by subsection (a).

"(d) When the Secretary of Defense determines, under regulations prescribed by the Secretary of Health, Education, and Welfare, that an accredited civilian educational institution has increased its total enrollment for the sole purpose of accepting members of the program covered by this chapter, he may provide under a contract with such an institution for additional payments to cover the portion of the increased costs of the additional enrollment which are not covered by the institution's normal tuition and fees."

TITLE IV—TUITION ASSISTANCE FOR VETERANS

SEC. 401. Chapter 34 of title 38, United States Code, is amended by adding after section 1682 a new section as follows:

"§ 1682A. Payment of tuition for eligible veterans

"(a) In addition to the educational assistance allowance payable to an eligible veteran under this chapter, the Administrator shall reimburse any eligible veteran enrolled in a full-time or part-time program of education under this chapter (including a cooperative program) for tuition costs incurred by such veteran, exclusive of expenses incurred for fees, books, supplies, or other expenses, but not in excess of an amount equal to the national average tuition rates for colleges and universities, public and private, as determined by the Administrator on the basis of the most recent statistics available. In no event shall payment made under this section for any expense incurred by such veteran exceed the customary amount paid by other students in the same institution for the same service or privilege. No payments for tuition or enrollment shall be paid to any veteran pursuing a program of apprenticeship or other on-job training. Payments for tuition incurred by any eligible veteran may be made by the Administrator to such veteran under this subsection on the basis of such reasonable evidence as the Administrator may require. No veteran shall be eligible for tuition assistance under this section for any period longer than his entitlement to educational assistance allowance and in no event for more than four academic years.

"(b) The Administrator shall prescribe such regulations as he deems necessary or appropriate to implement the provisions of this section."

(b) The table of sections at the beginning of chapter 34 of title 38, United States Code, is amended by adding after "1682. Computation of educational assistance allowances." the following:

"1682A. Payment of tuition for eligible veterans."

TITLE V—GENERAL AND TECHNICAL PROVISIONS

SEC. 501. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 502. The table of chapters at the beginning of subtitle A of title 10, United States Code, is amended by adding

"106. Armed Forces Engineering and Technology Academies 2150
"107. Reserve Enlisted Training Corps .. 2161
"108. Armed Forces Critical Specialty Scholarship Program ..... 2171"

below

"105. Armed Forces Health Professions Scholarship Program ..... 2120".

By Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. TALMADGE, Mr. NUNN, Mr. ERVIN, Mr. HELMS, Mr. MATHIAS, Mr. HUGH SCOTT, Mr PELL, Mr. PASTORE, and Mr. GURNEY):

S. 4112. A bill to authorize the establishment of the Eutaw Springs National Battlefield Park in the State of South Carolina, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. THURMOND. Mr. President, the battle of Eutaw Springs was one of the great battles of the American Revolution. It was one of the six battles of the American Revolution for which the Continental Congress authorized a gold medal in honor of the victory. Forty-five counties in 21 States honor the heroes of the battle. It was perhaps the hardest fought battle of the war. With only one-fifth as many troops committed to battle, its casualties exceeded those at Yorktown. General Nathanael Green of Rhode Island commanded. Troops from at least 11 of the original 13 States fought in the battle. The American forces, consisting of Continental troops and State militia, fought with conspicuous gallantry. The Continental troops included Captain Kirkwood's "Blue Hen's Chickens" from Delaware, Col. John Eager Howard and the Second Maryland Line, and Lt. Col. "Light-Horse Harry" Lee of Virginia who commanded Lee's Legion. North Carolina's heroes included Gen. Jethro Sumner and Maj. John B. Ashe. South Carolina's included Gen. Francis Marion, the famous "Swamp Fox," Gen. Andrew Pickens, Col. Wade Hampton who commanded Thomas Sumter's troops, and Col. William Washington who settled in Charleston after the war. Col. Joseph Habersham of Georgia was another hero of the battle.

Of the heroes of the battle, at least 14 would later be elected to the U.S. Congress from six different States, including the ones who would be elected Governors of North Carolina, Virginia, Maryland and Delaware. Others would serve in Congress from Georgia and South Carolina. Among the many heroes of the battle who gave their lives for the Nation was Gen. Nathanael Greene's black orderly, a free man from Maryland, who was cited for his gallantry by General Greene.

The Battle of Eutaw Springs has always been a part of the inspiring heritage of South Carolina and of the Nation. The heroes of the battle are mentioned by Henry Timrod's poem, "Carolina," South Carolina's State song. The bronze doors of the U.S. House of Representative in Washington, D.C., cast in 1902, portray eight scenes of history. One of the eight scenes is the presentation of the flag and medal to Gen. Nathanael Greene for the Battle of Eutaw Springs.

The battlefield of Eutaw Springs is located in Orangeburg County, S.C. Less than 5 percent of the original battlefield is flooded by the Santee-Cooper Lake. A resolution of the South Carolina General Assembly, cosponsored by 93 members, asked for the development of the Eutaw Springs National Battlefield. Mr. President, I ask unanimous consent that this resolution be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

It has also been endorsed by the National Advisory Council on Historic Preservation and the South Carolina American Revolution Bicentennial Commission. Its supporters include members of both parties and both races.

Mr. President, I am introducing legislation which represents a bipartisan effort to give proper recognition to one of the great battles of the American Revolution by establishing the Eutaw Springs National Battlefield. Eutaw Springs occupies a significant part of our National heritage and the establishment of a National battlefield in its honor would be for the benefit and enjoyment of all Americans.

I ask that my colleagues join me in supporting this important legislation. Mr. President, at this time, I send to the desk a copy of the bill I am introducing and ask unanimous consent that it be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks and be referred to the appropriate committee.

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

S. 4112

To authorize the establishment of the Futaw Springs National Battlefield Park in the State of South Carolina, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to preserve, protect, and interpret an area of unique historical significance, the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to establish the Eutaw Springs National Battlefield Park (hereinafter referred to as the "Battlefield") in the State of South Carolina. The Battlefield shall comprise the area depicted on the map entitled "———", numbered ———, and dated ———, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia. The Secretary may make minor adjustments in the boundaries of the Battlefield from time to time by publication of the description of such adjustments in the Federal Register.

SEC. 2. Within the boundaries of the Battlefield, the Secretary may acquire lands and interests in lands by donation, purchase, exchange, or transfer. Any lands or interests in lands owned by the State of South Carolina or its political subdivisions may be acquired only by donation. When any tract of land is only partly within the boundaries of the Battlefield, the Secretary may acquire all or any portion of that tract outside the boundaries in order to minimize the payment of severance costs. Land so acquired outside the boundaries of the Battlefield may be exchanged by the Secretary for non-Federal lands within the boundaries of the Battlefield. Any portion of land acquired outside the boundaries of the Battlefield and not exchanged shall be transferred to the Administrator of the General Services Administration for disposal under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.). When the Secretary determines that he has acquired sufficient lands or interests in lands to constitute an administrable unit, he shall establish the Eutaw Springs National Battlefield by publication of a description thereof in the Federal Register.

SEC. 3. The Secretary shall administer the Battlefield in accordance with the Act of August 25, 1916 (16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 4. The Act is June 26, 1936 (16 U.S.C. 423m–4230), is repealed.

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

H. 1222

A concurrent resolution expressing support of the South Carolina General Assembly for the development of a EUTAW Springs National Battlefield and to memorialize the Congress of the United States to enact such legislation

Whereas, the Battle of Eutaw Springs, September 8, 1781, was one of the hardest fought battles of the American Revolution; and

Whereas, the Battle of Eutaw Springs was one of the six battles of the Revolution in which the Continental Congress awarded a medal in honor of the victory, the others being: Washington Before Boston, 1776; Saratoga, 1777; Stoney Point, 1779, Paulus Hook, 1779; and Cowpens, 1781; and

Whereas, in 1972 the Congress of the United States passed legislation creating the Cowpens National Battlefield which was signed into law by President Richard M. Nixon; and

Whereas, the Battle of Eutaw Springs was the climax of Major General Nathanael Green's brilliant campaign to free the South from British tyranny, the British retreated from the battlefield to Charleston the day after the battle; and

Whereas, the presentation of the Eutaw Springs Medal and Battle Flag to General Greene by Henry Laurens in behalf of the Continental Congress is one of the six panels of history on the bronze doors of the United States House of Representatives which were cast in 1902; and

Whereas, President John Adams stated that history would record that the importance of Eutaw Springs was equal to Yorktown; and

Whereas, both the American and British forces fought with great gallantry at Eutaw Springs, the British Forces, which numbered some two thousand, suffered forty percent casualties, a percentage unequaled by them in any other major battle except Bunker Hill which was fifty-two percent. The American Forces which consisted of approximately twenty-four hundred suffered twenty percent in casualties; and

Whereas, the total number of casualties at Eutaw Springs exceeded the number at the Battle of Yorktown; and

Whereas, a close scrutiny of the American soldiers at Eutaw Springs will reveal that they were experienced, courageous and patriotic. Greene's Army consisted of continentals and militia. They were soldiers who fought with great gallantry, men who served their country with distinction in war and in peace; and

Whereas, many legendary heroes of the nation fought at Eutaw Springs including native sons from at least eight of the thirteen states, future Governors of Virginia, Maryland, and Kentucky, and future Congressmen from Georgia, South Carolina, North Carolina, Virgina, Maryland, and Kentucky; and

Whereas, among the numerous heroes of their battle were: Rhode Island—Major General Nathanael Greene, the fighting Quaker, next to General George Washington the greatest General officer of the Revolution, counties in fourteen states honor his memory.

Delaware—Captain Kirkwood, the finest company commander of the war, a member of the "Blue Hens Chickens", Delaware's Continental Line.

Maryland—Lt. Colonel John Eager Howard, awarded a medal for Cowpens, a great soldier, later a Governor and United States Senator from Maryland, referred to in "Maryland, My Maryland", the Maryland State Song, counties in six states honor his memory, General Otho H. Williams, another great soldier of the Maryland Line; and General Greene's black orderly, a free man from Maryland who gave his life for his country in the battle. General Greene specifically cited him for his courage and gallantry.

Virginia—Lt. Colonel Henry Lee, Commander of Lee's Legion, awarded a medal for the Battle of Paulus Hook, New Jersey, later Governor of Virginia and Congressman, Father of General Robert E. Lee.

North Carolina—members of the North Carolina Militia and the members of the North Carolina Continental Line under General Jethro Sumner served with great gallantry. Their number was greater than the troops of any other state. John B. Ashe, a major with General Sumner's Command later served in Congress from North Carolina.

South Carolina—The South Carolina Militia, the forces of General Francis Marion, General Thomas Sumter and General Andrew Pickens served and fought with great distinction in the battle. Sumter, "the Gamecock", was unable to be present, but many of his men fought under the famous Colonel Wade Hampton I, later a member of Congress from South Carolina and a General in the War 1812. Francis Marion, "the Swamp Fox", is a legend of the American people. Seventeen states have a county named in his honor, a number exceeded only by General Washington of the American military heroes and the Revolution. General Andrew Pickens, a native of Pennsylvania, later served as a member of Congress from South Carolina. Three states have a county that honors his memory. Colonel William Washington, a native of Virginia and recipient of a medal for Cowpens was conspicuous with his bravery. The flag of his troop, "The Eutaw Flag", is held in trust by the Washington

Light Infantry of Charleston, South Carolina. "Carolina", the South Carolina State Song, by Henry Timrod mentions the heroes of Eutaw Springs.

Georgia—Colonel Samuel Hammond served in the Battle of Eutaw Springs and throughout the Revolution with distinction. After the Revolution he served as a General in the Georgia Militia and represented Georgia in Congress.

Missouri—Colonel Samuel Hammond while a member of Congress from Georgia was appointed by President Thomas Jefferson, the first civil and military officer for the upper Louisiana Territory, later called the Missouri Territory. Colonel Hammond in 1820 was elected the first president of the Territorial Council of Missouri.

Kentucky—Lt. John Adair, a member of Sumter's command, fought at Eutaw Springs, served in the South Carolina Legislature and moved to Kentucky as a young man. He became a member of Congress from Kentucky as United States Senator and a Major General in the War of 1812 who fought at the Battle of the Thames in Canada and commanded the Kentucky Volunteers in the Battle of New Orleans. In 1820 he was elected Governor of Kentucky.

France—Count Malmedy of France offered his services to the American cause. In the Battle of Eutaw Springs he commanded the North Carolina Militia.

Poland—Count Thadius Kosciusko, the Engineer for Green's army, was one of the great heroes of the Revolution. A Polish patriot he fought for the cause of American independence and when victory was achieved he returned to his native land to fight to free it from its conquerors. A county in Indiana commemorates his memory; and

Whereas, of the ten men who received medals from the Continental Congress for their leadership in battle, four fought at Eutaw Springs: General Nathanael Greene, Colonel John Eager Howard, Colonel William Washington and Lt. Colonel Henry Lee; and

Whereas, forty-five counties in twenty states commemorate heroes of the Battle of Eutaw Springs, the states being: Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Mississippi, Missouri, New York, North Carolina, Ohio, Oregon, South Carolina, Tennessee, Texas, West Virginia and Maryland; and

Whereas, the gallant courage of the men who fought at Eutaw Springs is part of our noble heritage, part of the heart and sinew of our nation; and

Whereas, the South Carolina Bicentennial Commission of the American Revolution, has passed a resolution supporting the development of a Eutaw Springs National Battlefield; and

Whereas, most of the battlefield of Eutaw Springs is open country near the Santee River, only a small part having been flooded by Lake Marion, named in honor of the famous Swamp Fox, General Francis Marion.

Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring: That the General Assembly of South Carolina does hereby express its support for federal legislation providing for a Eutaw Springs National Battlefield and it does respectfully request South Carolina's Congressional Delegation to work for the implementation of such legislation; be it further

Memorialized That the Congress of the United States enact legislation providing for the Eutaw Springs National Battlefield in honor of the patriots who gave their lives in the battle and in memory of all of those who by their service and sacrifice helped win our independence as a nation and our rights as a free people. Be it further

Resolved That a copy of this resolution be sent to President Richard M. Nixon; Vice President Spiro Agnew; Speaker of the United States House of Representatives, Carl Albert; the members of the South Carolina Congressional Delegation; and the members of the National Advisory Council on Historic Preservation.

By Mr. HUGH SCOTT:

S. 4113. A bill to insure that budget outlays by the U.S. Government during the fiscal year ending June 30, 1975 do not exceed $300,000,000,000. Order held at the desk.

Mr. HUGH SCOTT. Mr. President, pursuant to President Ford's message to Congress yesterday, I am introducing a bill holding Federal expenditures to $300 billion during the current fiscal year.

On at least four occasions, the Senate has agreed to similar budget ceilings, only to have the House disagree in conference. It is about time that we in the Congress put our own fiscal house in order.

I hope that the bill will be agreed to.

By Mr. ROTH (for himself, Mr. BUCKLEY, Mr. CURTIS, Mr. PROXMIRE, Mr. MCCLURE, and Mr. HARRY F. BYRD, JR.):

S. 4114. A bill to authorize the President to reduce Federal expenditures and net lending for fiscal year 1975 to $295,000,000,000. Ordered held at desk.

Mr. ROTH. Mr. President, I am today introducing emergency legislation to authorize the President to cut Federal spending for this fiscal year to the $295 billion level. In my opinion, this legislation is essential if the Federal Government is really going to do something about inflation.

The American people have been asked to accept an increase in their tax burden because the Congress has not had the guts to cut Federal spending. Once again, the middle-income people, who receive the least amount of Government benefits, are being asked to pay for excessive Federal spending.

The President has asked the Congress to enact a spending target of $300 billion, but I believe that the Congress will violate this spending target just as quickly as it is violating the $295 billion spending ceiling 74 Senators approved a few months ago. The Congress does not need a spending target; it needs a firm, airtight spending ceiling with some teeth in it.

If the Congress could reduce Federal spending, not just to $300 billion but to $295 billion, there would be no need to impose a tax increase on the already suffering American people.

For this reason, I am today introducing the Emergency Budget Control Act of 1974. This legislation would temporarily suspend title X of the Congressional Budget and Impoundment Control Act of 1974 to authorize the President to reduce expenditures and net lending in fiscal 1975 to not less than $295 billion. This emergency legislation is similar in scope to legislation introduced by Senators PROXMIRE, BUCKLEY, BYRD of Virginia, and CURTIS.

The legislation provides safeguards from Presidential abuses by forbidding reductions of more than 20 percent in the expenditures and net lending of any major department and agency.

The legislation also allows the Congress to disapprove or modify all or part of the President's proposed spending cuts.

This legislation is admittedly tough, but tough action is necessary to reduce inflation. The massive increase in Federal spending for the past 15 years, from $92 billion in fiscal 1960 to over $300 billion in fiscal 1975, has been primarily responsible for today's inflation. If the Congress is serious about reducing inflation, it must take action now. The Congress can either continue spending at deficit levels and impose a tax increase, or it can make some hard choices, reduce spending and restrain inflation.

Mr. President, I understand that the Senate will vote on setting a target spending level of $300 billion before the recess. I intend to offer my legislation to set a firm $295 billion spending ceiling as a substitute amendment.

The Congress will then have the opportunity to vote for a cut in Federal spending or an increase in Federal taxes.

By Mr. PASTORE:

S.J. Res. 248. A joint resolution assuring compensation for damages caused by nuclear incidents involving the nuclear reactor of a U.S. warship. Referred to the Joint Committee on Atomic Energy.

NUCLEAR WARSHIP PORT ENTRY

Mr. PASTORE. Mr. President, the Joint Committee on Atomic Energy has been approached a number of times over the past few years by the Chief of Naval Operations, Admiral Rickover, and officials of the Defense Department and of the State Department about a problem concerning the operation of our nuclear navy abroad. These concerns arise out of the fact that an increasing number of foreign governments are perplexed about the apparent inability of the U.S. Government to provide the kind of legal assurances that are expected today with respect to the satisfactory disposition of any claims for nuclear accidents that might arise out of the operation of our naval reactors in the course of its visits to foreign ports.

I recognize that we are dealing with a somewhat nominal situation since our nuclear warships have an unparalleled reactor safety record. I expect this record to be maintained because I am personally aware that this Government has committed itself to building into our nuclear powered warships the kind of devices that have enabled the United States achieve its outstanding safety record.

At the same time, however, national security considerations dictate that this technology must be stringently controlled and safeguarded.

This in turn raises a dilemma for those who cannot have access to the technology. On the one hand, they have seen the safety record we have achieved and, on the other hand, they are perplexed by

our apparent unwillingness to demonstrate our faith in the future of this record by providing them with the kind of legal assurances that have come to be expected in the light of the trend of the law with respect to claims arising from nuclear reactor accidents.

The executive agencies have advised that they believe that those kind of assurances are in order and that they would like to be able to provide them if they had the necessary legal authority. They point out that there is sufficient question as to their authority to deal with any claims that might result from such nuclear reactor damage situations on a strict liability basis that it would be highly desirable for the Congress to enact a provision which would clarify the situation. Indeed, one concern is that existing legislation of possible relevance, may be understood to reflect a congressional policy that the U.S. naval authorities should not be providing the friendly governments of the ports our nuclear fleet are visiting abroad with the desired assurances.

I can assure you that we on the Joint Committee never intended to interpose any legal difficulties for our nuclear fleet which carries such a national security burden on behalf of the free world. Indeed, we are prepared to help lead the way in formalizing a declaration of national policy that friendly governments, receiving our nuclear fleet in their ports should be extended the assurance in principle that, in the unlikely event of a nuclear accident arising out of the operation of one of our naval nuclear reactors, the U.S. Government will be strictly liable to honor valid claims for damage sustained from the incident. This is only fundamental and is completely in accord with the good faith already reflected in the Atomic Energy Act of 1954, as amended.

I believe, therefore, that the time has come to facilitate the free movement of our nucelar navy into foreign ports with a general declaration of policy measure, in the form of a joint resolution, which will express the will of both Houses of Congress. The Department of Defense and of State have written to the Joint Committee in support of this resolution, and the Secretary of Defense, in personal testimony before the Joint Committee on September 26, 1974, additionally addressed the necessity and urgency of this matter. Mr. President, I ask unanimous consent to insert the State Department correspondence into the RECORD following these remarks, together with the text of the joint resolution.

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

DEPARTMENT OF STATE,
Washington, D.C., September 17, 1974.

Hon. MELVIN PRICE,
Chairman, Joint Committee on Atomic Energy, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Joint Committee has asked for the Department's views on the draft resolution (H.J. Res. 1089) which has recently been introduced concerning the liability of U.S. nuclear powered warships in the event of a nuclear incident.

The Department of State has in recent years been involved in negotiations with a number of foreign governments concerning the question of visits by U.S. nuclear powered warships to foreign ports. These visits are important to us in maintaining the effectiveness of our growing nuclear fleet. Some governments have been reluctant to accept the ships in their ports because of our inability to give assurances concerning liability and indemnification which they consider adequate. I believe that in a number of cases, by confirming Congressional support for the policy of paying claims and judgments, the proposed resolution might effectively resolve this problem and permit visits to take place.

As you know, the nuclear warship liability question has been raised in connection with the renegotiation of the Spanish Base Agreement. Prompt Congressional action on the resolution would provide us with an additional negotiating flexibility and might make possibile a mutually acceptable resolution of this issue.

For these reasons the Department of State supports H.J. Res. 1089, and I am grateful to you for inviting us to comment upon it. I apologize for the tardiness of this reply.

Sincerely,

ROBERT J. MCCLOSKEY.

S.J. RES. 248

Whereas it is vital to the national security to facilitate the ready acceptability of United States nuclear powered warships into friendly foreign ports and harbors;

Whereas the advent of nuclear reactors has led to various efforts throughout the world to develop an appropriate legal regime for compensating those who sustain damages in the event there should be an incident involving the operation of nuclear reactors;

Whereas the United States has been exercising leadership in developing legislative measures designed to assure prompt and equitable compensation in the event a nuclear incident should arise out of the operation of a nuclear reactor by the United States as is evidenced in particular by section 170 of the Atomic Energy Act of 1954, as amended;

Whereas some form of assurance as to the prompt availability of compensation for damage in the unlikely event of a nuclear incident involving the nuclear reactor of a United States warship would, in conjunction with the unparalleled safety record that has been achieved by United States nuclear powered warships in their operation throughout the world, further the effectiveness of such warships: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the policy of the United States that it will pay claims or judgments for bodily injury, death, or damage to or loss of real or personal property proven to have resulted from a nuclear incident involving the nuclear reactor of a United States warship: *Provided,* That the injury, death, damage, or loss was not caused by the act of an armed force engaged in combat or as a result of civil insurrection. The President may authorize, under such terms and conditions as he may direct, the payment of such claims or judgments from any contingency funds available to the Government or may certify such claims or judgments to the Congress for appropriation of the necessary funds.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 2363

At the request of Mr. CRANSTON, the Senator from Indiana (Mr. BAYH), the Senator from New Jersey (Mr. WILLIAMS), and the Senator from Georgia (Mr. TALMADGE) were added as cosponsors of the bill (S. 2363) to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 2528

At the request of Mr. MONDALE, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 2528, a bill to amend the Social Security Act to provide the States with maximum flexibility in their programs of social services under the public assistance titles of the Act.

S. 3418

At his own request, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 3418, a bill to establish a Federal Privacy Board to oversee the gathering and disclosure of information concerning individuals, to provide management system in Federal agencies, State, and local governments, and other organizations regarding such information, and for other purposes.

S. 3908

At the request of Mr. TAFT, the Senator from Maryland (Mr. BEALL) was added as a cosponsor of S. 3908, a bill to revise and improve the program of supplemental security income established by title XVI of the Social Security Act, and for other purposes.

S. 3898

At the request of Mr. HUGH SCOTT, the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 3898, a bill to allow a tax deduction of up to $2,000 for tuition costs for anyone earning less than $25,500, annually.

S. 3947

At the request of Mr. HUMPHREY, the Senator from Ohio (Mr. METZENBAUM) was added as a cosponsor of S. 3947, a bill to establish a national policy for guaranteeing to all Americans who are able and willing to work, the avaliability of equal opportunities for useful and rewarding employment.

S. 3982

At the request of Mr. WEICKER, the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3982, a bill to restrict the authority for inspections of tax returns and the disclosure of informaton contained therein, and for other purposes.

S. 4059

At his own request, the Senator from Utah (Mr. Moss) was added as a cosponsor of S. 4059, the Net Worth Disclosure Act.

S. 4060

At the request of Mr. HANSEN, the Senator from Wyoming (Mr. MCGEE) was added as a cosponsor of S. 4060, a bill to amend the Federal Water Pollution Control Act Amendments of 1972.

S. 4081

At his own request, the Senator from Mississippi (Mr. STENNIS) was added as a cosponsor of S. 4081, a bill to redesignate November 11 of each year as Veterans Day and to make such day a legal public holiday.

S. 4093

At the request of Mr. RIBICOFF, the Senator from Colorado (Mr. HASKELL) was added as a cosponsor of S. 4093, a bill to freeze medicare deductibles.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 347

At the request of Mr. HART, the Senator from Indiana (Mr. BAYH), the Senator from Oklahoma (Mr. BELLMON), the Senator from Virginia (Mr. HARRY F. BYRD, JR.), the Senator from Idaho (Mr. CHURCH), the Senator from Maine (Mr. HATHAWAY), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. METCALF), the Senator from Wisconsin (Mr. NELSON), the Senator from Rhode Island (Mr. PELL), the Senator from Illinois (Mr. PERCY), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Vermont (Mr. STAFFORD), the Senator from Ohio (Mr. TAFT), and the Senator from California (Mr. TUNNEY) were added as cosponsors of Senate Resolution 347, a resolution to authorize the Committee on Commerce to make an investigation and study on the policy and role of the Federal Government on tourism in the United States.

AMENDMENTS SUBMITTED FOR PRINTING

SUPPLEMENTAL APPROPRIATIONS, 1975—H.R. 16900

AMENDMENT NO. 1965

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

Mr. WEICKER submitted an amendment intended to be proposed by him to the bill (H.R. 16900) making supplemental appropriations for the fiscal year ending June 30, 1975, and for other purposes.

AMENDMENT NO. 1966

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

Mr. TUNNEY submitted an amendment intended to be proposed by him to the bill (H.R. 16900), supra.

OMNIBUS FEDERAL RECLAMATION PROJECTS ACT—H.R. 15736

AMENDMENT NO. 1967

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

Mr. DOMENICI (for himself and Mr. MONTOYA) submitted an amendment intended to be proposed by them jointly to the bill (H.R. 15736) to authorize, enlarge, and repair various Federal reclamation projects and programs, and for other purposes.

ELEPHANT BUTTE AMENDMENT

Mr. DOMENICI. Mr. President, I would like to offer an amendment to H.R. 15736. This amendment would restore title XI, Elephant Butte Recreation Pool, N. Mex., to the bill. The committee deleted title XI pending a further review and subsequent report to the committee by the Department of the Interior.

Mr. President, the Department of the Interior in a letter dater September 19, 1974, and signed by Under Secretary of the Interior, John C. Whitaker, stated:

A question has been raised as to whether certain Indian water rights would be adversely affected by Title XI which would authorize the release of specified quantities of water from the Heron Reservoir to the Elephant Butte Reservoir. While this question was not explicitly addressed in our previous comments on this measure (letter dated June 17, 1974, on S. 1119), our position has been that such rights are not affected.

The letter goes on to recommend an amendment to make it clear that this title would not affect any rights that the Indians may have.

Mr. President, the amendment I am offering today includes language to make it clear that this title would not affect any rights that the Indians may have.

Title XI authorizes the transfer of water from one reservoir in New Mexico to another. This water comes from the San Juan River and title XI would not authorize any diversions from the San Juan River system in excess of those authorized by Public Law 87-483.

Mr. President, the availability of San Juan-Chama project water for a recreation pool at Elephant Butte Reservoir arises out of the circumstances that the city of Albuquerque does not yet need the full amount of water for which the city has contracted and the circumstance that the four tributary irrigation units authorized in Public Law 87-483 are not yet, and will not be for several years, in operation.

Mr. MONTOYA. Senator DOMENICI and I intend to call up an amendment tomorrow to add the provisions of S. 1119—title XIV under our amendment—to H.R. 15736, the omnibus Federal reclamation projects bill.

Title XIV authorizes the transfer of water from one reservoir in New Mexico to another. The water in question comes from the San Juan River system and is allocated according to the provisions of Public Law 87-483.

The Jicarilla Apaches in my State have objected to the title on a number of grounds which were set out in their Resolution 75-18. In my conversations with their president and attorney, however, I find them actually concerned about two matters which are largely unrelated to the provisions of title XIV. They are concerned, first, with the manner in which the San Juan project has been operated. They charge that water flows below the statutorial minimum have occurred causing damage to their fisheries. They are also concerned with the larger question of the availability of water in the San Juan Basin to meet all anticipated future demands. Specifically, they look ahead to a request which will be before the Congress next year to allocate some 28,500 acre-feet of San Juan water to the El Paso Natural Gas Co., fearful that congressional approval of the request is inevitable and that the result will be a further depletion of flows through their reservation. While I sympathize with these concerns, I suggest that holding title XI in abeyance would do nothing to resolve either of them.

With regard to the operation of the San Juan project and the consequent depleted river flows, Public Law 87-483 very clearly establishes the amount of water to which the Jicarilla and other downstream users are entitled and also provides that water may not be diverted into the San Juan project until sufficient water to meet these demands is available. If the project is being operated in violation of the law and, as a result, the Jicarilla are suffering, corrective action must be taken. To settle the point, I believe it would be entirely appropriate for the Interior Committee to request a report from the Department of Interior or from GAO regarding the project's operation, and I urge the committee to do so.

As to the supply of water in the San Juan Basin over the next few years, several points may be made. First, title XIV envisions no new taking of water. The water in question is water which has been allocated since 1963 but which is presently surplus to the needs of the allocatees—the city of Albuquerque and four tributary units in northern New Mexico—and which, therefore, is temporarily the property of the Secretary of the Interior. In the next decade as the water demands of Albuquerque grow and the tributary units are built, ownership of the water will pass from the Secretary to the allocatees. No other water is involved. Second, it is by no means clear that Congress will approve El Paso's request.

Other interested parties have raised additional objections characterized, for the most part, by a claim that Winter's doctrine rights in the San Juan Basin have not been and are not now being recognized. Whether this is true or false is not for the Congress to decide, however, because a judicial determination of the meaning and the application of the Winter's doctrine is now being made as the case of Aamodt against United States works its way through the Federal courts. This case is widely viewed as a landmark case in Western water law, and it is expected eventually to go to the Supreme Court. If the law is one day determined to require changes in the method by which we now allocate water, we shall abide by it, but until that happens I see no reason to hold title XI hostage.

Viewing the matter in its entirety, we believe that what the Senate faces is a larger question than whether or not to approve the water transfer contemplated by title XIV. We are also deciding whether every water project in the country which is clouded by a Winter's doctrine claim, however valid or invalid, will be suspended until a final determination of these claims can be made. If the committee makes this decision in the title XI case, we believe it could apply with equal force to half the other projects in H.R. 15736 and to many other projects under construction or in operation. I hope the Senate will reject this policy.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD the following three items: First, the proposed amendment; second, a copy of the Jicarilla resolution; and third, a response to the resolution prepared by Mr. Steve Reynolds, the New Mexico State water engineer.

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

AMENDMENT No. 1967

On page 36, after line 13, add a new section XIV to read as follows:

TITLE XIV

ELEPHANT BUTTE RECREATION POOL, NEW MEXICO

SEC. 1401. (a) Pending the negotiation of contracts and completion of construction for furnishing water supplies for tributary irrigation units as authorized by section 8 of the Act of Congress dated June 13, 1962 (Public Law 87–483; 76 Stat. 96), and subject to the availability of stored water in Heron Reservoir in excess of one hundred thousand acre-feet, which water is not required for existing authorized uses, the Secretary of the Interior is authorized to permit releases from the Heron Reservoir of the San Juan-Chama project to provide storage and establish a minimum recreation pool in Elephant Butte Reservoir. Such releases, to the extent of the available supply, shall be limited to providing fifty thousand acre-feet of water delivered to Elephant Butte Reservoir annually, for a period not exceeding ten years from establishment of the recreation pool, to replace loss by evaporation and other causes. Authorized releases, as provided above, are subject to and subordinated to any obligations under contracts for San Juan-Chama project water now or hereafter in force and for filling and maintaining a pool in Cochiti Reservoir under the Act of Congress dated March 26, 1964 (Public Law 88–293; 78 Stat. 171). The provisions of section 11(a) of the Act of June 13, 1962 (76 Stat. 96), requiring a contract satisfactory to the Secretary for the use of any water of the San Juan River are hereby expressly waived with respect to the use of water required to establish and maintain a permanent pool in Elephant Butte Reservoir: *Provided, however,* That nothing in this Act shall be construed to diminish, abridge or impair any water rights of the Jicarilla, Southern Ute, Navajo and Ute Mountain Indians Releases, as authorized by this title, shall be discontinued or reduced upon a finding by a court of competent jurisdiction that such releases are detrimental to such Indian water rights.

(b) The releases of water from Heron Reservoir authorized herein shall not be permitted unless and until the Rio Grande Compact Commission agrees by resolution that—

(1) the term "usable water" as defined in article I of the Rio Grande Compact shall not include San Juan-Chama project water stored in Elephant Butte Reservoir;

(2) in the determination of "actual spill" as that term is defined in article I of the Rio Grande Compact, neither the spill of "credit water", as that term is defined in article I of the Rio Grande Compact, shall not occur until all San Juan-Chama project water *stored* in Elephant Butte Reservoir shall have been spilled; and

(3) the amount of evaporation loss chargeable to San Juan-Chama project water stored in Elephant Butte Reservoir shall be that increment of the evaporation loss from the storage of San Juan-Chama project water; the evaporation loss from the reservoir shall be taken as the difference between the gross evaporation from the water surface of Elephant Butte Reservoir and the rainfall on the same surface.

(c) Fifty per centum of any incremental costs incurred by the Secretary in the implementation of this title shall be borne by a non-Federal entity pursuant to arrangements satisfactory to the Secretary.

SEC. 1402. Nothing contained in this title shall be construed to increase the amount of money heretofore authorized to be appropriated for construction of the Colorado River storage project, any of its units, or of the Rio Grande project.

SEC. 1403. Nothing herein shall be construed to alter, amend, repeal, modify, or be in conflict with the provisions of the Rio Grande Compact.

RESOLUTION

Whereas, Senate Bill 119, pending in Congress, will authorize the storage of 50,000 acre feet of supposedly "surplus" waters from the San Juan-Chama diversion project, for a maximum recreation pool in Elephant Butte Reservoir, supplemented by up to 6,000 acre feet of water annually for ten years to replace losses by evaporation; and

Whereas, the Jicarilla Apache Tribe has been and will be deprived of water from the Navajo River, which water rightfully belongs to the Jicarilla Apache Tribe, other Indian Tribes and prior water users on the Navajo River and other tributaries of the San Juan River; and

Whereas, there is in fact no "surplus" water available from the San Juan river system, as the waters of the San Juan and its tributaries are grossly over appropriated; and

Whereas, the initial seizure of the waters of the Navajo River by the Bureau of Reclamation for the San Juan-Chama diversion, without regard to the rights of the Jicarilla Apache Tribe and other Indian Tribes with reservations on the San Juan and its tributaries has resulted in disastrous consequences to this Tribe in that the flow in the Navajo River through the Jicarilla Apache Reservation has been reduced over ⅔, and destroyed the fishing and other recreational uses of the river, to which this Tribe is legally entitled; and

Whereas, the Bureau of Reclamation has neglected and failed to maintain the minimum monthly flow in the Navajo of water from the San Juan-Chama Bypass required by Public Law 87–483 and has permitted silt deposits to be flushed through the diversion gates and the combination of low flows, high temperatures, and dumping of silt into the Navajo and Blanco Rivers, has substantially destroyed the former excellent trout fishing on these streams to the great economic loss of the Jicarilla Apache Tribe; and

Whereas, it appears that Navajo River water, although belonging legally to this Tribe and other San Juan River users by prior right under the Winter's doctrine, is being declared "surplus" and will be wasted by delivery over 400 miles over the Continental Divide, into Elephant Butte Reservoir; and

Whereas, the beneficial effect on Elephant Butte will be negligible (50,000 acre feet into a 2,100,000 acre foot storage reservoir), if there be any effect at all; and

Whereas, the Indian tribes on the San Juan River system have had no opportunity to object to the San Juan diversion, or the proposed bill, Senate 1119, and said Tribes have been and will be damaged irreparably by the illegal actions of the Interior Department's Bureau of Reclamation; and

Whereas, the Jicarilla Apache Tribe depends on the Navajo River for its survival as an independent community and is entitled to a share of its waters which have already been over-appropriated to others, without regard for the Tribe's legal right to such waters for the domestic and industrial uses, irrigation, fishing, and future needs,

Now, therefore, be it resolved: That the Tribal Council of the Jicarilla Apache Tribe expresses its objection to Senate Bill 1119 and any other legislation or action by any government agency to utilize so-called "surplus" water from the San Juan diversion, without consideration of present and future needs of the Jicarilla Apache Tribe and other Indian tribes on the San Juan and its tributaries,

Be it further resolved: That the Tribal Council state its opposition to any other projects for use of appropriated or unappropriated water from the San Juan or its tributaries, such as for coal gasification plants, until the water rights of the Tribe and other tribes on the San Juan system are recognized and adjudicated and sufficient flow is restored to the Navajo River to maintain its fish and aquatic life and ensure preservation of the Tribe's future needs for water,

Be it further resolved: That the President of the Tribal Council be and he hereby is directed to send copies of this resolution to the Chairman of the Subcommittee on Water and Power Resources, Senate Committee on Interior and Insular Affairs, U.S. Senate, to the Commissioner of Indian Affairs, to other interested tribes and members of Congress, and Senators from New Mexico.

SANTA FE, N. MEX.,
July 19, 1974.

HON. JOSEPH M. MONTOYA,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR: In response to your request, I am pleased to offer the following comments on Senator Abourezk's June 24, 1974 letter to Senator Frank Church, Chairman of the Subcommittee on Water and Power Resources of the Senate Committee on Interior and Insular Affairs. I am deeply concerned that Senator Abourezk apparently has been furnished information concerning water resources of great importance to the State of New Mexico that is not completely accurate and reliable. I hope that the following comments will be useful to you in discussions with Senator Abourezk and Senator Church.

At the outset, it is important to note that S. 1119 would authorize the use of San Juan-Chama Transmountain Diversion Project water for the purpose of a minimum recreation pool at Elephant Butte Reservoir for a period of not to exceed ten years from the establishment of the recreation pool. Furthermore, this use of San Juan-Chama Project water would be, by the terms of the bill, subject to the availability of stored water in Heron Reservoir (the storage unit of the San Juan-Chama Project) in excess of 100,000 acre-feet, which water is not required for existing authorized uses. The bill would not authorize any diversions from the San Juan River system in excess of those authorized by Public Law 87–483 (Section 8) in 1962. It is also important to note that Section 8(f) of that act required specific minimum flows for the preservation of fish and aquatic life in Navajo River and Blanco River below the points of diversion for the San Juan-Chama Project. Thus there is no foundation for concern that enactment of S. 1119 might result in damage to the Jicarilla, Southern Ute or Navajo Reservations.

The availability of San Juan-Chama Project water for a recreation pool at Elephant Butte Reservoir, a purpose not authorized by Public Law 87–483 in 1962, arises out of the circumstance that the City of Albuquerque does not yet need the full amount of water for which the City has contracted and the circumstance that the four tributary irrigation units authorized in 1962 are not yet, and will not be for several years, in operation. Our studies indicate that the authorization to create and maintain a recreation pool at Elephant Butte for a period of ten years would result in diversion from the San Juan system of about 100,000 acre-feet more in the ten-year period than would otherwise be made, but this diversion will be made within the limits set in the 1962 authorization and without damage to the reservations mentioned above.

The first paragraph of Senator Abourezk's letter expresses concern over "severe competition at the present moment to supply San Juan River water for the Navajo Irriga-

tion Project." The 110,630 acre Navajo Indian Irrigation Project was authorized by the same legislation that authorized the San Juan-Chama Project in 1962. Under current Bureau of Reclamation schedules, water will be applied to the first 10,000 acres of the Navajo Project in 1976 and the acreage under irrigation will be increased about 10,000 acres each subsequent year through the year 1986 when the full project will be irrigated. Thus there is no competition for water for the Navajo Project at this time and the authorization of S. 1119 will have expired before the project is completed. Furthermore, our water supply studies show that, due to the storage capability of Navajo Reservoir, there will not be shortages for the Navajo Project when it is in full operation, even with a recurrence of the most severe drouth conditions of record.

The second paragraph of Senator Abourezk's letter expresses concern that the importation of San Juan River water into the Rio Grande will have a damaging effect on the rights of the Pueblo Indians for the reason that ". . . the use of the Rio Grande as a 'big ditch' to deliver water seized from the San Juan River Indians will forever limit them to use their present very meager uses to the Rio Grande River." I am not able to understand how the importation of San Juan River water to the Rio Grande system can in any way affect the Pueblo Indians' rights to the use of Rio Grande system water; procedures for measuring and accounting the two kinds of water in the Rio Grande system have been very carefully designed. In fact, the San Juan, Santa Clara, Nambe, Pojoaque and San Ildefonso Pueblos all will be beneficiaries of the authorized tributary units. The Taos Pueblo might also benefit from the imported water but it appears at this time that that Pueblo does not wish to participate.

The third paragraph of Senator Abourezk's letter expresses concern about shortage of water in the San Juan River for industrial purposes including high BTU gasification and electrical generation. Our water supply studies show that there is available for use in New Mexico, within our compact entitlements, sufficient water in addition to the requirements for all existing and authorized projects, including the Navajo Indian Irrigation Project, 100,000 acre-feet for depletion under municipal and industrial contracts. There are no plans for uses in excess of our compact entitlement under conservative estimates of river flow. These municipal and industrial contracts will be served from Navajo Reservoir, as will the Navajo Indian Irrigation Project, and would suffer no shortages even under recurrence of the most severe drouth conditions of record.

The fourth paragraph of Senator Abourezk's letter suggests that by conserving and retaining the waters of the San Juan River (i.e. by not enacting S. 1119) it would be possible to forestall "plans to raid" water supplies of the state of Idaho and other Columbia River basin states. It is important to note that the authorization of S. 1119 would expire before all of the other authorized projects for the use of New Mexico's waters have been put in operation and, further, that full implementation of all authorized and planned uses of New Mexico's water would require no augmentation from the Columbia River, any of its tributaries or any other source.

The fifth paragraph of Senator Abourezk's letter expresses concern that ". . . the terrible shortage of the Colorado River that exists today." There has been, of course, much discussion about the shortage of water supply in the Colorado River but that shortage does not exist today. Hydrologic studies and projections of population and economic activity make it apparent that the flow of the Colorado River is not sufficient to supply the full amounts to which the Colorado River Basin states are entitled under the Colorado River compacts and the decree in *Arizona* v. *California* or the amount that will ultimately be required in the Basin. However, in the middle of June Lake Powell was over 80% full and Lake Mead was over 70% full and it is reasonable to expect that both reservoirs will continue to gain until the Central Arizona Project and the Upper Basin projects authorized by Public Law 90-537 in 1968 are put in operation. This time is still many years away; current Bureau of Reclamation schedules indicate that the Central Arizona Project will not go into operation until 1985. The authorization of S. 1119 will have expired before that time.

Please let me know if some further discussion of this matter would be helpful.

Sincerely,

S. E. REYNOLDS,
State Engineer.

EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974—S. 3979

AMENDMENT NO. 1968

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

Mr. CRANSTON (for himself and Mr. BROOKE) submitted an amendment intended to be proposed by them jointly to the bill (S. 3979) to increase the availability of reasonably priced mortgage credit for home purchases.

AMENDMENTS NOS. 1969 AND 1970

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

Mr. PROXMIRE submitted two amendments intended to be proposed by him to amendment No. 1968, intended to be proposed to the bill (S. 3979), supra.

AMENDMENT NO. 1971

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

Mr. JAVITS submitted an amendment intended to be proposed by him to amendment No. 1968, intended to be proposed to the bill (S. 3979), supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 1925

At the request of Mr. TAFT, the Senator from North Carolina (Mr. ERVIN) was added as a cosponsor of amendment No. 1925, intended to be proposed to S. 2022, a bill to provide increased employment opportunity by executive agencies of the U.S. Government for persons unable to work standard working hours, and for other purposes.

AMENDMENT NO. 1926

At the request of Mr. PERCY, the Senator from Florida (Mr. CHILES) was added as a cosponsor of amendment No. 1926, proposed to the bill (S. 4016) to protect and preserve tape recordings of conversations involving former President Richard M. Nixon and made during his tenure as President, and for other purposes.

ADDITIONAL STATEMENTS

THE NATIONAL EMERGENCIES ACT

Mr. TAFT. Mr. President, the legislation passed yesterday, the National Emergencies Act, is, in my judgment, a landmark bill. I commend the members of the Senate Special Committee on National Emergencies for bringing this legislation before the Senate.

In times of great national stress, when particularly rapid and effective major action is likely to be demanded of governments, it is extremely tempting to allow the delicate balance between liberty and authority to be tipped in the direction of authority. The continuation to the present time of four national emergencies from as early as 1933 and the existence of over 470 provisions of Federal law which delegate extraordinary authority in time of national emergency to the executive should indicate that this is a problem not to be taken lightly.

While America's experience with emergency powers has been relatively painless thus far, the experience of Germany after the First World War should give us all pause. The Weimar Constitution gave the President of the German Republic, without concurrence of the Reichstag, the power temporarily to suspend any or all individual rights if public safety and order were seriously disturbed or endangered. This convenience was so tempting to every government, whatever its shade of opinion, that in 13 years suspension of rights was invoked on more than 250 occasions. Finally, Adolf Hitler persuaded President Von Hindenburg to suspend all such rights, and they were never restored.

While I am attempting to draw no comparisons between that situation and the present state of American emergency powers laws, this legislation does remedy important defects which provide too much leeway for the executive branch upon its declaration that a national emergency exists. At the same time, by allowing the President to declare a national emergency when truly necessary and by allowing certain emergency powers to continue with the requirement that they be reviewed at least every 6 months by Congress, this legislation retains enough flexibility so that the Government can deal adequately with emergency situations.

It is important to recognize that the complement to the limitation on Executive powers in this bill is a clear responsibility upon the Congress to act with wisdom and expedition in times of national emergency. Future Congresses can guard our liberties during such periods more effectively with that type of action than with any legislation which simply limits the powers of the executive branch.

THE ADMINISTRATION'S ECONOMIC PROGRAM

Mr. MOSS. Mr. President, yesterday the administration presented its much heralded economic program. I support many of the proposals made by the administration; however, I seriously question the way in which additional revenues will be raised to pay for this new economic program. The proposed tax program will mean that business profits will increase, middle-income groups will pay more taxes, consumers will pay higher prices and the poor will continue

to bear a disproportionate share of the cruel tax of inflation.

It is difficult to justify a surcharge on middle-income Americans when oil companies remain above the tax system The immediate elimination of the oil-depletion allowance would raise the same number of dollars—2 billion—as the tax surcharge. I believe that the immediate termination of this preferential tax treatment of the oil companies is a much more equitable solution to the revenue problem. The House Ways and Means tax reform bill as now written includes a phaseout of the oil-depletion allowance. Under this program only $400 million of revenue will be raised in 1975, and oil companies will retain $1.6 billion of tax preferences. If the depletion allowance were terminated immediately, this $1.6 billion would be added to revenues and nearly eliminate the need for a $2 billion tax surcharge on individuals.

Another feature of President Ford's tax program is a surcharge on corporations. However, without some control on prices, raising revenue by imposing a tax surcharge on corporations is nothing more than a tax on the consumer. Corporations will simply pass the surtax on to the consumer by way of higher prices, but will be very reluctant to pass the benefits of the investment tax credit on to the consumer in the form of lower prices. These benefits will most likely go to the stockholder rather than consumers.

One of the most disturbing omissions of their program was the lack of any tax relief for the poor. Last week newspaper headlines announced that tax relief for the poor was "being given serious consideration by the administration" and such tax relief was a common theme at the Economic Summit Conference. Nevertheless, the administration has not proposed any direct tax relief for lower income groups other than support of the tax reform bill now pending in the Ways and Means Committee. President Ford noted that this bill provides about $1.6 billion of tax relief for individuals with incomes of less than $15,000. The low and middle income taxpayers will lose their enthusiasm for this relief when they take a closer look at this latest exercise in "tax reform."

The average tax savings would be worth less than the cost of a new dress, a new suit, or 2 weeks groceries for a family of four.

What the committee proposes is to raise the standard deduction to $2,500 or 17 percent of adjusted gross income—from the present $2,000 or 15 percent—and the low income allowance to $1,400 for single, and $1,500 for married taxpayers, instead of the present $1,300 regardless of marital status.

These tax breaks are not meaningful. Under the tax reform bill, a family of four which does not itemize deductions would save $34 on an income of $8,000, $38 on an income of $10,000. This will not please those who thought that $1.6 billion sounded like significant tax relief.

I have suggested in the past that tax relief for the poor can most easily be accomplished by revisions of the regressive social security tax system, providing the option of substituting a $250 tax credit for each $750 personal exemption, and raising low income allowance from $1,300 to $1,800 while increasing the standard deduction ceiling from $2,000 to $2,500 and the rate from 15 to 20 percent. These are meaningful ways of providing tax relief for the lower income groups.

Mr. President, the administration's economic program offers no tax relief for the working poor or the elderly on fixed incomes. It is the duty of Congress to insure that the lower income groups will not be required to bear a disproportionate share of double-digit inflation. Significant tax relief for the lower income groups must be part of any equitable economic program to fight inflation.

EXPLOITATION OF THE ELDERLY

Mr. PERCY. Mr. President, it is a sad fact of American life that millions of our elderly citizens find the so-called "golden years" of retirement a cruel hoax.

After years of contributing to society and looking forward to a rewarding and peaceful period of their lives, they often experience cruelty, exploitation and indifference.

Because of insufficient income and inadequate Government programs, they often are unable to afford decent housing, quality health care and nutritious food. This condition does not afflict the poor alone. Many middle-class citizens are unable to cope with the financial demands of living on reduced income in retirement years.

The worst condition for many of our elderly citizens is blatant cruelty and exploitation that often occurs. A column by Jack Anderson in the August 18 edition of the Washington Post is a dramatic statement on how millions of the elderly are victimized in their attempt to obtain health care and housing. Much of the credit for uncovering these abuses goes to Senator FRANK MOSS, with whom I am privileged to serve on the Special Committee on Aging.

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

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

AMERICA'S "GERIATRIC GHETTOS"

(By Jack Anderson)

In a land enamored with youth, to be old and sick is to be a nuisance. Society shunts its undesirable elderly into corners, to await death alone and uncared for.

America simply does not seem to care. And now there is a grim new phenomenon: The old are beginning to drift out of the corners and crowd into sordid "geriatric ghettos."

Flophouse hotels and old apartment buildings have been jerry-built into unlicensed bedlams for the old. Their operators are the founders of a seedy and highly profitable new American industry called "proprietary boarding homes."

Much of their pathetic tenancy comes direct from state and county mental hospitals which dump the elderly for fiscal and "humanitarian" reasons.

The institutional arguments, reasonable at first look, are that "competent" oldsters can be "returned to the community" for rehabilitation. Unfortunately, many are not competent and, instead of finding new lives, they are often exploited.

In New Mexico, for example, investigators for the Senate Special Committee on Aging discovered that a chicken coop was being used as a home for the elderly. They found "poor food; negligence leading to death or injury; deliberate physical punishment inflicted by operators on their residents."

One confidential committee document tells of a geriatric entrepreneur "allowing patients to sit in their urine, binding them to toilet seats and not cutting toenails to the point they curl up under the feet making walking impossible."

Often, the elderly are fleeced of what little money they may have.

"Residents receive $200 in Social Security and never see it again after endorsing these checks," says a memo from the committee's files. "Sometimes, they never see the checks at all—the endorsement is an 'X' on the back of the check, signed by the operator himself."

Working under Sen. Frank Moss (D-Utah), committee investigators also found owners "cutting back on food, light, water and heat to save money. One state official told of a home's policy to make all patients use the toilet before it could be flushed in the morning, ostensibly to save water."

Crime is the constant companion of the elderly in the "geriatric ghettos." Like buzzards, the fast buck artists, thieves and muggers hover over the oldsters.

Sometimes, the crimes are committed by the elderly or insane themselves who inhabit the new slums. In California at least 72 murders, suicides and "unfortunate accidents" have been attributed to persons—many of them elderly—discharged from state mental institutions.

The senior slums also cause problems for city managers and neighborhood residents. In Chicago, one area was inundated with nearly 13,000 discharged mental patients.

While Moss, backed up by Sens. Frank Church (D-Idaho) and Charles Percy (R-Ill.), plus some Health, Education and Welfare officials, are attacking this new horror, the old scourges of corrupt nursing homes remain.

When we have written of nursing home abuses in the past, we have been flooded with complaints from licensed homes for the aging. We sent undercover investigators to several of them and often found love and concern for the old.

Sadly, the tender loving care seems to be roughly proportionate to the cost of residency. Our updated findings on the continuing abuses in many licensed nursing homes agree with those of congressional investigators.

One Chicago home administrator admitted that he made a profit of $185,000 a year while only spending 54 cents a day per person for food. Even the Chicago jails spent 64 cents a day to feed inmates.

One investigator posed as a skid row bum in a flop house to check the rumor that the hotel was a contact point where drunks would be hired as nursing home orderlies. He was offered room and board and $40 if he would work a month. A second sleuth took a janitor's job and, within minutes, was promoted to nurse and handed the keys to the narcotics cabinet.

Another concern that tarnishes the golden years is the sorrowful lack of health care. Here, inflation has forced many would-be well-to-do senior citizens to accept substandard services. A confidential report of Church's committee states flatly that "millions (of the elderly) are suffering and often dying because they cannot afford adequate medical care."

Either the elderly are not covered by federal, state or private medical programs, or the programs simply do not cover the costs. Minnesota, with one of the better health records in the land, illustrates how bad even the best can be.

One clinic there opened its doors to the low-income oldsters and offered to accept Medicare as payment in full for medical services; usually, Medicare only pays about 40 per cent of an elderly person's total medical bills. According to a committee staff memo, "the response was overwhelming. In three months over 7,000 people registered for the services of the clinic. Patients included former school teachers, lawyers, physicians, insurance company presidents, all of whom had exhausted their resources and who had neglected seeking the care they needed because of the expense."

We have come across some amazing cases of health care disasters. A man at one clinic had not seen a doctor since his World War I physical. A woman had gangrene in both feet. A man was blacking out because he could not afford to buy new batteries for his pacemaker.

These stories of the new "geriatric ghettos," the old nursing homes and the continuing health care scandal reflect only a few of the bitter realities of being old.

The best estimate is that six million old people live in poverty; without adequate food, gouged by high-cost prescription drugs, ill-sheltered and unloved.

As one Senate investigator poignantly told my associate Jack Cloherty, "When you watch men and women—once lawyers and middle-class housewives—standing there in line for a doctor, and know it may one day be you or your wife, that's when being old gets to you."

OPPORTUNITY FOR DISABLED INDIVIDUALS

Mr. WILLIAMS. Mr. President, two articles of importance to persons with disabilities throughout the country appeared on Monday, September 30 in the New York Times.

The first article reports on new procedures of the New Jersey Department of Civil Service whereby persons with disabilities who either need assistance or additional time because of the nature of their disability will receive such assistance when taking civil service tests. I believe the State is to be highly commended for initiating this program, as it is quite clear that the inability to write or read because of a disability should not preclude an individual from applying for a job for which he may be qualified. Figures from the 1970 Census indicate that at least 42 percent of the disabled community are unemployed and 52 percent of those individuals who are employed are earning less than $2,000 a year. Procedures of this kind, which afford persons with disabilities an equal opportunity to seek employment and qualify for public service, are one step toward changing these shocking statistics.

In this same vein, the Appellate Division of the New York State Supreme Court should be commended for waiving the bar requirements for Mr. Curtis Brewer, a young man who became a severely disabled quadriplegic as the result of a viral infection in his spine some 19 years ago. Mr. Brewer's academic credentials indicate that he is well qualified to serve as a lawyer. Mr. Brewer says that he is going to practice law from his van. He wishes to serve the needs of persons with disabilities through the law.

These two articles demonstrate increasing sensitivity to the particular needs of disabled individuals and the necessity of providing a truly equal opportunity through variations in requirements.

I commend these articles to my colleagues and urge other States to take similar steps. I ask unanimous consent that these two articles be printed in the RECORD following my remarks.

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

JERSEY TESTS DESIGNED TO ASSIST HANDICAPPED

TRENTON, Sept. 29.—Handicapped or disabled persons hoping to take Civil Service tests will receive special help under new plans set in motion by the New Jersey Department of Civil Service.

William Druz, the department's chief examiner and secretary, said yesterday a candidate who had a visual impairment or any serious physical defect would be listed on a card in the department's records. When notifications for examinations are mailed, personnel in the examining unit will be warned in advance that they will be handling a special case, and arrangements will be made.

On the day of test, if the candidate cannot read the test booklet or mark his answer sheet, he will be given 50 per cent more time and a reader or marker will be assigned. A ground-floor test room will be assigned if the candidate cannot walk long distances or climb stairs.

QUADRIPLEGIC TO BE ADMITTED TO BAR WITHOUT TAKING EXAMINATION

A 48-year-old quadriplegic who has never taken the state bar examination will become eligible this week to practice law in New York.

Curtis Brewer, who says he plans to use his "wheel chair as a weapon" in the courtroom, had argued that it would be difficult for him to take the examination, and last July the State Court of Appeals granted him an exemption.

Mr. Brewer will appear before the character and fitness committee of the Appellate Division of the State Supreme Court tomorrow. He is expected to be sworn in as a lawyer in a special ceremony before the court on Wednesday.

Lawyers who have practiced in other states or who have served in the armed forces are, under certain circumstances, admitted to the state bar without taking the examination. But it is highly unusual for the examination to be waived for someone directly out of law school.

Mr. Brewer, who was paralyzed 19 years ago by a viral infection in his spine, was graduated from Brooklyn Law School last June with a 3.5 average out of 4.

"Physically, going to school was therapeutic but exhausting," he said the other day at his apartment on First Avenue and Fourth Street.

WIFE TYPED NOTES

Mr. Brewer's daily routine during his four years of law school began at 6 A.M. when he would awake to prepare for school. He had to be carried from his bed, washed, groomed, shaved, dressed and fed before being hoisted into his Chevrolet sports van for the trip to Brooklyn.

An attendant would then drive him to school and set him up in the lecture hall with the books, papers and notes he would need. A rubber-tipped stick would be placed in his mouth, which he would use to turn the pages of his books.

After he was driven home, his wife, Bettie, would type up his mental notes on the day's lecture and prepare the study material he would need for the next day.

In documents submitted to the court supporting Mr. Brewer's request for a waiver of the examination, his former professors, friends and associates referred to his accomplishments in such terms as "extraordinary," "courageous," and even "supernatural." But Mr. Brewer doesn't see it that way.

"What I've done is really no big deal," said Mr. Brewer. "All that I've done is coped with my situation, just like everybody else has to cope with theirs."

But for Mr. Brewer, who is black, part of coping with his situation is using his disability to its fullest advantage

"You should see the effect I have when I'm wheeled into a courtroom," he said with the kind of pride that an artist has in speaking of his art. "I'm not afraid to use my wheel chair or my color to cut through red tape."

Mr. Brewer plans to specialize in legal services for the handicapped. With the help of the Herman Miller Research Corporation, a Michigan-based office designer, Mr. Brewer is currently redesigning the van that he has used to get to school and is converting it into a mobile law office.

He hopes to use the van, which already has an elevator to facilitate the entry of those confined to wheel chairs, to bring his services to those who are unable to get about on their own.

Despite Mr. Brewer's handicap, he is able to perform many tasks with the aid of a small device that hangs a few inches from his mouth. By touching the different parts of the device with his tongue, he can move his wheel chair, turn on the lights in his room, change the temperature on the air conditioner, lock or unlock the front door or shift on his tape recorder.

Mr. Brewer lives with his wife, whom he met before he was disabled but whom he married afterward, and their 16-year-old son, Scott.

Before he was paralyzed in 1955, Mr. Brewer said that he held "about 60 different jobs," ranging from a newspaper deliverer to a private investigator, and was "trying to settle down" when he was stricken by transverse myelitis, a disease of the spinal cord. The disease left him with sensory perception below his neck but without motor responses.

At the time, he was a student at the New School for Social Research. He was graduated from the New School in 1956 and did graduate study in public administration in New York University.

MARC CHAGALL'S ARTWORK ENHANCES CHICAGO

Mr. PERCY. Mr. President, I am very pleased to report that my home city of Chicago has received a notable addition to its impressive collection of public art. On September 27, Marc Chagall's mosaic, "Four Seasons," was officially unveiled there, and I invite all my colleagues to be sure to see it on their future visits to Chicago.

Located in the First National Plaza, the 70-foot work, with its vibrant colors and lyrical figures, adds beauty and a touch of whimsy to the Chicago Loop.

The mosaic is dedicated to Chicagoans in memory of Frederick Henry Prince and was made possible by the generosity and initiative of Mr. and Mrs. William Wood-Prince. It is owned by Art in the Center, Inc., a nonprofit organization formed to care and maintain the mural.

The mosaic is intended to celebrate life in all its stages. Chagall, however, gave Chicagoans a great deal more than this art during the weeks he spent supervising the work's final construction. His generosity and unaffected humility won the city's heart. The unveiling ceremonies, understandably, became a public celebration of gratitude.

I join many other Chicagoans in paying tribute to Marc Chagall. He and the public-minded citizens who made the mosaic possible deserve our thanks.

During his recent 2-week visit to Chicago with Mrs. Chagall, they captivated the hearts of all Chicagoans with whom they came in contact. We were proud to have Marc Chagall designated as an honorary citizen of Chicago by Mayor Richard J. Daley.

CORRECTION OF REPORTS

Mr. JACKSON. Mr. President, I ask unanimous consent that several printing errors be corrected in two reports filed recently in the Senate by the Committee on Interior and Insular Affairs.

The first correction to be made is in Senate Report 93–1177, to accompany H.R. 10337, relating to the Navajo-Hopi land disputes. On page 30 of that report, the first sentence in the second paragraph should read as follows:

Thus, the Committee recognizes both the responsibility to provide partitioning authority, and, if judicial adjudication should become necessary, the likelihood that such authority would be exercised.

The second correction is in Senate Report 93–1234, to accompany H.R. 7730, to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip. The correction should be made on page 4, in the third sentence in the paragraph entitled "Present Status: Private or State Ownership," which should read as follows:

Approximately 4,500 of those acres have been formally conveyed to the State. Approximately 11,000 acres have been included in the Colorado (formerly Crook) National Forest, and about 6,340 acres have been patented under the homestead laws.

THE DANGERS OF NUCLEAR PROLIFERATION

Mr. STEVENSON. Mr. President, the dangers of nuclear proliferation throughout the world can scarcely be exaggerated—and yet they are scarcely perceived. If the world community does not awaken to the nuclear menace soon, it will be too late to control. These dangers are concisely described in an article by Gwynne Dyer in the Cleveland Plain Dealer of Tuesday, September 17. I ask unanimous consent that a copy of the article be printed in the RECORD.

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

NUKING YOUR NEIGHBOR

(By Gwynne Dyer)

The first phase of the proliferation of nuclear weapons ended a decade ago; India's test in Rapasthan four months ago inaugurates in whole new era, with very different rules and implications. Though it was surely not her intention, in authorizing the explosion Mrs. Gandhi may have signed a postdated death warrant for many people now living.

With China's first atomic test in 1964 all the traditional great powers who had been more-or-less victorious in World War II had joined the nuclear club. Their only potentially serious competitors in the global arena, the three defeated powers, took shelter under the spreading American nuclear umbrella, and found consolation for their greatly diminished international power in their respective economic miracles.

In the harsher and lonelier world of the 1970s, the possibility of nuclear armaments for these three states has begun at least a shadowy revival. Japan feels increasingly exposed in an Asia rapidly going nuclear, and a recent poll indicated that 45% of Japanese expected their country to acquire nuclear weapons eventually (though a much smaller proportion liked the notion). The real crunch will come when Chinese missiles able to reach the United States come into service later in the decade and American retaliation for a nuclear attack on Japan becomes a less reliably automatic proposition.

Russian attitudes toward German 'militarism' would turn any similar West German decision into the most acute crisis since the war, but beneath the glitter of the German consumer society there survives a current of nationalism and of resentment at the second-class military status that the lingering mistrust even of her allies imposes upon Germany. Any major setback to the Wirtschaftswunder could nourish these attitudes mightily. Even Italy, should the frequently predicted collapse of her present political system ever actually occur, might not be immune to a hankering after nuclear status.

Like the three lesser nuclear powers already on the scene, later 'great power' entries into the field would also be operating within the constraints of a world political stage, dominated by the unchallengeable nuclear forces of the two conservative superpowers. Apart from the political crisis their decision to go nuclear might cause, therefore, they would create little heightened risk of a nuclear war in the Northern Hemisphere.

The real danger of proliferation lies in the acquisition of nuclear weapons by regional powers not so much confined by these constraints in their frequently bitter rivalries with their local neighbors. The danger is particularly acute because the kind of nuclear forces these poorer states could afford would be cheap, relatively primitive, and highly vulnerable to a first strike by a rival, so that in a crisis they end up in the dilemma of "use it or lose it."

India's test has opened this door. Anyone who believes it was merely a 'nuclear explosive device for civil engineering purposes' also believes in fairies—it is part of a weapons program whose only civil engineering aspect is a capability to make sudden dramatic alterations in city landscapes. Had New Delhi's purpose been only what it claimed, it could have availed itself of the 'nuclear explosion services' placed at the disposal of other nations by the nuclear powers under the terms of the Non-Proliferation Treaty (NPT) of 1970, which it did not sign.

The fact that India is not relying just on bombers for delivery but is carrying out a scarcely disguised development project for intermediate range ballistic missiles (IRBMs) confirms the impression that she wishes to deter not Pakistan but China, whose vulnerable big cities and industrial complexes are mostly several thousand miles distant (whereas India's main centers are in easy range of Chinese bombers based in Tibet). However, it is Pakistan that feels most directly threatened, understandably enough, and the Pakistani foreign minister has been touring the capitals of the present nuclear powers in a forlorn quest for a reliable guarantee against India. He will almost certainly not get it, in which case Pakistan's alternative will be to develop her own nuclear weapons.

A slow-motion chain reaction of similar decisions by states suddenly imperiled by their neighbor's acquisition of nuclear weapons is now a distinct possibility. Especially in the regions of South Asia, the Middle East and Latin America, it requires but a single state to start the ball rolling. Since there are several dozen states which have or soon will have the expertise and resources to create cheap and nasty nuclear forces that would be significant in a purely regional context, the danger is obvious. The immediate candidates are Pakistan and Iran, but some other possibilities within a decade include Israel (if she is not a secret nuclear power already), Egypt, possibly Turkey and Greece, South Africa, Brazil, Argentina, and perhaps even Australia, Indonesia, Thailand and the two Koreas.

Once this sort of proliferation starts, the NPT cannot stop it. None of the major nuclear powers would be willing to make the total commitment to the defense of Third-World states with newly nuclear neighbors that alone could dissuade them from going nuclear themselves—a public undertaking, for example, to use nuclear weapons on India if New Delhi should ever use them on Pakistan—as it would vastly magnify the danger that a local crisis irrelevant to their real interests could drag them into a nuclear conflict.

Without that kind of guarantee, threatened Third-World states will look to their own defenses. If they have signed the NPT they may be expected to use the escape hatch of "extraordinary events jeopardizing their supreme interests," which all nuclear treaties contain, and withdraw from it at three months' notice.

Second-strike forces such as those owned by the existing lesser nuclear powers cost in the vicinity of $10 billion over 10 years to create and are clearly beyond the means of Third-World states. But according to a United Nations estimate 100 small and very dirty plutonium warheads deliverable over a thousand miles or so by a few dozen jet bombers and about 50 nonhardened IRBMs can be had over the same period of time by a state with a pre-existing civilian nuclear program for $1.7 billion. (These figures are almost exactly in line with potential Indian forces and probable costs five or six years hence.)

If your likely opponent is closer you can dispense with the missiles, rely on your existing fighter-bombers for delivery and get an economy-model deterrent for as little as $300–400 million, since nowadays bombs are much cheaper than delivery systems. The great drawback, of course, is that either configuration of forces remains highly vulnerable to a surprise attack, which makes for trigger-happy 'launch-on-warning' postures.

To put the situation very bluntly, if the second phase of proliferation gets under way we are likely to lose a few cities before the end of the century. But not north of the Tropic of Cancer, or at least not for that reason. A few Third-World nuclear powers in a future of proliferation might some day achieve the range to reach the industrialized states with their weapons, but they would have no genuine ability to threaten or damage them. Ballistic Missile Defenses (BMD) beyond their ability to emulate or penetrate are already feasible for those richer and technologically advanced nations.

Indeed, had the superpowers not restricted the expansion of their existing BMD systems by the SALT treaty, they could now be practically invulnerable even to possible

attacks by the present nuclear powers of the second rank. The rich stay safe from the poor, while the poor remain vulnerable to the rich, and especially to each other.

MORE ON SEX DISCRIMINATION IN EDUCATION

Mr. PERCY. Mr. President, since my July 9, 1974, statement on sex discrimination in education, a number of individuals and organizations have sent me articles, newsletters, and reports indicating that there is an explosion of interest in sex-role stereotyping in textbooks. I would like to share with my colleagues some materials that I consider particularly pertinent to this body, sent by Jennifer Macleod and Sandy Silver(wo)man, members and organizers of the Association of Feminist Consultants. Dr. Macleod and Ms. Silver-(wo)man are authors of "You Won't Do: What Textbooks on U.S. Government Teach High School Girls." This well-documented study concludes that civics textbooks are leaving women out, putting women down, ignoring subjects important to women, and telling girls that the "smoke-filled rooms" of the U.S. Government are "for men only." In looking around this Chamber, the U.S. Senate may well be testament to the conclusions reached by Dr. Macleod and Ms. Silver-(wo)man. In the interest that the Senate will have the benefit of representation by women in future Congresses, I ask unanimous consent that a Ms. Magazine article reviewing "You Won't Do" be printed in the RECORD at this point.

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

CIVILIZED CIVICS

The government's "smoke-filled rooms" are for men only. That is one of the clear-cut messages we found prevalent in the eight high school civics (judged "currently popular" by major publishers) we examined. All the following examples are typical of the sexist bias that parents', teachers', and women's groups are seeking to eliminate from the curriculum under the potential authority of Title IX of the 1972 Higher Education Amendments. (Last May, the first textbook complaint under this act was filed against the Kalamazoo, Michigan, public schools.)

In all eight texts, there were only 33 index listings for women, compared to 1,104 for men. Ethel Rosenberg, the convicted, executed spy, and former Senator Margaret Chase Smith tie for prominence with three listings each.

Illustrations are similarly one-sided. In the eight books, the number of pictures showing only men ranged from 53 to 71 percent, whereas just 3 to 9 percent of the pictures portrayed all-women scenes. Women are pictured in traditional sex-stereotyped roles. Two exceptions, however, present female officeholders: Senator Smith is pictured holding a bouquet of roses, and Patsy Mink (D.-Hawaii) is shown throwing snowballs. Checking out the index listing for Mrs. Ulysses S. Grant, we found only a photo of a mannequin wearing her inaugural gown.

In an introductory unit on "Understanding Democracy," a six-sketch montage shows a man running for office, a man reading about a male candidate, three men discussing politics, a man watching a three-man TV debate, a man cheering a male candidate, and a man casting his vote.

Boys grow up to be "Mr. Average Citizens," and fill out ballots and tax forms. Political leaders are shown as male stick figures in charts. In one book, women get a passing reference when men are displeased with a political issue and "tell their wives, who . . . discuss [it] over the bridge table." But when women themselves are participating in politics, the context is hardly serious. In one vignette two members of the League of Women Voters observe a council meeting; one sits and knits, the other takes notes "on the back of an envelope."

One book goes so far as to muse, "Some day perhaps, a Negro, a Jew, a Mormon, even a woman, may have some prospect of being the party [Presidential] nominee." What about Negro, Jewish, and Mormon women? Another text is even more flagrant; its "ideal Presidential candidate" is "an energetic member of the male sex."

The feminist movement receives little or no coverage. One chart, entitled "The Second Bill of Rights," includes the 15th Amendment granting (male) "Negroes" the right to vote. It makes no mention of the 19th Amendment, which, in case your high school textbook didn't tell you, gave all women the right to vote.

Mr. PERCY. Mr. President, further in the interest of eliminating sexism in textbooks, Dr. Macleod and Ms. Silver-(wo)man have complemented their publication of "You Won't Do" with the development of an illustrated lecture based on the study and the issuance of a newsletter asking for action on the enforcement of title IX of the Education Amendments of 1972, the funding of the Mink-Mondale Women's Educational Equity Act, and the enactment of the Percy Women's Equal Educational Opportunity Act. I ask unanimous consent that extracts from the newsletter be printed in the RECORD at this point.

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

SEXIST TEXTS AND TITLE IX

Title IX, which was passed July '72, states, "No person . . . shall on the basis of sex . . . be subjected to discrimination under any education program . . . receiving Federal financial assistance." The New York Times said June 18, "There was . . . one extremely controversial item that was entirely omitted from the [proposed Title IX] regulations. They fail to cover discriminatory curriculum materials, such as textbooks that contain sex bias. The [HEW] department said that any attempt to prohibit the use of such materials 'would raise grave constitutional questions under the First Amendment.'" Countering the HEW claim, Wilma Scott Heide, National Organization for Women (NOW) President '71–'74, wrote, "This valuable book by feminists Macleod and Silver-(wo)man can be part of the factual basis to make the case that the selection of sexist texts by state action (via public school boards) is a denial of individual First Amendment rights of freedom of speech by excluding, derogating, and/or stereotyping women. Affirmative guidelines of Title IX vis a vis textbooks could help end that unconstitutional tragedy as documented by 'You Won't Do'!"

MINK ACT AND FUTURE FUNDING

The Women's Educational Equity Act was passed by Congress as an Amendment to the extension of the Elementary and Secondary Education Act (ESEA), which President Ford just signed. The President recently stated that he had "reservations" regarding some provisions of the ESEA, and said he would oppose any "excessive funding." On August 22, President Ford met with 13 of the 16 women now in Congress to proclaim August 26 as Women's Equality Day. According to the New York Times, "In his informal remarks at the ceremony, Mr. Ford also noted that 'it's been my observation that women, over the years, especially in politics, have to do things twice as well in order to get credit. We've got to change that.'" Ford should recognize that the Women's Educational Equity Act would be a start toward the "change" he just deemed necessary. Patsy Mink, the original sponsor, urges that any individual supporting her bill please write to President Ford, as well as Congressmen Mahon and Flood and Senators McClellan and Magnuson, telling them to maintain the $30 million per year appropriation in ESEA Title IV to fund the measure.

PERCY PROVISION TO AMEND CURRENT BILLS

Regarding the absence of Title IX enforcement regulations, Senator Charles Percy said in February, "What could have been almost 2 years of progress in the fight against sex discrimination in education has been irretrievably lost." In the same month, he introduced the Women's Equal Educational Opportunity Act of 1974 and said, "it is a sad commentary on the status of women in this country that such legislation is necessary." Perhaps the saddest commentary is the fact that there is not even one woman now in the U.S. Senate to introduce this legislation herself. Eleven women have served in the Senate since 1917 and 78 women have been Representatives in Congress, but their roles are scarcely mentioned in the nearly 5,000 pages that were studied for "You Won't Do." Clare Boothe Luce pointed out in the August 24 Saturday Review World, "There have been only 3 women governors, 2 women Cabinet members [none currently], and 14 women ministers and ambassadors. And only one of these was appointed to a major country." Macleod and Silver(wo)man have noted that the textbooks on U.S. government do not give any reasons as to why so few women have made it, particularly on their own initiative, into the political sphere. Percy went on, "To subject women to 12 and more school years of persistent conditioning that only prepares them for subordinate roles in society is a classic example of the self-fulfilling prophecy at work. . . . No nation can afford to waste more than half its human resources."

Percy explained, "laws prohibiting discrimination are never enough." While the Mink bill provides some funding for new projects, Percy's provision would amend three major existing education laws in order "to insure that Federal support for education is used to remedy the effects of past discrimination, maximize the commitment from existing programs and resources to insure equal opportunities for women, and develop new strategies and mechanisms to help women gain their place as equal participants and beneficiaries of our society." His legislation would, in part, amend the ESEA to assure "that Federal funds . . . be used, on a priority basis and where possible, in the acquisition of non-sex-biased library resources, textbooks, and other instructional materials." The Women's Equal Educational Opportunity Act is currently in the Education Subcommittee of the Senate Labor and Public Welfare Committee. Senators Javits and Mondale, both members of this subcommittee, have pledged to support this measure in "whatever ways they can." In order to support the bill, Macleod and Silver(wo)man recommend that citizens send letters to their Congresspeople, with copies to Senator Percy, and specify that the act be amended to the next education bill, either the Vocational Education Act or the Higher Education Act, that is reported out of committee.

GENOCIDE CONVENTION DRAFTED IN THE SPIRIT OF THE U.S. CONSTITUTION

Mr. PROXMIRE. Mr. President, over the past 25 years, many arguments have been expressed both pro and con concerning the ratification of the Genocide Treaty. One of the basic arguments held by those opposing the treaty is that it contradicts the Constitution of the United States. However, quite to the contrary, this document was written in the spirit of the U.S. Constitution.

From a legal point of view, international conventions for the control of criminal acts are not unusual. The United States is a party to collective action involving the crimes of circulation of obscene literature, traffic in women and children, slave trade, traffic in opium, and piracy.

Because of the prominent role played by members of the U.S. delegation in drafting the Genocide Convention, it is written in terms of familiar Anglo-American legal theory and embraces traditional American common law concepts.

For example, the convention preserves the principle of territorial jurisdiction over criminal acts. Furthermore, the convention's definition of genocide presents the American approach to the concept of a criminal act. To constitute genocide, the act in question must be coupled with a specific intent to destroy a national, ethnic, racial, or religious group. In fact, it was the United States that insisted that intent must be proved for any act to be considered genocide.

John Foster Dulles, as a member of the U.S. delegation to the United Nations General Assembly in 1948 drew the analogy between the Declaration of Independence and the Constitution of the United States on one hand and between the Universal Declaration of Human Rights and the international covenants—such as the Genocide Convention—on the other hand. This analogy showed how legally binding instruments followed and gave force to inspirational and moral declarations.

In 1963, President John F. Kennedy remarked to the Senate that—

> The United States cannot afford to renounce responsibility for support of the very fundamentals which distinguish our concept of government from all forms of tyranny.

It is quite obvious that the Genocide Convention accords of 1949 does not conflict with the basic rights set forth in the U.S. Constitution. Indeed, the convention was written and exists in the spirit of the American ideals of life, liberty, and the pursuit of happiness. Therefore, without further delay, I urge ratification of this important document.

BALLOON FROM WYOMING BEATS U.S. POSTAL SERVICE

Mr. McGEE. Mr. President, the small Wyoming community of Centennial recently held a celebration to honor the American Bicentennial. One of the features of that occasion was the release of 1,000 balloons, each containing a postcard.

In a story in the October 4 Wyoming Eagle, Rosalind Routt explains what happened to one of those balloons. She also casts an oblique eye on the U.S. Postal Service's handling of the postcard. But she was kind in her treatment of the irony involved and the story is interesting, not only for the saga of the postcard, but also some history of balloons and the community of Centennial, and a little lesson in meteorology.

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:

BALLOON RACES TO NEW JERSEY

(By Rosalind Routt)

The U.S. Postal Service might take note of a "small bit of aviation history" made this week by a little balloon launched Sunday at Centennial.

Although the feat cannot exactly be termed a giant leap for mankind, the fact that one of the 1,000 helium-filled balloons released during the bicentennial ceremonies Sunday at Centennial was found exactly 23 hours later in New Jersey might be one small step for balloon post message enthusiasts.

However, the irony of the story is that the postcard attached to the balloon took two days to make its way back to Wyoming through the mail.

The red, white and blue balloons, which measured 14 inches in diameter, were let go at 11:30 a.m. Sunday. Attached to each balloon was a postcard asking the finder to return the card to the Wyoming Bicentennial Commission (WBC) with his name and address, and the time and place of the discovery of the balloon.

Yesterday an astonished Pat Hall, director of the WBC, received one of these postcards, number 242, from Fred Fishetti of Martinsville, N.J.

"I thought someone was pulling my leg at first," Hall said when informed of the postcard.

According to the information on the postcard, the balloon and card were found at 10.30 a.m. Monday on Runyon Ave. in Piscataway, N.J., located 30 miles southwest of New York City.

Not a doubter by nature, Hall still double checked the veracity of the postcard and, according to a New Jersey telephone operator, Fred Fishetti does indeed live in Martinsville, N.J., but has an unlisted telephone number. Hall said he has written the man for a signed statement about his discovery.

Hall has received 20 postcards, including three from Abilene, Kans., three found on I–80 near Sidney, Neb., one from Glendo and one from Sybile Canyon near Wheatland.

How does Hall account for the incredible time made by the balloon traveling across the United States?

"The National Weather Service told me if it got into the jet stream," Hall explained, "there's no reason it wouldn't go that far."

An NWS spokesman described the jet stream as a "broad ribbon of westerly air aloft that meanders like a river varying in altitude and location during the year."

As the strongest band of westerly wind aloft, the jet stream, the NWS said, averages 80 to 150 m.p.h. in its core over the Midwest.

Admitting that the attrition rate for these balloons if "pretty high," Hall said, "these postcards will be picked up until who knows when."

The idea of the balloon post is not that far-fetched for a bicentennial celebration. In 1793, 10 years after Revolutionary War ended, the first air voyage in America occurred when a French aeronaut, Jean Pierre Blanchard, made a balloon ascension in Philadelphia.

Blanchard carried with him a letter of introduction from President George Washington, the first American balloon post message and the precursor of the present-day air mail system.

Hall said probably the most outstanding example of the balloon post occurred during the Franco-Prussian war in 1870–71 when the city of Paris was completely surrounded by enemy troops.

Some 55 hot air balloons carried 12 tons of mail or 2,500,000 letters out of the city over enemy lines.

In the 1930's, the balloon post was popular in Europe where balloons, similar to those released at Centennial, were let go at fairs and celebrations.

NUCLEAR PROLIFERATION

Mr. MUSKIE. Mr. President, with the recent detonation of an atomic device by India, there are currently six members of the nuclear club. Knowledgeable observers estimate that as many as 24 nations—including Israel, Egypt, Brazil, Argentina, and Pakistan—could possess nuclear weapons before the end of this decade.

As chairman of the Foreign Relations Subcommittee on Arms Control, I am particularly concerned about this problem of nuclear proliferation and its possible consequences. Immediate steps must be taken by the world community to check an impending international race in nuclear weapons.

Our colleague from Illinois (Mr. STEVENSON) has recently written a thoughtful and timely article, urging the United States to take the lead in controlling the spread of weapons technology. As Senator STEVENSON has noted:

> The dangers of nuclear proliferation require an intense reexamination and a major new international effort to contain them. All nations must be made to see the seeds of destruction in the rush to extend nuclear capability through the world without adequate safeguards. That effort will be led by the United States or not at all.

Mr. President, I recommend to all my colleagues Senator STEVENSON'S "Nuclear Reactors: America Must Act," that appears in the October 1974 issue of Foreign Affairs, and 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:

NUCLEAR REACTORS: AMERICA MUST ACT

(By Adlai E. Stevenson III)

In 1954 the United States began, innocently enough, to share its nuclear resources with the world. Since the start of the Atoms for Peace program we have supplied nuclear technology and materials to 29 countries in an effort to extend the benefits of peaceful atomic power to all mankind. In the intervening years, other natons have developed their own nuclear capabilities, or have received assistance from U.S. licensees in other countries, such as France, or through sharing arrangements such as Euratom and the International Atomic Energy Agency (IAEA). All told today, over 500 nuclear reactors are in operation in 45 countries. By 1985, the number of operating power reactors throughout the world is expected to quadruple.

The implications for world peace and stability are momentous. Atoms intended for peace can also be used for war. A nation with a functioning nuclear reactor and a reprocessing facility can produce plutonium for the manufacture of explosive devices. Small reprocessing plants for weapons-grade plutonium can be built fairly quickly, at moderate expense, and are difficult to detect. The weapons technology is readily available, and once plutonium is acquired nuclear arms can be fabricated with relative ease. According to some estimates, by 1980 the world's nuclear reactors will have produced 300,000 to 450,000 kilograms of plutonium. As little as five or six kilograms is required to make a bomb with a destructive force of 10 to 20 kilotons of TNT, which was the size of the two bombs that devastated Nagasaki and Hiroshima.

The nuclear club, which recently counted only the United States, the Soviet Union, Great Britain, France and China among its members, is already losing its exclusivity. The recent Indian explosion, despite its "peaceful" label, has set its doors ajar. Argentina, Belgium, Canada, Italy, South Africa, Spain and West Germany are either near, or perhaps, like Israel, already inside. Australia, Austria, Brazil, Czechoslovakia, East Germany, Iran, Japan, Norway, Pakistan, Sweden, Switzerland and Taiwan have it within their technological means to enter the club in the near future.

The further spread of nuclear reactors seems inevitable and could be desirable. The world's energy demands will intensify; fossil fuel resources are depleting. Particularly in the last year, oil costs are adding billions to balance-of-payments deficits and causing widespread shortages. Nuclear power offers a source of energy, independent of foreign oil supplies. For countries like India, oil imports consume foreign-exchange earnings needed for such essential imports as food. Understandably, nations seeking reliable alternatives to expensive oil see nuclear power as the answer.

They are aided and abetted by the nuclear-exporting states, which are scrambling to pay their own oil bills. Salesmen from Canada, West Germany, the United Kingdom, France and the United States are busy making their rounds. The competition is intense. Businessmen see the opportunities and seek new markets. Westinghouse and General Electric reactors know no national boundaries. Through a French venture, Westinghouse reactors find their way to Iran and wherever else the French can make a sale.

The momentum becomes self-generating. Chastened by the oil embargo, nations realize that possession of nuclear reactors without control over nuclear fuel gives only illusory energy independence. Independent and diversified sources of nuclear fuel are, therefore, sought.

At present the dominant reactor type in the world market remains the American light-water design, fueled by enriched uranium—of which the United States is almost the sole present source. As a result of rapid growth in demand, the U.S. Atomic Energy Commission may no longer have the capacity for long-term supply commitments to all customers; when contracts were entered into to supply the newly promised 600-megawatt reactors to Egypt and Israel last June (not to be completed till the mid-1980s) new contracts for traditional European customers had to be delayed. Partly because of foreseeable limitations of American supply and partly to get away from the cost and political strain of dependence on the United States, efforts to produce enriched uranium elsewhere are going forward rapidly. Already, two European consortia, Eurodif and Urenco, are starting construction of factories to supply Europe's enriched uranium requirements and to compete with U.S. (and Soviet) output. Thus, competition to sell reactors expands to include competition to sell fuel.

The same striving for independence has contributed to the growing popularity of heavy-water reactor designs, notably the Canadian Candu, which rely on relatively abundant and widely dispersed natural uranium for fuel. One reason India took the heavy-water reactor route may have been to free itself from dependence on foreign fuel suppliers.

The spread of nuclear reactors has thus taken on a wholly new dimension. We face a new era in nuclear power, totally different from the situation as recently as ten years ago. As nuclear power spreads, the danger that nuclear weapons too will spread and come into new hands has grown and intensified as well.

The risks of accident and theft—already significant even within the United States—will inevitably be heightened. While accidents do not usually have international consequences (the local damage may be enough to worry about), theft or diversion into private hands is both a national and an international problem. The wide publicity this danger has received is not, I am convinced, overdrawn. Determined terrorist groups or criminal elements with access to nuclear materials would have unlimited capacity for blackmail. Primitive delivery systems would suffice. Under certain circumstances, plutonium could be used as a poison, as well as for nuclear explosives.

Against the risk of private diversion, existing control systems in the major nuclear nations, including the United States, are not adequate. What, then, could the risk become in nations that lack our technological and security resources and experience?

Location of nuclear reactors in politically unstable nations adds another dimension. Their control can shift radically as governments change hands. The ability to pinpoint responsibility and impose accountability becomes almost impossible.

As nations acquire nuclear materials and technology, the temptation to develop explosives will intensify. Nuclear capability tends to be viewed as a measure of power and prestige. By a recent poll, a majority of Indians now favor that nation's acquisition of the nuclear weapon. The timid international reaction which India's action generated cannot have gone unnoticed by other nations which may be moving toward nuclear capability.

As the nuclear-weapons potential spreads, destabilizing influences will become more pronounced. Nations will find it difficult to exercise self-denial for long when traditional enemies start down the nuclear path. Confronted by nuclear India, Pakistan cannot help but feel anxiety. Indeed, it is now seeking a reprocessing plant, and if successful, will acquire its own source of plutonium. Iran, although it is a party to the Nonproliferation Treaty (NPT), may also be moving in that direction. Its plans for accumulating reactors appear to exceed any realistic energy requirements. Iraq in time could follow suit. Israel and Egypt, as well as others on the nuclear threshold, may be tempted to follow.

And momentum has been added by the feeble Test Ban Agreement reached at the recent Moscow summit. The 150-kiloton threshold, the 1976 effective date, and the total exemption of explosions for "peaceful" purposes all imply—even proclaim—that the United States and the Soviet Union are not very serious about stopping proliferation. "Peaceful" nuclear explosions are indistinguishable from explosions for nonpeaceful purposes, a point brought home forcefully by the Indian detonation last May. If the superpowers are unwilling to exercise restraint themselves, they cannot expect restraint from others.

III

Against this background of ever-widening nuclear capacity and temptation stands the Nonproliferation Treaty. Signed in 1968, it is a testament to the anxieties aroused by the French tests that began in 1960 and the Chinese tests that began in 1964. A startled world then awakened to the reality that nuclear weapons were no longer the province of the few.

The treaty has 83 parties. It has 23 additional signatories which have so far withheld ratification. Both China and France have steadfastly refused to join. Also missing are Argentina, Brazil, India, Pakistan, Israel and South Africa. South Korea, Japan, West Germany and Egypt have signed but not yet ratified.

The treaty remains just that: an agreement to be observed by those willing to join and for so long as it suits their purposes, with two powerful nuclear states, as well as many potential nuclear states, on the outside. It is a mighty gesture, but it falls seriously short of coping with today's realities.

The treaty is shot through with potential contradictions. It prohibits the transfer of weapons on the one hand, but it encourages the exchange of nuclear materials and technology on the other. It puts nuclear assistance under safeguards, but requires that such safeguards not interfere with international nuclear exchange. It requires safeguards on a recipient's nuclear facilities, but it does not forbid assistance to a nation which has refused to join the treaty. It imposes limitations on transfers by nuclear-weapons states, but makes no provision whatever for subsequent transfers by recipients to third countries. And, at bottom, it contains no sanctions.

Woven throughout the NPT is an assumption that safeguards can prevent the proliferation of nuclear weapons. But that assumption is open to question. When the NPT was concluded, there was no agreement on the safeguards to be imposed. Instead, the matter was left open for inclusion in subsequent agreements which each party would negotiate with IAEA. Failure to reach agreement at the time on the fundamental standards which would underlie the NPT is a significant commentary on the lack of international consensus.

As IAEA safeguards have developed, it is clear that they are unsuited to the present task. They consist of little more than an inventory accounting system. They can detect diversions after, or as, they occur; but they are powerless to prevent them from happening. They neither impose nor require security to prevent diversions, so that either real or feigned theft of plutonium is a possibility. Once the diversion has occurred, a recipient nation can confess, but the international community is unprepared at present to invoke meaningful sanctions. And IAEA safeguards, of course, do not even apply to nations, including the United States, which are classed as nuclear-weapons states under the treaty, although the United States and the United Kingdom have voluntarily offered to apply IAEA safeguards to a broad range of their facilities.

IAEA safeguards are, moreover, insufficiently adaptable to changing technologies. The Canadian heavy-water reactor and the West German reactor in Argentina are particularly disturbing in this respect. They operate on raw or lightly enriched uranium and produce large quantities of plutonium. Diversions from these reactors are more difficult to detect than diversions from light-water reactors.

Other technological developments will intensify the problem. The variety of reactors is increasing. While the American lightwater reactor normally requires enriched uranium, a material not now freely available, new tech-

nologies such as the centrifuge, laser technology, and a secret technology reportedly being developed in South Africa could in time make enriched uranium readily available. Additional problems will be created by the high temperature gas reactor (HTGR) which, while it has certain advantages, requires uranium so highly enriched that it can be used directly for weapons manufacture. Also, the new fast-breeder reactors, just becoming practicable, use plutonium as fuel and produce still more plutonium.

Keeping up with changing technology will on the face of it require vastly more resources than have been committed to the task so far. Presently, IAEA has budgeted only $200,000 for research on safeguards for the entire international community. The U.S. Arms Control and Disarmament Agency (ACDA) will spend at most $474,000 on safeguards research in fiscal 1975—down from the $785,000 budgeted back in 1969. Along with some research within the U.S. Atomic Energy Commission, this appears to represent the entire worldwide effort on international safeguard research. Moreover, there is no established procedure for translating American national safeguards into international safeguards.

Apart from its limited charter, IAEA itself has deficiencies that reflect the interests which it serves. And the interests served are those which favor proliferation of nuclear capacity. Such proliferation is implicit in the NPT, with its emphasis on widespread sharing of nuclear materials and technology, and implicit too in the purpose and structure of IAEA.

Founded in 1957 to foster international nuclear cooperation, IAEA exists to promote the international development and use of atomic power. As with the U.S. Atomic Energy Commission, service to its constituency is an overriding goal. Its 104 members overwhelmingly reflect the interests of recipients. They, not the supplier nations, retain ultimate control, although admittedly the United States has leverage both politically and because of its budgetary contributions. When questions of safeguards, security, sanctions and research arise, answers which interfere with access to nuclear power may not enjoy much support.

Many critical questions are now pending before IAEA. Among them is the question of whether "peaceful" nuclear explosions should be permitted, and, if so, under what conditions. Here the United States whetted the appetite of some with Project Plowshare. The NPT imposes obligations on each party to the treaty to make the benefits of "peaceful" explosions available to all. Should the questions which such peaceful explosions raise be resolved by the recipients through IAEA or by the suppliers?

Under the present circumstances, it appears that neither has the necessary perspective to provide final answers to this and to the many other questions raised by the spread of nuclear power. Nationalistic expectations will go on rising. Potential recipients will continue to see immediate gains in the acquisition of a nuclear capability. Limitations on freedom of action will be resisted. Nuclear-exporting nations will be reluctant to forgo the opportunity they now see to serve their immediate self-interest in new and bigger markets. And down the road other nations, seeing the profit to be gained from sales of nuclear materials and technology, will hope that they too, in time, can share in those profits. The nuclear-sharing agreement entered into by India and Argentina just six days after the Indian explosion highlights the possibility. For a long time to come, the need for power and the desire for profit will dominate national nuclear policy—unless perceptions of self-interest change.

IV

This is where the United States must take the lead. The self-interest of all nations is served by controlling the nuclear menace. If that self-interest were now clearly perceived, this alone might produce restraint and caution throughout the world. We can hope so—but we dare not depend on it. The policies of governments are not always the creatures of enlightened self-interest, particularly when the benefits of one course of action are immediate and the benefits of another are remote.

The dangers of nuclear proliferation require an intense reexamination and a major new international effort to contain them. All nations must be made to see the seeds of destruction in the rush to extend nuclear capability throughout the world without adequate safeguards. That effort will be led by the United States or not at all.

The conventional wisdom argues that the United States should accelerate its nuclear sales efforts. If the United States doesn't, it is argued, others will; and the result will be expanded sales by countries which do not insist on adequate safeguards, as well as the spread of reactors, like the heavy-water reactor, which are more difficult to police and more susceptible to plutonium diversion.

The conventional wisdom is a prescription for the escalation of proliferation. Aggressive promotion by the United States can only induct others to follow suit. And like lemmings, nations will then surge toward the sea, drawn by little more than the short-term prospect of energy and profit.

I suggest that instead of surging ahead, the United States declare a conditional one-year moratorium, make no sales of nuclear reactors except to countries which submit *all* their facilities to IAEA safeguards, and immediately begin an intensive effort through concerted international action to develop and implement improved safeguard and security systems. The moratorium should be imposed on the supply of fuel, technology and nuclear-related materials—with an exception only for commitments under existing contracts. In addition, the moratorium should apply to all countries which refuse to subject their re-exports to acceptable safeguards.

Such an act would offer the world an example—and time. It would demonstrate that the United States is in deadly earnest. It would reduce the competitive pressures to export. It would offer a breathing spell during which supplier nations, and recipients as well, could re-examine the dangers which they all confront from unpoliced and vulnerable nuclear facilities. If other supplier nations did not join the effort, we could resume. But there is a basis for believing that perceptions of the danger are beginning to stir and that American leadership would evoke a favorable response from the supplier nations, including the new government of France.

In the late 1950s the United States came to realize that the world was headed for disaster if it continued poisoning the environment with nuclear tests. Taking the lead, the United States ceased atmospheric testing. By its gesture, it sparked a better understanding of the danger. The Limited Test Ban Treaty followed in 1963.

A similar gesture is now in order. Our action could convince others that the problem is urgent and offer supplier nations relief from competitive pressures. It could spur efforts to attack the problem with effective and enforceable safeguard and security systems.

A moratorum will be useful only if it leads to significantly enhanced international safeguards and physical security systems. The task will not be easy. Extraordinarily complex and delicate international political issues will be raised. But the NPT review conference, scheduled to convene in May 1975, offers a forum. Careful preparation now could lead to a resolution of at least some of these issues at the conference.

V

A key element in developing adequate international safeguards is strict control over all materials and technology that can be used to make weapons or can otherwise be used for destructive purposes. At present, highly enriched uranium and plutonium fall into this category. Every step necessary must be taken to ensure that these materials do not fall into unauthorized hands once a nuclear facility is in place, and that no state which does not now have a weapons capability can divert sufficient quantities of these materials to make explosives.

This means that nuclear facilities should not be installed in any country unless there is assurance that plutonium and enriched uranium cannot be diverted for weapons purposes. At a minimum, therefore, no reprocessing plants should be allowed in such countries, for it is the reprocessing plant which makes possible the development of weapons-grade plutonium. All reprocessing should be done elsewhere, at first (as at present) by the supplier nations under newly agreed-upon terms and conditions, but ultimately under international auspices. Plutonium should be banned as an export to be used with natural uranium as a reactor fuel, notwithstanding the temptations to create fuel in this way.

There must be similar assurance that the enriched uranium fuel for light-water reactor goes directly into the reactor and that the spent fuel core is returned directly to the supplier. In addition, exports of materials such as computers, intended to be used for nuclear-weapons development, must be controlled. Provision must be made for the physical security of the reactor in order to prevent unauthorized access and theft by terrorist groups, criminal elements, or others, and for security in storage and in transit. The multinational corporations must be prevented from evading safeguards by licensing or otherwise establishing manufacturing or processing facilities in non-safeguarded nations. And finally, effective sanctions must be developed, together with the means and willingness to enforce them.

Adequate sanctions require more than the withholding by individual supplies of fuel, which is, or could become, available from other sources. Sanctions will require agreement among all fuel suppliers to withhold fuel from any non-safeguarded or non-complying nation. Such an agreement should also cover the supply of replacement parts and related equipment, including computers. Broad economic sanctions should be agreed to as a last resort.

An agreement on sanctions by the suppliers would enhance the authority of the IAEA. It has little bargaining power now, and if it negotiates a weak safeguard agreement with one nation, it sets a precedent for others. Under my formula IAEA safeguards would comply with supplier standards, and violations of the IAEA safeguards would invite sanctions from the suppliers.

Initially, all this will require that the supplier nations—the United States, Canada, France, the United Kingdom, the Soviet Union and West Germany—acting through arrangements such as the informal Zangger Committee of the IAEA, agree on uniform standards and be prepared to enforce them. The present institutional arrangements, which include both supplies and recipients, are too heavily biased in favor of recipient nations to expect anything but minimal standards. Membership in the supplier club should not be left open lest it encourage applications.

Consensus among all nations—suppliers and recipients alike—is desirable and should be the goal. But the short-term objective must be immediate action. The longer we wait, the longer the list of supplier nations will grow and the greater will be the difficulty in securing agreement.

In taking these first steps, the supplier nations must be prepared for resistance from recipients, at least initially. Safeguards which preclude recipient-nation control over the reactor byproduct or over sources of fuel cannot help but be unpalatable. There will be resistance to an ongoing presence at nuclear facilities which cannot be policed by periodic inspection or by remote control devices. There will be concern over continued dependence on supplier nations for fuel and fuel reprocessing. But because the dangers of proliferation are so great and because the failure to halt it now may make it impossible to halt it at all, supplier nations must take all steps necessary, however unpalatable they may be to recipients.

Over the long run, international control can be made more attractive and should come to be seen as a great benefit. Arrangements which provide recipient nations with assurances against arbitrary termination of nuclear-sharing agreements would help. An international nuclear bank from which fuel could be drawn on prescribed terms and conditions would remove understandable anxieties about dependence on other nations. A common financing arrangement to help recipients bear the start-up costs of nuclear power installations would provide strong incentives to cooperate. And insurance against unauthorized access can give the governments of recipient nations greater assurance against terrorist revolutionary activities.

VI

None of these measures will be easy to achieve. But the breathing spell provided by a moratorium would provide an opportunity for all to embark on the serious efforts required.

There are other steps which the United States should initiate. One is a concerted effort to bring all nations into the NPT. Another is expansion of the transfer restrictions in the NPT to include re-exports of nuclear materials and technology by recipients. A third is a prohibition on transfers of nuclear materials or technology to non-NPT nations. A fourth is acceptance of internationally agreed-upon safeguards on the non-safeguarded nuclear facilities of supplier nations. Fifth, we should encourage an adequately funded international safeguard research effort, starting at once with adequate funding for current IAEA safeguard activities.

These many steps require international agreement. There are other steps which the United States can take on its own.

Internal institutional arrangements must be clarified. At present, the lines of authority between the AEC, which controls certain nuclear exports under the Atomic Energy Act, and the Department of Commerce, which controls all other exports under the Export Administration Act, are not clearly delineated. Once a cooperation agreement for the export of nuclear reactors and fuel is entered into, little careful scrutiny is given to exports of replacement equipment and nuclear-related materials such as computers. U.S. export-control procedures need to be harmonized to ensure that there is an opportunity for consulation with the agencies best equipped to gauge the political, military and nuclear proliferation consequences of a given export. As it now stands, the AEC may have the technical competence to assess the adequacy and workability of safeguards. But institutionally we have little assurance that the political consequences and the enforceability of such safeguards have been adequately assessed. A better institutional framework would include a joint State and Defense Department committee with the clear responsibility for the review and approval of all exports of nuclear equipment, fuel, related equipment and licenses.

Congress, too, should have a greater voice. All bilateral cooperation agreements should require affirmative congressional approval. The judgment of the Congress is not necessarily wiser than the collective judgment of the executive branch. But it can at least act as a check, and each cooperation agreement could become the occasion for discussion.

The United States itself can do much to reduce proliferation incentives. The AEC Plowshare program to develop nuclear explosives for peaceful applications should not be reactivated. The United States should stress the limited military utility of nuclear weapons, or to put it differently, make the nuclear option less tempting, by emphasizing conventional defenses. In areas where the weapons do not now exist, reliance on the concept of nuclear deterrence should be deemphasized and nuclear free zones sought. In dealings with China and the Third World, economic developments should be promoted as an alternative to military measures to achieve national power. We should pull back nuclear weapons stationed abroad and publicly disavow new deployments, except in areas dependent on the U.S. nuclear shield. In that regard, it would be difficult to conceive a more counterproductive move at the moment than to position nuclear weapons in the Indian Ocean on the island of Diego Garcia, a development at which Defense witnesses appeared to be hinting last spring when they spoke of stationing B–52s there.

To decelerate the race to manufacture and sell fuel, the United States should re-establish its reliability as a supplier. To do so, it must resolve the controversy over private versus public ownership of reprocessing plants. Only the government can do the job. If private-sector participation is desired it could be obtained through investment in a government corporation, along Comsat lines. The corporation could later become the U.S. participant in an international organization for the supply and control of fuel.

The United States might also support the seating of non-nuclear powers on the U.N. Security Council as a means of loosening the connection between nuclear power and international influence. Probably as much as anything, a realistic SALT agreement with the Soviet Union would help to diminish the significance of nuclear arms. In its every action, the United States should carefully weigh the consequences of nuclear proliferation.

After 20 years of somnolence, Indira Gandhi and Richard Nixon have awakened the United States, if not the world, to the perils of nuclear proliferation. However inadvertently, the explosion in the Indian desert and the offers of nuclear assistance in the Middle East have sparked a long overdue reexamination of "peaceful" nuclear proliferation. Among scientists and civil servants, there is a growing realization that the cows have started out of the barn—and may soon be gone. The peace and stability of the world may well depend on how earnestly we face up to the implications.

NELSON ROCKEFELLER'S TAXES

Mr. PERCY. Mr. President, once again today Vice President-designate Nelson Rockefeller has been criticized on both radio and network TV programs that I have heard for failure to pay Federal personal income taxes in 1970. I feel this criticism is distorted and grossly unfair as Nelson Rockefeller has consistently paid substantial taxes, his full fair share, over the years. Even in 1970 when he did not pay personal income taxes, he did pay $814,000 in other Federal, State, and local taxes. In addition, the trust, which he is the beneficiary paid $6,250,000 in Federal, State, and local taxes in 1970.

I do not feel that Nelson Rockefeller should be criticized for a decline in his income in 1 year due to major shifts in his investment portfolio in his trusts which eliminated any tax liability. I am sure he would have preferred an income increase and would have prefered to pay income taxes. The provisions of the tax code that eliminated his tax liability that year are provisions that apply to all in similar circumstances. Businesses or farmers that have a no-profit or loss year are not required to pay taxes either in that taxable year. Indeed, there are provisions of the tax code for loss carryforward which would reduce taxable income in subsequent years as well a provision, freely used by farmers and businesses when applicable.

I do not feel that Nelson Rockefeller's tax returns for 1970 have any meaningful bearing on his fitness to be Vice President of the United States.

Mr. President, I ask unanimous consent that a summary of Nelson Rockefeller's income and taxes paid for the years 1964 through 1973 be printed in the RECORD.

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

[In millions]

Year	Income	Taxes
1964	$5.09	$3.11
1965	5.23	2.41
1966	5.41	2.21
1967	5.56	3.76
1968	5.32	2.14
1969	3.91	1.67
1970	2.44	.81
1971	3.99	1.44
1972	5.11	2.04
1973	4.81	2.09
Decade total	46.88	21.70

THE PRESIDENT SHOULD WITHDRAW THE SURCHARGE

Mr. KENNEDY. Mr. President, I urge President Ford to withdraw his proposal for a 5-percent tax surcharge on middle Americans, before the surcharge becomes a divisive and needlessly polarizing issue in the current economic policy debate and in the fall election campaigns.

The surcharge has nowhere to go but down. It should have been relegated like the gasoline tax, to the administration's pile of deflated trial balloons before it was officially proposed this week; but at least it should be promptly discarded now, before it does further damage to the President's many constructive proposals to bring the economy back to health.

The surcharge issue is clear cut. It will be understood by every citizen. It simply is not fair to single out the ordinary working man and woman to bear the heaviest burden in the war against inflation.

The sacrifice demanded of the average citizen is badly posed by its obvious juxtaposition to the many juicy sweeteners and other plums the President's one-

sided present program offers to business and the investment community.

In this central aspect—the excessive probusiness orientation of the President's program—the tax proposals sound all too much like a throwback to the trickle-down economics the Nation has traditionally had to suffer under Republican Presidents in the past. If the President wants to avoid that stigma and be a President of all the people, he must have a much more balanced program.

As I have indicated in the past some of the sweeteners in the new proposals have *merit* as useful long-run tools in the war against inflation, and they deserve the support of Congress. Specifically, I have given my support in the past for a 10-percent investment credit and also for new incentives for capital gains to resuscitate the Nation's financial community.

Such measures should now move forward in Congress. But they have to be part of a more balanced program, and they have to be paid for fairly.

The surcharge fails to meet the elementary test of fairness. In essence, the surcharge is unfair because it is calculated only on the basis of taxes already owed. Thus, it places too heavy a burden on those who now pay more than their fair share of regular taxes, and it places too light a burden on those who use the innumerable gaping tax loopholes in existing law to escape their fair share of taxes.

In effect, while demanding too much from the hard-pressed ordinary taxpayer, the surcharge offers a free ride to wealthy individuals and corporations who use the loopholes to pay no tax at all, or to pay far less than they should.

All of the $4.7 billion in new funds needed by the President to pay for his other important economic proposals could be raised through tax reform—by closing the most flagrant loopholes in the tax laws, beginning with provisions like the oil depletion allowance, the minimum tax, and the massive syndication of tax shelters. Why should the ordinary taxpayer pay an extra 5 percent, when wealthy individuals and corporations are now getting undeserved tax benefits from tax shelters on everything from chinchilla farms to azalea bushes to pistachio nuts?

The President's endorsement of the pending Ways and Means Committee bill is a cop-out on meaningful tax reform, a diversion that obscures the basic issue, because that bill is inadequate in far too many respects to qualify as real reform.

To be blunt, the reason for the President's reliance on the surcharge instead of tax reform is not hard to guess. Tax reform requires tough decisions, because powerful pressure groups who enjoy the present loopholes will be hurt. But the tax surcharge has a different target—the average citizen, who all too often has no voice, no pressure group, and no political muscle.

In this case, however, the President has been led astray by his advisers. Congress will speak for the ordinary citizen; Congress will protect their interests. I see no circumstances in which Congress will accept the surcharge. At best, Congress will give it the same short shrift the Senate gave the President's unfair proposal last month to defer the Federal employees' pay raise. At worst, the surcharge will generate endless friction in the forthcoming debate in Congress, and the country does not need that sort of self-inflicted wound.

As the important editorial in the Wall Street Journal urged last Friday, it is time for the President to stand up, to stop acting like a Congressman responding to pressure groups, and start acting like a President who has a strategy of national leadership.

In my view, it would be undesirable to raise the cutoff point of the surcharge to $25,000 or $30,000. While such a step would exempt most middle-income citizens from the unfair burden of the surcharge, it would have two defects: the surcharge would still be unfair to those still covered who are already paying their fair share of taxes, and the change would substantially reduce the revenues raised from the proposal and needed by the President to pay for his economic programs.

Mr. President. I ask unanimous consent that a table may be printed at this point in the RECORD, showing the revenue gain for vigorous cutoff levels for the tax surcharge.

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

LEVEL OF CUTOFF FOR 5-PERCENT TAX SURCHARGE—ADJUSTED GROSS INCOME

[President's proposal]

Individual	$7,500	$10,000	$12,500	$15,000
Family	15,000	20,000	25,000	30,000
Revenue gain (billions):				
Fiscal year:				
1975	$1.0	$0.7	$0.6	$0.5
1976	1.6	1.1	.8	.7
Total (calendar year 1975)	2.6	1.8	1.4	1.2

Mr. KENNEDY. Mr. President, possibly the surcharge could be dropped for individuals and retained only for corporations, but this step would not be equitable either, unless a substantial exemption is allowed for small businesses and unless corporate loophole-closing reforms are enacted simultaneously.

To me, the best solution is simply to scrap the surcharge now, and move on to other things. Hopefully, the President will not allow this initial fumble to jeopardize the rest of the important effort to win the war against inflation.

WYOMING NATIONAL GUARDSMEN TO ASSIST EPA IN WATER POLLUTION STUDY

Mr. McGEE. Mr. President, I am pleased to call to the attention of my colleagues a recent article concerning the Wyoming National Guard's new involvement in the fight against water pollution.

The article from the October 2 Wyoming Eagle explains that Wyoming Army Guard helicopters and crews will be assisting the Environmental Protection Agency through this next year in collecting water quality samples.

Part of this collection effort will involve landing on bodies of water to collect the samples. Other efforts include assisting ground crews in reaching the 86 sample collection sites and other work in this battle. These samples will be taken at least once a month, in order to determine the present condition of Wyoming lakes and tributaries.

Mr. President, I salute the Wyoming National Guard for its involvement in this important area and ask unanimous consent that the article detailing the program be printed in the RECORD.

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

GUARDSMEN TO TAKE SAMPLES FOR WATER POLLUTION STUDY

Gov. Stan Hathaway and State Adjutant General John R. Carson Tuesday announced a joint state-federal effort using guardsmen to sample 14 Wyoming lakes and tributaries for potential water pollution.

Forty volunteers from the Wyoming National Guard, assisted by personnel of two other state agencies, will take 1,204 samples in the year-long project being conducted nationwide by the U.S. Environmental Protection Agency (EPA) in cooperation with states.

Three pontoon-equipped jet helicopters, supplied to the EPA by the Department of Defense, will land on the lakes to take the samples in the search for potentially harmful eutrophication.

Robert Payne, EPA survey coordinator from Washington, said the pollution is caused when excessive chemical nutrient, notably phosphates, over-stimulate aquatic plant growth which can deteriorate water quality and kill fish.

Payne said the EPA would spend about $150,000 in Wyoming for the survey which is currently underway now in 35 states.

Guardsmen with personnel from the State Game and Fish Department and Wyoming Recreation Commission will make the monthly samplings at a total of 86 sites, including the tributaries of the lakes.

The Wyoming Department of Environmental Quality (EQA) as been coordinating the survey with the EPA and selected lakes to be investigated in the survey.

Carson said that guardsmen will operate from their local units in Evanston Rock Springs, Riverton, Lovell and Sheridan taking samples on weekends. A team from the EQA will train the guardsmen.

EAST-WEST TRADE: U.S. BUSINESS OPPORTUNITIES IN ROMANIA

Mr. PERCY. Mr. President, while at the recent Population Conference in Bucharest I conferred with our Ambassador, Harry Barnes, and the Romanian Deputy Foreign Minister about subjects that I believe would be of interest to the American business community. In the course of our talks we discussed the desirability of expanding East-West trade and the prospects of establishing more joint ventures in Romania. I would like to share with my colleagues and labor and management leadership in America some of the information I have accumulated.

It has been said that the key to expansion of East-West economic cooperation was the Romanians' willingness to

legislate changes in their trading laws. With the exception of Yugoslavia, Romania has taken the most significant actions of any East European country in this direction. As early as March 1971 Romania passed legislation that allowed direct foreign investments and ownership in manufacturing companies, becoming the first Comecon country to do such. To help expand United States-Romanian cooperation, President Ceausescu of Romania in December 1973 visited the United States. President Ceausescu stressed the need to expand United States-Romanian commercial cooperation to higher levels of development. The summit meeting between President Nixon and President Ceausescu culminated in the signing of an income tax treaty banning double taxation, thus removing barriers to the flow of investments. A joint statement on economic relations was also signed.

One of Romania's biggest problems, like most East European countries, is that of maintaining a hard currency reserve. The Romanian leu is not convertible and is not traded in world markets. This and other problems have led to the realization that if Romania does not want to fall back to a position of real dependence on the U.S.S.R. as their chief trading partner, direct Western capital investments are crucial. The joint venture approach not only brings in the much needed hard currency but also additional technology and know-how in marketing, thus accelerating Romania's industrial and manufacturing plans.

From a Western point of view on the basis of facts available to me at this time, equity participation in joint ventures with Romania would seem to make a good deal of sense. First, as well as the other Socialist nations of Eastern Europe, Romania offers an attractive new market with considerable potential. Not only are joint ventures a surer way to penetrate more quickly the Romanian market, but also the other Socialist markets due to Romania's strong trading ties with her neighbors. Second, the skilled relatively low-cost labor force of Romania is especially appealing to Western firms interested in the more labor-intensive industries. Third, a U.S. corporation can better service its markets in Europe and the Middle East because of Romania's strategic geographic location and also reach new markets not otherwise available to them.

The chief law which governs any joint venture was passed on March 17, 1971. This legislation allows up to 49 percent foreign ownership on equity in joint enterprises. These joint ventures may be formed in the fields of industrial and agricultural production, transportation, and tourism as well as in technical-scientific research and services. The 1971 law was vague as to the terms and conditions of a joint venture, and so on November 3, 1972, Romania issued two decrees.

Decree No. 424 set forth the procedures to be followed in the establishment, organization and functioning of a joint company. Among the key provisions are Romanian guarantees of the transfer abroad in hard currency of the participating investment quota and profits after payments of legal taxes. Another key provision of this decree is that before setting up a joint venture the Romanian partner must get approval from the State Planning Committee, Ministry of Finance, Ministry of Foreign Trade, Ministry of Labor, Romanian Bank for Foreign Trade and the State Council. All this culminates in each joint venture being enacted into law establishing it as a legal entity by a decree of the Council of Ministers.

Decree No. 425 specifies that profits of a joint venture will be taxed 30 percent, based on annual profits. Tax exceptions may be granted on profits made in the first year of profitable operations. The following 2 years, the tax can be reduced by half.

Joint ventures may take either of two forms. They may be joint stock companies which issue stock certificates or they can be limited liability companies, without stock certificates but with capital subscriptions described in the original agreement. Another aspect of the joint venture legislation which is often overlooked is the provision which allows the formation of joint companies outside of Romania in which the U.S. firms can own 50 percent or more of the company without contravening Romanian law.

As of today the agreement signed by Control Data Corp. and the Industrial Central of Electronic and Automatization Romania State Trading Co., on April 4, 1973, is the only example of a joint venture with a U.S.-based company. From this example we find that the Romanians are skilled negotiators. Each detail of the agreement is negotiated paragraph by paragraph. The timespan of negotiations is a long one. Control Data spent 21 months before the final agreement was approved. Yet once underway Control Data saw this as a very profitable form of business cooperation. A provision of the Control Data agreement allows for any disputes arising that cannot be settled by common accord to be submitted to arbitration in conformity with the rules of conciliation and arbitration of the International Chamber of Commerce in Paris.

In the future a company that wishes to invest in Romania must realize that only a limited number of carefully selected prospective joint ventures are likely to reach fruition. One needs to be objective when looking at Romanian economic priorities. It can safely be said that the priorities in the joint venture field will probably parallel those of its national economy as indicated in the current 5-year plan. This plan places a strong emphasis on such areas as heavy industry; machine building, chemicals, metalworking, and electric power; extractive industries; technical industries; construction and tourism. This means that other areas such as the consumer good industries, which are not emphasized in the current 5-year plan, are unlikely prospects for joint ventures and might be unrewarding pursuits despite outward expressions of interest on the Romanian side.

Another aspect we discussed was how to increase United States-Romania trade relations. It is helpful to remember that the principle of organization is still highly centralized. Control is exercised through the Ministry of Foreign Trade which carried the overall responsibility for planning and management. However, the actual purchases and sale of goods is done by the State Foreign Trade Organization which has the negotiating responsibility and the authority to sign commercial contracts.

The 5-year plan sets total volume goals for the overall increases of foreign trade. However, the plan establishes industrial production goals which also give us general indications for the pattern and makeup of imports required to meet these goals. In the short term these goals are translated into an annual foreign trade plan whereby requirements are integrated into a specific program of imports and exports for certain projects. This foreign trade plan is not published but an annual production plan is, in which goals are set for product groups.

It appears that Romanian officials have been eager to acquire western technology and avoid tailoring their economy to a specialized role in the Soviet trading bloc. The Western share of Romania's total foreign trade is about 45 to 50 percent. The United States exports to Romania have consisted largely of wheat, cotton, cattlehides, rolling mills and parts for metalworking, chemical woodpulp, air and gas compressors and electron and proton accelerators. The United States share of the Romanian import market is estimated to be between 3 and 8 percent. On the other hand, goods that Romania hopes to export to the United States—especially if MFN status is granted—are textile products; construction materials; food products; machine tools; surgical products—steel and aluminum; chemical products; furniture; Oriental and Romanian rugs; handicrafts and ceramics.

Securing a share of this business presents a different set of problems for the U.S. businessman than he is accustomed to. Although correspondence can go far toward introducing products, it is not a very effective method of market penetration. Correspondence should be followed up by direct visits which must be well programed in advance for maximum effectiveness. Trade fairs and seminars can be helpful in reaching end users.

Once a contract is signed the supplier can count on good payment performance. The Romanian system allows contract authorization only after the Bank of Foreign Trade determines that the required hard currency is available.

In looking to the future it would be well to remember that despite the difficulties inherent in this market which is new and unfamiliar to most U.S. firms, the potential return is good for both countries. Projects which are based on an overall industrial development concept are likely to be larger in size and value than in developing non-Communist countries. In addition, Romania foreign trade organizations tend to return to the same supplier with which they have had satisfactory dealings for new requirements.

I would suggest, that any business firm interest in either establishing a joint venture project or trading with Romania contact any U.S. Department of Commerce field office and ask for the U.S. Department of Commerce Overseas Business Report No. OBR 73-36, August 1973. An alternative would be to write or call the Bureau of East-West Trade, Department of Commerce, Washington, D.C. The Romanian Government also operates trade offices in New York, Chicago, and San Francisco as well as an Embassy in Washington, D.C.

With new innovations and a high caliber of personnel representing the United States, such as Ambassador Barnes, I am confident that the cooperation that has taken place between Romania and the United States in recent years is only a beginning. As a further help, Mr. President, I ask unanimous consent that a Control Data pamphlet outlining their experience in drafting a joint venture in Romania be printed in the RECORD.

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

JOINT VENTURE AGREEMENT IN EASTERN EUROPE

[Guidelines for Drafting J. V. Agreements]

(NOTE.—On 4 April 1973, W. C. Norris, Chairman of the Board, and Chief Executive Officer, Control Data Corporation, signed a joint-venture manufacturing agreement with the Romanian Government. Although many of the provisions of this agreement are of a proprietary nature, the following synopsis represents the general content that should be incorporated into such agreements, and is presented here in response to the many requests that have been made to Control Data for guidelines under which similar agreements might be drawn.)

GENERAL PROVISIONS

Because of differences in language, business methodology, and economic structures of Eastern European nations and American industrial firms; and in order to preclude misunderstandings on the part of either contractor, it was necessary not only to state the terms of the agreement in general language, but then in many instances, to iterate these terms in more specific detail. For example, in our agreement, CDC's responsibility for training is stated in other subjects relating to capital contribution, transfer of know-how and technology, licensing, administration, and personnel.

Following a list of definitions, these provisions specified the broad scope of the joint venture and the laws under which it was established. In this case, the joint venture company (defined as a "Society") was named ROM CONTROL DATA SRL, to be located in Bucharest, and designated to operate in Romania, under and subject to Romanian law. Following this, the purpose and goals of the joint enterprise were outlined to include such items as broad general product definitions, new product development, and research and development. The provisions were taken to spell out the duration of the agreement, and the provisions for extension thereof. It was also specified that the agreement would come into force upon signature by both parties and after each party had fulfilled its initial obligations. These provisions also included, but were not limited to such items as: both parties obtaining and notifying the other of receipt of all necessary governmental authorizations; certain Romanian tax exemptions for the joint venture company; and the time limits under which each party is expected to conform to the above. "Final provisions," and "miscellaneous provisions," included items which clarify specifics included elsewhere in the agreement, and cross-references to appendices to the main document.

CAPITAL

There are two principal provisions in the agreement relating to capital; "Social Capital" and "Working Capital." Social Capital is the basic initial capital investment commitment in the "Society," or Company, by each party. In the CDC/Romanian agreement, the fully subscribed capital was $4 million, the Romanian share being 55 percent, or $2.2 million, and the Control Data share being $1.8 million, or 45 percent. Extending from this basic capital investment, the specific capital contributions were delineated. These included, among other things, such items as the furnishing of cash, machines, tools, buildings, roads, real estate, lease terms, furnishings and equipment. Less tangible items such as performance of services, training, licensing, etc., were also included under this heading.

The methods for establishing a working capital were spelled out in this section, as well as the limitations imposed on it.

OBLIGATIONS

In these provisions, the individual responsibilities of each of the joint venture parties for basic commitments for start-up and the scheduling of such commitments were spelled out. This included such items as the responsibility for concept, design, construction of factory, and designation of items to be delivered to the site by each party. Also covered were provisions for the furnishing of parts and subassemblies by both parties and the specification of conditions under which such items can be purchased by the company outside of the joint-venture arrangement.

TECHNOLOGY

These elements of the agreement contain considerable information of a proprietary nature. Accordingly, it can only be stated that the provisions dealt with such areas as transfer of production know-how, technology transfer, licensing, short and long-term research and development programs, documentation, and the preservation of proprietary rights on the part of either participant and the joint venture company.

PLANNING

The essence of economics in Socialist countries is the five-year plan. Accordingly, the agreement provides for the development of a five-year plan at the end of each calendar year. The plan would take into account such matters as the substitution of later state-of-the-art equipment at the appropriate time, etc.

SALES

This portion of the agreement specified how the products and spare parts produced by the joint venture company can be sold. It covers, for example, the sales rights of either party with respect to in-country sales, export sales, and how such product sales may be made with respect to total systems manufactured in Romania, or as OEM sales. In the computer business, maintenance service (customer engineering) is an inherent part of a sales force, which is also provided for under this portion of the agreement. Product pricing and conditions under which stipulated prices may be altered were also incorporated here.

ADMINISTRATION

These provisions are provided throughout the agreement, but are combined here for purposes of clarity and brevity. Under this category are:

Insurance.—The types of insurance against damage or destruction of physical assets is spelled out, and how premiums for this coverage shall be paid. It was specified that insurance should be taken from a Romanian insurance company unless it cannot be obtained in Romania.

Bank Accounts.—The opening of bank accounts, their location and the designation of persons entitled to sign documents related to these accounts is prescribed.

Bookkeeping and Accounting.—As is the case in most of the agreement's provisions, the details of bookkeeping and accounting are contained in a separate appendix devoted to that subject. The basic agreement merely refers to that appendix and specifies that the financial and accounting records of the joint venture company shall be kept in U.S. dollars, and that U.S. general accounting methods will be followed.

PERSONNEL

Because of the difficulties involved in interesting American personnel in employment by a joint venture company in Eastern Europe, many of the personnel arrangements included in the agreement have particular interest. Such items as projecting the number of employees consistent with the first five year plan, the designation of employee functional areas, and the establishment of initial salaries were set forth in considerable detail in accompanying appendices. Other details were spelled out in the basic agreement, however, and included the following: (These are direct quotes from the agreement).

The Romanian personnel of the Company shall enjoy all of the rights and obligations including social security provided in the legislation applicable to State enterprises. The rights and obligations of the foreign personnel shall be established by the Managing Committee of the Society.

The employment of the Company's personnel shall be done through individual labor contracts. The individual labor contracts are subject to the Romanian legislation.

CDC will propose various personnel who are not Romanian citizens to work in the Company. The job functions to be performed by the foreign personnel and their length of employment are described on the personnel chart attached hereto as Appendix No. 27.

The foreign personnel may leave the employ of the Company at any time without being required to give anything other than normal notice. CDC will replace such personnel within one month from the date that the employee leaves the Company.

All questions related to vacation of the foreign personnel will be decided by the Managing Committee of the Company.

Salaries of the foreign personnel are established in Appendix No. 27 and shall be paid monthly in U.S. dollars.

The amount of the net income paid to the foreign personnel which can be transferred abroad in freely convertible currency shall be established by the Managing Committee of the Company.

The foreign personnel shall be allowed to use the facilities of the Foreign Trade Company TERRA for any purchase (food and any industrial goods) from West Europe.

The income of foreign personnel received from outside Romania will not be subject to Romanian taxation. The foreign personnel shall pay Romanian income taxes on the amount of their salaries after deduction of the amounts corresponding to Romanian social security taxes which are to be put at the disposal of CDC.

The Personnel Manager of the Company will be the liaison officer for the foreign person in all personnel matters relating to this Article.

The foreign personnel shall pay themselves the pension and social security taxes in their own countries.

The Romanian Government will take the necessary steps that such foreign personnel relocated in Romania will be provided with

housing facilities in accordance with Appendix No. 25.

Exchange of foreign currency will be done at the official noncommercial exchange rates valid at the date of exchange.

The Romanian Government will guarantee the duty-free import and re-export of cars, furniture, refrigerators and other goods of same objects for personal use of foreign personnel, according to the customs regulations in force at the time.

For cars the Romanian Government will grant "TC" license plates; the inspection taxes will be paid by the car owner.

Sale of such goods in Romania is permissible only in accordance with Romanian laws.

If required the Company will provide one University trained Romanian woman, fluent in English language, to provide assistance to the foreign personnel and their families on all types of personal problems related to living in Romania. (Language training, relationship to Romanian authorities, etc.). The expenses of this service will be paid by the foreign personnel.

The Company will provide CDC an accounting of all salaries and expense payments made in Romania to each foreign employee including all taxes withheld.

The legal social security deduction for retirement and medical benefits from the foreign employees' salary will be deposited in a bank account at the disposal of CDC. Foreign employees will be expected to pay their own medical costs.

MANAGEMENT

Because of the inherent governmental involvement in socialist country joint venture arrangements and the resultant participation of all workers in the management role, the management structure is normally more complicated than comparable U.S. arrangements. Basically, the arrangement provided for the following:

(a) A General Assembly of Shareholders. Initially, this consists only of the Romanian Government and Control Data, each participating in shareholding to the extent of their original contribution to the company (55%–45%). The agreement then provided that a meeting of the General Assembly of shareholders be called by the Managing Director each year, and within three months after the close of the Company's financial year. A provision was also included for the calling of Special General Assemblies.

The principal duties of the General Assembly are:

Appoint, dismiss and discharge from liability the Directors, the Managing Director and members of the Treasurer's Commission of the Company. Remove from office the Managing Director, a Director or a member of the Treasurer's Commission should they commit any act in relation to the Company which is contrary to Romanian law, and to decide whether such matters should be referred to the competent Romanian authorities. The members of the Treasurer's Commission appointed upon the recommendation of the Romanian Ministry of Finance may be dismissed only with the approval of such Ministry.

Establish and modify the general policies, programs and plans of the Company and give instructions to the Directors regarding the means of carrying out such policies, programs and plans.

Approve or modify the Balance Sheet and Profit and Loss Statement of the Company.

To approve the contracting of any credit which is secured by a lien or charge on the property of the Company; or the granting of any guarantee of its obligations to a third party.

Decide how much, if any, of the profits of the Company will be retained in the Company.

Approve the organizational structure of the Company and its number of employees of various categories.

Establish the remuneration of the Managing Director, of the Directors, and of the members of the Treasurer's Commission.

Approve any modification of the Statutes of the Company.

Approve the collective labor contract of the Company.

Approve any increase or decrease in the Share Capital of the Company or any modification in the number or value of Shares as well as their transfer to third parties.

Approve the formation and dissolution of subsidiaries, branches and agencies.

Decide upon the merger, division, dissolution and liquidation of the Company.

(b) Managing Directors. The Agreement provided that the Romanian Government would provide the principal Managing Director for a term of three years, subject to renewal upon the agreement of both parties. Control Data is then responsible for the appointment of the Assistant Managing Director. Again, his reappointment after a period of two years is subject to the agreement of both parties.

(c) Directors. The agreement provided for the election of Company Directors and from among them, a Chairman of the Board of Directors. It was agreed that the Board Chairman would normally alternate annually between a Control Data representative and a Romanian. The Chairman's role is confined to presiding over meetings of the Board and the General Assembly of Shareholders. It was specified that he would exercise no other authority with respect to Company management.

(d) The agreement specified that the provisions of Romanian law regarding the constitution and functioning of the employees general meeting shall be applicable to the Joint-Venture Company. At this general meeting, the employees of the Company will designate their representatives to a Managing Committee in accordance with special provisions of the Company's Statutes. The Managing Committee, which includes representatives of the principals to the Agreement, is then charged with overseeing the general management of the Company in conformance with the decisions of the General Assembly.

AUDITS

The agreement provided that the activities of the Company shall be audited by a Treasurer's Commission composed of three persons. One member of the Treasurer's Commission shall be elected by each principal shareholder for a term of two years. The third member shall be appointed for a term of two years by the Ministry of Finance of the Socialist Republic of Romania. At least one of the members of the Treasurer's Commission shall be an expert in accounting matters.

The duty of the Treasurer's Commission is to audit the financial and other activities of the Company to ensure that they comply with the Statutes, applicable Romanian laws, and the policies established from time to time by the General Assembly of the Shareholders.

The duties of the Treasurer's Commission shall be:

To call a General Assembly of the Shareholders when the losses of the Company prevent it from functioning efficiently.

During the financial year of the Company they shall from time to time, but at least once every quarter, audit with or without warning the administration and condition of cash, commercial documents and other property of the Company as well as the accounting records of the Company and make reports thereon to the General Assembly of the Shareholders and notify the Board of Directors.

At the end of each financial year the Treasurer's Commission shall verify the inventory of the Company. Prior to each Annual General Assembly of the Shareholders the Treasurer's Commission shall draw up a written report verifying the accuracy of the Balance Sheet and Statement of Profit and Loss after having examined the relevant documents and accounts presented by the Board of Directors. It shall point out to the Shareholders any violations of the Statutes or Romanian laws or any deviation from the policies established by the General Assembly of the Shareholders. The Treasurer's Commission shall inform the Shareholders of any necessary changes in the State Capital or of the Statutes.

Upon liquidation of the Society they shall audit the actions of the Liquidators in accordance with the provisions of Article 32 hereof.

PROFITS

This portion of the agreement outlined the distribution of profits and permitted the transfer by Control Data of its share of the profits outside Romania in U.S. dollars, at any time, after payment of applicable taxes. Provision for reinvestment of profits in the Company by either party was also covered here. This section also made provision for procedures to eliminate losses should they occur.

DEFAULTS AND DAMAGES

The agreement provided for the settlement of claims for damages by the Company against third parties, the failure by one party to the agreement to fulfill its obligations, the steps to be taken to rectify such failures, and the right of either party to terminate the agreement in the case of serious default. Provision was also made that the parties shall attempt through mutual consultation to eliminate problems arising out of default. Further, it was specified that neither party would be responsible for consequential or indirect damages. Finally, a limit on the amount of damages payable by either party was prescribed.

DISSOLUTION AND LIQUIDATION

The agreement specified the conditions under which the Company shall be dissolved and liquidated and provided for the liquidation of assets to include machines, tools, equipment, buildings, facilities, cash licenses, and other assets. Provision was also made for residual obligations of one party to the other in the event of dissolution as well as the residual rights with respect to further manufacturing, marketing, licensing, patents, etc.

FORCE MAJEURE

The agreement specified that Force Majeure shall include all events out of the control of the parties such as: floods, earthquakes, fire, war, catastrophes, etc., existing after the coming into force of the agreement and which prevent totally or partially the fulfillment of the parties' obligations under the Joint-Venture Agreement.

It was specified that upon giving notice of Force Majeure to the other party, the party so affected shall be released without any liabilities on its part from the performance of its obligations under the agreement, but only to the extent and only for the period that its performance of said obligations is prevented by circumstances of Force Majeure. The notice shall include a description of the nature of the event, its cause and possible consequences.

It was further stated that, should the period of Force Majeure continue for more than six (6) months either party may terminate this agreement without liability to the other party upon giving written notice.

ARBITRATION

It was agreed that all disputes of any kind arising out of this agreement or in connection with it and which cannot be settled by common accord, shall be submitted to arbitration in conformity with the Rules of Conciliation and Arbitration of the International Chamber of Commerce in Paris, and with the following provisions:

The Arbitration Court shall consist of three

arbitrators appointed as follows: each party shall appoint one arbitrator, and these two arbitrators shall appoint the third arbitrator who shall be the chairman of the Arbitration Court. Should the two arbitrators appointed by the parties not agree upon the person of the third arbitrator within 30 days from their nomination the third arbitrator shall be appointed by the President of the Arbitration Court of the International Chamber of Commerce in Paris upon request of one of the parties.

The party desiring to submit a dispute to arbitration, shall notify this fact to the other party, mentioning the name and address of the arbitrator appointed by it.

The party who receives such a notification shall appoint an arbitrator within one month from receipt of the notification, failing which the second arbitrator will be appointed on request of the claimant party by the President of the Arbitration Court of the International Chamber of Commerce in Paris.

The arbitrators shall decide "ex aequo et bono" by majority vote, and their award shall state the reasons for their decision. The arbitrators shall also decide and fix in their award which party, or the extent to which each of the parties shall bear the arbitration costs.

The award of the Arbitration Court is final and executory.

The seat of the Arbitration Court will be in Paris.

ANNOUNCEMENT OF POSITION ON A VOTE

Mr. STEVENSON. Mr. President, I was necessarily absent from the Senate on Thursday, October 3, during rollcall vote No. 450 Leg., on a motion to table Senator GRIFFIN's amendment No. 1926 to S. 4016, a bill to protect and preserve tape recordings of conversations involving former President Nixon and made during his tenure, and for other purposes. Had I been present, I would have voted "nay" on the motion to table.

THE COST OF IMPORTED OIL

Mr. McCLURE. Mr. President, proponents of H.R. 8193 have avoided facing the tremendous increase in the cost of imported oil which the bill would produce by stating these higher costs would be offset by the oil import fee rebate provision of the Senate version. The Senate bill provides that, for a period of 5 years after enactment, the import fee on oil other than residual fuel oil be reduced by 15 cents per barrel, and the fee on residual fuel oil reduced by 42 cents per barrel—these reductions to apply only to oil carried in U.S.-flag vessels.

On the surface, this may sound good. But a closer analysis of the actual results tells a different story. The fee reduction would really have very little effect on the net cost to the consumer of imported oil.

Dr. John Sawhill, Administrator of the Federal Energy Administration, has written a clarifying letter on this subject to the Honorable LEONOR K. SULLIVAN, chairman of the House Committee on Merchant Marine and Fisheries. I have a copy of this letter and would like to quote from it:

With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill. Currently, oil import fees are not charged on the great majority of crude oil imported in the United States. Presidential Proclamation 3279, as amended, provide for phasing in the import fee on crude oil over a seven year period through 1980. From the beginning of the fee system in May of 1973 until April of 1974, fee-free allocations covering 100 percent of the January 1, 1973 import levels were granted. After April 30, 1974, fee exempt allocations will be reduced by a fraction of the original level each year for the next seven years, phasing out completely by 1980.

Since the percentage of imports which are exempt from fees will vary depending on the increase of imports above 1973 levels, as well as other variables such as exemptions for new refineries and hardship cases, it is difficult to predict the precise percentage of imports which will be fee exempt. Nevertheless, based on past data, we estimate that oil import fees will be payable only . . . on something less than 50 percent of all crude oil imports.

It is evident from the above figure that the provision of the bill which provides for a rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs for crude oil which consumers will be required to pay. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports.

The 42¢ per barrel rebate of the import fee on residual fuel oil is apparently aimed at reducing consumer costs in New England, since that region consumes most of the imported residual fuel oil. The observations made above with respect to the small amount of crude oil actually subject to import fees in the short term apply to residual fuel oil also. Imports of residual fuel oil into the East Coast have been virtually decontrolled for a number of years. As a result, licenses were issued for the importation of 2.9 million barrels per day of residual fuel in 1973 base year although actual imports were less than 2.0 million barrels per day. Under the phase out schedule, it will be 1976 or later before any fees need be paid for imports of residual fuel oil into the East Coast provided that normal trade patterns continue.

This analysis clearly shows the very minimal effect a reduction in import fees would have on the increased cost of crude imported in U.S.-flag vessels, and certainly does not support the claim that these costs would be substantially offset.

I ask unanimous consent that Dr. Sawhill's letter be printed in the RECORD.

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

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MADAM CHAIRMAN: There are a number of factual considerations with respect to the oil import fee rebate provision of the Senate version of H.R. 8193 which I would like to bring to your attention. The Senate bill provides that, for a period of five years after enactment, the import fee on oil other than residual fuel oil be reduced by 15¢ per barrel, and the fee on residual fuel oil be reduced by 42¢ per barrel. Fee reductions would be available only for oil imported in U.S.-flag commercial vessels and the reduction would be required to be passed on to the consumers. We have the following observations concerning this import fee provision:

1. With respect to crude oil, rebate of the oil import fee would not offset the increased cost of oil imports which would be caused by the bill. Currently, oil import fees are not charged on the great majority of crude oil imported into the United States. Presidential Proclamation 3279, as amended, provides for phasing in the import fee on crude oil over a seven year period through 1980. From the beginning of the fee system in May of 1973 until April of 1974, fee-free allocations covering 100 percent of the January 1, 1973 import levels were granted. After April 30, 1974, fee exempt allocations will be reduced by a fraction of the original level each year for the next seven years, phasing out completely by 1980.

In addition to these fee-free allocations, the proclamation provides additional exemptions from fees for certain classes of imports, e.g., for new or expanded refinery capacity, crude oil imported to produce asphalt, hardship grants to independent refiners, etc.

Since the percentage of imports which are exempt from fees will vary depending on the increase of imports above 1973 levels, as well as other variables such as exemptions for new refineries and hardship cases, it is difficult to predict the precise percentage of imports which will be fee exempt. Nevertheless, based on past data, we estimate that oil import fees will be payable only on from 5 to 10 percent of all crude oil imports in 1974 and 1975. By 1978, import fees will probably be payable on something less than 50 percent of all crude oil imports.

It is evident from the above figures that the provision of the bill which provides for a rebate of 15¢ of the oil import fee would not produce any meaningful relief from the increased costs for crude oil which consumers will be required to pay. Since the bill's provision for rebate is only for a five year period, rebates will cease at about the time that import fees begin to be applicable to the majority of crude oil imports.

2. For residual fuel oil the Senate bill would rebate $.42 of the higher license fee, currently $.30 per barrel moving to $.42 per barrel on November 1, 1974, and $.63 per barrel by November 1, 1975. This 42¢ per barrel rebate of the import fee on residual fuel oil is apparently aimed at reducing consumer costs in New England, since that region consumes most of the imported residual fuel oil. The observations made above with respect to the small amount of crude oil actually subject to import fees in the short term apply to residual fuel oil also. Imports of residual fuel oil into the East Coast have been virtually decontrolled for a number of years. As a result licenses were issued for the importation of 2.9 million barrels per day of residual fuel in the 1973 base year although actual imports were less than 2.0 million barrels per day. Under the phase out schedule it will be 1976 or later before any fees need be paid for imports of residual fuel oil into the East Coast provided that normal trade patterns continue.

Thus in the short term, the proposed rebate of import fees on residual fuel oil will provide little or no relief for the increased costs to consumers of cargo preference.

In addition, the rebate of 42¢ per barrel is not consistent with the rationale for the imposition of an import fee on refined petroleum products which is designed to encourage domestic refined capacity. To the extent that a rebate of 42¢ per barrel exceeds the estimated increased cost of shipping in U.S. bottoms, integrated refiners will find it cheaper to refine in the Caribbean and Canada and ship to the United States rather than to refine in the United States. Thus, in the future when fees are charged on residual fuel imports, the bill would tend to export refining capacity and jobs. We fail to perceive any reason why a rebate on residual fuel should be greater than the increased cost for shipping in U.S. vessels.

3. The House Committee on Ways and Means has the issue of the oil import fee under active consideration. The Committee's earlier version of tax reform legislation included an amendment to Section 232 of the Trade Expansion Act (the basic authority for the import fee system) which would have

prohibited the imposition of an import fee on crude oil when the price of imported oil is higher than the domestic price. We understand that this approach is currently included in the Committee's new tax reform proposals which will be in final form in the near future. If such legislation were to become law, the provision in the Senate version of H.R. 8193 providing for rebate of the fee on oil imports would be meaningless with respect to crude oil imports (assuming that the foreign price continues to be higher than the domestic price).

4. Dedication of import fees for this and numerous other purposes which have currently been suggested tends to lock the government into a particular form of protection and it would remove the flexibility which Section 232 of the Trade Expansion Act intended to give the President. For instance, it would be very difficult to shift to a quota system or to adopt a variable fee. It is also worth noting that the misuse of the import program to subsidize all sorts of special interests was responsible for much of the abuse of the former quota system. To now use fees for purposes other than those relating directly to national security, may cause the fee system to fall into the same disrepute.

In light of these considerations, I strongly urge that the Conference Committee not adopt the provision of the Senate bill providing for the rebate of oil import fees.

Sincerely,

JOHN C. SAWHILL,
Administrator.

THE UNSOLVED BREAK-INS, 1970–74

Mr. ABOUREZK. Mr. President, the hydra-headed monster that goes by the name of Watergate is only now beginning to be fully exposed. How far we must go before we understand the depth of the danger in which our Government system was placed is dramatized by Mr. Robert Fink's article, "The Unresolved Break-Ins, 1970–74," which appeared in the October 10 issue of Rolling Stone.

Bob Fink was the researcher for Woodward and Bernstein's book, "All the President's Men." His work is meticulous. What he finds is frightening in the extreme. I ask unanimous consent that Bob Fink's article be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ABOUREZK. Mr. President, the burden of this article is as simple as its detail is impressive. By exhaustively comparing over 100 illegal break-ins during the period 1970–74, Mr. Fink finds obvious patterns which strongly suggest a coordinated Government plan to spy on, harass, and disrupt persons and organizations whose views were considered dangerous by the Government. Targets of the break-ins included scores of persons from the infamous "enemies list," as well as many others whose one distinguishing characteristic was opposition to various Government policies or to the reelection of Richard Nixon.

Mr. President, this article constitutes an overwhelming case for further congressional investigation. It offers a thousand leads that need pursuit by a congressional panel armed with the power to compel testimony.

The case for further investigation is even more compelling in light of information which has come to light since Mr. Fink completed his article.

We now know that Mr. Fred Buzhardt admitted to the Watergate Committee that surreptitious entries and burglaries were performed by the FBI. We now know that a draft of the on-again-off-again Huston plan specifically mentioned "surreptitious entry of facilities occupied by subversive elements," and said "this technique could be particularly helpful if used against the Weathermen and Black Panthers." We also find that a memorandum on "Operation Sandwedge," the proposed Nixon campaign intelligence arm, specifically suggests a "manipulated threat of indictment" by the Justice Department against personnel of a security group the Republicans believed might be used by Democrats.

Bob Fink's article should be the basis for a full-scale investigation. We ought to know who committed these 100 break-ins, who authorized them, to what extent they were part of a coordinated Government policy, and we must take steps to insure this sort of wholly illegal, dangerous activity is eliminated in the future.

Exhibit 1 follows:

EXHIBIT 1

THE UNSOLVED BREAK-INS, 1970–1974

(By Robert Fink)

Aware of its inherent illegality, President Nixon approved the Huston Plan on July 23rd, 1970, creating a secret superintelligence agency under White House auspices; his order amalgamated the FBI, the CIA, the DIA (Defense Intelligence Agency), the NSA (National Security Agency) and the counter-intelligence agencies of the Army, Navy and Air Force. Laws forbidding some of these organizations' participation in domestic operations were bypassed. The plan's avowed purpose was to remove "operational restraints" on domestic intelligence collection, enabling the government to increase its use of wiretaps, carry out mail searches and put more undercover agents on college campuses.

It also removed restraints on the government's right to make surreptitious entries against "urgent security targets," even though Huston's memorandum acknowledged: "Use of this technique is clearly illegal; it amounts to burglary. It is also highly risky and could result in great embarrassment if exposed. However, it is also the most fruitful tool and can produce the type of intelligence which cannot be obtained in any other fashion."

Under the sword of John Dean's imminent disclosure, the president confirmed the plan's existence on May 22nd, 1973, describing it as "a directive to strengthen our intelligence operations," and insisting it was rescinded on July 28th, 1970, as a result of J. Edgar Hoover's opposition. Hoover was unwilling to increase the role of other agencies to participate in domestic intelligence.

Events indicate that many of Huston's recommendations were carried out: The essence survived without its label.

On June 27th, 1973, John Dean told the Ervin Committee he had never seen any document to indicate the president had disapproved or rescinded the Huston Plan.

On July 9th, 1973, Huston told a closed House Armed Services intelligence subcommittee hearing, the plan was never formally cancelled.

At least 100 break-ins, apparently political in nature, occurred during the Nixon administration. Clandestine invasions of homes and offices were made against numerous individuals and groups considered "enemies" of the administration. "Enemies," both on and off the White House's prepared list, included media critics, radicals and liberals opposed to administration policy, political foes considered threats, and foreign diplomats thought dangerous to American interests. Other break-in victims, not themselves "enemies," possessed documents or other material possibly damaging to "enemies" or to the administration itself.

Although the evidence linking the government to these break-ins is largely circumstantial, it is both striking and persuasive. Not only were virtually all the victims objects of administration concern or suspicion, but the attacks against them followed a consistent pattern. The most striking characteristic of this modus operandi is that, aside from taking relatively insignificant trinkets, the intruders did not touch cash or valuables. They appeared to be under orders or to have a code of honor which precluded the stealing of material possessions. Instead, the burglars looked for information: correspondence, financial records, tapes, the contents of files. The break-ins uniformly occurred when the premises were expected to be empty. The targets were carefully studied in advance; the intruders appeared to know their victims' schedules and the general or precise location of their documents. Entry was usua'ly forced; there was little effort to conceal the attempts—at least where a break-in has been identified. When police were called a perfunctory investigation was made; fingerprints were taken; the victim was told little or nothing; the case died.

The break-ins often came in clusters which took place over a period of a few days. It cannot be inferred that this clustering occurred because one central authority directed the break-ins. It does suggest, however, that individual break-in teams may have been operationally active in spasms, either because an "in-the-field" momentum was created, or because each mission required approval which tended to be granted in groups at intermittent intervals.

Since the break-ins continued after the Watergate arrests—indeed, into this summer—it is a reasonable speculation that other teams of burglars were involved: either additional "plumbers" or special FBI or CIA investigative units.

It remains to be seen how many break-ins were directly or indirectly White House sponsored, and if any will be unraveled. It seems unlikely that local police authorities or the FBI or the Justice Department will make any dent in their resolution. Extensive interrogation of many key Nixon operatives seems to have been fruitless in linking their former colleagues to additional break-ins, despite a promise of immunity in exchange for "telling all"—and the threat of punishment for withholding information. Questioning of the Watergate burglars, under similar conditions, is believed to have been equally unproductive. Disclosure of the connections between "other break-ins" and the clandestine operations of the Nixon administration, largely depends on the efforts of the Special Prosecutor and the possible revelations coming out of the Watergate cover-up trial.

The following summary of break-ins is not a comprehensive list, but illustrative of the general pattern.

Many of the earliest victims were radicals and their attorneys. The experience of Gerald Lefcourt, a 32-year-old New York lawyer, is typical of several activists who adamantly challenged the administration on domestic issues and the war in Vietnam. Lefcourt's clients included Mark Rudd, the Black Panthers and SDS; he was part of the defense in the Chicago 7 and Detroit 15 trials. During 1970 and 1971, he sustained three break-ins and a fire at his home. Two of the office break-ins are considered everyday typewriter robberies. The other incidents are not:

The fire did little damage because Lefcourt's file cabinets were fireproofed, but the file on Mark Rudd was removed from the cabinet before the fire started and its contents strewn about; in the remaining break-ins, papers were ransacked but neither valuables nor visible cash were stolen. Some of these events, including the first, occurred prior to the Huston Plan's existence.

San Francisco attorney Charles Garry is a Lefcourt counterpart on the West Coast. As general counsel to the Black Panther Party, the 65-year-old lawyer represented Huey Newton and Bobby Seale; another client was Angela Davis. During 1970–71 his eight-man law firm was forcibly entered on two occasions, but only Garry's private office was burglarized. In one break-in Angela Davis's file was removed. In the other, a tape crucial to the defense of Huey Newton, in which a government prosecution witness admitted lying to the grand jury, was stolen. On a third occasion, several additional files were removed, but there was no sign of forced entry. In both overt break-ins many valuables were left untouched, though in one, an old pistol and a petty-cash box containing about $300 were taken.

Recently, for reasons unknown, Garry has received part of the Angela Davis file back through the intermediary of his private investigator, Harold Rogers. Rogers states the exchange was initiated in a small Indonesian restaurant in Berkeley by a tall bearded man about 30 and dressed as a hippy. The unidentified man said he had Garry's files and wanted to sell them. Rogers refused. The man later approached Rogers in the same restaurant and gave him the files, refusing to say how he acquired them. (Neither Rogers nor Garry have attempted to learn the stranger's identity.)

Egbal Ahmad, a Pakistani scholar living in the U.S., is a sophisticated analyst of guerrilla movements and Third World aspirations, and among the earliest and most literate opponents of American policies in Vietnam. In 1969, less than two months after Nixon was inaugurated, he depicted the new president as representative of a widespread mentality that mixed globalism with paranoia, producing a rhetoric so senseless and extreme one would tend to dismiss it as irresponsible if it were not uttered by serious and successful politicians. Starting in April 1970—the FBI subsequently admitted—Ahmad was put under surveillance.

Two months later a student demonstration on the University of Chicago campus against the Adlai Stevenson Institute of International Affairs, where Ahmad was a Fellow, led to a trashing and short-lived occupation of the building. Aside from property damage and a few Rand Corporation reports admittedly "liberated," members of the Institute found their papers and books in order—except for Ahmad; two of his filing boxes, containing valuable documents and several years of work, were missing. Ahmad believes the student demonstrators were infiltrated by agents provocateurs and his papers stolen by government agents. Creating an elaborate ruse to gain access to confidential records is suggestive of Charles Colson's alleged plan to firebomb the Brookings Institution as a distracting cover to retrieve classified documents thought to be in the possession of former Kissinger aide Morton Halperin. In January 1971 the Justice Department charged Ahmad and others with conspiring to kidnap Henry Kissinger, to bomb heating systems under government buildings in Washington and to raid federal offices. During the trial in Harrisburg the charges were dropped.

In Cambridge, Massachusetts, on Wednesday night, March 10th, 1971, the headquarters of the United States Servicemen's Fund, an organization which actively supported the GI resistance movement in setting up coffeehouse projects adjacent to military bases around the country, was forcibly entered, devastated and burglarized. Files, contributors' lists, financial records and a rotary address holder were taken. Office equipment was not. Although police were not notified, local police lieutenant Dominic Scales appeared at the office, made a superficial examination and lectured staff members on the rewards of good behavior. When asked how he learned of the break-in, he replied he had sources. In October 1971, in hearings before the House Committee on Internal Security, a committee employee, Charles L. Bonneville, submitted letters that had disappeared from USSF files during the March break-in, stating "these letters were in materials that came into my possession from confidential law enforcement sources."

Chilean diplomats endured a series of incidents between April 1971 and May 1972.

On Monday, April 5th, 1971, Mrs. Humberto Diaz-Casanueva left her suite in New York's Shelbourne Hotel about 12:30 PM, as she had done every weekday for the preceding two weeks, to join her husband, the new Chilean ambassador to the United Nations, for lunch. At 1:10 PM, the cleaning maid found the door chained from the inside and assumed Mrs. Diaz-Casanueva was still there. The maid tried again at 2:30 PM and the door was no longer chained. When the ambassador and his wife returned about 5:30 PM, they discovered they had been burglarized: A closet containing Mrs. Diaz-Casanueva's wardrobe and jewelry had been emptied, but the ambassador's possessions were strangely intact; only his papers, consisting of poems—the ambassador was a poet—had been examined. Many valuables, including a $500 radio, were not touched.

The couple was puzzled but did not suspect they had suffered anything more than a normal robbery, until the following week. On Sunday evening, April 11th, Javier Urrutia, chief of the Chilean Development Corporation, returned to his New York apartment, after a weekend away from the city. He found it broken into: His official papers had been rifled and a pistol stolen, but other valuables, including a fur coat, were not taken. Urrutia was involved in negotiations with U.S. government officials and businessmen about the Allende government's takeover of U.S.-owned businesses in Chile. Tangentially, Ambassador Diaz-Casanueva was his negotiating colleague.

At approximately the same time—the precise date is not known, no report was made to police—the Chancellor of the Chilean Embassy in Washington, Patricio Rodriguez, was awakened in the middle of the night by noises outside his home in suburban Bethesda; Rodriguez fired two shots into the air and saw men scatter.

Several months later, on Thursday, February 10th, 1972, the New York residence of Victor Rioseco, the economic consul for the Chilean mission to the United Nations, was broken into. His papers were rifled and a radio and TV set stolen.

On Sunday evening, May 7th, 1972, the press attache of the Chilean embassy in Washington, Andres Rojas, took a taxi from National Airport to his home in the northwest section of Washington. His wife was out of the city and except for the few minutes it took him to get to bed, the house appeared empty. About 2 AM, he was awakened by noises. Looking out the window he saw the silhouettes of three white males trying to get inside. When he cried out, they ran to a late-model, dark blue sedan, he thought to be a four-door Plymouth or Chrysler; the men appeared to be middle-aged and well-dressed. Like Rodriguez, he wanted to keep a low diplomatic profile and did not notify police. He notified the embassy and bought a Colt .45.

At the embassy, Rojas was one of three men who habitually worked odd hours of the night and weekends. The other two were Ambassador Orlando Letelier, an Allende appointee just released from jail in Chile, and political advisor Fernando Bachelet, a leftist career diplomat. By coincidence all three were out of town the weekend following the break-in attempt at Rojas's home: Ambassador Letelier was at his country house 100 miles from Washington; Rojas and Bachelet were at Assateague, an island off the east coast of Maryland.

The weekend, May 13th-14th, 1972, the Chilean embassy was broken into; the only offices entered were those of Ambassador Letelier on the third floor, Bachelet on the fourth floor and Rojas on the second floor. Drawers were forced open, papers were examined; many dealt with Chile's military purchases. The only documents taken were Rojas's passport and a mailing list; the only material goods taken were an electric razor and a transistor radio. Many valuables were not touched. Rojas's new Colt .45 and a supply of bullets were left in his opened drawer. If police found fingerprints, the embassy was never informed.

In his "Memorandum for Record" dated June 28th, 1972, General Vernon Walters, deputy director of the CIA, wrote: "He [Dean] believed that Barker had been involved in a clandestine entry into the Chilean embassy." A confidant of Frank Sturgis, writer Andrew St. George, says Sturgis frequently told him in late 1972 that he took part in the Chilean embassy break-in, though Sturgis now denies it. Whoever the intruders were, there is reason to believe they stayed at a nearby hotel; a hotel employee has confidentially stated that the FBI has taken the hotel's registration records covering this time period. McCord has expressed a belief that the Chilean embassy was bugged by the administration, a belief then shared by officials of the embassy, and strengthened by the intruders' apparent knowledge of the diplomats' movements.

On many occasions the break-ins occurred in chronological groupings that defy random probability.

In New York, the NAACP Legal Defense Fund office that successfully litigated against the administration's segregation policies in education, and peripherally represented Black Panther leader Bobby Seale in the Chicago 7 case, as well as New York Times reporter Earl Caldwell when he refused to reveal his sources in another Black Panther case, was broken into over the 1971 Labor Day weekend—18 to 60 hours after Dr. Lewis Fielding's office in Beverly Hills was subjected to similar treatment. Daniel Ellsberg's psychiatrist office was entered the night of September 3rd and the early morning of September 4th. Also on Saturday, September 4th, E. Howard Hunt and G. Gordon Liddy traveled on American Airlines (as E. Hamilton and G. Larimer) from Los Angeles to New York. Sometime over the three-day weekend, the empty 20th-floor NAACP office was forcibly entered. Once inside, the intruders went down a corridor of unmarked doors until they came to the finance office, which they jimmied open; they examined files but ignored cash lying on the top of a desk. In another office they used a crowbar to open a locked file cabinet that contained nothing of value; they pried open drawers and examined their contents but did not take an unsealed envelope containing approximately $275 in cash. Nothing was stolen. It is not known if the two break-ins this weekend were a Hunt-Liddy double operation or if their presence in New York was coincidental. The Black Panthers were on the White House Enemies List.

On the weekend of May 13th and May 14th the Chilean embassy was surreptitiously entered. Less than 48 hours later, on the night of Monday, May 15th, 1972, or in the pre-

dawn hours of Tuesday, May 16th, the tenth-floor law office of Fried, Frank, Harris, Shriver and Kampelman was forcibly entered. Located in the Watergate complex, but in a different building from the Democratic National Committee, the first employee arriving that Tuesday morning—a secretary—noticed the entry door was chiseled around the lock and taped so the door would not lock. Fearing that the burglars were still inside the office, she went downstairs and asked the building security guards to inspect the office. Nothing appeared out of place and no report was made to the police. Not until McCord and the four Miami men were caught in the DNC on June 17th, did members of the firm suspect their damaged door had been anything more than the effort of petty crooks. After the Watergate break-in, however, the police and FBI were called in. The lawyers had good reason to see a connection. Patricia Harris was temporary chairperson on the Democratic Credentials Committee, a director of the NAACP Legal Defense Fund and a host of other liberal organizations. Sargent Shriver was Senator Edward Kennedy's brother-in-law and occasionally mentioned as a possible vice-presidential candidate. Max Kampelman was Hubert Humphrey's close friend and associate. Richard Berryman, another partner in the firm, was co-counsel for Humphrey's presidential campaign. Unknown at the time, Harris and Shriver had been on the Enemies List since November 1971.

Because four of the five men arrested inside the Democratic National Committee on June 17th, 1972, were from Miami, Richard Gerstein, State Attorney for Dade County, Florida, got into the case. Chief investigator Martin Dardis was put in charge. According to press reports, Dardis said he began checking Bernard Barker's bank account just before the July 4th holiday, and that the Watergate case—the $25,000 Dahlberg check deposited by Barker—was the only sensitive matter he was working on at the time. On July 4th the state attorney's large suite of offices on the sixth floor of the Metropolitan Dade County Justice Building was forcibly entered. Access was obtained by kicking out a panel in a side-entrance door that faced onto a public corridor; through the hole in the door the intruders reached the inside door knob. Inside, they evidently ignored a dozen offices going directly to Dardis's out-of-the-way cubicle, which was entered by the removal of a ceiling tile over a door jamb. Nothing was missing, but papers were disturbed; an unsuccessful attempt was made to penetrate a safe.

Approximately three days later, most likely after the maid left on Friday, July 7th, or in the early morning hours on Saturday, July 8th, the Dallas home of Democratic National Committee Treasurer Robert Strauss was severely ransacked while he and Mrs. Strauss were in Miami preparing for the Democratic convention: Clothing was strewn about; several drawers were pried open. Jewels valued at over $100,000, furs and other valuables were not taken. Police found no fingerprints; nothing was missing.

Twelve to 36 hours later, on the evening of July 8th or the morning of July 9th, attorney Carol Scott of Gainesville, Florida, suffered a break-in at her office; intruders got in by breaking a front door transom. The only thing stolen was the file on her client Scott Camil, one of seven Vietnam Veterans Against the War members later accused by the government of conspiracy to commit violence at the 1972 Republican convention. It was one of a series of noncommercial break-ins that has plagued the VVAW. (Among the most recent, the VVAW's Washington office was forcibly entered over the 1974 Memorial Day weekend; mailing lists were stolen and papers were scattered.)

Washington, D.C., is a major center for break-ins having political overtones. Either by design or happenstance, they did not start in earnest until 1972, Their modus operandi is directly opposite the pattern revealed by District of Columbia police department statistics which indicate Washington burglars have an apparent willingness to steal anything, regardless of value, and two out of three local burglaries occur during daylight hours.

About 2 AM on Sunday, April 9th, 1972 the Georgetown home of CBS White House correspondent Dan Rather was broken into. Rather, who had been the object of a White House rebuke for his lack of "objectivity," had planned to be in Key Biscayne over the weekend covering President Nixon and had made arrangements with the White House to have his family accompany him. Just before leaving, one of his children became ill and only Rather went to Miami, cutting his trip short and returning home Saturday night. Later that night while the family was asleep, noises were heard downstairs. Lights that had been left on all night went off; the telephone didn't work. Rather frightened the prowlers off. They had gone straight to his basement office, ignoring the rest of his house and passing up valuables that included Mrs. Rather's visible purse containing $200. Police looked for fingerprints; none were discovered.

Intertel is a company that provides confidential management and security services to business entities. One of its clients is the Howard Hughes empire. In its Washington office all working papers are collected at the end of the business day and put in a safe. Sometime between the close of business on Wednesday, August 23rd, 1972, and the arrival of the first employee on Thursday, August 24th, a door leading from a public corridor was crudely jimmied, giving access to the unlocked room in which all locked files were kept. The safe was drilled but not opened. Two other locked doors off the public corridor, leading to separate offices, were not touched. Nothing was taken.

Tad Szulc is former New York Times correspondent who often wrote stories based on classified information embarrassing to the Nixon administration. One such story published on June 22nd, 1971, during the conflict between Pakistan and India over what is now Bangla Desh, compromised the professed American position of neutrality by disclosing that the U.S. was sending military supplies to Pakistan, even though the State Department said shipments had been suspended. (Another story, in the New Republic of December 29th, 1973, alleged that secret White House intelligence operations, which drew heavily on CIA resources, included burglaries, or burglary attempts, against ITT's Washington and New York offices in 1971 and 1972. Szulc reported they were apparently conducted in search of data on ITT's top officials, "as a form of 'double insurance'" in case complications arose over ITT's $1 million offer in contributions to the CIA to prevent the inauguration of President Allende in Chile, and $400,000 to the Republican party in connection with an antitrust suit. An ITT spokesman says company officials have no knowledge of any such break-ins, or attempted break-ins.)

In the White House transcripts John Ehrlichman described "the whole Szulc group" as one of the "very serious breaches of national security" that prompted the formation of the Plumbers. About 10 PM on Saturday, February 10th, 1973, while Szulc and his wife were out to dinner, their home was forcibly entered. The intruders, apparently interrupted by their son's arrival, fled; he did not see them. A locked case containing expensive jewelry was forced open and its contents strewn about. Credit cards were not touched; nothing of value was taken. Police took fingerprints; if any were found, the family was never informed. On June 14th, 1973, The Washington Post disclosed that Szulc, along with Neil Sheehan—the former New York Times correspondent who had obtained the Pentagon Papers—had been wiretapped at least for several months in 1971, and that information from these taps had been received by the "plumbers." On July 15th, 1974, Szulc filed suit in the U.S. District Court, charging that members of the "plumbers" and the FBI illegally tapped his office and home phones from July or August 1971, and that government agents broke into his home "for the purpose of inspecting and/or removing documents and writings." The named defendants include John Ehrlichman, H. R. Haldeman, John Mitchell, Robert Mardian, John Caulfield, David Young, E. Howard Hunt, G. Gordon Liddy, and Clyde Tolson as executor for the estate of the late J. Edgar Hoover.

On Wednesday night, April 18th, 1973, the only safe in the Capitol Hill office of Sen. Lowell P. Weicker Jr., the junior Republican member of the Senate Watergate Committee was burglarized. There was no sign of forced entry to either the office or the safe, for which only three staff people knew the combination. Files were rearranged but nothing was taken from the office, though tape recorders and television sets were in plain view. Political espionage was immediately suspected; on April 1st, Weicker had charged that a paid CRP agent had spied on nine congressional offices in 1972, and on April 3rd he had called for Haldeman's resignation.

The National Welfare Rights Organization is a poor people's lobby, representing welfare recipients nationwide; it has close ties with the Black Panthers and the Southern Christian Leadership Conference. Both the organization and the late George Wiley, its former director, were on the Enemies List when the finance office of its Washington headquarters was forcibly entered over the 1973 Memorial Day weekend. Access to the building was gained through a third-floor fire escape; the finance office was entered by breaking a closed transom over the door. A safe was pried open, files were rifled, the room was left in a mess but nothing appeared to be missing. Not counting a break-in the following January, which appears to have been a normal burglary, it was the first of four incidents during the following ten months: In each, confidential documents were either examined or stolen and valuables not taken.

At 10:05 PM on Wednesday, June 27th, 1973, the electronic alarm system of Potomac Associates was activated, instantly alerting security police and setting off a loud wail in the Potomac office. Potomac is a Washington-based policy research group, directed by William Watts, a former Kissinger aide and staff secretary of the National Security Council who resigned when the U.S. invaded Cambodia in March 1970. In late June 1971 Potomac published a report which received nationwide publicity, that concluded Americans generally believed the country was in deep trouble and slipping under the Nixon administration.

A few days later, on July 6th, 1971, John Caulfield, a former New York City detective and White House intelligence operative whom Ehrlichman has characterized as Liddy's predecessor, sent a memorandum to John Dean. Caulfield described the physical layout of the Potomac office, and the security setup of their office building, advising that "penetration is deemed possible if required." (A few hours before the June 27th break-in attempt, excerpts of this memo were published in The Washington Post.) In a second memo to Dean, dated August 9th, 1971, Caulfield said Strachan (a Haldeman aide) wanted to be kept up to date on Potomac Associates.

On June 1st, 1973, the building in which Potomac rented space adopted a sophisticated alarm system, making the security procedures outlined in Caulfield's first memo outdated. Persons arriving after hours had to go through a back door and use a code number

to gain entrance. To get into the Potomac office on the fifth floor, a special key had to be put into a plate inserted into the wall adjacent to their front door. If the door was opened without the special key switched to the "access" position it would set off the alarm, which is what happened on June 27th. The intruders were gone when police arrived; the wall device had been tampered with and a small hole drilled into the shaft of the doorknob in an apparent attempt to neutralize the system. On Friday evening, July 20th, 1973, a second attempt was made; again the system worked and police were quickly on the scene. In both instances the office door had been opened and nothing appeared to be missing. A third attempt was made in the early morning hours of Saturday, March 2nd, 1974; this time the intruders attempted to pry open the door from the bottom, without success. In the ten-story office building, no other tenant subscribing to the electronic system has reported any break-ins or break-in attempts since its installation. Both Potomac Associates and William Watts were on the White House Enemies List—which was released by the Ervin Committee the same day the first break-in attempt was made against Potomac Associates.

CBS correspondent Marvin Kalb was also on the Enemies List. In May 1969 he had been one of four newsmen wiretapped by the FBI at the direction of Attorney General John Mitchell, pursuant to a presidential request. During its impeachment inquiry, the House Judiciary Committee, quoting an FBI summary, reported: "Mitchell also requested physical surveillance of the commentator but withdrew this request after being advised by the FBI of the difficulties involved." Sometime over the weekend of July 7th–8th, 1973, Kalb's State Department office was ransacked; when he opened his door on Monday, "it looked like a cyclone had hit the room." Two weekends later, on July 21st–22nd—the same weekend a break-in attempt was made against Potomac Associates—his office was again ravaged, but this time the mess was confined to one corner, as if the intruders were looking for one thing. After each break-in, State Department security forces made an investigation, which included the taking of fingerprints. Nothing appeared to be missing on either occasion. Though Secretary of State William Rogers personally apologized, Kalb only received vague "we're investigating" replies to his subsequent inquiries to State Department security authorities. State Department officials told reporters that janitors may have left the office in disarray. After the second break-in, CBS put a strong lock on Kalb's door.

Kalb discovered his second break-in on Monday, June 23rd. That night, or in the pre-dawn hours of July 24th, the Washington Society of Friends Meeting House, and their adjoining Quaker House building, were selectively ransacked. Nothing was taken. Typewriters, tape recorders and a $450 dictaphone were not touched, but files relating to the religious group's membership and finances were devastated. An internal Quaker memorandum states: "The main focus of attention seems to have been the Peace Center. Contents of files were strewn about; some were arranged on a desk as though to facilitate photography." The break-in had occurred while the Peace Center was planning a prayer vigil inside the White House; it was one in a series of pray-ins held by various peace groups in the summer of 1973 to protest the U.S. bombing of Cambodia. Dick Gregory, Father Daniel Berrigan and Roger Whitehead, a Peace Center worker partially responsible for coordinating the Quaker portion of the civil-disobedience action, were among 13 persons arrested over a six-week period. (In October and November, shortly after the Saturday Night Massacre, while Whitehead was investigating the legitimacy of a pro-impeachment group suspected of being a front run by government agents, he suffered two break-ins at his home; in each, confidential tapes were stolen but marketable valuables—including the tape recorder holding the tapes—were not.)

The Institute for Policy Studies in Washington does basic research in public policy. Each of its co-directors, Richard Barnet and Marcus Raskin, were officials in the Kennedy Administration: Barnet in the State Department as an adviser to the U.S. Disarmament Agency, Raskin in the White House on the National Security Council. In the White House memorandum of August 11th, 1971, in which John Ehrlichman approved "a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychiatrist," Egil Krogh and David Young noted it was unlikely Barnet and Raskin would be called before a Pentagon Papers grand jury "because they have been overheard." In addition to being wiretapped, other invasions of privacy were experienced. A former FBI agent, Robert N. Wall, has filed an affidavit, stating he and other agents illegally obtained Institute bank records on behalf of his employer. A former FBI informant and undercover agent for the District of Columbia police department, Earl Robert Merritt, has filed an affidavit stating he started infiltrating the Institute in early 1971, with orders to obtain anything of value, and that in the course of his duties he observed a woman also stealing documents, who he later learned was Ann Kolego, another agent of the Metropolitan Police Department. The Institute has not knowingly experienced break-ins of a political nature; Merritt, however, has spoken of intruders being in the building well after midnight on two occasions in August 1973. Inexplicably, FBI agents later made inquiries in the neighborhood, alleging that the Institute had had break-ins, and seeking further information. The Institute and Barnet and Raskin, are on the White House Enemies List.

When John Gardner's secretary arrived at her desk at Common Cause on Friday, February 8th, 1974, an alphabetized card file was in disarray: It contained a list of the organization's large contributors, as well as press contacts and Gardner's personal friends. Shortly thereafter, Gardner called her from a nearby hotel where Common Cause was having a Board of Directors meeting, asking for a notebook he had left on his desk the night before. Entering his locked office, she found papers on his desk reshuffled, files rifled and the notebooks moved to a credenza holding other notebooks. Except for 15 copies of already delivered speeches, nothing was missing. John Gardner and Common Cause, which had successfully litigated against the Finance Committee to Re-elect the President, forcing it to publicly release its list of contributors, were both on the Enemies List.

The Senate Permanent Investigations Subcommittee, chaired by Senator Henry Jackson prys into a multitude of areas: the energy crisis, Mafia activities, Government Service Administration scandals, the wheat sale to the Soviet Union. On Wednesday, July 17, 1974, Phyllis Anderson, an assistant clerk, was working late. At 8 PM as she was leaving the subcommittee's office in the Old Senate Office Building, she heard someone manipulating the front-door lock. Thinking a colleague was returning to work, she opened the door. A stranger, a well-dressed white male adult about 30, was trying to get inside. Apparently at least as surprised as she, he fled in panic. Flustered, she did not call police until she reached home a half hour later.

The next day, Thursday, an anonymous caller telephoned the subcommittee and told an investigator the alleged identity of the would-be intruder. On Friday, an unsigned handwritten letter arrived, repeating his name. In the Washington metropolitan area, only one person is listed in the phone book having the last name supplied, and his first name matches that given in the anonymous messages. The man, however, is in his mid-fifties, and police have not contacted him. The case is reportedlly closed. On July 17th, the subcommittee had three hearings underway, one on Russian technology, one on Civilian Health and Medical Programs for the Uniformed Services and one on Robert Vesco.

There are many other break-ins with suspicious political implications. In June 1973, for example, Newsweek reported that high administration officials told Senate investigators that burglaries were committed against the domestic left by unknown government operatives, in connection with the Seattle 7, the Chicago Weatherpeople, the Detroit 13, and the Berrigan cases. In November 1973 the Washington Post gave details of break-ins which were related to the Detroit case. In one, attorneys Gerald Lefcourt, William Bender and William Goodman alleged in sworn affidavits the government had broken into the files of Goddard College in Vermont; the allegation was supported by an affidavit of the college president, Gerald Witherspoon, who stated a picture of Ronald Fliegelman, one of the defendants and a student at Goddard in the 1969–70 school year, was stolen from college files and turned up on an FBI wanted poster in the fall of 1971.

In July 1974 Jack Anderson reported that, shortly after a Harris Poll showed President Nixon's 1970 invasion of Cambodia was highly unpopular among college students, the office of pollster Louis Harris was broken into three times—reminiscent of the attempts made against Potomac Associates subsequent to their having reported that citizens had attitudes critical of the administration.

A complete break-in list can probably never be made. It is not definitely known if some contemplated break-ins actually happened. Was there, for example, an illegal entry into the Brookings Institution in Washington? Or did the much talked of break-in against Las Vegas publisher Hank Greenspun, generally believed to have been aborted, actually occur? In the White House transcripts, John Ehrlichman told the president on April 14th, 1973, "I guess they actually got in." Or were break-ins that have occurred, like the one against the Washington residence of Mortimer Caplin, who had been Commissioner of the Internal Revenue Service under John Kennedy and Lyndon Johnson, politically motivated—or for material gain? When Caplin and his wife returned from a party, late Saturday April 24th, 1971—the same month two Chilean diplomats suffered burglaries in New York, and about the time another Chilean diplomat in Washington thwarted an attempt—their front door was blocked from the inside and they heard scurrying noises upstairs. A bench had been placed against the door to serve as a warning signal; whoever was inside quickly exited. Upstairs, the Caplins' bedroom and study were a mess; drawers opened, a locked chest and a locked case containing papers broken into; their contents scattered. Nothing of value was taken; watches, jewelry, government bonds were passed up. Detectives were baffled. They took fingerprints, but the Caplins "received no feedback from police." Any judgment on the intruders' motivation is presumptuous.

In other break-in cases that seem to be politically inspired, victims have refused to give details.

Moreover, it is impossible to guess at the number of break-ins that have occurred without the victims' knowledge. This is reflected in the experience of Sol Linowitz, former chairman of the board of Xerox, and former U.S. Ambassador to the Organization of American States. A friend of one of the Watergate burglars told the ambassador that his friend claimed to have surreptitiously entered his office on two occasions in early 1972, to put a tap on and pull a tap off his

telephone during the time he was a senior advisor to Senator Muskie on Latin American affairs. Ambassador Linowitz, whose firm also represented the Chilean government between February and June of that year, simply does not know if the alleged incidents happened.

Lastly, innumerable illegal entries have either not been reported, or lost to any central counting procedure because they are local in nature; most of these have been against radicals. Carole Cullums of Washington, D.C., is an atypical case only because she can link the August 1972 break-ins at her apartment and antiwar organization office to her former roommate, Ann Kolego—the same woman involved with the Institute for Policy Studies—who for three years masqueraded as a left-wing activist, while an undercover agent in the intelligence division of the Metropolitan Police Department.

The exact circumstances of the "other break-ins" will be unclear until the participants are caught or until documentary proof is uncovered. But the evidence that is available persuasively suggests that Daniel Ellsberg's psychiatrist was not the first victim and the Democratic National Committee was not the last; that those political break-ins are unique only because their perpetrators are known.

The Bank Operations office of the Federal Reserve Board is located on the eighth floor of the Watergate Office Building, two floors above the Democratic National Committee. When McCord and the Watergate burglars made night entries into the building through the front door, as they did on a few occasions, they signed the entry log as if they were going to the Federal Reserve. Eugenio Martinez, one of the men caught in the Watergate, has told federal investigators that during one operation McCord conversed with a guard on the eighth floor. Between Friday evening, May 5th, and Monday morning, May 8th, 1972—the same weekend that Chilean diplomat Andres Rojas chased prowlers from his Washington home—the Federal Reserve's Bank Operations office was entered and a Mosler safe was penetrated. Informed sources state that the safe contained plans of bank security and alarm systems, and that these plans were left lying on the office floor in positions suggesting they might have been photographed. Nothing was stolen.

As this article was going to press, President Ford pardoned Richard Nixon for all criminal acts which he may have committed during his term of office. This pardon may well serve to prevent or deter investigation of possible connections between the White House and other offenses of a criminal nature. If this is so, and if there are such connections, then the pardon will be a continuation of the cover-up.

ATLANTIC FISHERIES

Mr. BUCKLEY. Mr. President, the Foreign Relations Committee has unanimously reported out a noncontroversial and important bill that I hope will be scheduled for action soon after our return. I speak of S. 3783, which is designed to implement certain provisions of the International Convention on Fishing and Conservation of the Living Resources of the High Seas to put needed teeth into our increasingly successful efforts to safeguard the integrity of our coastal fisheries.

I suspect that too few Members of this body are aware of the very positive results that have followed on the fact that a number of Senators from coastal States, this one included, have stated that unless the international community moves to reach agreements on measures that would enable us to protect the biological integrity of our coastal waters, we would have no alternative but to act unilaterally pending such international action. This has taken the form of the introduction of legislation by the distinguished chairman of the Commerce Committee, Mr. MAGNUSON, and others that would assert U.S. responsibility for conservation and fishing within 200 miles of our coast.

Because of these increasing expressions of concern, one once-moribund international body that was designed to protect fishing off the Atlantic coast has taken on life, has taken the need for conservation seriously, and has initiated constructive steps to reduce the fishing pressures on seriously depleted species, and to resolve to American fishermen their rightful share of the catch off our own shores.

I speak of the International Conference for North Atlantic Fisheries. During the first 20 years or so of its existence, this organization did virtually nothing to regulate fishing off the coast of North America while we witnessed the extraordinary growth in Eastern European factory ships that depleted our ocean resources at an alarming rate. In the last 3 years, in response to American pressures, ICNAF has finally taken on life; and in October of last year, the ICNAF countries finally reaching a 3-year agreement establishing national quotas and increasingly cutting back on gross annual takes while increasing the allotment of American fishermen.

An overall total tonnage for the 1974 season was set at 923,900 metric tons as compared with 1,200,000 tons taken in each of 1972 and 1973. At the same time, the quotas assigned to the Soviet Union and East Germany—the two principal fishing countries—were reduced about 30 percent each, while that of the Poles was reduced by 20 percent from 1973. Other ICNAF nations were assigned cuts of less than 20 percent over their 1973 quotas. The overall total for the 1975 season has been set at 850,000 tons while the U.S. share has been increased to 211,600 tons. In addition, special measures to protect the badly depleted species, such as haddock and yellow tail flounder, are now being negotiated. The goal for 1976 is to reduce the total catch to a level that "would allow the biomass to recover to levels which will produce the maximum sustainable yield."

The effectiveness of the new ICNAF directives, of course, depends on the willing compliance of the member nations as the United States does not have enforcement jurisdiction under this particular treaty. The ICNAF arrangement, however, does permit the boarding of vessels by our Coast Guard for inspection to see whether violations in fact occur. During the past year, this right has been extensively exercised, and I am advised that the Coast Guard is satisfied that most of the member states have substantially complied with the regulations, with the result that we have in fact turned the corner in the depletion of the major ocean resources off our Atlantic coast, can look forward to the restoration of depleted species, and are expanding the quotas reserved for American fishermen to levels matching our capacity to fish. There is, however, one significant exception to this voluntary compliance, and that is Spain. Spain, however, is a participant of the 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas; and it is under this treaty that we can assert an absolute policing right to board and seize violators. It is precisely this—the invoking of this right—that would be accomplished by enactment of S. 3783.

In the longer run, Mr. President, we need the absolute right to protect our coastal fisheries and assure our own fishermen of a priority of access to them. In the longer run, we ought not to have to rely on the unenforceable compliance of countries that are not subject to the 1958 convention. In the near term, however, it appears that we have achieved the principal goal of those of us on the east coast who have sponsored the Magnuson bill. We have forced international cooperation for the preservation of our coastal fisheries, and I am sure that this pressure did much to achieve the apparent consensus at the Law of the Sea Conference in Venezuela this past summer in favor of the declaration of a 200-mile economic zone under the control of coastal states.

I urge the early enactment of S. 3783. This will enable us on the east coast to achieve our principal objectives as a practical matter while we pursue measures to protect pelagic species as well as the kind of measures required adequately to protect anadromous stocks.

SECRETARY KISSINGER AND THE MIDDLE EAST

Mr. BENTSEN. Mr. President, Secretary of State Kissinger left last evening for the Middle East in yet another of his efforts to promote progress toward a military and political settlement in that war-wracked area of the world. I commend his efforts and I am sure the best hopes of the Congress and the American people go with him. Secretary Kissinger is facing a formidable challenge—the peace talks have bogged down while a massive Soviet arms supply effort is underway in Syria, Iraq and South Yemen. Incidents continue along the Syrian border and the momentum toward peace which we witnessed after the Israeli-Egyptian and Israeli-Syrian agreements appears to have substantially abated. New peace initiatives are urgent and indications by the Arab nations of a willingness to cooperate to insure further progress would be most welcome.

Mr. President, at a time when this Nation's energies are focused on peace initiatives in the Middle East, I believe it is important to have as a goal of those negotiations greater respect by all nations for humanitarian concerns. I have written Secretary Kissinger about this matter and have brought to his attention a situation that is nothing less than deplorable in the eyes of free people everywhere: the harassment of and discrimination against Syrian Jews by their government as well as the severe government restrictions on the right of Jews to emigrate.

This minority is confined to the despair of teeming ghettos; they are not allowed to venture beyond a 3-mile radius of that environment without express permission; and their economic activities are severely limited. In some cities Jews must check in with police three times a day and night raids on private Jewish homes are common. In short, the basic human freedoms are unknown to Syria's Jewish population.

In the eyes of free people throughout the world, this is unconscionable treatment. Mr. President, it is well to focus on the plight of Soviet Jews—but let us not forget Jewish minorities living in a state of oppression in other countries as well. I call now, as I have called many times on behalf of Soviet Jews, for a greater awareness of the plight of Jewish minorities. Syrian Jews ask only to live in their Judaic tradition, to speak and read Hebrew and to join others of their faith in the United States and other countries. A relaxation by Syria of its strict emigration policy would be an important, yet minimal, gesture by that country of its desire to cooperate with other nations in resolving the serious problems of that region.

I have requested Secretary Kissinger to urge the Syrian Government, during his coming talks in Damascus, to express the concern of the American people over the treatment of Syrian Jews and to urge the government of that nation to grant its Jewish citizens the simple but basic right of emigration.

MINNESOTA CANCER SOCIETY CONFERENCE

Mr. HUMPHREY. Mr. President, the Minnesota Chapter of the American Cancer Society has been waging a war on cancer for many years now. This terrible disease affects hundreds of thousands of Americans each year. One in four Americans alive today will develop cancer. There are more than 100 types of cancer, which makes the discovery of the origin more difficult. Adequate financial help is essential to sustain the intensive research required to unravel the mysteries of this dread disease, leading to prevention, control, and cure programs.

I was honored when the Minnesota chapter invited me to speak at their annual conference last month. Although I was not able to attend, I am proud that my son, Hubert H. Humphrey III, was able to deliver the speech for me.

The Minnesota Cancer Campaign has done a wonderful job of raising funds for cancer research in years past. This year they raised over $1.8 million, a record for Minnesota. I commend this achievement and wish them success in their future campaigns.

Mr. President, I ask unanimous consent that the text of my remarks as prepared for delivery be printed in the RECORD.

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

REMARKS TO THE MINNESOTA CHAPTER OF THE AMERICAN CANCER SOCIETY

(By HUBERT H. HUMPHREY)

I am delighted to have the opportunity to speak with you tonight and to express my support, my respect, and my gratitude for the dedication you have shown in the fight against cancer.

Workers like you across the nation are essential if we are to have any hope of curing cancer in our lifetime. All of you here tonight representing our Minnesota Division of the American Cancer Society have done an outstanding job.

You deserve our continuing thanks and our encouraging support. I am pleased to have this opportunity to talk with you and to tell you how much we in the congress are aware of the fine work being done by the American Cancer Society.

I am particularly happy to be here because I am speaking at a time of mutual pride and accomplishment—a time when both the American Cancer Society and Congress, as working partners striving to reach the same goal, have demonstrated their resolute commitment and determination to conquer cancer at the earliest possible date.

The American Cancer Society has just reported that its 1974 campaign surpassed all previous campaigns, raising a total of $96.3 million. That's $3.5 million more than was raised last year.

The Minnesota cancer campaign also has surpassed all previous fund-raising efforts, raising a total of over $1.8 million this year. That is over thirty cents for every man, woman and child in Minnesota. I commend you for a job well done.

At the same time, Congress has pledged its support through the recent enactment of the National Cancer Act Amendments—legislation which authorizes $2.8 billion to the National Cancer Institute to continue the fight against cancer over the next three years.

I am gratified that the Senate recently adopted my amendment to raise fiscal 1975 appropriations for the National Cancer Institute to $755 million—about the level of funding originally requested by the NCI. It is my strong hope that this action will result in a House-and-Senate compromise level of funding that is an improvement over the Administration's Budget request of only $600 million. I am determined that everything possible be done to sustain our nation's research efforts to control and conquer this dread disease.

The combined funds from American Cancer Society contributions and Congressional appropriations can promise this nation a 1975 cancer budget of well over $800 million. With these resources, the nation will have the potential for launching a fresh, more intensive attack against cancer.

These funds not only will arm us with new weapons, new strategies in our battle, but more importantly they will enable us to maintain the momentum which already has been set in motion by the national cancer program.

Since the passage of the 1971 National Cancer Act, the authorizations for the National Cancer Institute have risen from $233 million in 1971 to over $803 million for 1975.

In 1970, cancer research was on the back burner as far as our national priorities were concerned. That certainly is not the case today.

Cancer has been recognized as the nation's number one health concern and its early conquest has been designated one of our primary health priorities. The picture is brighter than ever before. We have much room for optimism.

But while we have many reasons to be optimistic, we must be careful not to let down our guard before an enemy as ruthless as cancer.

We cannot allow ourselves to be lulled into a false sense of security.

We must not feel that because the 1974 fund-raising campaign is over or because the federal cancer legislation is now passed, that our job is done.

Our accomplishments are impressive and encouraging. But we are up against an enemy which will not rest and will not retreat.

Cancer is killing Americans today, and it will kill more Americans tomorrow. We all are familiar with the much-publicized cancer statistics. But this does not lessen their impact.

Nearly one in four alive today will suffer from cancer. In 1974, 655,000 Americans will develop some form of cancer, and it will take the lives of 355,000 of these people.

Even worse, over 53 million people now living, eventually, will have cancer, and the attendant economic costs resulting from the care for and loss of these patients are staggering.

We are talking now about a disease which costs the American people an estimated $15 billion annually. And this sum takes no account of the untold price paid in pain and grief. The energy crisis, pollution, and crime together will never cripple, bankrupt, destroy and kill as many of us as will cancer.

We cannot afford to delay. Nor can we afford to provide anything less than a total commitment to the effort.

We must be optimistic, yet realistic.

We must be aware that it is not possible to discover a single magic answer for all the cancer problems.

Cancer is a complex group of diseases. Over 100 different types of cancer have been identified. Each of these types of cancer is distinct and unique, and each requires an individual form of detection and treatment.

Cancer is long-range by its very nature, and so its many causes and treatments require long periods of time to be observed and studied. The effects of DES as a carcinogenic agent were not manifested until a generation later when there appeared cases of cervical cancer in daughters of women who took the drug during pregnancy.

We must be patient. And we must be persevering. Most of all, we must view this as a long-term commitment by Congress, the Administration, and the American people.

As you are aware, cancer research always has been a major focus of Congressional concern. Since founding the National Cancer Institute back in 1937, the federal government has continued to expand and enlarge its support of cancer research. Its budgetary authorization, for example, has grown from $700,000 in 1937 to $803 million this fiscal year.

The largest step in the expansion of the national cancer program came in 1971 with the passage of the National Cancer Act. And through this Act came the development of the national Cancer Program Plan to coordinate and direct research efforts and ideas concerning cancer. The major goal of the National Cancer Program strategy is to "develop the means to reduce the incidence of morbidity and mortality of cancer in humans."

The National Cancer Act of 1971 launched a significant and sustained commitment to fight and conquer cancer. It strengthened the National Cancer Institute. It established a National Cancer Advisory Board. And it authorized fifteen comprehensive cancer centers such as the one at our Mayo Clinic to bring results of cancer research to the maximum number of people as rapidly as possible.

The 1971 Act made possible new and intensified cancer research efforts and brought major achievements in the nation's efforts against cancer. To continue and strengthen these accomplishments, Congress this year

passed the National Cancer Act Amendments of 1974.

This new legislation, which I cosponsored, extends the National Act for three years, and adds several important provisions. One of these is the removal of the limitation on cancer centers imposed by the original Act, thereby allowing for the construction of additional centers should the need arise. The new Act also contains provisions for programs involving educational and information services for physicians, scientists, and the public.

The legislation provides $3½ million dollars a year for cancer detection and prevention programs. These funds are designed to provide routine tests for the detection of uterine cancer, the second most common form of cancer among American women.

It is estimated that 11,000 American women will die of uterine cancer in 1974. The so-called Pap test, a routine detection for this disease, has been largely responsible for the decline of uterine cancer deaths in the United States. The rate today is only one-third what it was in 1940.

But 75 per cent of the women in this country who are at risk of developing uterine cancer do not get Pap tests. They simply are uninformed about the test's safety, simplicty, and success.

This is a perfect example of the important need to integrate and to coordinate research advances with educational services.

Realizing this challenge, the expanded cancer research program which has resulted from the 1971 Act and the recent 1974 legislation has concentrated on two objectives:

—First, to speed research relating to cancer, its diagnosis, its causes, its prevention, and it treatment;

—And second, to educate and inform the general public on the most effective methods of detecting and combatting cancer.

The dual-purpose nature of the national cancer program plan is productive and effective.

But more importantly, it gives the program its own power source. Like a perpetual motion system, the program can continue to turn—increased research leads to more knowledge and more information; increased information services in turn stimulate new research ideas and interest. Each encourages the other.

This concerted effort already has led to significant results.

New and successful methods of treatment have been found, largely as a result of research in the areas of radiation, immunology, drug therapy and surgical techniques. These research achievements, as well as other results from basic research, now are being used in the diagnosis, prevention, and treatment of cancer. The accomplishments are exciting.

Twenty years ago, most children with acute lymphocytic leukemia died within a few months. All of them died within a few years. Today, 50 per cent of these children, treated with radiation and a combination of anticancer drugs, are alive five years after the disease was detected.

In cases such as Hodgkin's disease, it now appears possible to promise a patient a normal life expectancy in a large number of cases where an early diagnosis has been combined with aggressive treatment.

During the past year, research has uncovered new evidence as to carcinogenic factors attributable to heredity, chemicals, viruses, and radiation.

For example, research has suggested a possible link between heredity and susceptibility to cancer-causing chemicals in the environment. The influence of heredity on the development of breast cancer also currently is being explored.

To determine the carcinogenic effects of chemicals, the National Cancer Institute now is testing 445 suspect chemicals. Research in this area is focused on developing more rapid and less costly testing methods and on the establishment of a computer system to help in determining which chemicals should have testing priority.

Recently, a highly sensitive test for the detection of nicotine and cotinine in blood and urine has been developed that may have far-reaching implications in the area of cancer prevention.

In the field of virology, current studies are exploring cancer-causing factors in DNA and RNA viruses and their possible relationship to genetic influences in the development of cancer. One of the major accomplishments in this program has been the elimination of certain viruses as carcinogenic agents. Such negative findings enable scientists to determine research priorities.

Many advances have been made in cancer treatment in the last few years.

They include the development of combination drug therapy for the control of cancers of the breast, lung, ovaries, and colon, and of Hodgkin's disease and non-Hodgkin's lymphomas. New findings also suggest that the anti-TB vaccine BCG destroys tumors when it is injected directly into tumor masses.

We are proving that by making a concerted effort, by pooling and mobilizing our resources, we can more quickly apply what we learn in the medical laboratory to the research clinic and to general practice.

The best means for successful application of this knowledge will come through the continuation and broadening of the unique partnership which exists between the public and private sectors. We must have participation at all levels—public and private—if we are to accomplish this goal.

Another example which emphasizes the potential success of a cooperative effort between the public and private sectors is the breast cancer detection project currently being developed under the National Cancer Control Program.

As you know, the National Cancer Institute and the American Cancer Society jointly are cosponsoring a network of breast cancer detection demonstration projects. Some 27 such projects already have been established in communities across the country, each capable of screening 10,000 women a year. The purpose of these programs is to demonstrate to medical practitioners and to the general public the effectiveness of early detection of breast cancer.

Breast cancer takes the life of one American woman every 15 minutes. It is the major killer of American women in their reproductive years. This year 90,000 women will get breast cancer. But if detected early, there are excellent chances for cure of these cases.

The breast cancer detection programs are designed to train local health personnel in techniques for breast cancer diagnosis and identification so that screening projects can be conducted nationwide. The program depends upon the health of American Cancer Society volunteers like many of you here tonight who can educate the public about the problem, as well as encourage women to participate in the life-saving program.

It is only by this cooperative effort that we can assure that as many people as possible are aware of and take advantage of the lastest techniques in prevention, detection, diagnosis, and treatment of cancer.

If we are to have any hope of accomplishing this task, it is necessary that we continue and improve upon the programs which thus far have been developed.

One such program is the establishment of comprehensive cancer control centers. Since 1971, nine new centers have been established in addition to the original three centers.

The National Cancer Institute expects to have funded and operating a total of fifteen centers by the end of the year.

These comprehensive cancer centers, such as the one located at the Mayo Foundation, conduct long-term clinical and community programs on cancer detection, epidemiology, and prevention. They also offer specialized treatment to the cancer patient. They are necessary instruments of a total cancer control program for this country.

Unfortunately, there are vast areas of the country without any comprehensive cancer centers. These Americans cannot receive the first-call care that should be available to them.

In answer to this pressing need, the recently passed National Cancer Act Amendments authorize the construction and establishment of additional cancer centers. By doing so, the Act creates the potential for a national network of cancer centers—a national network which would maximize the public access to cancer care and at the same time would maximize the professional access to cancer research.

The national cancer program is a people-oriented program. Congress and the medical community need your volunteer work.

People like you, volunteering your time and skill to save lives, make the national cancer program work.

The real value of your public service and that of our cancer research centers can be measured only in terms of the amount of suffering it eliminates.

I am proud of you and your efforts to support research and to educate the American public about cancer.

Keep up the good work.

Every American wants to do something about the pain and suffering of cancer victims, and you are doing something about that, too.

Every American knows someone who has been stricken by cancer and would like to see the disease eliminated. You are doing something about it.

So much has been accomplished to offer hope where only a short time ago there was despair and anguish. The promise of a decisive advance toward the prevention, treatment, and cure of cancer can and must be fulfilled. Together, we can and will make this promise a reality.

MR. LUND'S FOLLY

Mr. HATHAWAY. Mr. President, Congressman SILVIO O. CONTE submitted for publication in the October 7, 1974, RECORD a statement by the Maine Attorney General, Jon Lund.

The statement was derogatory to the Dickey-Lincoln school hydroelectric power project. It implied, falsely, that the vast majority of Maine people are skeptical of Dickey's merits.

The statement was written and submitted for publication in a manner to imply that Mr. Lund was speaking in his official capacity as attorney general and for the government and people of Maine.

This is simply not the case. On September 18, upon learning of Mr. Lund's statement and letter to President Ford, I issued a statement to the Maine press challenging his action and strongly criticizing his attempt to give an official stamp to personal views.

I saw this as a blatant attempt to deceive the public and a gross misuse of office.

The following day, Maine Gov. Kenneth M. Curtis sent a telegram to the President pointing out that Mr. Lund did not speak for the government and that his communication should be viewed in that light.

I regret that Congressman CONTE was deceived. In an effort to keep the record straight I respectfully request unanimous consent that my press release and Governor Curtis' telegram be printed in the RECORD.

There being no objection, the press release and telegram were ordered to be printed in the RECORD, as follows:

PRESS RELEASE

Senator William D. Hathaway Wednesday strongly criticized Maine's Attorney General, Jon Lund, for an "unwarranted intrusion into matters of no concern to his department".

Hathaway labeled as "a gross misuse of office" the Attorney General's letter to President Ford urging that funds for the Dickey-Lincoln School Hydro-electric Project be withheld.

In his letter to the President, the Attorney General questioned the merits of the hydro-electric power project, and suggested that funds be withheld to trim the federal budget.

Senator HATHAWAY, who has been the chief proponent of the project in Congress reacted sharply to this action saying "the Attorney General has misused his office and abused the interest of Maine citizens with this unwarranted intrusion into a matter of no concern to this department.

"His job is to enforce Maine laws. He has no business making judgments about public works projects in his official capacity.

"He has, of course, the right to a personal opinion, but it was very improper for him to submit his views as Attorney General to the President".

Hathaway in a letter to the President only last week urged the President to release the funds for the Dickey Project pointing out that the project is aimed at solving a problem in Maine equally as important as that of inflation, the energy crisis.

[Telegram]

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: This is to inform you that the criticism of the Dickey-Lincoln Power Project by Maine's Attorney General reflects only his personal view issued without consultation with me. As Governor of Maine I have supported the concept of the Dickey-Lincoln Dam for the last eight years. The shortage of fossil fuels, the controversy over safety of nuclear generation, and the increased demand for peaking power, make hydro-electric development on the St. John River more environmentally and economically sound than ever. I urge you to authorize expenditure of the $800,000 Congress has appropriated to plan and evaluate the Dickey-Lincoln Project.

KENNETH M. CURTIS,
Governor of Maine.

HELP FOR THE HOUSING INDUSTRY URGENTLY REQUIRED

Mr. HUMPHREY. Mr. President, the housing industry is in a state of collapse. The administration's efforts to deal with inflation in the energy and food industry have backfired—and caught the residential construction industry between the scissor blades of high interest rates and no mortgage money.

THE COLLAPSE OF A MAJOR ECONOMIC SECTOR

In the first quarter of 1969, a seasonally adjusted rate of 1.7 million new private housing units were put under construction. The rate this August is only 1.1 million units—a 35-percent decline from the 1969 level. Even worse, housing starts have fallen an incredible 55 percent since only January of 1973. There are now fewer housing units under construction in America than at any time in the past 4½ years.

Unemployment in the construction industry in January 1969 was 5.5 percent. By 1971, unemployment in construction had jumped to an average 10.4 percent. It now lies at 11.1 percent—double the January 1969 rate—and it continues to climb.

In January 1969 the average new home mortgage rate was 7.16 percent. Mortgages now are essentially unobtainable; and when they can be found, working families must pay interest of 10 percent or more—if they have saved the required 30 or 40 percent downpayment.

It is quite a record: Housing starts down 35 percent, the unemployment rate doubled, and mortgage interest rates up 40 percent. And things are getting even worse. Based on building permit data, the number of future housing units planned for construction has now fallen to the lowest level since 1967. Permits issued in August were at an annual rate of only 912,000 units—a spectacular drop of 50 percent since July 1973, and off an even higher 59 percent since 1972.

Reinforcing these dismal projections is the continuing enormous drawdown of funds in thrift institutions that will be available for home purchases. The outflow of deposits from our major source of mortgages, the Nation's savings banks and savings and loan institutions, totaled an unbelievable $1.8 billion this past July and August; the outflow in August was the third largest on record, and the largest in 4½ years.

The drying-up of deposits in housing thrift institutions is one-half the reason why our housing industry is in such bad shape.

High interest rates are the other half of the problem. They are at record high levels and show no signs of falling. The withdrawal of deposits from thrift institutions will grow as other interest rates stay high, and savers abandon these low-interest paying institutions for higher yields elsewhere.

High interest rates and scarce mortgage money are not a new situation to the housing industry. Over a period of almost 6 years, the only tool the Republican administration has used to fight inflation has been the tightening of the screws on money—a policy which punishes small businessmen, farmers, and the residential housing industry without, as we see so well today, hurting the large corporations or reducing prices.

And, money today is very tight. From 1971 to 1973, the money supply rose 7 percent a year. But in the first half of this year, it rose at a rate of only 5.5 percent—and in July the annual rate of increase fell to only 1.7 percent. That is tight money and that is what has put housing in a tailspin which daily grows worse.

ADMINISTRATION'S RECORD IS POOR

Tight money and high interest rates are not the only causes of housing funds flowing out of thrift institutions. The administration has taken and allowed to be taken, two actions which accelerated the outflow of mortgage money from our thrift institutions. In July, the U.S. Treasury borrowed $4.4 billion to refinance the national debt. Almost one-half of this amount was in $1,000 denominated Treasury notes and bills which were bought by small investors using money drawn out of their savings institution accounts. In addition, a number of big New York City banks were allowed to issue variable interest notes for the first time ever, which caused another drain on deposits from institutions making housing loans.

To offset the impact on housing of their tight mortgage money and high interest rate policy, the administration has taken only indecisive, half-hearted tentative steps and only after Congress has shown the way. It resurrected the so-called Tandem plan, whereby some low-interest rate mortgages are made available to home purchasers—with the Government usually ending up holding the mortgages. The Federal home loan banks increased their lending of money to thrift institutions for relending as mortgages to home buyers. A number of Federal and autonomous Government agencies—the Federal National Mortgage Association, the Government National Mortgage Association, and the Federal Home Loan Mortgage Corporation—are supporting the secondary mortgage market with funds borrowed from the money markets. The Federal Home Loan Bank Board slightly increased recently the ability of federally insured savings and loan institutions to make mortgage loans by reducing their reserve requirements. The Federal Reserve Board endorsed a proposal by its advisory board that banks should make more housing loans and fewer loans to build gambling casinos and the like. Finally, a new housing law was passed which increased the size of mortgages that thrift institutions can make, and the size of mortgages the Federal Housing Administration will insure against default.

Despite these efforts by a bewildering variety of Federal agencies, the administration has not got the job done; housing is still in its worst slump since the great Republican depression of the 1930's. And, the Chairman of the President's Council of Economic Advisers stated in Atlanta on September 12, 1974, that there is little more the administration could do to aid the housing industry. Well, he is wrong. There is a lot more the administration can do—and that it should be doing. There is a lot more than the President seemed willing to do in his economic message yesterday.

The major structural problem is that tight money policies fall unevenly—and quite heavily—on the housing industry. Mortgage loans are made for the long

term, but with deposits that thrift institutions usually retain only for a short while. Most mortgage loans are usually made by savings banks and saving and loan institutions which, in periods of tight money, cannot effectively compete for short-term deposits because of their 7½ percent deposit interest ceiling. Therefore, in periods of tight money, an outflow of deposits seeking higher interest causes a cessation of mortgage activity—which is only reinforced by high interest rates due to tight money.

AN ACTION PROGRAM TO RESTORE HOUSING

What can be done to boost the housing industry without increasing prices?

First, to put housing on its feet, the Federal Reserve System must relax its tight money policy. This would immediately lower interest rates and free up funds for mortgage loans. In addition, the administration must abandon its heavy-handed use of a broad deflationary monetary policy and use, instead, a microlevel, discrete package of specific policy tools to stop inflation. Contrary to administration thinking, soaring oil prices and oil company profits are not lowered by killing off the housing industry. We need to use specific, discrete tools that deal only with our inflationary sectors.

Second, to provide our thrift institutions with additional low-interest mortgage money, Congress should enact the Cranston-Brooke housing bill—S. 3979—designed to significantly increase activities under the tandem plan. I was pleased that the President supported this modest step. Also, the Federal Home Loan Banks should increase their borrowing of funds to be advanced to savings and loan institutions. These actions together will serve to offset the loss of deposits by explicitly allocating at least $10 billion in capital to the housing industry without pushing up prices.

Third, specific noninflationary actions to allocate scarce capital to the housing industry should be taken by the Federal Reserve System. These initiatives could include favorable low reserve requirements for commercial banks making large numbers of mortgage loans.

Fourth, to further protect thrift institutions from deposit drawdowns, Federal supervisory agencies should return the maximum interest rate differential between them and commercial banks to one-half of 1 percent. The reduction of this differential in July 1973 severely restricted deposits flowing to thrift institutions. This hurt housing because thrift institutions invest a high 80 percent of their deposits in home mortgages while commercial banks invest only 17 percent of their deposits in housing. This deposit reversal was sizable. For example, in the 30 months prior to July 1973, thrift institutions received 20 percent more deposits than commercial banks. Yet, in the year since July 1973, deposits at commercial banks have risen 50 percent faster than at thrift institutions.

Two additional steps of a more fundamental nature should be taken to reduce the interest cost of the federally sponsored housing credit agencies—Federal Home Loan Banks. Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. On these agencies rests the responsibility of making funds for mortgages available to thrift institutions in periods of tight money. The cheaper they can acquire this housing assistance capital, the lower will be mortgage interest rates in periods of tight money.

As a first step, the social security trust fund and the civil service retirement fund should alter their investment pattern away from low yield Treasury securities and toward securities issued by the federally sponsored housing credit agencies. There is no reason why the social security and the civil service retirement funds should forgo the higher income available in the housing credit agencies' securities—which essentially carry no risk of default. Purchasing the securities of these agencies would increase the earnings of the retirement and social security funds; and it would also reduce the borrowing costs of these housing agencies, and the level of interest charged on many mortgages in periods of tight money.

As a second step, these federally sponsored housing credit agencies should issue long-term securities in periods of low interest rates and invest the proceeds in special U.S. Treasury bonds. When interest rates rise in periods of tight money, the agencies could cash in these bonds and lend the proceeds to thrift institutions for relending as low-interest mortgages. When interest charges once again fall, the thrift institutions can repay the agency loans out of new deposits. The net effect will be lower cost mortgage money available from our thrift institutions in periods of tight money.

There are many other options open to the administration, if it sincerely wants to get housing back on its feet. But the administration must decide, first, that further action is necessary to end the depression in the housing industry. Until it does that, the future for housing is dismal.

Decisive steps to restore our housing industry must be taken by the administration as an action of the highest priority in the President's economic program. Unless this is done, there will be sharply increased frustration and despair among thousands upon thousands of American families employed in this industry or seeking homes. For millions of Americans, homes represent security and hope—these are the values that must now be the cornerstone of Government economic policies and programs.

CONGRESSIONAL ENACTMENT OF THE FREEDOM OF INFORMATION ACT AMENDMENTS

Mr. KENNEDY. Mr. President, on Monday night the House of Representatives approved for transmittal to the White House a conference bill to amend the Freedom of Information Act, H.R. 12471. A week ago the Senate approved the conference report by voice vote, without dissent, and Monday's near-unanimous House action clears the way for this timely and important legislation to be signed into law.

This legislation, which secures the public's right to know what their Government is doing, is based in large part on a bill I introduced 1 year ago Tuesday. In introducing that bill, I observed that "Secret government too easily advances narrow interests at the expense of the public interest," and I warned that "the cost of continuing secrecy is not only possible loss of health or life, but can ultimately amount to loss of control of their Government by the American people." The Congress has responded. The final bill strikes the proper balance between the Government's legitimate need to keep some narrow categories of information secret and the right of the American people to have Government conduct the public's business in public.

The bill, which has now been approved overwhelmingly by both Houses of Congress, contains the following significant provisions:

Federal courts are authorized to review the propriety of agency classification of documents and may examine those documents in conducting this review.

Individual Government officials are held personally accountable and may be subjected to disciplinary procedures, initiated by the Civil Service Commission, if they withhold information arbitrarily or capriciously.

Investigatory files, which enjoy an almost blanket exemption from disclosure under present law, are required to be disclosed unless their release will result in a specific harm enumerated in the bill.

Agencies must respond to requests for information within definite time limits.

Persons who are forced to sue to obtain information may recover attorneys' fees in successful court actions.

President Ford indicated that he had learned one important lesson from the scandals of the previous administration when he voiced an early commitment to "open government." Congress also learned that lesson, and part of its lesson is reflected in these Freedom of Information Act Amendments.

Apparently life in the bureaucracy goes on, however, for yesterday I learned that almost all of the Federal agencies have urged that the President veto this significant legislation. This is but an unfortunate replay of the general agency opposition to enactment of the Freedom of Information Act in 1966. But President Johnson wisely embraced the legislation and signed it, in his words, "with a deep sense of pride that the United States is an open society in which the people's right to know is cherished and guarded." Nonetheless, over the past 8 years agency officials have engaged in delay, resistance, and obstruction in implementing the Freedom of Information Act, making necessary strengthening amendments embodied in this bill.

I hope that President Ford will welcome this legislation as providing an opportunity to reaffirm his policy of "open government." For it surely embodies the recognition by Congress that democracy works best when the people are most in-

formed about the workings and decisions of their Government.

THE PRESIDENT'S ECONOMIC PROGRAM—TOO WEAK TO CURE OUR AILING ECONOMY

Mr. HUMPHREY. Mr. President, yesterday the President unveiled his proposals for dealing with the Nation's serious economic problems. Obviously, they require and will receive the careful scrutiny of the Congress.

On the plus side, I think it is significant that the President chose to present his program directly to Congress. This is a welcome change from the previous administration. I also believe that we are making progress in that Congress can now debate the specifics of an economic program, rather than debate, as we have for many months, the need for any economic policy and program.

More specifically, the President's proposals for a National Commission on Regulatory Reform, extended unemployment compensation benefits, increased penalties for antitrust law violators, and for an Energy Policy Board made sense to me. These are some things that I believe we must do and I imagine he will get considerable support for them.

In fact, I think the President did a very good job of defining the economic disease. Unfortunately, I am afraid that the prescription, on the economic and social side, was not strong enough for the disease. Despite the very serious nature of the economic recession that we are certainly in, the President spoke very little about this problem and what he would do to reverse the trend of economic stagnation.

Mr. President, let me provide a few examples of the weakness that I find in the prescription.

I believe the President's proposal to stimulate housing and to provide mortgage money was tokenism at best. It does not respond adequately to the disaster in our housing industry.

The surtax proposal falls most harshly on the low and middle income people who are already suffering most from inflation and threatened most by unemployment. It just is not fair to tack on the same 5 percent extra on the tax bill of somebody making $7,500 and somebody making $100,000. Individuals making $7,500 and families making $15,000 are already heavily taxed via sales taxes, property taxes, and State and local income taxes. All this surtax will do is take an additional bite out of their already hard pressed family budgets.

I am disappointed that the President did not call for specific tax reform measures. Instead of closing loopholes, I am afraid we have had some new ones added and old ones endorsed. In fact, there is a great deal of tax relief for corporations, the proposed 10 percent investment tax credit.

I was also upset that the President decided not to propose a serious public service jobs program. The proposal for $500 million to fund 70,000 jobs when unemployment exceeds 6 percent is no response to seriously rising unemployment.

I found most of the President's remarks on energy very weak. I was surprised and discouraged that President Ford did not offer a bold new program of energy research and conservation. Project Independence is fast becoming Project Dependence.

Mr. President, we have our work cut out for us in reading all the "fine print" in the President's economic program and deciding on the path our economic policy will follow. While I disagree with many of the specifics of President Ford's proposals, I am pleased that we now have a broad range of proposals for our urgent consideration.

Mr. President, I ask unanimous consent that a series of articles commenting on the President's proposals in this morning's Washington Post and New York Times be printed in the RECORD.

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

[From the Washington Post, Oct. 9, 1974]

THE ECONOMICS OF CONSENSUS

President Ford's economic message yesterday constituted an extremely cautious first draft of a policy. If it is read as a new President's gingerly approach to an exceedingly intractable subject, it is a reasonable beginning. But there is going to have to be more of it. This message illustrates the limitations of Mr. Ford's principle of cooperation with Congress. Too great a solicitude for the spirit of cooperation can quickly degenerate into a simple acceptance of the lowest common denominator.

It is an ironic commentary on our current national values that a President can propose an income surtax five weeks before an election, but is unwilling to take up the tax on gasoline to enforce conservation. Some things are more sacred than money and, apparently, gasoline is one of them. The drive to reduce gasoline consumption is evidently being left mainly to exhortation and voluntary compliance. Over the past year the American people have responded readily to pleas from Washington to hold down their use of oil products, but they have been encouraged in that response by sharply higher prices. If prices now stop rising, it seems quite possible that the old upward trend may quickly re-establish itself. The President's economic summit meeting showed a very broad base of support throughout the country for truly serious conservation measures. In declining to take advantage of it, the President has missed a valuable opportunity. In both its political and financial aspects, the failure to move forcefully toward oil conservation is clearly the most serious omission in the President's message.

If there is to be no new tax on energy, the income surtax is probably the second best way to finance some degree of relief for the least prosperous. If both the surtax and tax relief provisions take effect as the President has proposed, it would mean a redistribution amounting to about 1.5 percent of personal income tax receipts from the top 28 percent of American taxpayers to those farther down the ladder. But since it all works through the tax system, it does not touch those citizens too poor to pay income taxes. Here is another defect in the President's message.

The surcharge proposal is made more acceptable in principle by the President's forthright support of the comprehensive income tax reform bill now in the House Ways and Means Committee. In practice, the question is whether that bill or anything like it can actually get through Congress. It contains, to the committee's great credit, the abolition at last of the oil depletion allowance. The President has taken a courageous and useful position here. But even if the bill gets through the House in good order, it must then make its way through the Senate Finance Committee which, under the chairmanship of Sen. Russell Long, has become the roost of every sort of special interest but especially of defenders of the depletion allowance. If Congress does not enact the tax reform bill promptly, the President will find himself short several billion dollars a year on which he is counting to balance the cost of rising unemployment benefits and a series of corporation tax concessions intended to stimulate investment. The President has repeatedly assured Congress of his commitment to cooperate with it. Here we shall find out whether cooperation is going to be a two-way street.

The President's estimates of unemployment, over the coming winter, sound very optimistic in light of the current figures. The number of jobs is not shrinking, happily, but it is not growing as fast as the number of people who want to work. The children of the 1950s are now coming into the work force. The special unemployment compensation in the President's program seems to be hedged with careful wording restricting it to workers who are "experienced" and can show "demonstrated labor force attachment." That seems to be aimed at excluding the young people just coming into the labor market. If they are to bear the brunt of the administration's sharply deflationary fiscal and monetary policies, then it is necessary to find ways to help them. That is surely another major defect in the President's policy—or, as we hope, the first draft of it that he read to Congress yesterday.

The most important part of the President's policy was passed rather quickly in the speech. No administration likes to dwell in public on its delicate relationship with the quasi-independent Federal Reserve Board. The public is only left to trust that a process of negotiation is already well under way. The present phase of this long inflation was not caused by excessive domestic demand, and it follows that in these circumstances a reduction in interest rates would not be inflationary. Especially if the President is going to reduce spending and run with a fat full-employment surplus, as he promises, it is high time for the Federal Reserve to reexamine its own position. Rates have moved down a bit in recent weeks, but they are still high enough to do incalculable damage to the country if they continue much longer. If the economic summit meeting approached unanimity on any point, it was this one.

President Ford referred to Franklin D. Roosevelt's inaugural of 1933, and the electric response of Congress. Fortunately, our situation today has nothing in common with the desperation and collapse of that dreadful year. We are still very prosperous, if not quite as much so as we are accustomed to being. The question is how to protect that prosperity and raise our productivity. It will take more determination and more willingness to make hard decisions than is reflected in the broad and amiable consensus that found expression yesterday in the President's message.

[From the New York Times, Oct. 9, 1974]

WHAT LEADERSHIP?

President Ford chose an unfortunate rhetorical device in opening his inflation message to Congress yesterday with a quotation from Franklin D. Roosevelt's first inaugural address. Now as in 1933, the nation does seek "leadership" and "action" in a deepening crisis. But Mr. Ford's program and approach are in striking—and unflattering—contrast to F.D.R.'s. Many of the specific recommendations in his 10-point program are indeed laudable, but the over-all impact of Mr. Ford's speech was weak, flaccid and generally disappointing.

The President signally failed to convey any sense of urgency. The public would have responded to a program involving sacrifices and a true change in the nation's wasteful style of life. But what Mr. Ford proposed in the way of sacrifice, such as the voluntary reduction in food consumption, were rather nuisances—cheese paring at the edges rather than a shifting of the center of gravity.

The approach to the core question of energy is seriously deficit. "Make no mistake. We do have a real energy problem," the President said. True enough; but from that point forward, it was all downhill.

A national energy board is more likely to be a cockpit for contending interests than a creator of unified national policy. Secretary of the Interior Rogers Morton, amiable and easygoing, is not the man to lead such an effort. He simply lacks the conviction and the drive for such a job.

The goals set forth by the President, including a reduction of oil imports by 1 million barrels a day by the end of next year, are desirable. But are they obtainable without firm measures? There was no mention in the President's talk of the overriding importance of improved mass transit, nothing about taxes on the horsepower of automobile engines, and gasoline rationing was shunned. He did not even speak in really effective terms about the huge savings that could be obtained by the elimination of wasteful use of energy.

President Ford seemed to hint that the energy problem in large part could be met painlessly by sacrificing the environment through amendments to the Clean Air Act and through reliance on strip-mining. He and the nation will discover that is a delusive and dangerous approach.

The President's attitude on taxes was remarkably cautious despite the proposed surtax on personal and corporate incomes. After all the talk in recent weeks about providing relief to low-income people who are hardest hit by inflation, the President endorsed no more tax relief than the meager help envisaged in the tax bill being drafted by the Ways and Means Committee. A good argument can be made for treating capital gains more gently, making preferred stock dividends fully deductible, and increasing the investment tax credit in order to increase the flow of capital investment into new plants and equipment; but this program would be better justified in terms of social equity if accompanied by substantial tax relief for the poor and by the closing of shockingly offensive tax loopholes. Here the President's tax program is seriously unbalanced. It is a travesty for President Ford to refer to the Ways and Means Bill as a "tax reform." It is nothing of the sort.

The President's program for assisting the victims of recession is commendable so far as it goes. Extended unemployment insurance benefits are a useful palliative. Short term work projects can also be useful but only if undertaken on a sufficient scale.

Several other recommendations in the President's program merit broad support. It is highly desirable to enact a comprehensive foreign trade bill; economic nationalism, as the President rightly warned, is no prescription for the world's economic malaise. Vigorous anti-trust enforcement, a genuine attack on restrictive practices by business, labor unions and Federal regulatory agencies and a firm resolve to keep this year's budget below $300 billion are all worthwhile objectives—but most of them are long-range in nature.

The individual merits of the President's recommendations do not offset the central weakness of his program. While some of his measures are good and some are questionable, they in no sense add up to a program for an emergency. And it is an emergency that confronts the nation and the world.

[From the Washington Post, Oct. 9, 1974]

FORD ASKS 5 PERCENT SURTAX: WOULD AID POOR, CALLS FOR CUTS IN BUSINESS LEVIES

(By Peter Milius)

President Ford asked Congress yesterday to fight inflation by approving a one-year-only tax increase of $4.7 billion on corporations and what he called "upper-level individual incomes." Both would be effective Jan. 1.

The tax increase for corporations would be 5 per cent. It would work out to less than that for individuals, and, in general, Mr. Ford said, there would be no tax increase at all for families with incomes under $15,000 a year or for single individuals with incomes under $7,500.

Most of the money raised would be given back to business in the form of permanent tax reductions. These are aimed at stimulating corporations to expand and making it easier for them to raise money by selling stock.

The rest of the money would be used to aid the unemployed, in part by providing public jobs through a new Community Improvement Corps, if the unemployment rate goes and stays above 6 per cent next year, as is expected.

The President, in setting forth his long-awaited economic program before a joint session of Congress, also endorsed a tax bill pending in the House Ways and Means Committee.

That bill would raise the taxes of the oil industry by phasing out the oil depletion allowance. Part of the money it would raise would be used for tax reductions for poor, as the committee has now written it. Part would also go to the well-to-do, through liberalization of the present tax law on capital gains.

The President said all of these proposals taken together would come out about even, neither raising nor lowering the projected federal deficit appreciably this fiscal year or next.

In addition, the President:

Called on Congress to enact a binding $300 billion federal spending ceiling for this fiscal year, which he said will require budget cutbacks in excess of $5 billion. He said he will recommend specific cutbacks when Congress comes back into session next month, after the elections.

Asked the lawmakers to expand the present program under which the government buys up mortgages. The idea is to aid the housing industry, which has been particularly hard-hit by the last six months of tight money and steadily increasing interest rates. Mr. Ford asked for authority to buy up an additional $3 billion in conventional and government-insured mortgages, enough for 100,000 homes.

Announced that Interior Secretary Rogers C. B. Morton would head a new national energy board, whose first mission will be to reduce foreign oil consumption 1 million barrels per day by the end of next year.

Proposed a variety of mainly voluntary steps to slow down fuel consumption, including the goal of increasing automobile mileage 40 per cent within four years, and said he is prepared to ask for mandatory programs if the voluntary ones fail.

He also said he is prepared to allocate to farmers, under present law, all the fuel they need to assure maximum production, and will ask for similar power over fertilizers if he has to.

All the House and one-third of the Senate are up for re-election this year, and the President told them, "I am aware that any proposal for new taxes just four weeks before a national election is—to put it mildly—considered politically unwise. I have been earnestly advised to wait and talk about taxes any time after Nov. 5."

But "we need additional tax revenues," the President said, "to support programs to increase production and share inflation-produced hardships."

"I will not play politics with America's future," Mr. Ford said.

He called the tax increase "the acid test of our joint determination to whip inflation," and said he would have to raise the needed money by tax reform instead, "if major loopholes were not being closed" already by the Ways and Means bill.

The President's proposed surtax would affect about a fourth of the taxpayers in the country.

The reaction to his plan, however, was hesitant at best. Ways and Means called Treasury Secretary William E. Simon to a hearing at 10 a.m. today to explain the plan. Sen. Russell B. Long, (D-La.), chairman of the tax-writing Finance Committee in the Senate, said that Mr. Ford "breathed a lot of life" into a near-dead tax bill.

But other members of both parties said the $15,000-$7,500 income cutoffs were too low. Various Republicans, including Rep. John B. Anderson (R-Ill.), a member of the House GOP leadership, said they were fearful it would hurt their party at the polls.

House Speaker Carl Albert (D-Okla.), one of those who said the $15,000 surtax cutoff was too low, also said the starting point for the unemployment program, 6 per cent, was too high. He said he would consider asking Congress to put off adjournment, now scheduled for Friday, and act now on the President's tax plan only upon "a proper showing that it must be done before the recess can be made."

House Majority Leader Thomas P. O'Neill Jr. (D-Mass.) called the proposed surtax "extremely unfair," saying it follows the Republican pattern of forcing taxpayers "to bear the burden instead of corporations making huge profits."

Rep. Barber B. Conable Jr. (R-N.Y.), House Republican Policy Committee chairman and a senior Republican on Ways and Means, said "a comprehensive package of this sort is what is needed," but expressed fear that Congress would "take the goodies and leave all the unpleasantness," thus adding to inflation.

Organized labor was quickly critical of the proposals.

"I see the President wants middle-income wage-earners to pay a 5 per cent surtax to finance investment tax credits for business," said Jerry Wurf, president of the American Federation of State, County and Municipal Employees.

"To put his jobs program in perspective, last month almost 400,000 men and women joined the unemployment rolls, and he's telling us if unemployment goes up another 200,000, he'll provide a maximum of 70,000 jobs at poverty wages," he said.

In Miami, AFL-CIO President George Meany said before President Ford spoke that a surtax was "a patchwork on the tax structure," adding that the proposed cutoffs of $15,000 and $7,500 "are not high at today's prices."

But business had praise for the proposals. "We congratulate the President on his broad program," said Richard Gerstenberg, chairman of General Motors. "It merits favorable consideration."

John D. Wilson, senior vice president and economist for the Chase Manhattan Bank, said the "program should make a significant contribution to breaking the inflationary cycle." He added that the President "also showed compassion for those people most victimized by rising prices and the slowing economy."

The President expressly rejected in his speech the use of wage and price controls, which he said "never really stop inflation." He also rejected credit rationing, a step

urged on him by some critics of tight money and high interest rates.

The White House, in a fact sheet on the program given to reporters, also expressed opposition to exempting from taxes the first $1,000 or some lesser amount in interest on savings accounts. Ways and Means approved such a bill yesterday morning.

While rejecting these alternatives, the President said in his address that he will now require an "inflationary impact statement" on all major legislative and regulatory proposals, and asked Congress to set up a national commission on regulatory reform to examine how the federal regulatory agencies may be adding to inflation.

The President in his speech called earnestly on the public to join in combatting inflation and saving "scarce fuel."

To help lower food prices, he said, "grow more, waste less." To help conserve fuel, "drive less, heat less."

"Unless every able American pitches in," he said, "Congress and I cannot do the job."

He plans to expand on that theme in a speech next week to the Future Farmers of America.

He has set up a citizens advisory committee including such diverse members as U.S. Chamber of Commerce President Arch Booth and consumer advocate Ralph Nader to help organize what he called "this crash program" of "citizen and private group participation."

Critics at the White House Conference on Inflation last month, Democrats especially, had complained of the administration's economic policies. They said they were weighted too much toward a slowdown in government spending and the growth rate of the money supply to reduce inflation, and not enough toward the equal danger of recession.

The President said yesterday, he had incorporated many of the Democrats' suggestions, and spoke of budget-cutting as only one needed step among many.

The fact sheet given to reporters said that, while "some further rise in unemployment appears probable . . . we will take steps to deal with it," and "we can and will achieve our goals without a large increase in unemployment.

"There will be no economic depression in the United States," it said.

[From the Washington Post, Oct. 9, 1974]

GAS TAX, PAY-PRICE CURB SIDESTEPPED

(By Hobart Rowen)

President Ford's new economic program is not, as Treasury Secretary William E. Simon said somewhat defensively, a "blockbuster." It carefully sidesteps gasoline taxes and rationing, wage-price controls, and even wage-price guideposts.

With some few exceptions, the program relies on voluntary methods or exhortation to achieve its stated goals—with an occasional warning that stronger means can later be adopted.

The President failed to ask business and labor to hold down prices and wages—and failed to upgrade (as some had urged) the responsibilities of the new Council on Wage and Price Stability.

Nevertheless, Mr. Ford recognized that a program to counter inflation and stave off the threat of recession must utilize many approaches. Philosophically, at least, he adopted the consensus of his pre-summit meetings that the attack had to be multifaceted.

Where the program undoubtedly will be considered disappointing by many of the summit participants is that the specifics approved by the President—in the 10 major areas he identified as needing joint action by the Congress and the executive—are mild in character or scope.

"You can say that the program is more broad than deep," says an economist who attended several pre-summit sessions.

"I feel let down," said former Economic Council Chairman Walter W. Heller. "I suppose we should be thankful for small favors, but they sure are small favors."

If there is one outstanding feature to the Ford program, it is the pro-business, pro-capital-investment nature that dominates the tax recommendations. This, informed sources report, was a conscious decision, because the President believes that for "the long haul," a more favorable climate for capital investment must be created so as to stimulate creation of new jobs.

The tax benefits for business include a generous revision of the investment tax credit that will produce a tax saving of $2.7 billion for corporations in calendar 1975, more than offsetting $2.1 billion in higher taxes that would be created by the new 5 per cent surcharge. There are other changes that will make the investment tax credit sweeter for business.

Additionally, Mr. Ford proposed, as a help for corporations to bring new capital into their businesses, that dividends on preferred stock be fully deductible by the issuing company. Tax experts think that this could be a "sleeper" of great importance to business, especially to utilities who have had trouble raising equity capital.

A government fact sheet estimates the revenue loss from this provision at only $100 million in fiscal 1976. But no one really knows how much it might cost.

In contrast to the favorable tax treatment for business, the 5 per cent surcharge on individual incomes (above the $15,000 family level) will diminish consumer purchasing power by $2.6 billion in calendar 1975.

Against that loss, tax relief for the poor adds up to only $2 billion, of which $1.6 billion had already been provided by the tax reform bill being processed by the House Ways and Means Committee.

Rep. Henry S. Reuss (D-Wis.) called the 5 per cent individual tax surcharge "a ripoff of the middle class."

Many of the economists who participated in the summit sessions, in less colorful language, agree. "At this time of recession," says one, "the last thing we need is a new tax on consumers."

The Ford administration approach, however, was to balance out the costs of new initiatives with additional tax revenue so as to eliminate what, in its views, is the main cause of inflation: budget deficits.

Although Mr. Ford recognized that the "casualties" of inflation must be helped, the "unemployment assistance" program he recommended was far smaller in scope than had been discussed both during the summit sessions and on Capitol Hill.

The administration rejected a multibillion-dollar jobs service program as not required by the present or prospective level of unemployment.

On the other hand, the program went well beyond the "old-time religion" concept of tight money and tight budget in several ways: promising to monitor food exports; asking for tough new penalties for antitrust violation; promising surveillance of anti-competitive practices by the federal government that raise costs; and a proposal for a new National Commission on Regulatory Reform.

Much, of course, will depend on what happens from here forward. For example, administration officials were saying privately yesterday that the rather weak proposals on energy—most of them warmed-over from earlier Nixon speeches—would be followed by more dramatic steps, once Interior Secretary Rogers C. B. Morton takes over as the new energy czar.

[From the Washington Post, Oct. 9, 1974]

LOBBYING CAMPAIGN FAILS: RELIEF FOR BUILDING SLIM

(By Thomas W. Lippman)

President Gerald Ford yesterday endorsed legislation that could make some new money available to aid the nation's staggering housing industry.

His proposals gave the builders, lenders and sellers of housing far less than they have been asking, and hold little prospect of immediate relief for the hard-hit home-building industry in the Washington area.

In his economic address to a joint session of Congress, the President said that the country "is suffering the longest and most severe housing recession since the end of World War II. Unemployment in the construction trades is twice the national average."

He also noted that "credit is the lifeblood of housing" and his desire to help the industry had to be tempered by his desire that any moves the administration makes have "minimum inflationary impact."

So he did not endorse the appeal of the housing industry—which has been made through a highly-organized lobbying campaign with Congress and the public—for an overall relaxation of the Federal Reserve Board's restrictive credit policies, or tax exemptions on savings-account interest that might attract new funds into the nation's hard-pressed thrift institutions.

Hundreds of telegrams poured into Congressional offices as builders, lenders, subcontractors, construction union workers and others affected by the nationwide housing slump responded to an appeal from the National Association of Home Builders to take their case to Congress. "We've got telegrams that stretch all over the floor," one staff assistant said.

A small delegation of District of Columbia builders met with Del. Walter Fauntroy (D-D.C.) to deliver to him the same message that other groups were giving to other congressmen and to the public through newspaper advertisements: "The housing shortage is becoming acute, and, except for the wealthy will soon make our energy crisis look like no problem at all."

The President proposed no direct solutions to the building industry's growing inventory of houses that are built but unsold, the shortage of short-term construction loan money, the high cost of borrowing, or the so-called "ripple effect" of unemployment and declining prosperity in housing-related businesses.

The President did call for congressional enactment of a bill now before the Senate that would allow the Government National Mortgage Association (Ginnie Mae) to buy so-called conventional mortgages—that is, those not guaranteed by the government. If the bill is enacted, he said, he would make at least $3 billion immediately available for mortgage purchases.

That could induce lending institutions to make mortgages available to the buyers of about 100,000 new homes, since the mortgages could immediately be resold to Ginnie Mae at no risk to lenders. It would not, however, provide the readily-available, low-interest, short-term construction loans that the industry says it needs to pull itself out of its doldrums.

Similar infusions of more than $9 billion in mortgage purchase funds earlier this year under existing legislation, failed to stem the decline in the annual rate of housing starts from 2.51 million last year to 1.13 million currently.

The $3 billion would not be an outright federal expenditure. Ginnie Mae borrows from the Treasury to buy mortgages, and pays back the loans when it in turn resells the notes to long-term investors.

In a related move, the President also endorsed legislation that would eliminate many of the current distinctions between commercial banks and savings and loan institutions. In essence, this measure would allow the commercial banks to pay higher interest rates on savings than they now do, and would allow savings institutions to engage in more kinds of banking activities.

The purpose, according to the White House aides, would be to give these lenders—the prime source of housing money—"the ability to compete on an equal basis in the financial markets and to operate effectively under all interest-rate conditions."

Although builders' analyses of the industry's woes tend to be self-serving, there is little doubt that the nation's housing picture is bleak. According to industry and government figures, builders' bankruptcies are up 68 per cent from last year, almost 500,000 construction workers are unemployed, and the amount of mortgage money lent out by savings institutions is down almost 20 per cent from a year ago—despite higher prices for housing and a growth in the home-seeking population.

In the Washington area, where the situation has been compounded by sewer-hookup moratoriums and local government efforts to control growth, housing starts are off by more than 50 per cent from a year ago and layoffs are occurring at a rising rate.

At least a dozen area builders have gone out of business. Industry officials say as many as 13,000 construction workers have been laid off—a figure sure to grow as the normally-slow winter months set in.

Paradoxically, the decline in housing production has not alleviated the builders' unsold inventory, reportedly at its highest in years—apparently because the demand is for moderately-priced housing that working families can afford, and the supply is too expensive for many people to afford, especially in a time of high down-payment requirements.

[From the Washington Post, Oct. 9, 1974]

WORK PLAN WOULD AWAIT 6 PERCENT JOBLESS

(By Austin Scott)

The Community Improvement Corps proposed yesterday by President Ford couldn't go into effect until the national unemployment rate hit 6 percent and stayed there for three consecutive months, according to a fact sheet issued by the White House.

Then, only persons who have had jobs in the past would be eligible.

A Labor Department spokesman confirmed that young persons seeking their first jobs would not be eligible for the CIC.

"That's a tough one," said the spokesman. "Obviously this thing isn't designed to take care of that. It's a temporary shelter for someone who is an experienced worker and has exhausted every other means for getting a job."

As the White House proposed it, CIC would create 83,000 jobs and cost $500 million if the national unemployment rate stayed at 6 per cent for a year. At an unemployment rate of 6.5 per cent, it would create 208,000 jobs and cost $1.25 billion over the course of a year.

While the program would start to operate after three months of 6 per cent or higher national unemployment, local areas would not become eligible until their local unemployment rates hit 6.5 per cent in one month.

The kind of jobs would be "short-term, useful work projects to improve, beautify and enhance the environment of our cities, towns and countryside," President Ford told a joint session of Congress.

According to the White House fact sheet, the maximum yearly salary on such jobs would be $7,000, and "there should be little or no adverse impact on the regular labor market . . . The average wages will be considerably less than those earned in the private sector."

Minimum pay would be the federal or state minimum wage, whichever is higher, according to the fact sheet. Before any jobs would be provided, those eligible would be given 13 extra weeks of special unemployment insurance benefits.

Persons who had jobs not covered by unemployment insurance would get 26 weeks of benefits. Unemployment benefits vary from state to state, but most states currently give 39 weeks.

Jobs would be with state or local government agencies, the fact sheet said. They would not last more than six months, and there would be prohibitions of both discrimination against and political activities by those in the program.

Jack Hashian, a Labor Department spokesman, said Civil Service regulations would apply to all the jobs, and would keep a city from firing some of its employees and replacing them with CIC workers to save money.

The federal government would pay all of the salaries for CIC workers under President Ford's proposal.

The CIC is aimed differently from the CCC—the depression-era Civilian Conservation Corps set up in 1933 by President Roosevelt.

The CCC was aimed primarily at young men from 17 to 23. More than 2.2 million served in it during its first six years, living in camps, getting a basic allowance of $30 a month while they planted trees, built dams, fought forest fires and constructed roads.

[From the Washington Post, Oct. 9, 1974]

QUESTIONS AND ANSWERS ON TAX PLAN

(By James L. Rowe, Jr.)

The President's proposed income tax surcharge is more complicated than a straight 5 percent surtax on individuals making more than $7,500 a year and families earning $15,000 or more.

Following are some questions and answers about the surcharge, as well as the President's proposed changes in corporate taxes. All of the proposals must be approved by Congress.

Q. Who would have to pay the personal income surtax?

A. Individual taxpayers with taxable income in excess of $5,450 and families with taxable incomes of more than $10,000.

According to the Treasury Department, the average family making $15,000 a year has a taxable income of $10,000—and would be exempt from the surtax—while the average individual with no dependents earning $7,500 has a taxable income of $5,450 and would be exempt from the surtax. Both would pay normal income taxes.

Q. How does the taxpayer compute taxable income?

A. He adds up all his income and then takes all of his deductions and personal exemptions to arrive at taxable income.

Q. Would taxpayers with taxable incomes of more than $5,450 for individuals or $10,000 for families pay the surcharge on their whole tax bill?

A. No. Only on that portion of their tax bill attributable to income above $5,450 for individuals or $10,000 for families.

Q. Suppose a taxpayer has a spouse and two children and figures out that his taxable income—after claiming four exemptions and deductions—is $20,000. How would that person compute the surtax?

A. If there were no surtax, that taxpayer's bill would be $4,380, according to the Treasury Department. The tax bill on the first $10,000 is $1,820, so only the remaining taxes of $2,560 would be subject to the surtax, which means the taxpayer would owe an additional $128—5 percent of $2,560.

Roughly, then taxpayers filing joint returns could expect to pay 5 percent more on all taxes they pay over the first $1,820. Individuals could expect to pay an additional 5 percent on all taxes they pay in excess of $994.50—the tax on their first $5,450 in taxable income.

Q. How long would the surtax be in effect?

A. President Ford asked that the surtax be in effect for one year, from Jan. 1, 1975, until Dec. 31, 1975. It would not affect the income taxes owed for this year.

Q. Would there be an increase in the amount of money the federal government taxes from paychecks next year?

A. Probably. A Treasury spokesman said the Internal Revenue Service would look at the withholding tables and "likely" revise them, although the government is not sure.

The government already refunds many more billions of dollars of excess withholding each year than the $2.6 billion the surtax is supposed to raise from individuals.

Q. What about corporations? Would they pay a surtax?

A. Yes. The government would impose a 5 per cent surtax on all corporate taxes. The corporate surtax would also be a one-year tax. It is expected to raise $2.1 billion. But the President also proposed to lower taxes for many corporations and some individuals.

Q. How?

A. The President proposed an increase in the investment tax credit from 7 per cent to 10 per cent for all spending on plant and equipment that will last more than three years.

So, if a company built a new plant costing $10 million and had a tax bill of $1.5 million, he could take off $1 million (10 per cent of $10 million) from his taxes and owe $500,000 to the government. The President said the credit would be a spur to expanding the country's capacity to produce goods and services.

Q. Is there an investment tax credit already?

A. Yes. At present it is at 7 per cent for most individuals and companies and 4 per cent for utilities. * * * The House Ways and Means Committee has already voted to raise the credit to 7 per cent for utilities.

Q. What happens if a company has a tax credit bigger than its tax bill?

A. It can be used to offset any taxes that company—or in some circumstances an individual—has owed for the past three years, and if there is still some left over it can be used to offset tax liabilities for the next three years. After that, excess credits are refunded.

Q. Would the higher investment tax credit have a time frame?

A. No. While the surtaxes would, the proposed credit would continue on beyond 1975.

Q. What did the President propose on stock dividends?

A. He suggested that cash dividends paid on certain preferred stocks be counted as an expense to the corporation—and thereby tax deductible. All dividend payouts now are considered to be part of corporate profits which are taxed.

The limited type of stock which would receive the benefit would have to be issued after Dec. 31, 1974, could not be voted at corporate meetings and would get preference in getting dividends over other types of stocks issued by the company.

The person or company receiving the dividends from this type of stock would still pay income tax on them.

[From the Washington Post, Oct. 9, 1974]

FAIRFAX FAMILY TIGHTENS BELT MORE: INFLATION LEAVES NOTHING OVER FROM $26,000 INCOME

(By Donnel Nunes)

Jane and Dennis Snyder both work full-time, are expecting their second child, have a mortgage on a Fairfax County town house, and wish they earned their $26,000 combined

income in their tiny hometown of Duncannon, Pa.

If they did, they could own a $60,000-plus home, Mrs. Snyder mused yesterday. But instead, she listened unhappily as President Ford told her that her family members would have to tighten their belts even more and expect a tax surcharge of 5 per cent on their income.

"We haven't been able to save anything in the last year and-a-half," she said, as Ford pleaded with Congress on national television for measures to increase savings. "And now he's asking for higher taxes."

The Snyder family comes close to mirroring the typical Fairfax County household, where the average combined income is about $22,300 and the typical family has two children. They bought their tidy four-year-old town house last year for about $42,000 and looked forward to buying a color television set and building a fireplace, Mrs. Snyder said.

But all that has gone now in the press of inflation. There was a brief hope that the Oct. 1 salary increase given her husband, who works for the Treasury Department, would relieve some of the pressure. But President Ford's request for the added tax appears to have doomed that, she said.

"We just got it, and now it seems like they're taking it away," she said. "It wasn't very much, you could say that. But it helped."

The fact of the matter, Mrs. Snyder said, is that the Snyder family has been tightening its belt for a year now. "We've got our thermostat set at 68 degrees and used our air conditioner only on the hottest days of the summer," she said.

They have had to satisfy themselves with one telephone—in the kitchen—in their three-floor town house "because an extension costs too much," she said. And they use the telephone service billing system in which the caller is charged for each call and billed again for calls lasting more than five minutes.

"We use the kitchen timer," she said.

There are other ways the Snyders have cut expenses, said Mrs. Snyder, who works as a secretary for the American University school of government. Her husband rides the bus for an hour each day to and from work rather than pay high parking rates ("It still costs $1.40 a day," she said); the family eats meals that can be heated up and served again; her husband follows her about the house turning off lights; and their visits to the Kennedy Center for concerts have ended.

"We both drive economy cars," Mrs. Snyder said. "I used to be able to fill my tank for $3. Now it costs $5."

"The way it works out we have nothing left over," she said. Groceries and meals at work run to about $45 a week, "about $10 more than last year," and medical expenses for the expected baby and their 8-year-old son have mounted, too.

Couple that with the mortgage and living expenses, insurance and electric bills for their all-electric town house and there is nothing to put into savings, she said.

"The middle classes now really support the country with their taxes, anyway," she said. "People are getting fed up with paying taxes. We're getting sick of seeing the government take half our salaries."

Should the President's request for the tax surcharge win congressional approval, the Snyder family will be caught in a double bind, she said. "I have to quit my job (which pays about $6,800 a year) in three weeks for the baby," she said. "And that paid for just about all the medical costs. Now we'll have the added cost of baby food."

She stood to turn off lights in the room and then passed judgment on the President's plea for more sacrifice. "I had hoped," she said softly, "he would be more concerned for the middle-income people like us."

THE ADMINISTRATION'S ECONOMIC PROGRAM

Mr. TALMADGE. Mr. President, I was favorably impressed with the President's forthrightness and candor in outlining specific plans for a national war against inflation. I hope that the executive branch, the legislative branch, State and local governments, and the people will respond to his call for discipline and action.

Many of his specific proposals can and should be enacted into law. Others will require more specific study. I doubt the wisdom of a tax increase at a time when we are faced with a severe recession. Whatever revenue can be raised by closing loopholes and apprehending tax avoidance should be speedily enacted.

The housing bill along the lines recommended by the President is now awaiting action on the Senate Calendar.

I wholeheartedly support the President's request for a $300 billion Federal spending ceiling. The American people should not be asked to bear an additional tax burden unless Congress and the administration reduce excessive spending at home and abroad in every conceivable way.

MINNEAPOLIS FINE ARTS PARK

Mr. HUMPHREY. Mr. President, I have been known to speak rather highly of the great State of Minnesota and of the city of Minneapolis. The lakes and parks, schools, industry, sports and entertainment facilities, and businesses are well known. In fact, the quality of life in Minneapolis has been recognized twice by the All-American City Award.

I believe that the good life, the civilized life, is more than nutritional necessities, more than automobiles and housing, more than appliances. It includes poetry, drama, music, and all the arts. And I believe that a regard for the arts and an understanding that the arts must relate to and belong to the community—to all the people of the area—also characterizes the city of Minneapolis. A prime example is the Minneapolis Society of Fine Arts Park which was dedicated in Minneapolis on October 6.

Mr. President, I had the privilege and pleasure of attending the dedication of this outstanding complex—including the Minneapolis Institute of Arts, the Minneapolis College of Art and Design, and the Children's Theater. I bring the Fine Arts Park to the attention of my colleagues and friends both to commend those who were involved in making it a reality, and to recommend it as a fine example to other towns and cities throughout our country. I ask unanimous consent that an article from the Minneapolis Tribune picture magazine "Fine Arts Park: More Than a Museum," be printed in the RECORD.

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

FINE ARTS PARKS MORE THAN A MUSEUM

(By Mike Steele)

The cornerstone of the new, $32-million Minneapolis Society of Fine Arts Park is the 60-year-old original Minneapolis Institute of Arts, and it's this collision of styles, this transition from old to new, this melding of traditional and contemporary which makes this one of the first post-museums in the world.

While it incorporates the traditional museum, it is much more than that.

Architect Kenzo Tange, in his American debut, has created a flexible artistic experience which is a summing up and extension of museum thinking over the past two centuries.

The new museum, which opens next Sunday, is not a monument to art dressed in neo-classical elegance. It isn't a private club for the wealthy. It is not a fortress to protect art from the outside world—like museums built in the last decade.

Instead, it's a museum built to accommodate a burgeoning new public, and therefore it challenges all the old ways of doing things—without denigrating or destroying the grand old traditions.

The Institute of Arts has made a lot of promises over the past several years, and this building gives the Institute every posibility of fulfilling them.

While it can store and conserve art as never before with its sophisticated humidity and climate controls, it was clearly built to show art in a new context. It also acknowledges that the day of the independently wealthy curator-esthete is over because it challenges the museum's young, professional staff as never before.

And for the increasing number of people who have discovered the museum in recent years—people who gain solace from quality, imagination and high standards—the new museum will offer the chance to delve as deeply into art as they wish.

Both philosophically and practically, the Minneapolis Institute of Arts is now a much more public institution than it has been. Part of the reason, of course, is that it will cost more than twice as much to operate, and institute staff hope some of the funding will be public. But the other reason is that the museum's staff genuinely want a public museum. They want to spread the gospel of art, and Tange has given them the perfect pulpit.

Exhibition space has doubled. Formerly there was no education and program space. Now there is a great deal, including classrooms, audio-visual rooms, slide libraries and information systems. The curators will work with the education department to aid the public.

Curators' offices will be in the galleries themselves, as well open storage rooms where interested visitors may see works not on exhibit. This accessibility of art and curators is a real departure from the traditional.

Since it closed its doors in August 1972, the Institute staff has undergone change and reevaluation. Samuel Sachs II was elevated to the position of director. Orrel Thompson, head of arts programs for the Dayton-Hudson Foundation, was named associate director and chairman of the education division.

A realistic viewpoint came out of this period of introspection. The Institute could not become something for everyone. It could not solve urban problems, elevate minorities or carry on all the programs it had started and promised.

Instead, it decided to zero in on its two major resources—its staff and its collections—and find a way to combine preserva-

tion, scholarship and connoisseurship with education, information and social relevancy.

The collection itself is very good. It is excellent in Oriental art, with the Pillsbury Bronze Collection and the recently acquired Gale Collection of Japanese prints. The print and drawing collection is superb. The Roman paintings. 18th-century paintings and German expressionist collections are very good. The only very weak areas are American and contemporary art.

Sachs already has said that his highest priorities will be to find an Oriental curator to oversee what suddenly has become the institute's strongest area and a curator of contemporary art to buck up its weakest.

Then it will be up to Sachs and his staff to make sense of this collection for the public. The options are all there, built into the new structure, options that include a more complete labeling system, better gallery guides and a complex introductory and information system. The collection now can be viewed on any level one chooses. And one can do it in a museum built as much for human beings as for art.

ARCHITECTURE

The original Minneapolis Institute of Arts was built in 1915 by McKim, Mead and White and was last added to in 1926. Kenzo Tange's major challenge was to build a large addition, a theater and a college which would blend with the familiar neo-classical building.

He did this by creating two large rectangular wings of almost spartan simplicity jutting off at right angles from the original building but joined to it by huge glass panels. The new construction features white, glazed brick which contrasts well with the old structure.

The new wings of the museum embrace the old buildings of the Minneapolis College of Art and Design. These will continue to be used. South of the museum complex, across a now-closed street, rises the new college building—four stories, much glass and open space, in matching white brick. It is connected to the complex by a walkway.

At the far side of the new east wing, Tange built a link connecting the Institute with the new Children's Theater. The link will now become the front entrance to both, a much more human-scaled, less oppressive entry than the former. On the top levels will be the new restaurant, including an outdoor terrace looking over the newly-created inner courtyard.

The new galleries are flexible and varying, some intimate, some very large but capable of being broken up with partitions and baffles. The two large courtyards, created by the glass panel links to the old building, will be 56 feet high and good places for large sculpture and perhaps tapestries.

From every point of the new addition and from many positions in the original building, one is drawn outdoors through windows. All windows, from the huge central ones to slits along the sides, reach to the floor. Several form niches, natural balconies which make for delightful little surprises and give relief after walking through the galleries. They are also excellent places for showing sculpture.

Everywhere are little balconies, bridges across courtyards and surprising small spaces, many with views across Fair Oaks Park and all the way downtown. This feeling of fanciful fun permeates the building, adding a dash of wit appropriate to the museum. Everything is respectful, but nothing is precious.

The windows are almost revolutionary compared with most modern museums. They bring the outside in, tying the museum unequivocally to its surrounding community. Museum staffs, after being assaulted in the '60's, talked a lot about responding to the community. Tange's design challenges this one to do so.

"We are taking a chance," said one official. "Those windows cost $1,300 apiece. That alone may challenge us to keep the neighborhood in mind, get their input and serve them."

EXHIBITIONS

In the past, the hanging of paintings and the placing of sculpture was almost an afterthought in museums. No longer.

Massimo and Elena Vignelli, Italian designers with offices in New York, were retained to design the interiors of the entire complex. For the museum, installations expert Craig Craven was hired from the Nelson Gallery in Kansas City to present the art sensibly.

The Vignellis designed the furniture, the seamless plexiglass display cases, the graphics and decorations. Their approach kept display materials minimal so that the art works and the architecture would be emphasized.

Craven's job was more subtle and involved. In some ways he was the referee between the designers, architects, board members and museum staff, "all of whom had ideas," he said.

The first change he made was in the hanging height of paintings. Thinking of how children look and how adults look, he compromised. Paintings are now five inches lower on the walls than in the past, except for works like door panels, originally made to be hung high.

With a lot of interior glass and several galleries visible from single spots, it was important to place strong works in spaces that could be seen from other galleries to lead the eye into the next gallery. Craven also had to be careful that a sculpture in the foreground didn't clash with a painting behind it. Theoretically, he has placed the works so that viewers will simply follow their eyes and be led from one gallery, via a strong work, into the next in a predetermined path.

There will be several key sections of the museum: those devoted to European painting and sculpture, contemporary art, decorative arts, photography, prints and drawings, Oriental art and the period rooms.

Throughout the galleries, however, attempts have been made to integrate and interrelate the various media. All the works will be displayed chronologically by country or school. Decorative arts will give some context to the paintings and sculpture, and occasionally drawings will be in the galleries when they pertain to specific painters.

Craven hopes this will show some historical flow from period to period and country to country, and, more than showing works of art, show as well the logical development of art through Western and Eastern cultures.

Each curator was asked to name the 10 most important works in his or her collection. These works will be the highlights of individual galleries.

Craven isn't afraid of dramatic lighting, but his basic rule has been, "the less you notice the lighting the better it is." Along those lines he ruled out colored walls, but he ruled out stark, Bauhaus white also. The result is a softer, warmer white wall. All labels will be silk-screened on the walls.

"The thrust of this installation will be educational," said Craven, "not dramatic. The drama comes from these incredible spaces."

EDUCATION

Orrel Thompson looks more harried every day as the Oct. 6 opening comes closer and ideas for more and more programs are thrown his way. He has inherited a position surrounded by promises. Several staff members left when they discovered the Institute couldn't possibly carry them all out.

Thompson, however, is taking a realistic look at everything. "Our weakness in the past was credibility. We ran scared through the '60s, but who didn't? There was social upheaval challenging institutions. Museums weren't challenged as much as they could have been, though, and when things quieted down we withdrew.

"Then our funding sources demanded innovations—the foundations, the arts councils. We all capitulated. Programs were started that no one could carry through. We just have to get more realistic."

Thompson made it clear that the institute is in no way pulling back from community programs. "They will become stronger," he said, "but slower. Programs and projects will evolve, with consistency. We won't deal in helter-skelter promises."

Programs with the Minneapolis public schools and the University of Minnesota will be strengthened, Thompson said, with attempts made to form better relations with the University of Minnesota and new relations with the St. Paul schools.

Beyond all that, however, is education in its broader sense, for the public as a whole. "We want to make the museum as accessible to the public in as many ways as possible," Thompson said.

"When that was said in the past people assumed we were talking about the culturally unwashed. Well, we see that as only part of the role. There are a vast number who aren't in that position, from people in the suburbs and outstate to scholars.

"We're going to make a concerted effort to get involved with scholars, historians and teachers. Then there are the advanced audience and the connoisseur. There are those with developing interests. There are children and senior citizens.

"To begin with, we need to define our resources. Clearly they are works of art and staff. The thing is to put them together and make it possible for people to get into art easily. We hope every area of the museum will allow the public some human contact."

The program involves the curators in the galleries and the education staff that will work with them. And Thompson has set up an ambitious program to train museum aides and volunteers. He's even using members of the Children's Theater in his training.

"The philosophy of education is not limited to the education department," said Thompson. "It runs throughout the galleries, through the curators in the galleries, into open storage areas. Overall, there will be much more involvement with art works and museum staff."

At the main entrance will be a general information area showing where everything in the complex is. In the main courtyard will be another information area dealing specifically with the museum. In the center will be Telesonic Control, a place for interested visitors to pick up their own personal information systems, shortwave radios which will be activated by tape loops in each gallery. These will give views as much or as little information as they want, and the radios can be programmed for specific groups or for special shows.

There also will be an introductory gallery with general information about the collections, an audio-visual center and a small auditorium for visiting groups.

"We aren't going to deal with numbers," said Thompson. "When groups come through we may only show them one gallery but go into it in depth. It's the depth of the experience we're interested in now.

"I think in the past we made no effort to understand the community, and therefore we didn't. The feeling was that schools weren't doing a good job, so we should do it. Well,

okay, their art programs are not on the front burner, but the talent is there, in the schools, and we're now very receptive to their input.

"I think you'll see us being very receptive to a lot of input, in fact. We're just going to be very much more realistic about our resources."

THE FUTURE

The new building doubles the Institute's exhibition space. It gives the Institute educational and program space it never had. It creates an open climate, one which will be both seductive and friendly to the viewer.

Expectations are duly high, but the institute staff want people to take a realistic look at what can be done now.

"This building gives us an incredible potential," said Samuel Sachs, the man charged with making it all happen. "We've built a lot of promises."

Along with promises come realities, however. The cost of the complex has mushroomed to $32 million—including operating and program expenses. When planning began there was a bull market. Everyone knows what's happened to the economy since.

Interest rates have mushroomed, to from 12 to 14 percent. Figure that on $20 million. Pledges of money already have been borrowed against. And it will cost about twice as much to run the new building as it did the old.

At the same time, quite appropriately, staff salaries have gone up, and insurance is up. But contributions are not up.

Austerity, then, will go hand in hand with the new building. It's moot how much more the community can support. Of the $26 million raised so far, 90 percent has come from Minnesota, a very impressive figure.

But, by any standards, the institute is now understaffed and will have to do an excellent job of training volunteers if its programs are to be carried out.

According to Ed Stein, president of the Society, his main thrust for the future will be to contain spending. "We are planning for two deficit expenditures," he said. "We will live within our endowment, our grants and our earned income. It will be quite a trick."

When the Institute opens next week, it will ask for donations at the door but keep the museum free. Stein said, making it one of the few museums left in the country without an admission charge.

Both Stein and Sachs said that moving into the building and making it run have the highest priority. "Then if we can extend our services without digging any financial holes we will. This is all going to force our staff to do imaginative things with less money resources."

Among other things, special exhibitions will be rare for a while. Exhibits have become prohibitively expensive. Sachs thinks that the blockbuster 19th century French show he did for about $80,000 in 1969 would now cost a minimum of $125,000.

Fortunately there's much to show for the time being. The new building is the major work of art now, and its first show will be the permanent collection, installed appropriately for the first time.

There also will be a special showing of the recently acquired Gale Collection, and a small show of the works of architect Tange himself.

Both Stein and Sachs think the new building will help to open a larger base of support because thousands more people can be involved in institute programs.

"But, however we grow, we've got the facility for it," Sachs said and smiled.

"People entering this museum will come into a place vastly different from the world out there. It's unlike anywhere else. Maybe, outside over the front door, we should hang a big 'exit' sign."

THE COLLEGE

The new home of the Minneapolis College of Art and Design is, in the words of a spokesman, basically "an art factory, a great big factory with an enormous amount of technical equipment."

The structure, like the other Tange-designed buildings in the complex just to the north of it, has a great deal of flexible space.

It was planned to "articulate a very unique concept in education in the visual arts," said Nancy McDermott, the college's director of external relations.

Like the open curriculum itself, the building encourages students "to explore the various possibilities of expression in every medium," she said.

There are three main zones of activity: the technical core, where technological equipment for metal and woodworking, sculpture, photography, film and television projects is housed; the student work zone, adjacent to the technical core; and the lecture-critique zone, a quieter area for classes and faculty offices.

The college has an enrollment of 600 students. The accredited, four-year institution grants the Bachelor of Fine Arts degree in painting, printmaking, sculpture, drawing, illustration, graphic design, fashion design, photography, video, film (these last two are new, added when facilities expanded with the new building) and intermedia, a combination of major areas.

Students are drawn from across the country and a number of foreign countries. The 53 full- and part-time faculty members are themselves "active professional artists and designers to provide students with an example of achieving people," Ms. McDermott said.

The college also has a visiting artist program, and the new building includes a studio for the international visiting artist.

The college, opened in 1886, was the first institution formed by the Society of Fine Arts. Shortly after the museum was built in 1915, the college moved to its own building. That and additions to it will remain for use by the library, media center and student services. The degree programs have been centralized in the new building.

CHILDREN'S THEATRE

John Donahue held up an old, yellowed photograph and pointed to a picture of a scrawny, clumsy, little kid, maybe 7 years old, looking bewildered.

"Today," said Donahue, "I was teaching a class in beginning movement for boys, little ones who are clumsy and can't move at all. For demonstration purposes I used Garry Lewis, a fine, young, mature artist—accomplished, intelligent."

Donahue winked. "This is him when he started," Donahue beamed, holding up the picture. "Oh, when a bud blooms, those are the rewards. Change, growth, metamorphosis—It's extraordinary."

He pointed from his front porch over across the street to where Sunday his new, $4.5-million Children's Theatre officially opens, the most extraordinary building anywhere in the world dedicated to theater for young people.

"The most important question to ask," said Donahue, "is why would anyone create a building like that for us? The answer is in this picture. It's the most important consideration. It's about an idea, a group of people, a vision that seems right and that seems to be working."

This is the 10th season the Children's Theatre Company (CTC) has been in residence under the aegis of the Minneapolis Society of Fine Arts, nine of those seasons as part of the Institute of Arts, this year as a separate entity. It was also only 13 years ago that the company was first formed in a back room of an Italian restaurant on the West Bank.

This year there are 55 people on the CTC staff, and an estimated 52,000 volunteer hours are given yearly by people who want to work for the theater even in unpaid positions. Of those 55, Donahue estimates that 75 percent have been with his company five years or more, many of them starting in grade school.

He has often compared his company to an Italian family circle: "The young ones grow up into it. The old ones are encouraged to take a cosmic view of it. If the roof leaks, fix it, then make sandwiches, then paint a set and get into a costume, then sweep the theater, then go home to bed and get up and come back and teach, all of that.

"It has always been an impossible vision. There is nothing at all logical about it, unless you believe in work of quality and in the future of young people. This is not a quick buck at holiday time which is what most children's theater has been."

For the last nine years, Donahue has been creating some of the most imaginative theater for children, young people and adults anywhere in the country, and he's been doing it on a stage that measured 36 feet wide and 12 feet deep by 14 feet high. Dressing rooms were squeezed into a back hallway. The new stage is 90 feet wide by 65 feet deep by 90 feet tall, with a complete orchestra pit and dressing rooms that must look sumptuous to actors used to dressing in shifts.

"I think the investment in money, in hours, in resources, will pay off down the line," said Donahue. "We could do 'Pinocchio' (the season opener) in front of a bedsheet, but we're doing it now with orchestra, in 16 scenes, and I have to think it will all make a difference."

In a day when children's theater has come to mean no sets, minimal costumes, primary colors and condescension, Donahue is aware he's going against the grain.

"The word 'children' has been synonymous with low quality—incomplete, patronizing. It's a real indictment of our society's attitudes. Do you know, people still say to me, "You mean you've created all this just for children?" or 'It really is too good just for children.' That's an indictment," he said.

The theater has grown organically over the last decade, and the company knows the essentials of theater from its days of humble austerity. Donahue pooh-poohs an idea that the size of the new operation will weigh him down. His staff hasn't increased. The equipment is simply better. The number of productions hasn't grown—though it remains at a remarkable 260 performances for the season.

The big job now will be to seduce a larger audience, especially young people and adults, into the theater. The audience for children has always been large.

"We feel it's important to do a variety of works, from those for tiny children to those for adults. You can't have a company for skilled artists and ask them to do work only for children. You can't ask a symphony orchestra to play only "Peter and the Wolf, can you?" he said.

The budget for the entire operation is in the neighborhood of $875,000, including building maintenance. Part of that includes the fledgling Children's Theatre School, only three years past the dream stage. It is part of the Public Schools Urban Arts program, with additional students also involved, 125 in all, taking everything from movement to mime to acting to design and tech work, with an occasional course in cooking or gardening thrown in, if only to stimulate students toward quality in every walk of life. Students come to the theater for four hours a day, five days a week during the school term.

Donahue also entertains interns from throughout the country and conducts teacher-training programs. "It's a resource no school could match," he said, "a community learning lab."

Donahue looked suddenly immensely satisfied as he peered over toward the new theater. It did seem incredible that grown men, most of them highly successful businessmen, hard-nosed and proud of it, would raise millions to build a theater dedicated to youth.

It's a milestone in American theatrical history, a tremendous affirmation of faith not only in Donahue but in his philosophy of quality and tradition.

THE ARCHITECT

(By James Parsons)

TOKYO, JAPAN.—There was nothing in the office that suggested it belonged to a man who has achieved success and fame in his profession.

And there wasn't anything—not even one of those exquisitely simple flower arrangements that Japan has turned into an art form—to suggest that it was the office of a Japanese.

The walls were painted a soft white. The cluttered desk was plain, polished steel with a white top. So were the small round table and chairs in one corner. Only the wall-to-wall carpeting and a small blue couch provided color.

Kenzo Tange was as unpretentious as his office. Nothing suggested that he was designing projects all over the world. Projects that will cost hundreds of millions of dollars. A palace for King Feisal in oil-rich Saudi Arabia, a new university in Algeria, a huge hotel and apartment complex in Teheran, the capital of Iran. A redevelopment project in San Francisco, a harbor-area renovation in Baltimore, several projects in Italy, including a civic center in Bologna, and a reconstruction project in Skopje, the Yugoslavian city nearly leveled by an earthquake in 1963.

The 61-year-old architect prepared the master plan for Expo '70 in Japan and designed the 1964 Olympic stadium in Tokyo that blends so comfortably with its hillside setting that it is still a tourist attraction for Americans who have been looking at stadiums on Saturday and Sunday afternoons for decades.

Tange's modesty—he will discuss his projects without prodding but shies away from questions about himself—is quite Japanese. So is the cup of tea that arrives seconds after a visitor sits down.

But nothing else in his office or in the models of his work suggests Tange's Oriental heritage. Nothing, that is, until he begins talking about his design for the Minneapolis Institute of Arts and College of Art and Design.

Tange speaks repeatedly of "harmony."

Harmony with one's surroundings—both man and nature—and with one's past is a Confucian virtue that has been embraced by the Japanese for centuries. Tange said he thought a great deal about making the new buildings and additions at the Institute complex "harmonious."

First, there was the problem of the ancestors: how to graft new wings of contemporary design onto a museum with Greek columns and giant slabs of granite without offending the old design.

Then there was the problem of making the buildings fit easily with the surrounding area—an area of homes and apartments that is trying to halt decades of decay and neglect.

For those on the inside, he attempted to harmonize or integrate the various activities. For instance, he didn't stack the four floors of the art school on top of each other. Offices, lecture rooms, studios and workshops are set at varying levels with a liberal use of interior glass walls and high ceilings to avoid the normal layered look of a four-story building.

The arts complex, Tange's first U.S. project, was supervised by Parker Klein Associates of Minneapolis, associates architects.

How successful Tange has been in creating a sense of harmony depends, of course, on each viewer's impressions and reactions to the buildings.

But the soft-spoken man with the white office has added an Oriental legacy to the complex And it has been done without a rock garden or carefully manicured miniature trees or a gracefully arched tile roof or single stone lantern.

THE THREAT OF ARAB OIL BILLIONS

Mr. MONDALE. Mr. President, I would like to submit for the RECORD a research report prepared by the Anti-Defamation League of B'nai B'rith concerning an often overlooked element in the crisis precipitated by the rise in oil prices. This issue is the threat not of oil blackmail, but of the political influence that will go with the acquisition by oil-producing States of billions upon billions of U.S. dollars. In a report entitled "The Threat of Arab Oil Billions: A Scenario of Disturbing Possibilities," Mr. Jerome Bakst analyzes how the "oil weapon" wielded almost exactly 1 year ago, could now turn into "money weapon." I believe that this analysis is well worth the Senate's attention and that it underscores the importance of an American energy policy and an American diplomatic effort that will preserve the independence of our foreign policy.

I ask unanimous consent that this article be printed in the RECORD, following these remarks.

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

THE THREAT OF ARAB OIL BILLIONS: A SCENARIO OF DISTURBING POSSIBILITIES

THE NEW ARAB "MONEY WEAPON"

The rapid and massive accumulation of billions of dollars in oil earnings by the Arab oil regimes poses a potential danger to the economic and political integrity of the United States and threatens likewise to alter the balance of forces on the American scene in a direction hostile to the welfare and security of the State of Israel.

To the "oil weapon" recently wielded by the Arabs for international diplomatic blackmail there is now added a new Arab weapon—the "money weapon."

In the wake of quadrupled prices for crude petroleum, the flow of dollars to the kings and sheikhs has been estimated at about $80 billion during 1974 alone, with accumulated earnings in their hands expected to reach about $400–$500 billion by the end of the 1970s.

New and major amounts of these oil dollars are scheduled to be or are already being invested by the Arab regimes in various sectors of the American economy—in undeveloped land, in developed real estate, in banks, in resort projects, and in other businesses and enterprises, as well as in short-term investments.

Arab investment in the American economy is expected to continue and to accelerate in the months and years ahead, aided by American banks and financial institutions hungry for funds and already in hot pursuit of Arab oil earnings. In a report on the subject published April 25, 1974, The New York *Times* said "the truly massive flows are yet to come."

The threat to the stability of the world monetary system, to the economies of both industrialized and under-developed oil consuming countries, and the danger of a world depression posed by the massive and continuing one-way flow of funds to the oil regimes have all been widely discussed in the public prints.

So has the arrival of Arab investment dollars on the American economic scene. Some government officials and commentators have viewed increased Arab investments in the U.S. as a welcome trend that tends to correct the imbalances and the one-way flow of funds that now exist and that are expected to continue as Europe, Japan, the poorer nations—and the United States—spend more and more money for imported Arab oil. These observers contend that it is economically desirable to "sop up" and "recycle" the incredibly large oil surpluses of the Arab regimes and other oil producing countries. Some even argue that Arab funds invested in the United States would be "hostage" funds and a protection, among other things, against more nationalization of American holdings abroad.

But other observers have pointed out that the Arab investments now being made in the U.S., and the massive investments they can make in the future, are not necessarily a blessing. *Dun's Review* recently said that "the prospect of the Arabs buying up $400 billion worth of the U.S. with their petrodollars is a sobering one."

Another publication catering to the business community, the *United Business Service* newsletter, said that "a major disadvantage" of Arab investments in the United States is that "we would be selling off pieces of America. . . ."

Far more ominous for the long-range concerns of the American Jewish community, however, is part of a report in the March 11, 1974 issue of Time magazine. Noting the Arab reputation for conservative investments, caution and secrecy, Time reported:

"Most experts are convinced that the Arabs will eventually move beyond such cautious investments to one that have more political clout. One reason: they genuinely, though wrongly, believe that U.S. support for Israel stems partly from a Zionist hammerlock on U.S. business and are eager to break it."

The recent Arab oil embargo, not to mention the quadrupling of posted prices for crude, demonstrated clearly the ability of the kings and sheikhs of the oil regimes to blend their economic self-interest with their political purposes. Now, the billions of dollars of oil profits reaped from the use of Arab oil as a so-called "political weapon" has given the oil regimes a monstrous new weapon—money.

MORE "LETHAL" THAN OIL

Last winter, the Los Angeles Times reported that "the Arabs . . . are fully aware that their rapidly mounting cash position is a more lethal international weapon than Arab oil—or maybe even than planes, tanks and guns." Arab governments and private investors are reported already to have placed more than $1 billion in the American economy and estimates for 1974 indicate that an additional $2 billion will be injected by them into the financial bloodstream of the United States.

While the Yom Kippur War was in progress, *Business Week* of October 20, 1973, reported that a year earlier—in 1972—Kuwait Investment Co., a public-private quasi-governmental institution, had an opportunity to buy 9,000,000 shares of the Gulf Oil Corp. that would have made Kuwait the second largest shareholder in the company—second only to the Mellon family itself. The Kuwaitis backed off and did not buy the stock at that time. But again, in its March 11 report, Time magazine noted that Kuwait was "considering buying a large chunk of Gulf Oil stock (from whom is not clear)."

More recently, just prior to Saudi Arabia taking 60% control of the Arabian-American

Oil Co., with Exxon, SoCal and Texaco reduced to 12% shares each, and Mobil to 4%, there were reports that the Saudis were considering purchase of large equity shares in the four companies themselves. While the reports were labeled "trial balloons" when they circulated during May, the same news reports pointed out that there were no existing legal barriers to such stock purchases by the Saudis and other oil sheikhdoms in the Persian Gulf. It was likewise made clear that Saudi Arabia will soon have more than $1 billion to invest abroad—*each month*—and that Kuwait, Abu Dhabi, Qatar and other oil-rich Arab regimes may well have an equal amount seeking world outlets.

One such report indicated that to buy 5% of Exxon's 250 million shares outstanding, at about $80 a share, would cost the Saudis about $1 billion—about the same amount they would have available from only one month's oil earnings. Chase Manhattan Bank, largest Exxon stockholder at the present time, has 3% of the company's outstanding shares.

The implications—both economic and political—of that kind of investing by the Arabs in the years ahead are obvious. What looms ahead on the horizon, only four or five years from now, perhaps even sooner, is the possibility of a pervasive, if not controlling, Arab influence in the American economy, whether in the oil industry itself, in real estate, in other sectors of the economy, or in banking and finance.

"POLITICAL CLOUT"

With pervasive Arab influence in the U.S. economy can come new "leverage" for the Arab kings and sheikhs—an ability to sway corporate policies and to influence the entire American business community, plus whole sectors of the American community that are oriented to the business community and dependent on it.

Given such "leverage," the Arabs would increasingly be in a position to exert the "political clout" referred to by Time in its March 11 report.

The Jewish community has already seen evidence of institutional "political" advertising and other efforts to sway U.S. Middle Eastern policy by corporations that have close ties to the Arabs—ads by some oil companies, for example, and public statements by top officials of others. That kind of corporate activity, aimed at influencing public opinion, has been an accepted fact of life in the United States and continues to this very moment. Example 1: the advertising campaign of privately owned public utilities against public ownership of utilities that was widespread in newspapers and magazines for many years—a campaign extolling the advantages and benefits to the public of "tax-paying, investor-owned gas and electric companies." Example 2: the current campaign of a domestic electric power company in favor of mining low-sulphur Western coal reserves on government-owned land and against environmental regulations viewed by the company as too restrictive on the burning of coal, to which the power company has a major commitment as a source of fuel.

DISTURBING POSSIBILITIES

As it grows, therefore, any pervasive Arab influence in American business and financial life can be reflected in corporate advertising by companies subject to Arab influence—advertising aimed at molding American public opinion. In turn, a growing echo of Arab and pro-Arab sentiment could well emerge in the editorial columns of newspapers both large and small across the country—newspapers in large cities receiving millions of dollars of such corporate advertising, newspapers in smaller cities where economic lifeblood and major employment might be provided by a corporate plant owned by an Arab-influenced company.

Moreover, with billions of dollars to spend or invest—directly or through intermediaries—Arab interests could find it easy to buy into, or buy up, book publishing houses, magazines, individual newspapers, and even groups of newspapers. They would likewise be in a position to buy into, buy up, or even launch opinion-molding organs at the very grassroots of America—suburban and rural weeklies, for example.

Equally serious is the danger that Arab oil billions could be used to hire the most able and sophisticated American public relations and advertising firms with the know-how to carry out massive campaigns aimed at directly influencing American opinion on a variety of subjects deemed important by the Arab regimes.

"POLITICAL FISH TO FRY"

Unlike other foreign investors in the United States, who are individuals and companies, the Arab oil billions now flowing here are controlled mainly by Arab governments or agencies those governments control—"a handful of governments with political fish to fry" as Gerald A. Pollock, a Senior Economic Advisor at Exxon Corp., put it in an article published by Foreign Affairs in its issue of April, 1974.

The Arab kings and sheikhs now amassing billions of dollars month by month have already demonstrated an interest in opinion-molding activity. In Lebanon, for example, New York *Times* columnist Cyrus Sulzberger has reported that "more and more Persian Gulf sheikhs has purchased newspapers" while in the United States, Arab determination to influence American public opinion was made altogether obvious during the recent oil embargo.

In that period, the League of Arab States published full-page advertisements in leading newspapers from coast to coast in an effort to sway American public opinion—and U.S. foreign policy—against further support for Israel. The ads—"A Message to the American People—More in Sorrow Than In Anger—The Arab Case for Oil and Justice"—appeared in such mass-circulation papers as The New York *Times*, The Washington *Post*, The Chicago *Tribune*, The Denver *Post*, The Seattle *Post-Intelligencer*, and The Los Angeles *Times*.

Other such advertisements were published in major American newspapers by Kuwait's Ministry of Finance and Petroleum, and in still other papers via insertions ostensibly paid for by the "Faculty and Staff of the University of Kuwait."

While the Federal Communications Act contains certain restrictions on ownership by aliens of radio and television stations, the legal problem is more complicated with respect to ownership of newspapers and magazines by foreigners. One legal study of the problem indicated that Federal legislation aimed at barring ownership of American newspapers and magazines by non-resident aliens could probably withstand challenge on the issue of constitutionality. The same study, however, indicated that legislation aimed at barring resident aliens from owning or investing in such publications could raise substantial constitutional questions.

CONCLUSION

Quite aside from the purely economic dangers posed by the billions in oil earnings now being amassed by the Arabs, the danger that some of those billions could be used by the oil regimes for a future and massive effort to influence U.S. public opinion is real enough. From the foregoing, it seems clear that the Arabs would have at least three options, or any combination thereof, open to them:

1. Indirect influence on U.S. opinion through investments in American corporations having large advertising budgets and often providing thousands of jobs for American workers in towns and cities around the country.

2. Direct efforts to influence U.S. opinion by hiring top American advertising and public relations firms for opinion-molding campaigns.

3. Less obvious opinion-molding activities carried out through newspapers and magazines operated by Arab resident aliens or by Americans financed by Arab funds made available to them directly or in circuitous fashion.

In the next five or six years, almost half-a-trillion dollars will be availabe to the Arab oil regimes. Even a miniscule portion of those billions utilized for opinion-molding in the U.S. could have a serious impact on American thinking down to the grassroots. The implications can be ignored only at peril to the special concerns of the American Jewish community and to the broad concerns of all Americans, Jewish and non-Jewish, who care for the economic and political integrity of the United States and the independence of U.S. foreign policy.

One economist has put the question this way: "Can the Mideast Purchase the Midwest?"

OBJECTION TO WAIVER OF RULE XXXVIII WITH REGARD TO NOMINATION OF JAMES DAY TO BE DIRECTOR OF MINING ENFORCEMENT AND SAFETY ADMINISTRATION

Mr. SCHWEIKER. Mr. President, my colleague, Senator ROBERT C. BYRD, announced last Friday that he will object to any unanimous consent request to waive paragraph 6 of rule XXXVIII of the Standing Rules of the Senate with respect to the nomination of Mr. Peter Flanigan to be Ambassador to Spain.

I wish to announce for the RECORD that I will object to any effort to waive paragraph 6 of rule XXXVIII with respect to the nomination of James Day to be Director of the Mining Enforcement and Safety Administration. I have clearly stated my opposition to the Day nomination on a number of occasions; his lack of professional safety training, and his insensitivity to vital mine safety issues clearly renders him unfit for this critical post. Moreover, at a time when mine labor and management are in the midst of contract negotiations, and mine safety is one of the central issues in these negotiations, it simply does not make sense to even consider a nominee to be MESA Director who is thought by most miners to be insensitive to safety issues.

Therefore, I will not agree to any unanimous-consent request to hold this nomination over during the Senate recess, and I will urge the President not to resubmit the Day nomination when the Senate returns.

GUARANTEE JOBS TO GUARANTEE A HEALTHY AMERICAN FUTURE

Mr. HUMPHREY. Mr. President, yesterday, I had the privilege of testifying before the Equal Opportunities Subcommittee of the House Committee on Education and Labor on the Equal Opportunity and Full Employment Act of 1976, S. 3947. This vital legislation, which I have introduced in the Senate along with Senators KENNEDY, HART, HATHAWAY, and METZENBAUM, and which Congressman AUGUSTUS HAWKINS has introduced in the House with 62 colleagues,

deserves the careful and prompt consideration of Congress.

In my testimony, I spoke of the urgent need to guarantee a job to every American who is able and willing to work. We have talked about the right to work for decades. This legislation would make that ideal a fact in the lives of all our citizens.

Mr. President, I also testified regarding the statistical shell game, the convenient statistical sleight of hand, that has convinced the vast majority of our people, and most of our leaders, that only a small fraction of our labor force is unemployed. The current statistics, Mr. President, provide a severe distortion of what is really happening to America's potential work force. I released figures yesterday estimating that more than 18 million Americans will have been officially unemployed at sometime this year. I also provided data showing that many millions more are truly unemployed than show up in the official statistics.

Mr. President, all of my testimony was aimed at establishing one fact—namely, that the future economic, social and political health of our Nation requires that the full potential of all our citizens be tapped. I am firmly convinced this will only be possible with enactment of job guarantee legislation such as I have proposed. Mr. President, I ask unanimous consent that the testimony I presented to Chairman HAWKINS and the Equal Opportunities Subcommittee be printed in the RECORD.

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

TESTIMONY OF SENATOR HUBERT H. HUMPHREY BEFORE THE SUBCOMMITTEE ON EQUAL OPPORTUNITIES OF THE HOUSE COMMITTEE ON EDUCATION AND LABOR

As Senate sponsor of the proposed "Equal Opportunity and Full Employment Act of 1976," let me commend this Subcommittee, and you Chairman Hawkins, for taking the initiative in considering this timely and far-reaching measure.

Since these are preliminary hearings, my testimony will be brief. I shall merely make a few introductory remarks on the essentially human nature of this economic measure, its relation to other legislation, how much unemployment and employment actually exists, and the kind of questions that might be explored during more intensive hearings.

The heart of this measure is the clear statement that "All adult Americans able and willing to work have the right to equal opportunities for useful paid employment at fair rates of compensation."

The present proposal, in fact may be regarded as a restatement of the right to job opportunities as set forth by Franklin Roosevelt in his 1944 Economic Bill of Rights, by the original version of the Full Employment Act and by the United Nation's 1948 Declaration of Human Rights.

But, the new bill is based on much more than the high idealism of a previous era. It is based on almost 30 years of experience under the Employment Act of 1946. It is based on thirty or more years of struggle—sometimes bitter and fruitless struggle—for equal job opportunities for women, older people, younger people and racial, ethnic, national and religious minorities.

Above all, this is the first time that the Congress has ever had the opportunity to consider a legislative measure that not only sets forth in unmistakable terms every adult American's right to useful job opportunities at fair rates of compensation, but also backs up those rights by explicit executive, legislative and judicial machinery. I believe the bill expresses some of the deepest yearnings of the overwhelming majority of the American people.

This bill is not just another measure dealing with employment, unemployment, nonemployment and sub-employment. It is not just another bill dealing with "manpower" policies or public service employment—important though these subjects are. Like the Employment Act of 1946, it provides machinery for integrating *all* the many measures, policies and programs that bear directly or indirectly on the level and quality of employment. And like the Employment Act, it is oriented not merely toward employment but also to the quantity and quality of the many kinds of goods and services that are produced through employment.

The proposed bill provides much more than abstract, formal machinery for democratic, nation-wide and decentralized planning. *It is a job guarantee measure.* It is this element of guarantee—which parallels the many Federal guarantees on the operations of banks and corporations—that can make the right to job opportunities a reality instead of a vague ideal.

The human meaning of a true job guarantee is illustrated in a recent article by Andrew Levinson in the *New Yorker* of September 2, 1974:

"Until progressives deal seriously with the idea that full employment and government-guaranteed jobs, black representation in skilled jobs will remain a question of throwing a white carpenter out of work in order to employ a black, or making a Pole with seniority continue to tend the coke ovens while a black moves up to a better job."

Let me add, however, that this is not a problem of progressives alone. Conservatives also should deal seriously with the idea of guaranteed full employment. Otherwise, one may wonder how concerned they are with an American future in which the work ethic is to be conserved rather than undermined by the lack of useful work opportunities at fair wages or salaries.

Let me also point out that unless we all take guaranteed job opportunities seriously, proper jobs for women could mean throwing men out of work, suitable jobs for older people could deny jobs to younger people, and enough jobs for younger people could put older people on the shelf. Without a new departure along the lines suggested by the many sponsors of this bill, I fear that many of the government's so-called affirmative action programs will turn out to be negative.

In time, both progressives and conservatives, will realize that action along these lines transcends mere economics. By dealing with one of the most fundamental human rights, a guaranteed job program goes to the very heart of America's most complex social problem: the hopelessness and alienation, even drug addiction and crime, that often arise when human beings—no matter what their sex, age or ethnic background—are told that they are not needed.

THE RELATION TO OTHER LEGISLATION

There are two major dangers involved in the consideration of this proposal—and of the many variants of it that are bound to be suggested.

The first is that advocacy of job guarantee legislation may be regarded as downgrading the significance of legislation that is already on the books—namely, the Employment Act of 1946.

Second, some people may get the false impression that if the new bill is enacted in proper form no other legislation will be needed to prevent recession and assure genuine full employment without inflation.

A few comments to clarify each of these points is needed.

First of all, my sponsorship of the "Equal Opportunity and Full Employment Act of 1976" does not diminish one iota my conviction that the mandate of the 1946 law should be complied with by the President. Under section 2574 of title 42 of the United States Code, the President is instructed to develop every year and present to the Congress a program of "maximum employment, production and purchasing power."

In recent years this has not been done. Instead of maximum employment, we have had creeping unemployment and underemployment. Instead of maximum production, we have had recession in many sectors—and an actual depression in the crucial area of home building. Instead of maximum purchasing power, we have had an unprecedented inflation that has eaten into the pocketbooks and curtailed the savings of all low and middle income groups in the country.

This inflation has been fueled by 11 to 12 percent interest rates that push up the costs of almost everything that consumers and investors must buy. And now throughout the Administration we hear a chorus chanting the familiar dirge of the "old time economic religion" that the only way to bring prices down is to continue to permit increased unemployment. I believe that I can speak for all the sponsors of the pending measure when I say, as I did in my summation at the Economic Summit Conference, that all this adds up to the open violation of the Employment Act of 1946 by the Administration and the continuation of "old time sin."

Second, the new "Equal Opportunity and Full Employment Act" is designed as a framework, not a substitute, for other legislation. The President's Full Employment and Production Program, required in Section 3, would most certainly have to include proposals for additional legislation.

I see a number of fields in which new legislation is needed, legislation which can be regarded a necessary accompaniment—or as indispensable companion measures—to the Equal Opportunity and Full Employment Act of 1976.

First and foremost is tough anti-inflation and price stability legislation which will serve as permanent protection against any and all inflationary outbursts such as we are now experiencing—whether they come from uncontrollable international or natural events, profiteering and speculation, price fixing by oligopolistic corporations, or credit policies that finance speculation, oligopoly and anti-competitive mergers.

Second, I see the need for a whole series of major measures in critical sectors of the economy—food, energy, transportation, housing, and regional development, to name a few. Today, we have no national food policy, no serious energy policy, no genuine transportation program, no meaningful housing program, no program of regional development, only token programs for the expansion of needed public services, and no concerted policy and program for the promotion of our fabulous potential for progress in civilian science and technology. New legislation is needed in all these fields.

Third, major legislative action is also required throughout the field of human services. Health legislation, of course, is one of the most obvious areas. Just as overdue, however, is genuine action to provide proper day-care facilities for younger children at both the nursery and kindergarten levels.

This is one of the keys not only to allowing welfare mothers to get off the welfare rolls but, more broadly speaking, to release the great potentialities of the many million of women who would thereby be available for full-time or part-time paid employment.

Fourth, there is the broad area of social insurance, retirement, pensions, unemployment compensation and welfare. In the past many of these programs have been conceived of as crutches to help compensate for the lack of full employment. As we develop a genuine full employment program, many of these measures can at long last be human-

ized. Thus recipients of old age and survivors insurance could be allowed to work as much as they wanted and earn as much as they are able—with no pressure on them to retire from the labor market. And, at long last, the welfare rolls could be substantially reduced by the only measure that makes any economic sense—namely, the provision of suitable work opportunities at fair compensation. With this drastic reduction in the number of recipients of welfare and unemployment compensation, it would be possible to legislate much more generous benefits and less onerous eligibility requirements.

Fifth, there is the entire area of taxation and monetary and fiscal policy. Since this is a huge area, I shall merely make two points. One is that tax reform should be conceived of as an essential part of a genuine program of full employment without inflation. It is not something that we can afford to postpone year after year. The second is that the Federal Reserve Board should be clearly subject to the full employment policies legislated by the Congress.

Finally, the policy set forth in the "Equal Opportunity and Full Employment Act" imposes major burdens on the existing structure of government. To carry these burdens, new or improved planning instrumentalities may be needed. Many proposals are now pending before various Congressional committees for new planning machinery in the Executive Office of the President and for improved planning machinery by the States and local governments, including my Balanced National Growth and Development Act—S. 3050. Perhaps some of these measures could be considered as additions to this bill.

Many of them, however, will have to be regarded as companion measures to build the kind to administrative structure that will facilitate speed and efficiency in attaining the objectives of this Act.

HOW MUCH UNEMPLOYMENT AND UNDEREMPLOYMENT?

On August 22nd of this year, when I introduced the "Equal Opportunity and Full Employment Act" in the Senate, I pointed out that the 5.4 million people officially reported as unemployed in June of this year were "just the tip of the iceberg."

Let me now expand on that comment.

First of all, most discussions of officially reported unemployment deal with the simple total and tell little, if anything, about the various groups that make up the total. Thus the August total, which appears in *Economic Indicators* of September 1974 shows unemployment for August of this year at a seasonally adjusted level of 4.9 million people—or 5.4 percent of the officially defined "labor force."

As you know, Mr. Chairman, that figure rose sharply and dangerously to 5.8 percent in September and many expect it to rise to 6.5 percent or even higher in the very near future. In response to this imminent threat to the economic future of millions of American families, I offered a $1 billion public service jobs amendment last Friday to the Supplemental Appropriations Bill soon to come to the Senate floor. No new authority is needed, it's all on the books right now. Passage of my amendment this week can mean paychecks for 167,000 families from now until next July. I see no reason why it should not be enacted now.

But these total figures obscure the blunt fact that for many groups in the population unemployment has long been far higher than 6 percent. This is illustrated by the table entitled "Official Unemployment by Selected Categories, 1973," as prepared for me by the Urban Affairs Department of Hunters College, which is attached to my testimony. To avoid getting into seasonal variations, this table deals with 1973, the last full year for which such data is available.

Thus when official unemployment as a whole was 4.9 percent, female unemployment had already reached 6 percent. For single women the figure was 9.4 and for female teenagers 16–17, 17.7 percent.

Racial breakdowns show a still more disconcerting picture. When total unemployment was officially 4.9, the figure for nonwhites was 8.9—four percentage points higher. And for non-white teen-agers the unemployment figures rose to the socially disastrous twenties and thirties.

All of these figures, moreover, are merely the official reports for a so-called "average day," based on the number of reported job seekers on twelve such days throughout the year. They do not provide information on the total number of people who may have been unemployed at some time during the entire year. That figure is given in line 11 of the companion table entitled "Varying Estimates of Aggregate Unemployment, 1973," which is also attached to my testimony. The total number of people officially unemployed at some time during 1973 was three and a half times higher—namely, 15.3 million people for the year as compared with 4.3 million people for the "average month," and 15.4 percent of the labor force as compared with only 4.9 percent.

The way we are now going, with the official monthly figure already averaging about 5.3 percent and rising (or four points higher than the 1973 total), it seems likely that the total number of people unemployed at some time during the present year may well reach a staggering 18.6 million. While many of these would be single people, it is nonetheless obvious that many family members will be affected. If the ratio of unemployed to other family members is only one-to-one (which is a very conservative estimate), then it would seem that more than 37 million people are likely to be directly touched by unemployment during the current year. It is time that the American people and their leaders became aware of this convenient "shell game." It is time to stop pretending. It's time to stop sweeping millions of people "under the rug" through statistical slight of hand.

Thus far, however, I have been discussing only those who are officially reported as unemployed. This leaves out of consideration the large number of adults who are not officially in the narrowly defined "labor force," which is composed of those reported as working for pay on either a part-time or a full-time basis and those reported as actively seeking work.

Unfortunately, there has never been a serious and continuing survey of the American labor supply—this is, of all adult Americans able and willing to work. If we are not to close our eyes to this huge labor reserve, we must make do for the time being with rough estimates, spot surveys and studies that merely scratch the surface. The results of some of these rough estimates are shown in the table "Varying Estimates of Aggregate Unemployment, 1973." The largest and most shocking figures are obtained when one concentrates upon the poverty areas of our big cities, estimates unofficial unemployment and then includes the number of people working at poverty level wages. This has been done in the "subemployment" estimates of the Senate Subcommittee on Employment, Manpower and Poverty under the chairmanship of Senator Gaylord Nelson. And under pressure from his committee the U.S. Census rather reluctantly included a calculation of this type in the 1970 Census. The results, which the Census Bureau has not been eager to advertise, show that in 60 poverty areas of 51 cities 30.5 percent of the measured labor supply were "subemployed" in 1970—that is, either unemployed or working at jobs that paid less than $4000 a year.

Under this legislation, for the first time in our history, the statisticians would be directed to measure the changing volume and composition of the entire American labor supply.

SOME BASIC QUESTIONS

In conclusion, let me urge that the intensive hearings on this measure escape the narrow confines of technical economics.

If there are social, political and ethical issues in this measure—and I believe there are—they should be brought into the open and dealt with directly.

Naturally, this legislation raises extremely complex questions of an essentially economic nature. How genuine full employment could best be sustained without inflation? What the implications of genuine full employment might be for wage levels, business profitability and the distribution of income and wealth? How a full employment economy can best be managed so as to protect and conserve the physical environment? What the contribution of a fully employed America would be to the world economy?

But, the social aspects of full employment should receive at least as much attention. In recent years, as we have become accustomed to large amounts of hidden unemployment, we have tended to overlook the social costs of unemployment. People who have suggested there may be a connection between crime and youth unemployment have been accused of being "soft on crime." But during the past five years, as the New York Times pointed out in an editorial of September 26, 1974, which I ask to be made part of your hearing Record, there has been a 47 percent increase in officially reported violent crimes. "The long-term statistics," states the editorial, "leave little doubt that the most serious single factor in crimes of violence and against property is the dismally high rate of unemployment among youths, particularly minorities. Between one third and one half of the cities' post-adolescent black youths are out of school and out of work."

Political questions must also be raised. Many of our sharpest economic and social debates revolve around questions of political power. Just what would be the implications of this measure, when enacted, on the structure of political power in this country? Would it lead to undue concentration of power in Washington? I think not. But the question should be openly faced.

Finally, there are the most important questions of all—the questions of ethics, morality and religion. This is not a matter of rhetoric or glowing generalities. It is a matter of right and wrong.

Exactly thirty years ago, in his Full Employment in Free Society, Sir William Beveridge made an important distinction concerning employers and employees:

"A person who has difficulties in buying the labor he wants suffers inconveniences or reduction of profit. A person who cannot sell his labor is in effect told that he is of no use."

Today, in our great Nation millions of men and women, young and old, black and white, are being told that they are now or may soon become of no use. Can we not build an America in which people, all our people, can find challenging and fulfilling opportunities to be useful? Is not this the kind of America in which our citizens—employers and employees alike—can best prosper?

In 1976 America will celebrate the 200th anniversary of its independence. And in February 1976, the Joint Economic Committee will commemorate the 30th anniversary of the Employment Act of 1946. By that time, let us hope that the Equal Opportunity and Full Employment Act—in improved and strengthened form—will be the law of the land and we shall be preparing ourselves for the various stages of its implementation. The

enactment of this legislation by that time would be the best way of celebrating the commitment of the Founding Fathers to the "unalienable rights" of human beings. It would be the best way to prepare America for the challenges of the last quarter of this century.

Mr. Chairman, again I commend you for the farsighted leadership you are demonstrating by your initiative on this absolutely vital proposal. I thank you for the opportunity to testify on this legislation today and to work with you in the days ahead to make "full employment" not an unfulfilled promise of law, but a fact of life for every American.

Official unemployment, by selected categories, 1973

[Percent of Officially Defined Labor Force]

Male 35–44	2.0
Male married, wife present	2.3
Government workers	2.7
White collar workers	2.9
Female 35–44	3.9
Male	4.1
White	4.3
Female married, husband present	4.6
Aggregate	4.9
Blue collar workers	5.3
Service workers	5.7
Female	6.0
Male negro and other	7.6
Nonfarm laborers	8.4
Construction workers	8.8
Negro and other	8.9
Female single	9.4
Male single	10.4
Female negro and other	10.5
Male white 16–17	15.1
Male 16–17	17.0
Female 16–17	17.7
Male negro and other 18–19	22.1
Female negro and other, 18–19	33.3
Male negro and other 16–17	34.4
Female negro and other 16–17	36.5

(NOTE.—All these figures relate to officially reported unemployment calculated on the basis of an annual average of twelve monthly reports. While the aggregate average was 4.3 million unemployed in 1973, an estimated 15.2 million—more than three times as many—were reported as unemployed at some time during the same year. Therefore, all the above figures would have to be substantially increased to reflect the total number of people in each group unemployed at some time during the year.)

Source: *Manpower Report of the President, April 1974.*

VARYING ESTIMATES OF AGGREGATE UNEMPLOYMENT, 1973

	Thousands	Percent of labor force
1. Unemployment severity index		2.5
2. Recipients of unemployment compensation, weekly	1,783	2.7
3. Variably unemployment, monthly	4,304	4.3
4. Official unemployment, monthly	4,304	4.9
5. 4 above, plus discouraged workers	4,983	5.6
6. Recipients of unemployment compensation, annual total	6,200	8.5
7. Alternative unemployment measure, 1st quarter, 1972	6,541	7.6
8. 5 above, plus part-time workers wanting full-time work	7,502	8.5
9. 8 above, plus labor force dropouts, December 1970	8,100	19.4
10. Unemployment and earnings inadequacy, 1972	9,942	11.5
11. Official unemployment, annual	15,287	15.4
12. Real unemployment	25,600	24.6
13. Labor reserve of experienced unemployed, 1970 census	26,500	
14. Subemployment, lower level income, 1970 census		30.5
15. Subemployment, higher level income, 1970 census		61.2

NOTES

(a) The percentages relate to different concepts of total labor force.

(b) Estimates by sex, race and age not included.

(c) Dates vary because estimates 7, 9, 10 and 13–15 have not been updated.

(d) A few estimates, such as 6, may include a little double counting.

(e) A small, but unknown, portion of the "unemployed" is engaged in illegal work.

SOURCES

1. Geoffrey Moore, *How Full Is Full Employment?* Washington, D.C.: American Enterprise Institute, 1973. Measures the number of days of unemployment per person in officially-defined labor force.

2. *Economic Indicators,* Sept. 1974, p. 12.

3. *Economic Report of the President,* 1974, p. 58–62. Also Geoffrey Moore, 1 above, p. 28–29. Adjusts official unemployment to changes in sex and age composition of labor force since 1955.

4. *Economic Indicators,* Sept. 1974, p. 10. Reported number of active jobseekers.

5. *Manpower Report of the President,* April 1974, p. 263. "Discouraged workers" is defined as jobwanters not in labor force because "they think they cannot get a job."

6. Gross-Moses estimates, to be revised.

7. William J. Abraham and A. J. Jaffee, "A Note on Alternative Measures of Unemployment and the Shortfall in Employment, 1970–72," *New York Statistician,* May–June 1972, p. 2–5. Adds to official unemployment an estimate of those who would seek jobs if full employment existed.

8. *Manpower Report of the President,* April 1974, p. 285.

9. Paul M. Sweeney and Harry Magdoff, *The Dynamics of U.S. Capitalism,* New York: Monthly Review Press, 1972, p. 45–49.

10. Sar A. Levitan and Robert Taggert, "Unemployment and Earnings Inadequacy: A New Social Indicator," *Challenge,* Jan.–Feb. 1974 5 above, less over-65, 16–21 and currently unemployed with above-average income for year, plus the currently unemployed below a "poverty threshold."

11. *Manpower Report of the President,* April 1974, p. 310. Total persons experiencing some unemployment (as defined in 4 above) during year.

12. Bertram M. Gross and Stanley Moses, "How Many Jobs For Whom?", in Alan Gartner, et al, eds. *Public Service Employment,* New York: Praeger, 1973, p. 28–36, Includes rough estimates of jobwanters among so-called "Unemployables," housepersons, men 25–54, older people, students and manpower trainees.

13. U.S. Bureau of the Census, Census of Population, 1970: *Detailed Characteristics: U.S. Summary,* 1973, p. 706. Persons not in labor force who worked for pay in last 10 years.

14. Senate Labor Subcommittee on Employment, Manpower and Poverty, *Sub-employment Index,* November, 1972. 9 above, plus currently employed at less than 4,000 a year, 60 poverty areas in 51 cities.

15. Same as 14 for workers earning less than $7,000 a year.

NET WORTH DISCLOSURE ACT

Mr. MOSS. Mr. President, I am today asking that my name be added as a cosponsor of the Net Worth Disclosure Act (S. 4059) which was introduced by the Senator from Connecticut (Mr. WEICKER) on September 30.

This bill requires that the President, the Vice President, Members of Congress, and all employees of the executive and legislative branches earning in excess of $30,000 a year file with the Comptroller General each February a net worth statement of assets and liabilities over $1,500 held jointly or alone within the family during the previous calendar year. The statements would be made available to the public and the press.

Mr. President, many of those of us who serve in the Senate—and some House Members as well—have been filing such statements on a voluntary basis for a number of years. I was one of the first to do so—my initial disclosure statement of assets and liabilities was made on the Senate floor on April 17, 1964, in the 88th Congress. I have brought the list of my assets and liabilities up to date in each Congress since that time, and have revealed them in a floor statement. My most recent disclosure statement was made on November 16, 1973, in the current Congress.

At the time I made my original disclosure statement in 1964, I observed:

Like Caesar's wife, a U.S. Senator should be above suspicion.

In this post-Watergate environment, this observation is even more relevant today than it was when originally made. Never in our history has it been more important that every Member of the U.S. Senate and the U.S. Congress be above suspicion.

Never in our history has it been more important that those who manage the Nation's affairs in the executive department have a clean slate.

A complete financial disclosure by the Nation's top Government officials is the first step in giving the Nation the information it needs to judge whether a public official is acting in his own interest—or in the interest of the public at large.

In the Congress, we are now engaged in minute scrutiny of the background and financial record of former Gov. Nelson Rockefeller, of New York, to see if he should be confirmed as Vice President of the United States. It strikes me as the height of arrogance for us to sit in judgment on Governor Rockefeller—who has made a most complete financial disclosure—when all of us have not followed the same procedure. We must make public our own record of financial interests and holdings—of assets and liabilities—if we are to reestablish and hold the faith of the people in their elected and appointed officials.

Mr. President, passage of legislation along the lines proposed in S. 4059 is long past due, and I hope the bill can be considered before this Congress adjourns.

PAUL G. HOFFMAN—GLOBAL STATESMAN

Mr. McGEE. Mr. President, yesterday, a great and distinguished American, Mr. Paul G. Hoffman, passed away. All of my colleagues in the Senate recognize the attributes of this truly global statesman as we reflect on his work to establish a peaceful world community.

Mr. Hoffman often talked in terms of

peace building, and by that he meant development of the Earth's resources for all nations. He was particularly interested in the potential of human beings in all countries, as he felt that this world of ours had the resources to benefit all mankind.

Furthermore, Mr. Hoffman despised the word "foreign aid," and he saw serious damage done to America's national interest by the use of this particular phrase. It obstructed straight thinking about the real issues that divided opinion and human truth, and lost much of the credit our actions should have earned us abroad. Worst of all, the words "foreign aid" led us to base vital policy decisions on what was considerably less than half the truth.

Certainly, today, the issue of foreign assistance is still before the Congress. And, yes, serious disputes still exist as to its feasibility. However, none of us should ever forget the world as it looked 27 years ago, and the United States, with its compassion and generosity, created a program of recovery that remains unparalleled in the history of mankind. Mr. Paul Hoffman was the chief architect of this policy as well as the head of the Marshall plan.

In closing my brief remarks on this great American, all of us must remember that the corporate world has produced many leaders and particularly world statesmen in America, during the period following the Second World War. Among this distinguished group, Mr. Paul Hoffman will stand as the foremost of these exceptional and highly talented leaders. The United States is indeed much poorer with the loss of Mr. Hoffman. And so is the United Nations. It is the deep and abiding faith that such men as Paul Hoffman and Dr. Ralph Bunche, who preceded Mr. Hoffman in death, had in this international institution that has given the U.N. the strength to persevere against enormous odds.

Upon his retirement, Mr. Hoffman authored an article for Fortune magazine in March 1972 entitled: "The Two-Way Benefits of Foreign Aid." I think it is a particularly appropriate time to reflect upon the wisdom of Paul Hoffman as contained in this article. It is a forceful expression of support for continued foreign assistance written by a man whom Fortune magazine characterized as deserving more than any other single individual, the recognition as the father of mutual assistance.

I ask unanimous consent that both the article and Mr. Hoffman's obituary appearing in this morning's Washington Post be printed in the RECORD.

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

[From Fortune magazine, March 1972]

THE TWO-WAY BENEFITS OF FOREIGN AID

(By Paul G. Hoffman)

When I was a child I was often told that "sticks and stones can break your bones, but words will never harm you." And when I was a child I believed it. Well, I don't believe it anymore. After being bedeviled for over twenty-five years by the most misleading phrase in common American speech, I know that words *can* do enormous harm.

During the last twenty-five years I have been working in the field called "foreign aid." And almost every day of that time I saw serious damage done to America's national interests by the use of this particular phrase. It obstructed straight thinking about the real issues that divided opinion at home and lost us much of the credit our actions should have earned us abroad. Worst of all, the words "foreign aid" led us to base vital policy decisions on what was considerably less than half a truth.

Doesn't it badly distort reality to call something that creates large numbers of jobs for American workers "foreign aid"? Are actions that greatly increase our export earnings "foreign aid"? Is it "foreign aid" when we help to secure for ourselves new sources of essential raw materials? Is it "foreign aid" when we follow a course that could eventually lower the cost of goods and services Americans need every day? Above all, when we act to put our national security on the one solid footing it can ever really enjoy—while cutting the bill to the American taxpayer in the bargain—is it logical to term this "foreign aid"?

Yet these are the kinds of benefits we have long been reaping from our relatively modest investment in helping other nations help themselves. We earned our first sizable dividends from that pioneering cooperative venture known as the Marshall plan. The rapid economic recovery of Western Europe, which the Marshall plan made possible, enabled us to raise our export earnings so significantly as to add a whole new dimension to our economy and open up millions of new jobs in American factories and farms. Meanwhile the economic integration of Western Europe—a direct outgrowth of the principles underpinning the Marshall plan—so strengthened the structure of peace on the Continent that, as the late President Eisenhower once told me, it saved the United States many billions of dollars in defense expenditures. These initial returns alone more than repaid what we spent on the Marshall plan—and they continue to come in. Still, as the plan's first administrator, I vividly remember that the term "foreign aid"—misnomer though it was—was among the kinder things said about the program at a time when there was considerable talk of "pouring money down ratholes" and the like.

CREATING NEW CUSTOMERS

More recently, the U.S. has devoted substantial sums to helping the developing countries of Asia, Africa, Latin America, and the Middle East modernize their economies and improve the living standards of their people.

What's good for the world as a whole is bound to be good for the U.S. Modern communications and transport have cut such large chunks out of time and distance as to make all humanity the residents of a single neighborhood. As a consequence, the problems of the rest of the world are so closely and tightly linked to our own that conditions abroad have a deep and inescapable impact on conditions here at home.

We all know that our economy is riddled with soft spots, we have an unacceptable rate of unemployment, and there are widespread pockets of domestic poverty. Now, in order to revitalize our economy and open new job opportunities on the very large scale required, we have simply got to expand our foreign trade. The only way we can win new markets is by creating new customers. And we have the chance to do just that on the scale of hundreds of millions.

As of now, roughly 70 percent of U.S. exports go to markets in the wealthy, industrialized countries. Meanwhile, the less-developed nations occupy two-thirds of the earth's land mass and contain two-thirds of its people. Yet they earn at present only a fraction of total world revenues—and hence can account for only a fraction of total world sales—because they produce at present only one-sixth of all the world's goods and services. Even a moderate redressing of this imbalance would do much to create the new customers our economy so badly needs.

By way of proof, the 5.6 percent average annual increase in gross national product realized by the developing countries during the 1960's was accompanied by an 82 percent increase in U.S. exports to these countries—from a $7-billion to a $13-billion yearly level. There is even more striking evidence of this relationship between productivity and purchasing power. Between 1968 and 1969 alone, those low-income countries where production per person was the equivalent of $400 or more increased their imports by nearly 14 percent. At the opposite end of the scale, those countries where production per person came to only $150 showed an actual import drop-off of nearly 3 percent. To round out the picture, the developing countries that imported the most from the wealthier nations showed the fastest economic growth rates—proof that there are vitalizing as well as vicious circles.

How far up can this healthy spiral go? In view of the truly dreadful poverty that afflicts the developing countries, can these countries ever raise their output and earnings to the point where they will become a truly major market for the U.S.? The answer is yes, they can. While there are hundreds of millions of poor people throughout the world, they don't have to remain that way—because most of the countries they live in have enormous latent wealth. According to every reliable estimate, the developing nations today are productively using only about 25 percent of their natural-resource potentials and perhaps 15 percent of their man- and woman-power capabilities.

The U.S. economy has other basic needs that would be well served by narrowing the productivity gap between the industrialized and the developing countries. Our domestic supply of natural resources is far from being bottomless. We must already import more than one-fifth of our oil and more than that proportion of our iron ore. For nickel, tin, chromite, cadmium, bauxite, manganese, and many other vital minerals, the proportion is substantially higher—as much as a full 100 percent. This makes it clearly in our national interest to help locate and extract both fuels and industrial minerals wherever they can be found—so that available supplies can be increased to meet rising global requirements. By far the most promising prospects for this lie in the developing countries. The United Nations Development Program, for instance, has uncovered over $12 billion worth of mineral reserves in these countries during the last ten years alone.

There's another point to consider. The gross disparity in output between the more-developed one-third and the less-developed division of labor. Most of the wealthier nations—the United States among them—are producing a number of industrial goods and agricultural commodities at a considerably higher cost than they could be produced by the developing countries. Undoubtedly, change would be far from simple. Nor, frankly, would it be altogether painless for certain sectors of the American economy. But there are ways of compensating for the short-term damage involved. And, in the long run, there is as much profit for us as for any other nation in a more diversified, better-balanced global production pattern.

WHERE WAR BEGINS

But there is a higher priority for America than increasing its material prosperity. That

priority is the strengthening of peace. During the last decade alone, we have spent nearly $700 billion on national defense. That enormous expenditure may have brought a precarious balance of terror. But it certainly hasn't brought peace anywhere on earth. Nor has the simultaneous sacrifice of thousands of American lives and the lives of hundreds of thousands of our fellow human beings on many fields of battle. In fact, none of these could avail. For basically they represent efforts to suppress or contain symptoms of world disorder, rather than to work a cure.

Consider one compelling fact. Every single international conflict since 1946 has started and been fought out in the poverty-stricken parts of the world. And almost every major international crisis came to a boil in these same areas.

Poverty abroad has bred tensions that erupted in violence abroad. Feeling threatened by violence abroad, we devoted vast sums to building up—and sometimes directly applying our military might. As a result, our resources and energies were diverted from the fight against domestic poverty. This aggravated domestic tensions, and often set off violence at home. Now, concerned with our own problems and disillusioned with overseas ventures, we are turning from the struggle against poverty abroad—thus giving another powerful push to the whole destructive cycle.

To my mind, this puts us on a collision course with reality. We should be increasing instead of reducing the relatively small sums we are spending on overseas development—a yearly amount that nets down to about six-tenths of 1 percent of our gross national product, as against the 1 percent that is generally accepted as an appropriate goal. We can well afford to do so without weakening either our defense efforts or our efforts to meet domestic development needs. In fact, by helping to speed the day when people throughout the world no longer feel that violence is the only way to improve their lot, we will substantially strengthen our national security. And, as we have already seen, we will also strengthen our economic capability to alleviate poverty at home.

One thing, however, must be clearly understood. The first successful step to a better life for the people of the low-income countries will not necessarily bring the world visibly closer to peace. There may actually be more turmoil as early development progress gives rise to expectations that cannot be quickly fulfilled. But there's a positive side to the picture. Real development progress can be achieved only through intensive international cooperation—cooperation among the poorer countries themselves and between the poorer countries and their wealthier neighbors. Now when people of diverse backgrounds work together day after day to achieve common ends, rough edges of suspicion and ill feeling are inevitably rubbed smoother. And when nations collaborate over long periods for agreed-on economic goals, even sharp political disagreements are often sensibly dulled. Meanwhile, new ties of mutual interest are imperceptibly woven. Eventually whole national economies become so tightly intermeshed that war itself is impractical and, finally, almost impossible.

A ROLE WE CAN'T SHUN

There is one final reason for relegating the term "foreign aid" to the scrap heap of our national vocabulary. It is the best reason of all—simple morality.

Strangely enough, in an era of utterly unprecedented material power, it has become more dangerous than ever before to disregard the moral law which dictates that we should help our neighbors. As Benjamin Franklin warned his countrymen, "We must all hang together or, be assured, we shall all hang separately." All must join in a partnership for the common well-being.

America's wealth, America's power, and America's most honorable traditions all combine to give our nation a major role in this historic endeavor. If we shun this role, or fail to shoulder its full responsibilities, we will not be the least of the losers. Yet we cannot play the part we should unless we really understand the depth, nature, and necessity of our involvement. And these things we will not understand until we once and for all stop talking—and stop thinking—in terms of "foreign aid."

[From the Washington Post, Oct. 9, 1974]

PAUL HOFFMAN DIES

(By Ferdinand Kuhn)

Few newcomers to official Washington ever won so much acclaim in so short a time as Paul G. Hoffman, the first administrator of U.S. foreign aid who died yesterday in New York at 83.

When he arrived here for his first government job early in 1948, he was a Republican businessman, president of the Studebaker Corporation, with the reputation of a supersalesman. When he left two and a half years later he had won the applause of Democrats and Republicans alike and of those often hardest to please: the career civil servants.

He "achieved great things," said the Democratic President, Harry Truman. He served his country "magnificently," said the Republican chairman of the Senate Foreign Relations Committee, Arthur H. Vandenberg. "Few men in history have left the mark that he did," was the comment, many years later, of W. Averell Harriman, his deputy in Europe and his successor. It was a chorus that sang in unison except a few discordant notes from the far right and far left.

Originally the President wanted Dean Acheson to direct the agency that would spend $17 billion in four years for Europe's recovery. Acheson had served as under secretary of State, and by 1948 was back in the private practice of law. But the Republicans then controlled Congress, and Republican leaders had another kind of administrator in mind. Senator Vandenberg, their spokesman, told Mr. Truman that Congress wanted a businessman from outside the government. Hoffman had been the first choice of at least half of more than a hundred businessmen whom Vandenberg had canvassed. That settled it; the President gave in.

The new administrator took comparatively little part in setting the broad policies of the foreign aid effort. Those had been drawn in broad outline in the Marshall Plan and in the historic congressional debates that followed. Where Hoffman excelled was in organizing a new agency on a nonpartisan basis and in choosing able helpers.

His assistants saw little of him in the office, although he kept them briefed and consulted. Then, as always, foreign aid was unpopular. The life of the aid director was one of unending effort to sell an expensive and politically unattractive product. During 1949, his first full year in the job, Hoffman was out of his office all but about two hours of every working day, usually in committee rooms or antechambers on Capitol Hill.

Men and women who worked with Hoffman in the ECA—the Economic Cooperation Administration, as it was then called—still find lessons in his performance. If one asks them why Hoffman was such a success, they answer in this vein: "He never threw his weight around." "He tossed out ideas and didn't mind letting others pick them up and take the credit." "He never let power swell his head."

Where other businessmen felt out of their element in government jobs, Hoffman seemed to know his way. His brisk talk was usually low-keyed. His blue eyes kept a twinkle of humor in reserve; he faced many serious situations but never despaired. In a time of alarms and crises, some of them dangerous, he was a steadfast optimist.

His personal traits stayed the same to the end, but his mind grew and changed with the years. From the start of the Marshall Plan he took a deepening interest in the economic and social well-being of the rest of the world. He went on to head the Ford Foundation and the United Nations development program, broadening his ideas and the market for them.

Again and again in his Marsnall Plan years he argued that spending billions to rebuild and revive Europe would be good for business as well as essential for America's survival. When some in Congress wanted special privileges for American business in return, Hoffman replied that the American aid program must never be used for this purpose. Repeatedly he contended that trade is a two-way street, thus standing against American protectionists who were afraid of foreign competition.

In September, 1950, Hoffman resigned, soon stepping into the presidency of the Ford Foundation. Here he could direct the spending of hundreds of millions free of congressional constraints. The Foundation attracted him for other reasons as well. It gave him a chance to sell his ideas with more freedom than before. But he was wrong.

The marriage between Studebaker and Ford did not work. For the first and only time, Hoffman was not to succeed in a major undertaking. Exactly what happened, and why he left Ford after less than two years, was never publicly explained.

Dwight MacDonald, in a famous profile of the Ford Foundation in The New Yorker, suggested in 1955 that Hoffman had been too dangerous for the Ford trustees. For example, he recruited the always-controversial Robert M. Hutchins, formerly chancellor of the University of Chicago, as his deputy.

It was reported, although Ford spokesmen denied it, that the trustees wanted someone safer and more conventional as president. All Hoffman would say, with a wry smile, was that he and Ford were "incompatible." He seemed glad to be rid of the foundation job, and with his usual energy plunged into a variety of public causes.

One of his favorite causes of those days was named Dwight D. Eisenhower. Soon after Gen. Eisenhower had become president of Columbia University in 1948, the general asked a visitor, "How do we elect Paul Hoffman President of the United States?" Hoffman turned the compliment around. By 1951 he was in the front line of rich and prominent admirers who were urging the general to come home from NATO headquarters in Europe and run for President. The next year he helped round up convention delegates and raised money for the Eisenhower campaign. Only Ike, he said, could cut through "the smog of hate, fear and political amorality" in the United States.

When anyone talked of hate in those years he usually meant Senator Joseph McCarthy. Hoffman was one of the few Republicans to speak out against what he called McCarthy's "fantastically false" charges against Gen. George C. Marshall in the 1952 campaign. Late in 1953 Hoffman prodded President Eisenhower to counterattack. As Robert J. Donovan tells it in "Eisenhower: the Inside Story," based on access to the White House files, Hoffman "was urging him to let McCarthy have it with both barrels." Vice President Nixon and others advised him to hold back. Eisenhower, beset by conflict-

ing advice, decided not to tangle with McCarthy: "I will not," he said, "get in the gutter with that guy."

Hoffman's stand against McCarthy brought frowns to many Republican faces. The displeasures of others seldom stopped him; he was independentminded from his youth.

Paul Gray Hoffman was born in Chicago on April 26, 1891. His father, George Delos Hoffman, was an inventor who wanted his son to get a University of Chicago degree. Paul did enter that university, but stayed only a year. By 1911, when he would have been a junior in college, he was a salesman in the Studebaker branch in Los Angeles.

He climbed the corporate ladder fast. In 1915, at 24, he became sales manager of the Los Angeles branch; in the same year he married Dorothy Brown. She bore him six children, and they added a seventh as a ward. His children survive him. In 1925 he was already a vice president of Studebaker, and by the time he was 35, a year later, he had made a million dollars.

The Depression pushed Studebaker into bankruptcy in 1933. Within two years the company was on its feet again with capital that Hoffman had coaxed out of Wall Street, and with himself as president.

The start of World War II in Europe, and the war orders pouring into American factories, led Hoffman to think about the postwar future. How, he wondered, could the country keep full production and full employment when the war ended? "This is a problem for university scholars," he told Robert M. Hutchins, the university chancellor, in 1940.

According to Sidney Hyman, Benton's biographer, Hoffman argued that businessmen and scholars ought to pool their knowledge to solve the problem. This was the origin of a short-lived but influential group called the American Policy Committee, made up of fifteen or twenty thoughtful businessmen who were willing to give time to long-range public policy.

The commission disbanded after Pearl Harbor, but much of its planning work was picked up by the larger Committee for Economic Development. Hoffman was a spark plug in this non-governmental engine of study, planning and publicity. He was sure there would be a vast postwar market at home and abroad—if businessmen could be persuaded to plan the conversion of their plants to peacetime uses. It was the CED more than anything else that brought Paul Hoffman to the attention of business leaders and, before long, political leaders around the country.

Hoffman's mind had turned more and more to international affairs during his five years in government and at the Ford Foundation. In 1956 President Eisenhower called him back to public service by naming him a delegate to the UN General Assembly. This opened a new chapter in Hoffman's life.

It was a strange experience for him to have to listen not only to attacks on the United States by Soviet and Soviet-bloc delegates but also to the diatribes of Krishna Menon of India. He learned new lessons in when to be patient and when to talk back.

The Assembly taught him much, too, about the so-called Third World. He became convinced that government grants by themselves could not pull any country out of poverty. The UN experience led directly to Hoffman's appointment in 1959 as managing director of the UN Special Fund for economic development.

This was an agency in which he could sell his ideas and enthusiasms on a worldwide market. Applying lessons he had learned in the Ford Foundation, he regarded the Special Fund as "seed money." Hoffman liked to say that if the Special Fund spent, for example, $50 million a year on training and pilot projects, and if recipient governments put up $75 million, they would prepare the ground for at least a billion in private investment for profit.

Looking back over his career, Hoffman said the best part of it was at the United Nations. He ran a highly personalized operation at the Special Fund. His closest associates were men of his own choosing. The staff broke with UN secretariat habit and did not splinter into national or racial groups.

Again, as in his Marshall Plan days, Hoffman spent much of his time out of the office. Often he flew to Washington to induce lukewarm congressmen to vote the American share of the Fund. Most of his travels, however, took him overseas. In his first two years as managing director he appointed himself a traveling salesman for development, visiting sixty-eight countries, all outside Western Europe.

The Special Fund was merged in 1966 with the larger and longer-established UN Development Program. Now the bureaucracy of the UN secretariat hemmed Hoffman in. He was less effective than before, but he kept his unbureaucratic ways. Long after he was 70 he liked to walk, when he could, from his apartment to his twenty-ninth-floor office half a mile away.

If he ever lost his optimism during his 70s he never let the public know. He was "completely convinced," he said in 1969, "that we now have the technology to double world food supplies in the next ten to fifteen years." In 1961 his wife died after 46 years of marriage; the next year he married a dynamo named Anna M. Rosenberg, a former assistant secretary of defense. He had worked with her on labor-management problems during his CED days; he described her as "an old, old friend." She was with him at his death.

He kept his good health until about five years before his retirement at 80. He drank only occasionally, hated cocktail parties, had not smoked since his youth. He relaxed playing golf, bridge and gin rummy. But a broken leg and other ailments took their toll. When he returned here for a farewell reception after he retired in 1971, old associates who had not seen him for five years felt he had aged at last.

EARTHQUAKE PREDICTION

Mr. MOSS. Mr. President, on September 16 I wrote to Dr. Fletcher, the NASA Administrator, and requested his view of the credibility of a theory known as the "Jupiter Effect" which predicted a significant increase in earthquakes in 1982. Dr. Fletcher's most recent response is contained in a letter, which, in view of widespread interest in this subject, I ask unanimous consent be printed in the RECORD at the conclusion of my remarks.

Dr. Fletcher's response is significant not only for the NASA view on the "Jupiter Effect," but also because it calls attention to important earthquake research. NASA earthquake research could be a key factor in saving countless lives and avoiding property damage.

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

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., October 4, 1974.

Hon. FRANK E. MOSS,
Chairman, Committee on Aeronautical and Space Sciences, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your letter of September 16, 1974, in which you ask for NASA's views on the recently published book "The Jupiter Effect" coauthored by two young scientists, John Gribbin and Stephen Plagemann. Dr. Plagemann is an employee of a NASA contractor at Goddard.

I have had this book reviewed by a number of scientists both in the Government and in the university community and as one would expect in evaluating any new theory, the scientific community will be debating these theories for years to come. It is, therefore, much too premature to make any pronouncement on the relative degree of credibility associated with the theory propounded by these scientists. The limited consensus of the scientific community polled to date, however, does indicate that this book is highly speculative and has no solid scientific basis for its conclusions.

A number of very uncertain statistical correlations have all been assumed to be completely correct to propose a complex sequence of events which is highly improbable. Also, scientists like Dr. Don Anderson of The California Institute of Technology, prominent in the highly specialized area of seismology, deny any observed relationships between the position of Jupiter and the frequency of earthquakes, even though the gravitational effect of Jupiter among the planets is dominant because of its relative mass.

In further informed comments regarding the "Jupiter Effect" theory, scientists indicate that there is not sufficient correlation between solar activity, specifically sun spots, and earthquakes to justify the theory that the alignment of the planets will result in major earthquakes due to solar activity effects on the earth's atmosphere.

A number of prominent solar physicists have been contacted to see if the planetary tidal forces associated with the so-called "Jupiter Effect" could significantly influence the timing of the next solar maximum, currently predicted to occur in 1979 or 1980 at the latest. The timing of the solar maximum is obviously crucial to our planning for an optimum Solar Maximum Mission (SMM). These experts, all solar flare theoreticians or observers with detailed acquaintance with the solar activity cycle, agreed unanimously that the probability that the "Jupiter Effect" could influence solar activity in any significant way was extremely small and that the statistical evidence advanced supporting this hypothesis was very controversial. The theoreticians pointed out that the forces brought into play by planetary influences are much smaller than the forces produced by convective processes at the Sun's surface.

NASA already has underway an active program using space techniques to observe the earth's crustal and dynamical motions, in order to contribute to the knowledge of earthquake mechanisms and the development of earthquake prediction approaches. This is, in fact, the first objective of the NASA Earth and Ocean Physics Applications Program (EOPAP). The first major element of this program is the San Andreas Fault Experiment (SAFE), undertaken jointly by NASA and the U.S. Geological Survey, which aims at measuring for the first time the actual motion of the crust across the region of the Western United States, extending roughly

from the Pacific Coast to the Rocky Mountains, that is marked by extensive earthquake activity or crustal motions as large as a few centimeters per year. Satellite tracking lasers which are used to determine these motions are to be located initially near San Diego and Quincy in California, and near Bear Lake in Utah. System improvements should permit observation of these tiny motions toward the end of the decade. These same stations will also permit very accurate monitoring of irregularities in the earth's rotation rate and the wandering of its polar axis of rotation. These irregularities are thought by some scientists to be associated with large earthquakes, and perhaps even to precede them. These phenomena are being studied in the NASA EOPAP program for their possible implications for earthquake prediction. The subject is discussed in more detail in the attached reference from the *Scientific American* Vol. 225, No. 6, December 1971.

The laser tracking of Apollo corner reflectors on the moon from stations in Texas and Hawaii, and the very long baseline interferometer (VLBI) tracking of radio stars will complement the satellite laser tracking technique and provide the needed verification of the very accurate systems needed to observe these motions.

Additionally, NASA is also studying tectonic activities on Mars. We plan to land two Viking spacecraft on Mars in 1976. These spacecraft will have seismometers on board to measure Martian tremors. Comparison of the rapidity and magnitude of Martian tremors to those of the Earth should enhance our understanding of earthquake phenomena.

Current empirical data have resulted in the development by university scientists of a new theory for earthquake predictions. This theory is called the "dilatancy theory," which indicates that earthquakes may be predicted sufficiently in advance of their occurrence by measuring the electrical conductivity of the earth's surface, the ground elasticity, and the ground uplifting to allow possible protective action to be taken. If this theory is correct, it would enable the prediction of not only major but minor earthquakes and within localized regions.

NASA will continue to watch developments not only relating to the "Jupiter Effect" but also in other space-related areas which show promise in connection with earthquake problems. Our contribution is aimed at using space techniques to make much more accurate measurements of crustal and polar motions than have been possible heretofore.

Should you desire any additional information on the matter, please let me know.

Sincerely,

GEORGE M. LOW.
(For James C. Fletcher, Administrator).

OIL PRICES, INFLATION, AND THE STATUS OF THE WORLD ECONOMY

Mr. PERCY. Mr. President, the meetings of the Board of Governors of the International Monetary Fund—IMF—and the International Bank for Reconstruction and Development—IBRD—here in Washington last week provided an excellent forum to discuss the world economic problems. The overriding issues were the price of international crude oil and the worldwide inflation.

Two prominent Americans delivered substantive addresses before the meeting, Secretary of the Treasury, William E. Simon and President of the IBRD, Robert S. McNamara. Most interestingly, they spoke with different perspectives, from different positions of responsibility. Secretary Simon reflected the worries and concerns of a finance minister from a leading industrial country. President McNamara outlined the plight of the less developed world. Together they painted an economic scene of very troubled waters.

Neither man directly addressed the major cause of the problem, the extortionary price of international crude now set by the OPEC cartel. Perhaps this is because diplomacy demands that issues be skirted in public to allow for maneuver in private. It is a tactic not unknown to this body. However, the inevitable conclusion that can be drawn from these speeches is that oil prices must be lowered in the near future.

Mr. President, I ask unanimous consent that the speeches of both Secretary Simon and President McNamara be printed in the RECORD.

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

ADDRESS OF THE HONORABLE WILLIAM E. SIMON

Mr. Chairman, Mr. Witteveen, Mr. McNamara, Fellow Governors, Distinguished Guests:

Our recent annual meetings have reflected encouraging changes in the international economic scene. Three years ago, our attention was focused on the New Economic Policy introduced by the United States to eliminate a long-standing imbalance in the world economy. Two years ago we launched a major reform of the international trade and payments system. Last year we developed the broad outlines of monetary reform.

This year circumstances are different. We face a world economic situation that is the most difficult since the years immediately after World War II.

Our predecessors in those early postwar years responded well to the great challenges of that period. I am confident we can also respond appropriately to the challenges of our day. But first we must identify the issues correctly.

Let me declare myself now on three of these key issues.

First, I do not believe the world is in imminent danger of a drift into cumulative recession—though we must be alert and ready to act quickly should the situation change unexpectedly. I do believe the world must concentrate its attention and its efforts on the devastating inflation that confronts us.

Second, I *do not* believe the international financial market is about to collapse. I *do* believe that situations can arise in which individual countries may face serious problems in borrowing to cover oil and other needs. For that reason we must all stand prepared to take cooperative action should the need arise.

Third, I firmly believe that undue restrictions on the production of raw materials and commodities in order to bring about temporary increases in their prices threaten the prosperity of all nations and call into question our ability to maintain and strengthen an equitable and effective world trading order.

THE INFLATION PROBLEM

With respect to the first of these issues, it is clear that most countries are no longer dealing with the familiar trade-off of the past, balancing a little more or less inflation against little more or less growth and employment. We are confronted with the threat of inflationary forces so strong and so persistent that they could jeopardize not only the prosperity but even the stability of our societies. A protracted continuation of inflation at present rates would place destructive strains on the framework of our present institutions—financial, social and political.

Our current inflation developed from a combination of factors: in addition to pressures emanating from cartel pricing practices in oil, we have suffered from misfortune—including bad weather affecting crops around the world; bad timing—in the cyclical convergence of a worldwide boom; and bad policies—reflected in years of excessive government spending and monetary expansion. As financial officials, we cannot be held responsible for the weather, but we must accept responsibility for government policies, and we must recommend policies that take fully into account the circumstances of the world in which we find ourselves.

In today's circumstances, in most countries, there is in my view no alternative to policies of balanced fiscal and monetary restraint. We must steer a course of firm, patient, persistent restraint of both public and private demand, and we must maintain this course for an extended period of time, until inflation rates decrease. We must restore the confidence of our citizens in our economic future and our ability to maintain strong and stable currencies.

Some are concerned that a determined international attack on inflation by fiscal and monetary restraint might push the world into a deep recession, even depression.

I recognize this concern, but I do not believe we should let it distort our judgment.

Of course, we must watch for evidence of excessive slack. The day is long past when the fight against inflation can be waged in any country by tolerating recession. We must remain vigilant to the danger of cumulative recession. But if there is some risk in moving too slowly to relax restraints, there is also a risk—and I believe a much greater risk—in moving too rapidly toward expansive policies. If we fail to persevere in our anti-inflation policies now, with the result that inflation becomes more severe; then in time counter-measures will be required that would be so drastic as to risk sharp downturns and disruptions in economic activity.

There is a tendency to lay much of the blame on the international transmission of inflation. Certainly with present high levels of world trade and investment, developments in any economy, be they adverse or favorable, are quickly carried to other economies. But that does not absolve any nation from responsibility to adapt its financial policies so as to limit inflation and to shield its people from the ultimate damage which inflation inflicts on employment, productivity and social justice in our societies.

RECYCLING AND THE STRENGTH OF CAPITAL MARKETS

In addition to inflation, public concern has centered on methods of recycling oil funds and on whether we need new institutions to manage those flows.

So far, our existing complex of financial mechanisms, private and intergovernmental, has proved adequate to the task of recycling the large volumes of oil moneys already moving in the system. Initially, the private financial markets played the major role, adapting in imaginative and constructive ways. More recently, government-to-government channels have increasingly been opened, and they will play a more important role as time goes

by. New financing organizations have also been established by OPEC countries. Our international institutions—and specifically the IMF and World Bank—have redirected their efforts to provide additional ways of shifting funds from lenders to borrowers. The IMF responded rapidly in setting up its special oil facility.

In our experience over the period since the sharp increase in oil prices, three points stand out:

First, the amount of new investments abroad being accumulated by the oil-exporting countries is very large—we estimate approximately $30 billion thus far in 1974.

Second, the net capital flow into the United States from all foreign sources, as measured by the U.S. current account deficit, has been small, about $2 billion so far this year. During the same period our oil import bill has been about $12 billion larger than it was in the comparable period last year.

Third, markets in the United States are channeling very large sums of money from foreign lenders to foreign borrowers. Our banks have increased their loans to foreigners by approximately $15 billion since the beginning of the year, while incurring liabilities to foreigners of a slightly larger amount. This is one kind of effective recycling. And while some have expressed concern that excessive oil funds would seek to flow to the United States, and would require special recycling efforts to move them out, the picture thus far has been quite different.

No one can predict for sure what inflows of funds to the U.S. will be in the future. But it is our firm intention to maintain open capital markets, and foreign borrowers will have free access to any funds which come here. The United States Government offers no special subsidies or inducements to attract capital here; neither do we place obstacles to outflows.

Nonetheless, some have expressed concern that the banking structure may not be able to cope with strains from the large financial flows expected in the period ahead. A major factor in these doubts has been the highly publicized difficulties of a small number of European banks and one American bank which have raised fears of widespread financial collapse.

The difficulties of these banks developed in an atmosphere of worldwide inflation and of rapid increases in interest rates. In these circumstances, and in these relatively few instances, serious management defects emerged. These difficulties were in no way the result of irresponsible or disruptive investment shifts by oil-exporting countries. Nor were they the result of any failure in recycling or of any general financial crisis in any country.

The lesson to be learned is this: in a time of rapid change in interest rates and in the amounts and directions of money flows, financial institutions must monitor their practices carefully. Regulatory and supervisory authorities too must be particularly vigilant. We must watch carefully to guard against mismanagement and speculative excesses, for example, in the forward exchange markets. And we must make certain that procedures for assuring the liquidity of our financial systems are maintained in good working order. Central banks have taken major steps to assure this result.

Although existing financial arrangements have responded reasonably well to the strains of the present situation, and we believe they will continue to do so, we recognize that this situation could change. We should remain alert to the potential need for new departures. We do not believe in an attitude of laissez-faire, come what may. If there is a clear need for additional international lending mechanisms, the United States will support their establishment.

We believe that various alternatives for providing such supplementary mechanisms should be given careful study. Whatever decision is made will have profound consequences for the future course of the world economy. We must carefully assess what our options are and carefully consider the full consequences of alternative courses of action. The range of possible future problems is a wide one, and many problems can be envisaged that will never come to pass. What is urgently needed now is careful preparation and probing analysis.

We must recognize that no recycling mechanism will insure that every country can borrow unlimited amounts. Of course, countries continue to have the responsibility to follow monetary, fiscal and other policies such that their requirements for foreign borrowing are limited.

But we know that facilities for loans on commercial or near-commercial terms are not likely to be sufficient for some developing countries whose economic situation requires that they continue to find funds on concessional terms. Traditional donors have continued to make their contributions of such funds, and oil-exporting countries have made some commitments to provide such assistance. Although the remaining financing problem for these countries is small in comparison with many other international flows, it is of immense importance for those countries affected. The new Development Committee which we are now establishing must give priority attention to the problems confronting these most seriously affected developing countries.

TRADE IN PRIMARY PRODUCTS

For the past two years, world trade in primary commodities has been subject to abnormal uncertainties and strains. Poor crops, unusually high industrial demand for raw materials, transport problems, and limited new investment in extractive industries have all contributed to tremendous changes in commodity prices. Unfortunately, new forms of trade restraint have also begun to appear.

In the past, efforts to build a world trading system were concentrated in opening national markets to imports. Clearly, we need now also to address the other side of the equation, that of supply.

The oil embargo, and the sudden and sharp increase in the price of oil, with their disruptive effects throughout the world economy, have, of course, brought these problems to the forefront of our attention.

The world faces a critical decision on access to many primary products. In the United States we have sought in those areas where we are exporters to show the way by maximum efforts to increase production. Market forces today result in the export of many items from wheat to coal which some believe we should keep at home. But we believe an open market in commodities will provide the best route to the investment and increased production needed by all nations.

We believe that cooperative, market-oriented solutions to materials problems will be most equitable and beneficial to all nations. We intend to work for such cooperative solutions.

PROSPECTS FOR THE FUTURE

In the face of our current difficulties—inflation, recycling, commodity problems—I remain firmly confident that, with commitment, cooperation and coordination, reasonable price stability and financial stability can be restored.

The experience of the past year has demonstrated that although our economies have been disturbed by serious troubles, the international trade and payments system has stood the test.

Flexible exchange rates during this period have served us well. Despite enormous overall uncertainties, and sudden change in the prospects for particular economies, exchange markets have escaped crises that beset them in past years. The exchange rate structure has no longer been an easy mark for the speculator, and governments have not been limited to the dismal choice of either financing speculative flows or trying to hold them down by controls.

Another encouraging fact is that the framework of international cooperation has remained strong. Faced with the prospect of severe balance-of-payments deterioration, deficit countries have on the whole avoided short-sighted efforts to strengthen their current account positions by introducing restrictions and curtailing trade.

In the longer run, we look forward to reinforcing this framework of cooperation through a broad-gauged multilateral negotiation to strengthen the international trading system. In the "Tokyo Round," we hope to reach widespread agreement, both on trade *liberalization measures*—helping all countries to use resources more efficiently through greater opportunities for exchange of goods and services—and on trade management measures—helping to solidify practices and procedures to deal with serious trade problems in a spirit of equity and joint endeavor. It is gratifying that more and more governments have recognized the opportunities—and the necessity—for successful, creative negotiations on trade.

We in the U.S. Government recognize our own responsibility to move these negotiations along. Early last year we proposed to our Congress the Trade Reform Act to permit full U.S. participation in the trade negotiations. It is clear that in the intervening months the need for such negotiations has become all the more urgent. We have therefore been working closely with the Congress on this crucial legislation, and we shall continue to work to insure its enactment before the end of this year.

In the whole field of international economic relations, I believe we are beginning to achieve a common understanding of the nature of the problems we face. There is greater public recognition that there lies ahead a long, hard world-wide struggle to bring inflation under control. Inflation is an international problem in our interdependent world, but the cure begins with the policies of national governments. Success will require, on the part of governments, uncommon determination and persistence. There is today increasing awareness that unreasonable short-term exploitation of a strong bargaining position to raise prices and costs, whether domestically or internationally, inevitably intensifies our problems.

Finally I am encouraged that our several years of intensive work to agree on improvements in the international monetary system have now begun to bear fruit. The discussions of the Committee of Twenty led to agreement on many important changes, some of which are to be introduced in an evolutionary manner and others of which we are beginning to implement at this meeting.

For the immediate future, the IMF's new Interim Committee will bring to the Fund structure a needed involvement of world financial leaders on a regular basis, providing for them an important new forum for consideration of the financing of massive oil bills and the better coordination of national policies. The Interim Committee should also increasingly exercise surveillance over nations' policies affecting international payments, thereby gaining the experience from which additional agreed guidelines for responsible behavior may be derived.

Moreover, discussions in the Interim Committee can speed the consideration of needed amendments to the Fund's Articles of Agreement. These amendments, stemming from the work of the Committee of Twenty, will help to modernize the IMF and better equip it to deal with today's problems. For example, the Articles should be amended so as to remove inhibitions on IMF sales of gold in the private markets, so that the Fund, like other official financial institutions, can mo-

bilize its resources when they are needed. In order to facilitate future quota increases, the package of amendments should also include a provision to modify the present requirement that 25 percent of a quota subscription be in gold. Such an amendment will be a prerequisite for the quota increase now under consideration. And the amendment will be necessary in any event for us to achieve the objectives shared by all the participants in the Committee of Twenty of removing gold from a central role in the system and of assuring that the SDR becomes the basis of valuation for all obligations to and from the IMF.

Preparation of an amendment to embody the results of the current quinquennial review of quotas offers us still another opportunity to reassess the Fund's role in helping to meet the payments problems of member nations in light of today's needs and under present conditions of relative flexibility in exchange rates.

The trade pledge agreed by the Committee of Twenty provides an additional framework for cooperative action in today's troubled economic environment. It will mitigate the potential danger in the present situation of self-defeating, competitive trade actions and bilateralism. The United States has notified its adherence to the pledge, and I urge other nations to join promptly in subscribing.

The new Development Committee, still another outgrowth of the work of the Committee of Twenty, will give us an independent forum that will improve our ability to examine comprehensively the broad spectrum of development issues. We look forward to positive results from this new Committee's critical work on the problems of the countries most seriously affected by the increase in commodity prices and on ways to ensure that the private capital markets make a maximum contribution to development.

THE WORLD BANK AND ITS AFFILIATES

International cooperation for development is also being strengthened in other ways, notably through the replenishment of IDA. A U.S. contribution of $1.5 billion to the fourth IDA replenishment has been authorized by Congress, and we are working with our congressional leaders to find a way to complete our ratification at the earliest possible date. A significant new group of countries has become financially able to join those extending development assistance on a major scale. We would welcome an increase in their World Bank capital accompanied by a commensurate participation in IDA.

The United States is proud of its role in the development of the World Bank over the past quarter century. We are confident that the Bank will respond to the challenges of the future as it has so successfully responded in the past.

One of these challenges is to concentrate the Bank's resources to accelerate growth in those developing countries with the greatest need.

A second challenge is to continue the Bank's annual transfer of a portion of its income to IDA. The recent increase in interest rates charged by the Bank is not sufficient to enable the Bank to continue transfers to IDA in needed amounts. We urge that the Bank's Board promptly find a way to increase significantly the average return from new lending.

A third challenge is that the Bank find ways to strengthen its commitment to the principle that project financing makes sense only in a setting of appropriate national economic policies, of effective mobilization and use of domestic resources, and of effective utilization of the private capital and the modern technology that is available internationally on a commercial basis.

I should mention also that we are concerned about the Bank's capital position. We should encourage the Bank to seek ways to assist in the mobilization of funds by techniques which do not require the backing of the Bank's callable capital.

Within the Bank Group, we are accustomed to thinking mainly of the IFC in considering private capital financing. While now small, the IFC is, in my view, a key element in the total equation, and should be even more important in the future. But the Bank itself needs to renew its own commitment to stimulation of the private sectors of developing countries.

Finally, let me emphasize that the capable and dedicated leadership and staff of the World Bank have the full confidence and support of the United States as they face the difficult challenges of the current situation.

CONCLUSION

Ladies and Gentlemen, the most prosperous period in the history of mankind was made possible by an international framework which was a response to the vivid memories of the period of a beggar-thy-neighbor world. Faced with staggering problems, the founders of Bretton Woods were inspired to seek cooperative solutions in the framework of a liberal international economic order. Out of that experience evolved an awareness that our economic and political destinies are inextricably linked.

Today, in the face of another set of problems, we must again shape policies which reflect the great stake each nation has in the growth and prosperity of others. Because I believe that interdependence is a reality—one that all must sooner or later come to recognize—I remain confident that we will work out our problems in a cooperative manner.

The course which the United States will follow is clear. Domestically we will manage our economy firmly and responsibly, resigning ourselves neither to the inequities of continued inflation nor to the wastefulness of recession. We will strengthen our productive base, we will develop our own energy resources, we will expand our agricultural output. We will give the American people grounds for confidence in their future.

Internationally, let there be no doubt as to our course. We will work with those who would work with us. We make no pretense that we can, or should, try to solve these problems alone, but neither will we abdicate our responsibility to contribute to their solution. Together, we can solve our problems. Let me reaffirm our desire, and total commitment, to work with all nations to coordinate our policies to assure the lasting prosperity of all of our peoples.

ADDRESS TO THE BOARD OF GOVERNORS

(By Robert S. McNamara, President, World Bank Group, Washington, D.C., September 30, 1974)

I. INTRODUCTION

In the twelve months since our meeting in Nairobi the world economic scene has grown increasingly turbulent. The series of changes which have occurred have been of a magnitude previously associated only with major wars and depressions. New problems have arisen, older problems have become more acute, and the cumulative impact of events has touched every nation represented in this room.

What I propose, then, to do this morning is to review with you:

The scope and interrelated nature of these events;

Their implications for development on various groups of our member countries;

The general measures which might be taken to assist those developing countries most seriously affected by the current problems;

And what I believe the World Bank can and should do in its Fiscal Year 1975–1979 Program to help meet this new situation.

I want to emphasize at the outset one fundamental point which will underlie the whole of my subsequent argument. It is this. Though all of us have been affected in varying degrees by these complex events, by far the most adverse effects have fallen on those countries least able to cope with them: our poorest developing member nations.

These low income countries—relatively disadvantaged in natural resources, without significant foreign exchange reserves, and already suffering from serious internal deprivations—now find themselves caught in a web of external economic forces largely beyond their control. They can do little to influence the current disequilibrium, nor did they precipitate its underlying causes. And yet they have become the principal victims, and are faced with the several penalties.

These countries contain a billion individuals.

Whatever the problems and preoccupations of the rest of us may be, we simply cannot turn our backs on half the total population this institution serves.

The real issue, then, is whether we, in this forum, fully understand what is happening to the poorest countries—and having understood it, are ready to do what is necessary to assist them.

That is the essence of what I want to talk to you about this morning.

But before I turn to that in detail, I want to refer back to our last two meetings.

II. SOCIAL EQUITY AND ECONOMIC GROWTH

Two years ago I began a discussion with you of the critical relationship of social equity to economic growth. I emphasized then the wide disparity in income that exists among the peoples of the developing countries, and the need to design development strategies that would bring greater benefits to the poorest among those peoples: the roughly 40% of the population in every developing country who are neither contributing significantly to their nation's economic growth nor sharing equitably in its economic progress.

Last year in Nairobi I explored this problem further, pointing out that among the 2 billion people living in the more than 100 developing countries the Bank serves, there are hundreds of millions of individuals barely surviving on the margin of life, living under conditions so degraded by disease, illiteracy, malnutrition, and squalor as to deny them the basic human necessities. These are the "marginal men," men and women living in "absolute poverty"; trapped in a condition of life so limited as to prevent realization of the potential of the genes with which they are born; a condition of life so degrading as to insult human dignity—and yet a condition of life so common as to be the lot of 40%, some 800 million, of the peoples of the developing countries.

At Nairobi I outlined a program for the Bank which would begin to deal with these issues. That program will put primary emphasis not on the redistribution of income and wealth—as justified as that may be in many of our member countries—but rather on increasing the productivity of the poor, thereby providing for a more equitable sharing of the benefits of growth. I want to report on the steps we have taken to initiate that program and something of what we see ahead.

The first step in reaching the poorest 40% is to identify them—where they are, what they earn, and what public services reach them. With 70% of the population in the developing countries living in the rural areas, the center of the problem is there. And within the rural areas, we can usefully distinguish the following poverty groups:

1. Small farmers whose land holdings are of a size and quality which should enable them to sustain themselves and their fami-

lies, as well as to produce a marketable surplus, but who now do not do so;

2. Small farmers who cannot sustain the farm family without additional land or without supplementary income from non-agricultural activities;

3. The landless, some of whom migrate to larger towns and cities for off-season temporary employment.

Altogether, these categories contain some 700 million individuals. We do not now have all the information we need to identify the different groups in individual countries. We are, therefore, collaborating with the Food and Agriculture Organization on the development of a better data base and on obtaining a better understanding of the present and potential levels of productivity of individuals in each category.

You will recall that we stated that a reasonable overall productivity improvement objective was to increase production on the 100 million farms, with areas of less than 5 hectares, so that by 1985 their output would be growing by 5% per year, a rate more than double that of the 1960s. It is clearly an ambitious goal, but one whose achievement is made more urgent by the continuing food shortage in the developing world.

The Bank is determined to pursue this goal. But I should stress that what the Bank does is much less important that what governments do to deal with these issues. Progress will only be possible if the countries themselves are willing to make strong commitments to pursue agricultural strategies directed toward the promotion of new income and employment opportunities for the poorest groups. This will involve commitment to effective land reform, assurance of adequate credit at reasonable cost, and reassessment of pricing, taxation, and subsidy policies which discriminate against the rural areas. We are prepared to work closely with governments that wish to take such actions.

Already we see evidence that the objective of a 5% per annum increase in production can be realized. In the past year, we assisted in financing 51 rural development projects in 42 countries involving a total investment of almost $2 billion. These projects are expected to benefit directly at least 12 million individuals. They should generate increases in production of more than 5% per annum for the beneficiaries whose present incomes average less than $75 per capita.

During the next five years our lending to agriculture should double, supporting projects whose total costs will approximate $15 billion and whose direct benefits should extend to 100 million rural poor.

We expect the economic returns on these investments to exceed 15%. They would be similar to the following five projects which were approved by the Bank's Board of Directors in a single two-week period this summer.

A $10.7 million credit for agricultural development in the southern region of the Sudan which will provide a higher standard of nutrition for some 50,000 farm families through expanded food crops; will assist an additional 13,000 farm families through new cash crops; and will benefit roughly half the region's total population of three million people through improved, disease-free livestock.

An $8 million credit for a comprehensive rural development project in Upper Volta, covering extension services, small-farmer credit, improved water resources, and greater access to health facilities; a project calculated, in all, to benefit some 360,000 individuals, 7% of the country's total population in over 10% of the country's cultivated land area.

A $21.5 million credit for a broadly based livestock development program in Kenya, including provisions designed to assist traditional nomadic herders; to improve 10 million acres of communal rangeland; and to expand wildlife areas in order to lessen the conflict for food and water between wildlife and cattle. The program will enhance the incomes of 140,000 rural inhabitants.

An $8 million credit for an integrated rural development project in Mali providing farm inputs and equipment; an expanded functional literacy program; improved medical and veterinary facilities; and an agricultural research program. The program will reach over 100,000 farm families—some one million individuals—with agricultural services that are projected to triple their per capita incomes.

A $30 million credit for a comprehensive dairy development project in India, providing for an increase in production of a million tons of milk a year, as well as for 100,000 heifers; and organizing small cattle owners into 1800 dairy cooperatives which will directly benefit some 450,000 farm families—2½ million individuals—the majority of whom own holdings less than two hectares in size, or are landless. The economic return of the project is estimated at more than 30% on the capital invested.

Last month the Board approved:

A $10 million credit for a rural development project in one of the poorest regions in Tanzania to enhance the productivity, incomes and living standards of some 250,000 people—roughly half the entire rural population of the area—through improvements in agricultural practices and infrastructure investments for 135 newly-established villages. The project aims at doubling the per capita incomes of the villagers over a twelve-year period.

Many more similar projects are under preparation. For example:

A project in the three northern states of Nigeria providing for the construction of 3500 kilometers of low-cost farm-to-market roads, 250 earth dams, 480 rural water supply ponds, and new marketing and credit services. It is designed to benefit 226,000 rural families—over one and one-half million people—by raising incomes substantially above their present level of $40 per capita per year.

A project in one of the poorest regions of Northeastern Brazil to raise the productivity of 33,000 farms (which support 200,000 people) by increasing the number of extension agents; establishing demonstration farm plots; and introducing improved credit, marketing, health, and education facilities.

A project in India's drought-prone areas which cover 250,000 square miles, and in which 66 million people live. It aims to diversify their production into activities less dependent on rainfall. The project includes minor irrigation works, watershed management, improved crop production methods, sheep and dairy development, credit facilities (especially to smallholders), applied research, and farmer training programs. A population of over one million will have their incomes increased as a direct result of the project. One hundred thousand man-years of additional employment will be generated.

Perhaps the most comprehensive project we are working on is an effort to assist the Government of Mexico in its nationwide program of rural development. It is designed to reach the lowest income groups, and would involve a total investment of $1.2 billion over a four-year period. The program grew out of the Government's realization that although the nation had achieved, over the last three decades, the highest sustained growth in agricultural production in Latin America, rural poverty appeared to have worsened in many regions throughout the country, especially in semi-arid zones. The economy had been unable to provide the growing rural population with productive employment.

The thrust of the new program is to provide productive investments in low-income rural areas through small-scale irrigation, rainfed crop production, fruit and vegetable growing, and rural industries. These will be supported by associated investments in labor-intensive feeder road construction, water and soil conservation projects, and support services for the implementation of the Mexican land reform program. There will be provision, too, for social infrastructure, such as rural schools, water supply, health facilities, and electrification. This is, in fact, the most complex program with which the Bank has ever been associated.

It is true that the risks of failure are greater in rural development projects than in some of our more traditional investments. Complicated problems of technology, organization, land tenure, and human motivation remain to be resolved. And yet for the first time we are beginning to see substantial income and employment benefits within the reach of very large numbers of the rural poor, along with high economic returns to the national economy.

What is common to all these efforts within the Bank is an increased emphasis on innovative project design directed toward raising the productivity of the absolute poor, and toward helping them become greater participants in their country's progress. It is clear that development efforts of the past, both by governments and by the Bank, have simply not made an adequate contribution to the welfare of this huge and growing group. We must make sure that the unprecedented combination of events which is presently disturbing the world's economy—to which I now want to turn—does not distract our attention from this fundamental task.

III. RECENT ECONOMIC EVENTS

While the economic changes of the past year have been massive, the fact is that no one can see clearly yet either their extent or their duration. In such circumstances, projections of the future are bound to be uncertain. But they must be made if we are to initiate the long lead-time actions required to minimize the adverse effects of the changes, particularly those which are so seriously affecting many of the developing nations.

In this section I want to review the scope and interrelated nature of these events, with particular emphasis on worldwide inflation; changes in the prices of petroleum and other commodities; and the impact of these changes on the outlook for economic growth in the developed nations (which constitute the principal export markets of the developing countries). This discussion will be followed by a review of the effects of these events on the growth prospects and capital requirements of the developing countries through the remaining years of this decade.

Inflation in the developed nations

There has, of course, been a significant acceleration in the rate of inflation in the developed nations. It began before the rise in the prices of petroleum and other primary commodities, and it is only partially explained by them.

INDEX OF INTERNATIONAL PRICES[1]

	1956	1968	1972	1973	1974	1975	1980
Index (1967-69=100)	94	98	128	154	175	194	278
Percent change over previous year	2.3	—1.4	10.1	20.5	14.0	10.9	7.5

[1] An index of capital goods and manufactured exports prices of major developed countries. The index also reflects changes in exchange rates.

International prices, which had risen only 6% in the decade prior to 1968—less than 1% per year—have risen at an annual rate of nearly 10% in the five years since. The annual rate of inflation will surely decline from the 1974 level of 14% but could well average more than 7% for the period 1976–80.

Inflation benefits virtually all of the developing countries by reducing the burden of their debts service in relation to the value of their exports. However, for many of them—and especially the poorest—this benefit will be more than offset by the deterioration in their terms of trade.

Furthermore, inflation has already eroded the value of the concessionary aid which they receive. Most governments have not increased the amounts appropriated for Offiical Development Assistance (ODA) to offset inflation. ODA has declined, therefore, from 0.34% of the GNP of OECD countries[1] in 1972 to 0.30% in 1973 and is likely to fall further in the years ahead.

Petroleum price increase

Contributing to world inflation during the past twelve months has been the increase in the price of petroleum. Relative to export prices of manufactured goods, it has risen by four hundred percent. Although there had previously been a slow, long-term decline in petroleum prices which called for correction, the recent action has resulted in a price that is more than twice as high as it has been in the postwar period in relation to other commodities.

Since imported oil has provided the principal increase in world energy supplies in recent years and cannot rapidly be replaced by other sources, the effect of the price rise is a global imbalance of payments of unprecedented magnitude. Although the export surplus of the members of the Organization of Petroleum Exporting Countries (OPEC) will be offset in part by rapidly rising imports and perhaps by a reduction in oil prices, a substantial trade imbalance is likely to persist at least through the end of the decade.

I am concerned here not with the decision to increase the price of oil, but rather with its consequences for the less developed countries. There are two:

The cost of their current volume of oil imports has been increased by some $10 billion, which is 15% of their total import bill, and equal to 40% of the entire net inflow of external capital last year. As a result the countries least able to finance this cost increase have already had to curtail their development programs.

By the end of the decade some of the OPEC countries are likely to have a continuing balance of payments surplus totaling some $30–60 billion per year (in 1974 prices), the amount depending on their absorptive capacity and price policies as well as the success achieved by oil-importing countries in developing other sources of energy. Of this surplus, roughly a quarter—$8–15 billion in 1974 prices—would be directly with the other developing countries. The remaining $22–45 billion of the surplus would be with the developed countries. Such an imbalance would be so large as to exert a cumulative strain on the economies of the developed nations and on international financial markets, making it more difficult for developing countries to expand export earnings and to finance their balance of payments deficits.

Other commodity price changes

Prices of other primary products—prices which had remained fairly stable from the 1960s to mid-1972—have been increasing very rapidly since then. The high prices of commodities exported by developing countries in 1973 reflected the high level of demand prevailing in a period of exceptionally rapid growth in almost all industrial nations. The failure of wheat and rice crops in widespread areas of the world in 1972 and 1973 also had far-reaching effects on prices of cereal grains. Although some developing countries have benefits from the recent commodity boom, only a small number of them—principally mineral producers—is likely to continue to do so for the remainder of the decade.

Beyond 1974, price projections for primary commodities depend on the assumptions made about growth in the industrial countries, the major markets for such products. Since, as will be discussed below, the growth prospects in these markets for the remainder of the decade are less than they were in the 1960s and the early 1970s, the prices of most primary commodities are not likely to be very buoyant in the years ahead.

Effect of price changes on the terms of trade

The net effect of the increase in the prices of petroleum and other primary commodities, together with widespread inflation in the industrialized nations, will be a substantial change in the terms of trade of the developing countries—that is, in the relationship between the prices of their exports and imports.

TERMS OF TRADE—1973 VERSUS 1980 (1967–69=100)

	Population (in millions)	Terms of trade 1973	1980
Developing countries:			
1. Major oil producers	300	140	350
2. Mineral producers	100	102	102
3. Other developing countries:			
A. With per capita incomes over $200	600	104	95
B. With per capita incomes under $200	1,000	95	77
Total	2,000		
OECD countries	600	99	89

For the average of all primary commodity exports, 1973 represented a return to the peak price levels of the Korean War. However, this commodity boom has benefited mainly the richer primary producers, while the poorest suffered both in their terms of trade and in their export volumes. By the end of the decade, as indicated in the table above, there is likely to be a decline in the terms of trade of virtually all of the developing countries, with the exception of the petroleum and mineral producers. The poorest countries will in general be the most severely affected. They are likely to suffer a decline of over 20%. As a result, even with expanding export volumes, there will be little increase in the purchasing power of their exports in the face of rapidly increasing import requirements.

The outlook for economic growth in the developed countries

The industrialized nations have reacted to the rise of petroleum prices and other commodity prices, and to the worldwide inflation, in ways which have reduced their growth rates. Although they have been pursuing policies designed to adjust to the higher costs of energy and to the other inflationary forces, with minimum impact on production and employment, some slowdown of their economies following a period of very high growth was inevitable.

The sharp increase in the cost of petroleum was bound to lead to basic shifts in the structure of their economies, while the sharp rise in balance of payments deficits and the higher levels of inflation have exacerbated the already complex problems of managing the international financial system. All of these factors will continue to have an impact on the growth rates of the OECD countries. The effect to date is shown by the table below.

Rates of real growth of OECD countries (gross national product)

[In percent]

1960–70 (average annual)	4.9
1972	5.8
1973	6.7
1974	1.3

In comparison to growth rates of 5 and 6% in past years, present indications are that the GNP of the OECD countries in 1974 is growing at only 1.3%.

As for the future, a return to the 5% rate of growth realized in the 1960s would require without reducing production, and, equally important, the orderly recycling of the surpluses of the OPEC countries to finance the structural deficits of the industrial countries. Given the difficulties of achieving these objectives, it is only prudent to consider the effects on the developing countries of a drop in GNP growth in the OECD countries, to say, 3.5% or 4.0% for the remainder of the decade.

The adverse effect on the developing countries of such a reduction in economic growth in their major markets would be great. There is a strong relationship—almost 1 to 1—between changes in the growth rate of the OECD countries and that of the oil-importing developing nations. This is not surprising. Exports to OECD countries constitute 75% of the total exports of those nations. A diminished growth rate in the OECD countries translates very quickly into reduced demand for these developing nations' exports, leading in turn to a reduced capacity to import, and hence to lower rates of growth.

IV. CONSEQUENCIES OF RECENT EVENTS FOR THE DEVELOPING COUNTRIES

Any one of the events described above—the deterioration in the terms of trade, worldwide inflation, the increase in the price of oil, the slowdown in the rate of growth of the OECD countries—would have had a serious impact on the developing nations. In combination, the effect on some nations has been near disaster. The trade deficit of all the oil-importing developing nations will more than double this year to approximately $20 billion, and, if they are to maintain even minimum economic growth, it will continue to rise for the remainder of the decade.

Moreover, if present trends continue, Official Development Assistance, as a percentage of GNP, will continue to decline, and may not even increase sufficiently to offset the effects of inflation. Furthermore, unless steps are taken to expand the supply of capital on intermediate and market terms to the more creditworthy developing countries, they will have difficulty competing with the OECD countries in international markets for the funds necessary to finance their increased trade deficits.

If we were to assume that capital flows to the developing nations, with some adjustments for inflation, would rise from $20 billion to as much as $33 billion between 1973 and 1980, including an increase in Official Development Assistance from $10 billion to as much as $17 billion—assumptions which are probably optimistic and which I will examine in greater detail in a moment—it is estimated that the growth rates for the developing nations would be as shown in the table below:

DEVELOPING COUNTRY RATES OF GROWTH PER CAPITA

Developing countries by group	Population (in millions)	GNP growth per capita (average, percent) 1965–73	1974–80
1. Major oil producers	300	5.4	8.4
2. Mineral exporters	100	1.2	3.8
3. Other developing countries:			
A. With per capita incomes over $200	600	4.3	3.4
B. With per capita incomes under $200	1,000	1.1	—.4
Total	2,000		

[1] Twenty-four developed countries which are members of the Organization for Economic Co-operation and Development.

As is apparent, the growth rates projected for all of the developing nations, other than the petroleum and mineral exporters, are substantially below the levels which were thought likely only a few months ago.

Some countries—for example, Thailand and the Philippines whose reserves have benefited from buoyant export prices, or Turkey and Yugoslavia which have received substantial remittances from their workers abroad—can partially finance the heavy 1974 trade account deficits and can avoid severe deterioration of their growth rates. The prospects of other countries such as Korea and Brazil, which have been steadily expanding their export of industrial goods, are much better than those of countries dependent on agricultural exports.

The major impact is on the poorest nations. The rising prices of imported petroleum, fertilizer, and cereals; the slack demanded for their exports to developed countries; and the erosion by inflation of the real value of development assistance, all have dealt severe blows to the growth aspirations of the poorest members of the Bank. These nations, with a population of one billion, and incomes averaging less than $200 per capita, on the most likely set of assumptions regarding commodity prices, capital flows, growth rates in the OECD countries, would suffer an actual decline in their per capita incomes. The effect of this on the already marginal condition of life of the poorest 40% within these countries is an appalling prospect.

The countries thus affected are mostly in South Asia and Africa. Consider the following cases:

India: Higher oil prices will add $800 million to India's import bill this year—an amount equivalent to roughly two-thirds of her entire foreign exchange reserves, over 25% of her total exports, and far in excess of the previously projected net resource transfer. Price increases for nitrogenous fertilizer—and India is the world's largest importer of this essential ingredient of increased agricultural production—will add another $500 million; and higher prices for essential foodgrain imports still another $100 million.

Sri Lanka: Despite large cuts in food rations, in 1974 cereal grain import costs will rise by $100 million, fertilizer by $40 million, and petroleum by $100 million. And stagnating world prices of tea—Sri Lanka's major exports—have in effect locked the country into a long-term deterioration in its terms of trade.

Bangladesh: Devastated by both flood and war, the country has had to devote most of its imports to essential reconstruction and minimum food requirements. It has been unable as yet to mount a sustained development program which its more than 75 million people desperately require. To do so it would have to increase its imports substantially and yet this year alone the new oil prices will add $70 million to its costs, and food and fertilizer price increases an additional $100 million.

The Sahelian Countries of Africa: Due to the most devastating drought in their history, Mali, Niger, Upper Volta, Mauritania, Senegal, and Chad have been unable to take advantage of the favorable world prices of their chief exports: groundnuts, cotton, and livestock. The surge in petroleum prices has driven the cost of their essential fuel imports from 10% of their export earnings to 30 or 40%, at the same time that their food import requirements—literally to stave off mass starvation—have risen drastically.

The East African countries of Tanzania, Somalia, and Kenya are also facing severe balance of payments pressure.

V. MEASURES TO SPEED THE ADJUSTMENT PROCESS

To assist the developing countries in meeting the cumulative impact of these problems, the Bank has examined the internal and external adjustments which might be undertaken to minimize the setback to development summarized in the tables above.

Much must be done by the developing countries themselves, particularly in restructuring their patterns of use and procurement of energy and even more in expanding their production of cereal grains.

Restructuring patterns of use and production of energy

The impact of the petroleum price increases on the balance of payments of the developing nations could be diminished, of course, if they could reduce their consumption of imported petroleum. This could result either from a reduction in their consumption of energy in general, or through a shift from imported petroleum to domestic sources of energy supply.

While greater efficiency and conservation in energy use may be feasible in some cases, the amounts involved will be small. On average, the one billion people in the countries with per capita incomes below $200 consume only about 1% as much energy per capita as the citizens of the United States. Reduction of energy consumption in those countries in any significant degree can only lead to reductions in industrial and agricultural production, and a lowering of the standards of living for the masses of the population.

The outlook for substituting other forms of energy for petroleum is brighter. It will be possible in many countries, for example, India, Pakistan, Brazil, and Turkey, to generate power using alternative energy sources. Petroleum-based plants can be replaced with hydropower, geothermal power, or with coal, lignite or nuclear fuel plants. But even in countries where these alternative energy sources are available (and in some, such as Kenya and Upper Volta, this is a very uncertain prospect), exploiting these sources will require time-consuming geological or hydrological surveys and very large additional capital investments.

Moreover, the resources to be used for these investments must be drawn away from other projects, thereby reducing the countries' development programs. And in any event, it will be from 5 to 7 years before such facilities for energy production can become operational and begin to offset the increased foreign exchange costs of petroleum imports.

Expanding the production of food grains

Although there has been a reasonable long-run balance between supply and demand of food grains for the world as a whole, there has been a serious and growing shortage of food production in the developing countries. Unless remedial action is taken, the situation will become much worse. The principal reasons for the shortage have been the rapidly expanding population in these countries and their failure to achieve satisfactory levels of agricultural productivity.

Were present trends to continue, it is estimated that the cereal grain import requirements of the developing nations could double between 1970 and the middle of the next decade. By that time those countries would be seeking to import 70 to 80 million tons per year, and the foreign exchange required each year could reach $20 billion. This additional requirement could not be met from any reasonable projection of export earnings or capital inflows. There is only one answer to this problem: the 2.9% rate at which the developing countries have increased their output of food grains over the past two decades must be increased substantially.

This can be done. Grain yields in the developing countries are no more than 40% of the yields in the developed countries. The developing countries do have the potential to increase their agricultural productivity. But that potential cannot be realized unless the developing countries themselves initiate action on a wide front, including measures to expand the cultivated areas under irrigation, promote the availability and use of fertilizer, and maintain a price structure which provides farmers with adequate incentive to grow more food. These are the prerequisites to increasing productivity, and they will require substantial sums of capital.

Investments in world fertilizer capacity have been inadequate to cope with the sharp increase in the demand for fertilizers in the major grain-exporting countries of the OECD, and in the developing countries which have been modernizing their agriculture. The developing countries' share in total world consumption of fertilizers has increased from 10% in 1961 to about 17% today, and it is projected to increase further to 25% by the end of the decade.

We estimate that by 1980 the demand for nitrogenous and phosphatic fertilizers in the developing countries will exceed 22 million metric tons annually, only half of which can be produced with their existing capacity and its currently planned expansion. To add 11 million tons of additional production capacity would require an investment of some $6 to $10 billion.

Many developing nations have already initiated action to conserve energy and to explore alternatives to continuing increases in petroleum imports. Some have started to reduce their dependence on imported foodgrains. But years will pass before these efforts bear fruit. In the meantime, the higher import costs of petroleum, food grains, fertilizer, and manufactured goods will place a heavy burden on their balance of payments and reduce their savings available to finance investment. Unless these requirements are met by additional capital flows, the result will be further declines in their rates of growth.

This brings us to a discussion of the volume of capital required, in particular by the poorest developing countries, to prevent this outcome.

VI. CAPITAL REQUIREMENTS

Earlier I stated that we were to assume that capital flows to the developing nations would increase from $20 billion to $33 billion between 1973 and 1980, with Official Development Assistance rising from $10 billion to $17 billion, growth rates during these years for the developing nations (excluding the petroleum and mineral exporters) would average 3.4% per capita for the countries with individual incomes over $200 and would actually decline for those with incomes below $200. It is time to examine that assumption (shown as Case I in the following tables) and to consider alternatives.

The 3.4% per capita rate of growth projected for the middle and high income countries is far from satisfactory, and the decrease of .4% projected for the poorer countries is totally unacceptable. Were we to raise these rates by planning on a 4% per capita growth for the countries with incomes over $200 and a rate one-half of that for those with incomes of $200 or less, we estimate that the capita requirements by 1980 would rise by 60%. Total capital required would increase from $33 billion to $53 billion. ODA would have to rise to $24 billion, a huge sum, but a sum which would still be no larger than its present share of the donors' protected GNP. These data are shown in Case II.

TABLE I.—DEVELOPING COUNTRY RATES OF GROWTH PER CAPITA

Developing countries by group	Population (in millions)	GNP growth per capita (average, percent) 1965–73	1974–80 Case I	1974–80 Case II
1 Major oil producers	300	5.4	8.4	8.4
2 Mineral exporters	100	1.2	3.8	3.8
3 Other developing countries:				
A With per capita incomes over $200	600	4.3	3.4	4.0
B With per capita incomes under $200	1,000	1.1	—.4	2.1
Total	2,000			

TABLE II.—NET EXTERNAL CAPITAL FLOW REQUIRED TO ACHIEVE GROWTH RATES IN TABLE I

[Amounts in billions of dollars]

	1973	1980 Case I	1980 Case II
ODA—Amount	$9.4	$16.7	$24.4
Percent of donor GNP	(.30)	(.20)	(.30)
Other concessionary aid	1.9	5.5	5.5
Market terms borrowing	8.8	10.8	23.6
Total net external capital flow	20.1	33.0	53.5

Two-thirds of the increase in the capital required from 1973 to 1980 is needed simply to compensate for the higher prices of commodities and services imported by the developing countries.

Are such capital flows attainable?

In considering the question, I want to emphasize two points:

First, the substantial increase in market terms borrowing that the middle and higher income developing countries must undertake—efforts which can succeed only if the recycling mechanisms make special provision for the very large capital requirements of these countries as well as for those of the developed nations.

And second, the alarming rate at which inflation is eroding ODA flows and the failure to compensate for this balance of what might be termed the "money illusion"—that is, failing to recognize that in periods of rapid inflation the same number of dollars, at different moments of time, do not represent the same real values.

While the rapid growth of the Eurocredits extended to the developing countries in the recent past is striking, the total market borrowing by these countries was heavily influenced by the amounts lent to a few of the nations with a high credit standing. More than $3.3 billion out of the total of $8.8 billion raised in 1973 by the developing countries went to just three nations—Mexico, Brazil, and Peru—and an additional $2.1 billion went to the oil- and mineral-exporting countries. Very little was loaned to Turkey, Korea, the Philippines, Thailand, and other middle income countries which will need large amounts of such capital in the future.

To support Case II, the amount of $8.8 billion raised in 1973 would have to increase to $15 billion within the next two years and to some $24 billion in 1980; and the number of borrowers would have to increase significantly.

It is to be hoped that the international banking community will recognize that many of the developing nations, if assisted to make the structural adjustment necessary to realize their long-term growth potential, represent excellent opportunities for profitable placement of surpluses, particularly those generated initially in the OPEC countries. But, as I suggested before, one cannot be sanguine about the prospects of increased borrowing by the developing countries from the Eurocredit markets unless the developed countries provide some support to those markets. The developing countries will face heavy competition from the developed countries seeking to draw on OPEC surpluses to finance their own balance of payments deficits.

Market borrowing has not been a source of funds open to the lower income countries. These nations must depend mainly on concessionary flows, principally ODA. And it is in relation to ODA that the effects of the "money illusion" become most apparent.

ACTUAL AND PROJECTED FLOWS OF OFFICIAL DEVELOPMENT ASSISTANCE

[Amounts in billions of dollars]

Total	1960	1965	1970	1971	1972	1973	1974	1975	1980 Case I	1980 Case II
In current prices	4.7	5.9	6.8	7.8	8.7	9.4	10.7	11.9	16.8	24.4
In 1973 prices	7.7	9.0	9.3	10.0	10.0	9.4	9.4	9.5	9.3	13.5
As percent of GNP	.52	.44	.34	.35	.34	.30	.30	.29	.20	.30
ODA deflator	61	65	73	78	86	100	114	126	181	181

In the past ten years, ODA in relation to GNP has decreased by one-third. Today it is running at scarcely 40% of the .7% target. Since that objective was established by the United Nations General Assembly in 1970, there has been no increase, in real terms, in the concessionary flow despite a 12% increase of GNP in the donor nations. The reason, I believe, is clear: legislatures fail to recognize that the 62% increase between 1970 and 1974 in the money value of the ODA which they have appropriated not only contributes nothing toward attaining the .7% objective, but just barely maintains the real value of the 1970 level of assistance.

The most important single step the developed nations could take to assist the one billion people of the poorest countries would be to recognize that the effects of inflation alone require—and will continue to require—major increases in the appropriated money values of Official Development Assistance.

The OPEC countries are beginning to help meet the capital requirements of the developing nations, including making contributions to ODA which are larger in proportion to gross national product than those of the OECD nations.

Excluding Indonesia and Nigeria which are not in a position to export long-term capital, the projected change in the financial position of the OPEC countries, between the years 1973 and 1980 is shown in the following table:

PROJECTED CHANGE IN THE FINANCIAL POSITION OF THE OPEC COUNTRIES

[Excluding Indonesia and Nigeria]

	1973	1980
OPEC GNP—Amount (billions)	$76	$411
Percent of OECD GNP[1]	2.5	5.0
GNP per capita:		
OPEC	$951	$4,240
OECD[1]	$4,735	$11,980
OPEC foreign exchange reserves and external investments (billions)	$24	$624
OPEC income on external investments (billions)	$2	$40

[1] The OPEC GNP figures are not strictly comparable with those of the OECD countries. The former include a high proportion of income from the production of nonreplaceable assets for which no depreciation allowance has been provided. Were this factor to be taken into account, OPEC per capita GNP in 1980 would probably be 30 percent less than shown.

The data show that the OPEC countries will be highly liquid in 1980, although their GNP will be but a small fraction of that of OCED countries, and their per capita incomes, on average, substantially less. In these circumstances, it can be expected that they will direct a portion of their liquid funds to the financing of the ODA increases required by the poorest countries. But a far larger portion of the OPEC surpluses will no doubt be used to finance the very large capital requirements of the middle and higher income nations.

The OPEC countries have already taken a number of initiatives which may lead to an increase in the flow of their development aid. These range from Iran's and Iraq's agreements to supply India with specified quantities of oil on deferred payment terms, to the creation of the Saudi Arabian Development Fund, and the very substantial expansion of the Kuwait and Abu Dhabi Development Funds. But many of these initiatives will take time to organize and to staff. Disbursements are, therefore, likely to be slow. The World Bank has offered its assistance of these institutions to accelerate the flow of funds.

VII. THE CONTRIBUTION OF THE WORLD BANK GROUP FOR FISCAL YEARS 1975–79

The net effect of the events we have discussed is a dramatic increase in the capital required by the developing nations for the achievement of even modest rates of growth during the remaining years of the decade. The present plans of the OECD and OPEC countries do not indicate that sufficient capital will be available. Under these circumstances I believe the World Bank Group must expand its lending to the maximum permitted by prudent financial management and the availability of funds. The program which I have presented to our Board of Directors for their consideration is a first step in that direction.

It provides for total lending in the five fiscal years 1975–79 of $36 billion. The pro-

gram which the Board has approved for FY 75 contemplates commitments totaling $5.5 billion, compared to $4.5 billion in the fiscal year just ended, and $3.5 billion in the year before that.

The total of $16 billion for the five years compares with $16 billion for the previous period (FY 1970–74). However, the increase of $20 billion—125% in money terms—provides for an increase of only 40% in real terms (7% per annum).

At Nairobi, the negotiators of the countries contributing to the International Development Association (IDA) believed that their pledges of $4.5 billion for the 4th Replenishment period would provide an increase of 55% over the level of the 3rd Replenishment. Already that expected increase has been more than offset by actual or projected inflation. It now appears that the 4th Replenishment, in real terms, will be slightly smaller than the 3rd. To minimize the impact of this loss of value, we propose to shift the allocation of scarce IDA resources in such a way as to concentrate them on the countries most seriously affected by the recent economic developments. We intend to give priority in these countries to raising agricultural production in general and the productivity of the rural poor in particular.

The proposed Bank Group program is large. It will require net borrowing during the five years of over $13 billion. Much of that amount can, I believe, be borrowed from OPEC countries. They have been most cooperative with the Bank and in recent months we have received loan commitments from them totaling $2 billion. But as large as the Bank program is, in combination with the other funds which the OECD and OPEC countries indicate they plan to make available to the developing countries, it is totally inadequate to meet minimum development objectives.

I strongly recommend that the proposed Joint Ministerial Committee, as its first item of business, appraise the needs of the developing nations for additional capital and examine possible sources of funds to meet those needs. The formation of the Committee offers a new and welcome opportunity to focus the attention of the world's governments on the progress, or lack of progress of the developing nations, as well as the progress, or lack of progress of the richer countries in meeting their responsibility to support development in those nations.

VIII. SUMMARY AND CONCLUSIONS

Let me now conclude by summarizing the central points I have made this morning.

Although there are many ingredients that have contributed to the current economic turbulence, there are at least three principal and interrelated factors which are of major significance for the development scene.

One, of course, is inflation. Itself the troublesome child of many forces, inflation not only penalizes the poor proportionately more than the rich, and severely erodes the value of Official Development Assistance, but in leading to lower growth rate in the developed nations it threatens to reduce demand for the developing countries' exports, as well as to trigger protectionist tendencies.

The second factor is the sudden surge in the price of petroleum. Though it has contributed to balance of payments problems in many nations, it has fallen with the greatest severity on the poorest countries. They possess neither the flexibility of the developed nations to readjust trade and investment, nor the margin to reduce consumption.

And the third factor is the general boom in most other primary commodities. This has clearly benefited some developing countries. But it has also created further difficulties for the poorest nations whose exports simply cannot offset the price increases for fertilizer and food, which, in combination with the increases in oil and manufactured goods, have substantially reduced their terms of trade.

If, then, we survey the development scene as a whole, it is evident that countries with some 20% of the population of the nations we serve have registered a net gain: the oil-exporting countries and some of the mineral producers.

For certain other developing countries, representing about 30% of the total population, the long-run outlook is good although they face serious problems of adjustment to the new conditions. Most of them are in the middle and upper income categories of developing nations. They should be able to borrow much of what they need on the world capital markets if the recycling mechanism is designed and managed with their needs in mind. In addition, they will need large sums on intermediate terms and the Bank must expand its program to help meet this requirement.

But for the poorest of our member countries—countries that represent fully half of the total population of all the nations we serve, countries containing one billion human beings—the situation is desperate.

Almost every element in the current economic situation has worked to their disadvantage, and has been compounded even further for many of them by the natural disasters of flood, drought, and crop failures.

These countries, then, need additional assistance on concessionary terms, and they need it promptly: $3 to $4 billion more per year in the remaining years of the decade.

Can such assistance be mobilized in the current economic environment—an environment in which the real per capita incomes of many of the largest donors have decreased in the past twelve months and in which all traditional donors face severe inflation, unacceptable unemployment, and uncertain growth prospects.

I believe it can—and I believe it must.

The world has not suddenly lost its wealth. The OPEC countries have gained huge amounts, and the traditionally wealthy nations continue to be wealthy. They are less wealthy than they hoped to be at this time, but they are more wealthy than they were as recently as twenty-four months ago, and immeasurably more wealthy than the nations of the developing world.

What, after all, really constitutes wealth? And what more fundamental measures of wealth are there than the levels of nutrition, literacy, and health? It is in these terms that the average citizen of a developed nation enjoys wealth beyond the wildest dreams of the one billion people in the countries with per capita incomes under $200: his caloric intake is 40% greater; his literacy rate is four times higher; the mortality rate of his children is 90% lower; and his own life expectancy 50% more. Are there any more basic terms in which to compare the wealth of the developed and developing nations?

The developed nations, understandably preoccupied with controlling inflation, and searching for structural solutions to their liquidity imbalances, will be tempted to conclude that until these problems are resolved, aid considerations must simply be put aside.

But aid is not a luxury—something affordable when times are easy, and superfluous when times become temporarily troublesome.

It is precisely the opposite. Aid is a continuing social and moral responsibility, and its need now is greater than ever.

It is true that the affluent nations in the face of shortages and inflation, and in order to continue to expand aid, may have to accept for the time being some selective reduction in their already immensely high standard of living. If they have to, they can absorb such inconveniences.

But for the poorest countries such a downward adjustment is a very different matter. For them downward does not mean inconvenience, but appalling deprivation. And for millions of individuals in these countries downward means simply the risk of death.

The problem, then, is not that the developed nations have suddenly lost their capacity to assist those countries most in need. They have not. The amounts of additional financial assistance that would mean the difference between decency and utter degradation for hundreds of millions of the absolute poor are, in relative terms, minute—perhaps 2% of the increase in real income the developed world can look forward to in the remaining years of the decade.

The basic problem, then, is a philosophical one—a problem of values.

Will 1974 be best remembered as the year prices exploded? Or will it, perhaps, be better remembered in the longer perspective of history as the year when the word interdependence stopped being rhetoric, and started being reality?

One thing is certain: the development task has not diminished. It has only become more urgent. The responsibility of us all is to get on with it.

FLOW OF OFFICIAL DEVELOPMENT ASSISTANCE MEASURED AS A PERCENT OF GROSS NATIONAL PRODUCT[1]

	1960	1965	1970	1971	1972	1973	1974	1975	1980[2] required for— Case I	Case II
Australia	0.38	0.53	0.59	0.53	0.59	0.44	0.53	0.45		
Austria		.11	.07	.07	.08	.13	.13	.13		
Belgum	.88	.60	.46	.50	.55	.51	.56	.62		
Canada	.19	.19	.42	.42	.47	.43	.51	.51		
Denmark	.09	.13	.38	.43	.45	.47	.49	.50		
France	1.38	.76	.66	.66	.67	.58	.55	.51		
Germany	.31	.40	.32	.34	.31	.32	.30	.28		
Italy	.22	.10	.16	.18	.09	.14	.10	.08		
Japan	.24	.27	.23	.23	.21	.25	.24	.24		
Netherlands	.31	.36	.61	.58	.67	.54	.61	.65		
New Zealand[3]					.23	.27	.36	.47		
Norway	.11	.16	.32	.33	.41	.45	.63	.65		
Portugal	1.45	.59	.67	1.42	1.79	.71	.47	.42		
Sweden	.05	.19	.38	.44	.48	.56	.69	.70		
Switzerland	.40	.09	.15	.11	.21	.15	.15	.15		
United Kingdom	.56	.47	.37	.41	.39	.35	.34	.32		
United States[4]	.53	.49	.31	.32	.29	.23	.21	.20		

Footnotes at end of table.

FLOW OF OFFICIAL DEVELOPMENT ASSISTANCE MEASURED AS A PERCENT OF GROSS NATIONAL PRODUCT[1]—Continued

	1960	1965	1970	1971	1972	1973	1974	1975	1980[2] required for— Case I	Case II
Grand total:										
ODA dollar millions (current prices)	4,665	5,895	6,832	7,762	8,671	9,415	10,706	11,948	16,760	24,400
ODA 1973 prices	7,660	9,069	9,346	9,976	10,059	9,415	9,391	9,452	9,259	13,480
GNP dollar billions (current prices)	898	1,340	2,010	2,218	2,550	3,100	3,530	4,100	8,200	8,200
ODA as percent GNP	.52	.44	.34	.35	.34	.30	.30	.29	.20	3.0
ODA deflator	60.9	65.0	73.1	77.8	86.2	100.0	114.0	126.4	181.0	181.0

[1] Countries included are members of OECD Development Assistance Committee, accounting for more than 95 percent of total official development assistance. Figures for 1973 and earlier years are actual data. The projections for 1974 and 1975 are based on World Bank estimates of growth of GNP, on information on budget appropriations for aid, and on aid policy statements made by governments. Because of the relatively long period of time required to translate legislative authorizations first into commitments and later into disbursements, it is possible to project today with reasonable accuracy, ODA flows (which by definition represent disbursements) through 1975.

[2] Case I leading to a —0.4 percent change in GNP per capita per annum in countries with incomes of under $200 per capita would require ODA of $16,700,000,000 (.20 percent of DAC GNP) in 1980; Case II with 2.1 percent growth in GNP per capita would require $24,400,000,000 (.30 percent of DAC GNP) in that year.

[3] New Zealand became a member of the DAC only in 1973. ODA figures for New Zealand are not available for 1960–71.

[4] In 1949, at the beginning of the Marshall Plan, U.S. Official Development Assistance amounted to 2.79 percent of GNP.

CHINESE PATRIOTS CELEBRATE THEIR "DOUBLE TEN" ANNIVERSARY

Mr. HELMS. Mr. President, I wish to remind my colleagues of a significant anniversary for all people who cherish the cause of freedom. Sixty-three years ago, Dr. Sun Yat-sen led a successful revolution against the Ching Dynasty, establishing the first republic in Asia. Tomorrow, October 10, is the anniversary of that date. Chinese patriots everywhere celebrate this date as the "Double Ten" holiday, so named because it is the 10th month of the year. For free Chinese, it is their day of independence, commemorating the overthrow of the decadent Manchu Empire.

As we know, however, the young republic was destined to lead a stormy existence. The Japanese invasion, the rise of Mao Tse-tung, the vicissitudes of World War II, the fallout from the Yalta Conference, and disastrous policies pursued by a pro-Communist crowd in our own U.S. State Department led to the gradual extinction of freedom on Mainland China. On October 1, 1949, Mao Tse-tung proclaimed victory. The free Chinese, however, withdrew to the island province of Taiwan, and made that island an Asian demonstration project in freedom. True agrarian reform, the nurturing of private enterprise, the protection of Chinese family values, and the carrying on of the historic and ancient Chinese culture have been the hallmarks of the Republic of China.

As the free Chinese put together their war-tattered nation, it is important to remember that they did not ask for much from the rest of the world—all economic aid from the United States essentially ended in 1965, and all military grants from the United States were terminated in July of 1973. They are not asking for handouts from us; in fact, their overall economic picture has been very promising with their gross national product soaring over the past several years. For example, in 1960, the Republic of China's gross national product was $2.5 billion; by 1970, their output had more than doubled to $6.2 billion. There has been a steady rise since then, with the latest available figures putting the 1973 GNP for Taiwan at $8.6 billion.

The free Chinese are willing to work, and they cherish their independence in every respect. What they want is what I believe we do, in fact, owe them: our allegiance and moral support in their struggle against the Communists who have stripped them of their country.

There are those who hailed the policy of former President Nixon and Dr. Kissinger with respect to Communist China as a dramatic step forward for world peace and understanding. My response is that anyone who respects the Chinese people for their accomplishments and civilization cannot accept the Mainland regime as the legitimate representatives of the Chinese people. We are told that we cannot ignore 800 million Chinese; yet the truth is that when we deal with the Communist government in Peking, we are ignoring the wishes of 800 million Chinese, who have never had any say in the organization of the Communist government.

By dealing with Peking, we have gone beyond the realms of pragmatism. We inferentially have recognized the legitimacy of the claims of the Communists and have prejudiced the claims of Free China. Yet Free China survives, and will survive. Our current pro-Peking policy is an aberration. And the people of Free China should understand that they have not been forgotten, and that their friends in the United States will never allow Free China to be submerged in Communist tyranny.

GRISLY FOR THE GRIZZLIES

Mr. CRANSTON. Mr. President, I would like to bring to my colleagues' attention an article in the Manchester Guardian of September 21, 1974, by Mr. Simon Winchester.

The scenario set forth by Mr. Winchester of the dwindling grizzly bear population, while grim, is unfortunately only part of a larger, more discouraging picture. While the National Park Service management policies have contributed to the decline of the grizzly bear population in the Yellowstone ecosystem, the hunting seasons held annually in the States of Wyoming and Montana have dealt an equally severe blow to stability of the bear population.

The annual bear hunts have continued despite the fact that the bear population for the lower 48 States is conservatively estimated to be 800. In fact, a recent report by the Fish and Wildlife Service—not to be confused with the National Academy of Science study—recommends that because of the low number of grizzlies, the slow reproductive rate of the bear and the increasing man-caused pressures upon the bear and its habitat, the bear should be classified as a "threatened species" in the United States south of the Canadian border.

Despite the pessimistic outlook for the grizzly bear, the Fish and Wildlife Service has not implemented the recommendations of its task force. The unlimited hunting continues in the Bob Marshall ecosystem in Montana. So it still remains to be seen what the fate of the grizzly bear will be in the lower 48 States.

I ask unanimous consent that Mr. Winchester's article be printed in the RECORD.

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

GRISLY FOR THE GRIZZLIES

[From the Manchester Guardian, Sept. 21, 1974]

The Yellowstone National Park is currently facing an unusually pressing problem: it is running out of grizzly bears. Four years ago rangers reckoned there were about 230 specimens of Ursus arctos horribilis roaming the giant park in the extreme northwest of Wyoming. In 1973 ecologists estimated a total population of 158, and this year they think only 144 may be left.

Precisely what is going wrong is currently the subject of a bitter controversy that has pitted officials of the National Park Service against a small but vociferous band of environmentalists. The leader of this group is Dr. Frank Craighead, one of a pair of rugged and extraordinarily talented twins (the other is Dr. John who lives in Montana) who has become, over the past 20 years, perhaps the most devoted and renowned student of the grizzly bear in this country.

Dr. Frank Craighead, who now conducts his wild life research from a laboratory in the Grand Teton Park, 50 miles south of Yellowstone, blames the decline in the grizzly population in the park (only two other wilderness areas, both in Montana, house significant numbers of America's remaining specimens) on the so-called "bear management" policies of the park staff. A major mistake, he contends, was made four years ago, when the park superintendent, Mr. Jack Anderson, ordered the sudden closing of all of Yellowstone's big rubbish dumps—dumps which, he claimed at the time, were unsightly and unsanitary.

The relation between rubbish dumps and grizzly bears may not be immediately apparent; but ever since the end of the last century, in the early days of Yellowstone's life, the grizzlies have found that the col-

lected piles of travellers' refuse provided them with an excellent and foolproof source of food. For 80 years, grizzly bears have been feeding, often in great roaming bands who came down from the remote pine forests, at the rubbish dumps. Then, early in 1970, Mr. Anderson ordered all the dumps to be closed down, and any bears trying to use them to be removed or shot.

Dr. Craighead had warned that the peremptory removal of the bears' traditional food supply would cause trouble. He asked Anderson to phase out the dumps gradually, to provide temporary supplies of freshly killed elk and deer carcases for the hungry bears to feed upon, and for rangers to "go easy" on any angry grizzlies. But Anderson decided to go ahead anyway.

Hungry bears raged through the park, rangers shot and poisoned them at a rate that more than doubled the "wastage" rate (that included permitted hunting) of previous years, and within a few months the bear population began to fall.

In addition, some bears turned on visitors. In 1970 one youngster disappeared from a camp site, after it had apparently been ravaged by a bear, and he has never been found; in 1972 a youth was killed by a bear and a court case blaming the park service for negligence opens in California in November. Lesser injuries to tourists increased in the first few months after the dumps' closure—though Anderson points out that they now have fallen back to virtually nothing in 1974.

One reason why Yellowstone is safer than it was three years ago, though, may be that tourists who visit the park see, and come in contact with far fewer bears. The Park Service brochures are still considerate enough to tell motorists what to do in case of a "bear jam" on a park road—but the likelihood now of one getting held up for half an hour by an ursine mob wandering about on the road is extremely remote. We took a short trip through the park; an enchanting place, as ever, but nary a bear in sight. And yet Mr. Anderson, in one of his more polite retorts to the diatribes of the Craighead twins, recently said that "if anyone wants to see a grizzly bear, I can show them bears coming out of my ears."

Last month a group of quasi-independent arbitrators, headed by an ecologist from the University of British Columbia, reported on the controversy to the National Academy of Scientists in Washington. Their conclusion, and one which the park service now puts into all its press releases, was that the grizzly "is in no immediate danger of extinction." ("I never said that it was," said Dr. Craighead. "All I said was that if the park service continued with its management policy it could lead to the eventual wiping out of the Yellowstone grizzly population.")

But the same scientists also told the NAS that the Park Service research programme was "inadequate" and that a "conservative policy of removal" of grizzlies is from now on "essential." Hunting should be banned: the shooting of so-called "incorrigible" bears should be stopped; the grizzlies should be permitted to creep back to their old population levels once again. So the report represents a small triumph for environmental whistleblowing—though only, Craighead insists, a very small one. "The same policies are going on in Glacier National Park and in the Bob Marshall Wilderness. There is no knowing whether the men who are in charge of these policies will accept any of these recommendations. We are not out of the woods yet."

There are 600 grizzly bears left in the U.S.—perhaps if one is generous there might be as many as 800. It is not yet an endangered species, technically speaking, and there are many left up in the Canadian Rockies to maintain the world population at a reasonably high level. But in Yellowstone, the home of Yogi Bear and the traditional base of the grizzly in America, things are not so good. Whether Ursus arctos can escape a fate here that is truly horribilis remains to be seen.

CASTRO'S EXPORTATION OF REVOLUTION TO THE WESTERN HEMISPHERE

Mr. GURNEY. Mr. President, just as the development of Cuba as a Soviet satellite in the Caribbean should be of immense concern to those considering the "normalization" of U.S. relations with Cuba, so too should Castro's 15-year-old policy of exporting revolution to the rest of the hemisphere. It seems only logical that if the rest of the Americas are going to start acting "normally" toward Cuba—by restoring economic trade and renewing diplomatic relations—Castro should first start acting "normally" and discontinue sending money, arms, and trained guerrilla fighters to subvert other Latin American governments.

For one who complains about American interventionism, Castro has a record of stirring up trouble for others dating back to the earliest days of his regime. Less than a month after coming to power, one of Castro's top henchmen, Che Guevara, was quoted as saying, "the revolution is not limited to the Cuban nation," and 3 months after coming to power Castro himself was reported to have said, "the Caribbean is ours."

He was not kidding—at least not insofar as intent was concerned. Not long thereafter, 84 Cuban revolutionaries made a comic opera attempt to invade Panama. They failed—ludicrously—but their failure did not deter Castro from sending armed expeditions into the Dominican Republic, Haiti, and Nicaragua in an attempt to make his words come true.

The next year, 1960, Castro shifted his attention to the South American continent. True to his words, "we promise to continue making—Cuba—the example that can convert the Cordeillera of the Andes into the Sierra Maestra of the American continent," pro-Castro guerrillas turned to urban terrorism and sabotage in an effort to topple the freely elected government of President Romulo Betancourt.

About the same time, Fidelistas participated in an effort to overthrow the government of Paz Estenssoro in Bolivia, and were organizing workers, students, and peasants against the duly elected government of Alberto Lleras-Camargo in Colombia. In addition, the revolutionary movements of Turcios Lima and Yon Sosa in Guatemala began to gather steam.

All these movements continued well into the 1960's with Castro's blessing and, in many cases, active support. In 1962 alone, it has been reported that 1,500 Latin Americans were given instruction in guerrilla tactics in Cuba.

In 1963, a 3-ton arms cache together with a plan for using the arms to help Communist guerrillas capture Caracas was captured and subsequent evidence disclosed that Castro had supplied the weapons. In response, the OAS condemned Cuba for aggression and called on Latin American nations to apply economic sanctions against Castro. Hence, the trade embargo was born.

Despite such criticism, Castro continued his efforts. Fidelista activity continued in Venezuela and Colombia—although the revolutionary "republics" of Marquetalica, Sumapaz, and El Pato were cleaned out by the Colombian Army in 1964—and was reintroduced into the Dominican Republic where Castro supplied arms and training for a guerrilla movement that was undertaken in 1963. This Dominican effort was defeated, but there is evidence to suggest a number of Communists who had received guerrilla training in Cuba later participated in the 1965 takeover attempt that was thwarted only by the intervention of the United States and the Organization of American States.

It is also reasonable to assume that Castro and his supporters were not disinterested in the 1964 effort by Joao Goulart to turn Brazil over to the Communists. Fortunately, that move was thwarted by the Brazilians themselves. But, later, urban trained revolutionaries turned to urban terrorism in an effort to overthrow succeeding Brazilian Governments.

In 1966, undiscouraged by his failures, Castro hosted the famous Tricontinental Conference which adopted 73 resolutions directed at "the system of imperialist, colonialist, and neocolonialist exploitation against which it has declared a struggle to the death." Out of that conference came plans for further subversion of Latin America.

Perhaps the best known of all the episodes of Castro's exportation of revolution came shortly thereafter, in 1967, when Che Guevara took to the mountains of Bolivia in hopes of repeating his success in Cuba. But, rather than culminating in a tumultuous parade down the streets of La Paz, Guevara's movement attracted practically no support, was confined to a small part of the back country, and eventually wound up with the death of Guevara on October 9, 1967.

But Guevara's death brought not a decline in revolutionary fervor—as some have claimed—but rather a change in revolutionary tactics. Che's book "Guerrilla Warfare," with its rural orientation, was replaced by Carlos Marighella's "Mini Manual of the Urban Guerrilla" as the gospel for the exportation of revolution.

The bombings, the kidnapping, the urban terror that has been so prevalent in recent years, are directly attributable to this shift in revolutionary approach.

Since Guevara's death, urban terrorism, sponsored or supported by Castro, has reared its ugly head in a number of Latin American nations.

In Guatemala, for example, a revolutionary group, some of whose members were trained in Castro's Cuba, were responsible for the killing of two U.S. Army officers and U.S. Ambassador John Gordon Mein.

In Brazil, as I mentioned previously, Cuba trained revolutionaries turned to urban terrorism and evidence indicates they were involved in the kidnapping of

the United States and Swiss Ambassadors several years back.

In Uruguay, the Tupamaros, a group that wished to impose a Castro-style dictatorship on that country, conducted a campaign of urban terror that resulted in the death of a U.S. aid official, the kidnapping of a U.S. agricultural adviser, the abduction of the British Ambassador and the killing of a number of policemen and prominent Uruguayans.

In Argentina, Castro supported subversive elements prior to Peron's coming to power and has a lot in common with the so-called People's Revolutionary Army which is still stirring up trouble down there.

Along with this shift in emphasis to urban terrorism has come a change in the procedures being used to train guerrillas in Castro's Cuba. Rather than emphasizing numbers, Castro's guerrilla training centers—at least a dozen of which reportedly remain—concentrate on producing terrorists skilled in sabotage, kidnapping, molotov cocktail manufacture, and the techniques of bombing. As of 1971, at least 100 Cubans were still involved in operating these training camps, and, as a result of their efforts, and those of their predecessors, approximately 2,000 Castro-trained revolutionaries were estimated to be operating in Latin America.

Despite claims to the contrary, Castro, in both word and deed, is continuing his efforts to export revolution.

For instance, in April 1970, Castro said:

Cuba has not refused nor will she ever refuse support to the revolutionary movements.

A year later, he boasted:

Cuban fighters have shed their blood helping Latin American peoples. This is part of the best tradition of our fatherland and of our revolution.

And in the same speech, he added:

Before a truly inter-American system can function, . . . there first must be a revolution in each of the Latin American countries.

Three months later, Castro clarified his position on revolution even further:

Revolutionaries shall not make a single concession to imperialism and . . . they shall stand here firmly erect and raising our banner until the last Latin American nation is liberated.

And, just to make sure no one missed the message, Castro stated, in August of 1971, that he did not want anyone to think that Cuba was "peaceful" or no longer inclined to support revolutionary movements in Latin America. As he put it:

We have not repented one whit and . . . the path we have followed up to today is the path we will follow in the future.

In late 1972 and early 1973, much was made out of Castro's imprisonment of three men who hijacked a Southern Airways jet to Cuba and his subsequent adherence to an antihijacking agreement. But, Castro put those actions into perspective by stating that unless the United States changes its policies:

No one should think for a moment that we want reconciliation with Yankee imperialism.

Simply stated, Castro is interested in a deal strictly on his own terms, a deal where he has everything to gain and nothing to lose, a deal he can renege upon as easily as he has on so many of his other promises. Certainly, his speech of September 28 and that of his foreign minister, Raul Roa, to the U.N. on October 7, indicate that he is no more interested in reconciliation—except on his own terms—than he ever was.

As far as deeds go, Castro's actions speak as loud as his words about his desire to continue exporting revolution. In testimony before the House Subcommittee on Inter-American Affairs on September 26, 1972, a U.S. Defense Intelligence Agency analyst indicated that Cuba has continued to provide limited support to subversive groups in Venezuela, Colombia, Bolivia, Uruguay, Guatemala, and several other Latin American nations. Then, on October 31 of last year, this same analyst, testifying before the same subcommittee, indicated that, while the level of revolutionary support continued to decline, Castro had, in the year intervening, assisted subversive activities in the Dominican Republic, Argentina, and Chile.

The Chilean example is perhaps the most striking since Castro has made such a point of attacking CIA involvement in that nation. According to the testimony of the aforementioned DIA analyst, Castro supplied Chilean extremists, and terrorists supporting Allende, with training, arms, and advisers, subsequently, the Chilean junta cut off diplomatic relations with Castro and published a white book showing photographs of what it claimed were 13 crates of Cuban arms shipped in by the Cuban dictator. Yet Castro, the bearded grandaddy interventionist of them all, had the gall to criticize the dollars spent in Chile to help keep freedom alive. No doubt the fact that Castro does not give a hang for the meaning of the word freedom—except when some poor Cuban tries to exercise it—has a lot to do with the amazingly paradoxical attitude he has taken.

However, Chile and the Dominican Republic are not the only examples of recent Castro supported subversive activity. Just 3 weeks ago, a leading Uruguayan official claimed that Cuba was continuing to export revolution to his country and expressed doubts about the wisdom of lifting the economic sanctions against Castro. Earlier, the Governments of Bolivia and Paraguay had strongly voiced similar doubts. In short, Castro continues to calculatedly export revolution and there is no indication that he would change his policy if the sanctions were to be lifted.

In view of this continuous, 15-year record of intervention in the affairs of other sovereign nations—a record that Castro has indicated, by word and deed, will not change—it would be the height of folly for the United States to make things easier for him. If the sanctions were to be lifted, the nations participating in such lifting, would, by boosting Castro's trade, help finance their own undoing.

Likewise, by lifting the sanctions against Castro, we would appear to be condoning the efforts of Castro's subversives in the past and would lend encouragement and moral support to such activities in the future.

If the concept of self-determination of nations is to mean anything, Castro must give up his efforts to impose his style of government on others before others should be expected to do business with him. So far, Castro has been unwilling to accept such a concept, preferring instead to move ever closer to a government as intolerant of freedom as his own—the Soviet Union. As long as that is the case, I see no reason for the United States—or the OAS—to be in any great hurry to do him any favors or to grant him the vindication he so desperately seeks.

IMPLEMENTATION OF THE NOISE CONTROL ACT OF 1972

Mr. STEVENSON. Mr. President, 10 days ago, Senator TUNNEY addressed the Institute for Noise Control Engineering. His subject was the implementation of the Noise Control Act of 1972, of which he is the justifiably proud author.

The tone of the speech was one of aggressive despair—despair at the EPA's "snail-like pace"—mingled with an unwillingness to allow the agency to continue to procrastinate.

Just last Sunday, I met with leaders of the communities that surround O'Hare Airport. They represent more than 500,000 people who suffer the noise of 120 jets roaring overhead each hour. They share Senator TUNNEY's feeling and mine. More can be done. More must be done.

Mr. President, I commend Senator TUNNEY's speech to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

REMARKS OF SENATOR JOHN V. TUNNEY

It's nice to see old friends again.

Many of you will recall that two years ago, when I arrived breathless from a late night session of Congress in order to address this group about the then-pending noise legislation, I said, sadly, that I feared the legislation was dead—killed by a strange coalition of industry and true believers.

Fortunately, I was wrong. By virtue of what Senate Majority Leader Mansfield called a "legislative miracle," a tough Noise Pollution Control Act passed the Senate by an astounding vote of 75 to 5. Press accounts later characterized your meeting as the turning point in the uphill battle to pass the bill.

Two years later, I'm here again to tell you that the noise legislation we all fought for is in peril, that its implementation is being thwarted by a more traditional coalition of industry groups and double-talking bureaucrats. I hope, again, that I'm wrong and that our meeting today will be a turning point in implementation of the law.

Despite necessary compromises with the House of Representatives, the Noise Pollution Control Act of 1972, P.L. 92-574, retains remarkable strength, and provides ample authority for comprehensive and meaningful noise control. It places noise oversight responsibility squarely upon the shoulders of the Environmental Protection Agency, and requires EPA to develop noise criteia indicating the effects on public health and welfare from differing quantities and qualities of noise, promulgate regulations to curb noise

from major sources, and label other products to warn purchasers how noisy they are.

Furthermore, citizens themselves are permitted to sue to compel performance of nondiscretionary duties by EPA and other affected agencies, and to force others to obey the law. Stiff penalties are provided for noncompliance.

I thought, perhaps naively, that once the bill was signed by the President, my roles as chief sponsor and Senate floor manager were virtually completed. I flew off to California immediately after the final Senate vote, confident that the noisy airpline in which I was riding would be required by law to be substantially quieter within the next few years.

How wrong I was.

The problems began soon after the bill became law. EPA's first budget request was dramatically cut back by the Office of Management and Budget, and the noise office staff was too small to undertake many of its responsibilities.

After numerous queries, EPA Administrator Train finally admitted in a July, 1974, letter to me that the relatively small resource commitment . . . which was held almost constant through Fiscal Year 1972 and part of Fiscal Year 1973 was not capable of coping with the tasks required by the . . . legislation.

Quite an understatement.

In the two full years that the Act has been in effect, EPA has scarcely begun the tasks laid out for it. The Agency's best effort went into a thorough study of ways to curb aircraft and airport noise. This Report to Congress, due on July 27, 1973, was one of the very few statutory deadlines which the noise office has met since the bill was enacted into law. Since then, the Agency has broken its own promises to Congress to act swiftly in proposing airport-aircraft noise regulations to the Federal Aviation Administration, as mandated by Section 7 of the Act.

The law requires that "not earlier than" completion of its airport-aircraft study, EPA shall make recommendations to the FAA. EPA first promised that by January, 1974—eight months ago—its series of recommendations would be completed. We're still waiting for action, now pushed off until next year.

Ironically, since the noise bill was passed, modest steps to curb aircraft noise have been taken by the FAA itself, on the basis of prior legislative authority. Despite all the research it had done, EPA was scarcely consulted by the FAA during its own drafting process.

We now have a variety of regulations, proposed and final, written by the FAA to control supersonic transport fly-overs at supersonic speeds, limit noise emitted by small propeller-driven aircraft, quiet our older fleet of JT3D and JT8D jets through retrofitting the engine nacelles with sound absorbing material, and to establish a two-segment approach, bringing the noise footprint down in size. None of these was drafted by the EPA noise office.

On the eve of promotional demonstration flights by the British Aircraft Corporation's supersonic transport at Los Angeles International Airport and at numerous other airports around the country, there is no rule to curb noise from landings, take-offs or subsonic flight by SSTs, despite FAA promises since 1970 that such a rule would be forthcoming promptly.

A second good effort by EPA was the completion of a "levels" document indicating at what level noise adversely affects health. Release came six months late, only after an environmental group sued EPA for failing to meet a legal deadline. The controversial document provides information vital to states and cities in setting their own environmental noise regulations.

When one examines the remainder of EPA's tally sheet for meeting statutory deadlines, the results regrettably are far less than satisfactory. Regulations which were to have taken effect a year ago, notably those to quiet interstate motor carriers and trains, have yet to be promulgated.

The proposed motor carrier regulations are just short of an outrage. Despite substantially negative testimony presented at a last-minute two-day hearing as well as continued pressure from Capitol Hill, EPA has recommended a weaker standard than those in effect in at least two states: California and Illinois. Because the Federal regulations are preemptive, these two states, and perhaps others, will suffer greater noise exposure than their own laws allow. Beyond that, there is some question whether the final regulation will provide a non-degradation clause, prohibiting lower motor carrier noise levels from rising to the higher Federal level.

The railroad regulations suffer from many of the same pitfalls.

An equally poor track record has been recorded in the preparation of a document identifying major sources of noise. Just two weeks ago, over five months after the statutory deadline, EPA announced that a document identifying only two major sources of noise—medium and heavy duty trucks and portable air compressors—was available. Certainly these are not the *only* major sources of noise. Additional sources will be sporadically identified between now and late 1975, hardly the pace that Congress intended.

To date we have not heard a word about the labeling program which, if ever developed, would warn consumers of the noise they could expect from new products such as electric blenders, lawn mowers and hundreds of other household and industrial items.

It begins to appear to me, and perhaps to some of you as you listen, that EPA has, for all its work, fallen far short of its legal obligations.

Who's to blame, and what must be done?

First priority is the need for more money and staff to buttress the meager resources of the noise office. Unfortunately, my efforts to help have been stymied by bureaucratic double-talk. EPA staff has told me informally that a doubling of the noise budget and staff—now held at just over $5 million and 70 positions, few of which are professional—is essential, and yet the Agency refuses to give official confirmation to these statements. Moreover, during the same week I was told in oversight hearings that "we believe we have undertaken the needed staff expansion and are substantially meeting the requirements under this Act in an expeditious and efficient manner," Administrator Train told OHB that "we are holding the Noise Program to a low level of growth and consciously stretching out the full implementation of the 1972 Act. He has yet to explain this apparent deception to Congress.

A growing number of Senators and Representatives alike are not pleased by what has been the plight of the Noise Control Act. At least three pieces of legislation have been introduced in the House in the past two months aimed at ameliorating the difficulties now faced in the implementation process.

Several of my colleagues and I have been involved in no fewer than four oversight hearings subsequent to the Act's passage, in our attempt to jog EPA into compliance, and the House Interstate and Foreign Commerce Committee is now scheduling a fifth hearing.

We have sent letters to both EPA and the FAA. In most cases, responses were long in coming, and when they did arrive, appeared to be off-target.

A number of lawsuits are now pending against EPA and the FAA to compel compliance with statutory deadlines.

Unless swifter action is forthcoming, I have indicated I will ask the General Accounting Office to investigate the activities and expenditures of the noise program. In this way, we should learn whether resources are being well utilized by that office, and whether or not additional staff and budget would improve performance.

Sadly, I understand that the Office of Management and Budget has already turned down EPA's proposed noise enforcement budget for Fiscal Year 1976, despite the Agency's pleas that the present Noise Enforcement staff of *one* position is totally inadequate to handle the regulation and development activity." Even at EPA's snail-like pace, more than one person will be needed to enforce those regulations likely to be in effect by Fiscal Year 1976.

Had I known the hurdles, what would I have done differently? Having the program is certainly better than not having it; some important research is now completed and expertise has been amassed at the Federal level.

I recall that older environmental laws to clean our air and water progressed even more slowly when they were first passed in the early 1960's.

Of course, this is little comfort to residents around Los Angeles International and other major airports who have been waiting for quiet since the late fifties and the advent of the jet fleet.

During my efforts to pass the noise bill, I often told the story of the child I saw who lived under the flight path at Los Angeles International and had had cotton in her ears since returning from the hospital. That child is now four years old! How much longer must she wait for quiet?

Every week, I receive scores of letters from irate residents around California's airports, who say:

"I want to tell you those noisy old planes are still flying over our district. One of them nearly took the top of our home off. Next time you are in town, drop out and see us. You'll get an ear full."

What must we do?

I suggest that this group begin immediately to lobby the Administration. In addition to continued vigilance by the Congress and lawsuits to force compliance with statutory deadlines, a barrage of complaints to EPA, OMB, and the White House may well convince them to end their foot-dragging and to act decisively.

I am prepared to seek to strengthen the legislation if necessary, although in my view, the grant of authority is broad enough.

The problem lies with those administering the law. Only when they feel adequate pressure, coming from all sectors of American society, will their bureaucratic double-talk abate, and the quest for quiet begin in earnest.

ROCKEFELLER GIFTS

Mr. HELMS. Mr. President, the news media continue to carry more stories about the generosity of Governor Rockefeller to his close associates and political figures. I raised the question yesterday whether this generosity is not a matter of importance in evaluating his nomination to be Vice President of the United States.

We learn, for example, that the entire tax impact upon the Governor for his gifts to Dr. William Ronan, was the sum of $880,000. The New York Daily News tells us that the Governor made a gift of a painting worth $6,000 to former U.S. Attorney General John Mitchell in 1971, while Mr. Mitchell was still serving in a position of public trust. Indeed, if we examine the tax returns of Governor Rockefeller already made public, we find the following items under the heading "gift tax":

1964	$794,334
1965	191,950
1966	4,098
1967	1,543,460
1968	298,684
1969	216,436
1970	342,008
1971	35,280
1972	69,591
1973	410,896
	3,906,737

It is obvious from this list, which enumerates the amount of gift tax the Governor paid, not the size of the gift made, that the Governor has made sizeable gifts. Undoubtedly, the list includes gifts of a purely personal or family nature, without political overtones. On the other hand, it has already been confirmed by the Governor's spokesmen that a number of gifts were made to political figures. I think that it is a legitimate question for the public to ask what other political figures are on the Governor's gift list. This is information that the public has a right to know. The Governor may not wish to reveal his private philanthropy; that is certainly his privilege as a private citizen. However, if he does not wish to reveal the beneficiaries of his philanthropy, some members of the Senate may conclude that they cannot vote to confirm his nomination.

I want to make it clear that my only intention here is to see that the proper facts are brought out so that we can assess the nominee. I have not taken a position either against or in favor of the nominee. I have raised no accusations whatsoever. I have in no way impugned the integrity of the Governor. I only ask that the facts be brought out. And the best way to bring them out is to bring the Governor and Dr. Ronan, and anyone else who might have firsthand information before the Rules Committee.

I think that any time an elected official spends close to $1 million to make a gift to a political figure, then the public has the right to know "why" before that person is confirmed for a high office. And we are acting as surrogates for the 78 million people who voted in 1972, indeed for all of the American people.

I want to make my position clear, because I am disturbed by some comments I have received from various quarters. Just this morning I was called by a fellow North Carolinian, Mr. Clifton Daniel. Mr. Daniel's father was a prominent druggist in my home county, and a distinguished citizen whom we all remember fondly. I was delighted to hear from his son. Now, of course, Clifton Daniel is the Washington bureau chief of the New York Times. As I was saying, Mr. Daniel called me this morning to discuss my motivation in raising questions about the Governor's use of his power and finances. Mr. Daniel was evidently under the impression that I had doubts about the Governor's integrity, and he implied concern that I have raised these questions.

Let me say that I hope Governor Rockefeller does not need the New York Times to defend his integrity. As the Washington Post said in a lengthy article on Sunday, September 22, 1974, and I quote:

If the television networks give "Vice President" Rockefeller a bad time, he might turn to a friend at Chase Manhattan. According to a Senate subcommittee's study of corporate ownership, the bank controls respectable minority blocks of stock in CBS, ABC, and NBC, not to mention modest bites of The New York Times and Time-Life, Inc.

My own position is clear. Let all the relevant facts be spread upon the record, and let every Senator make his own choice. At the present time, there are still many ends lying about. They may indicate nothing of consequence. I think that we can all act under the presumption that no harm will be done by pulling at those loose ends. We must presume that the fabric is strong. Of course, when the press began to pull the loose ends of Watergate, the fabric fell asunder. But we must not fear to do the same in the present instance.

GRAIN EXPORT CONTROLS

Mr. THURMOND. Mr. President, President Ford recently moved to block the sale to the Soviet Union of some 3.4 million tons of wheat and corn, valued at approximately $500 million. As a follow-up to this decision to prohibit Continental Grain Co. and Cook Industries, Inc., from fulfilling their export contracts, Secretary of Agriculture Earl Butz has announced a new system of administrative review of export grain sales above a certain level prior to consummation of the contracts.

I very definitely have mixed emotions about the wisdom of these latest developments, although I feel President Ford and Secretary Butz had the best interests of the United States in mind when they made these decisions. On the one hand, I share a sincere concern with all consumers about rising food prices. Unfavorable weather conditions earlier this year have already seriously curtailed the size of 1974 feed grain harvests. Had these large grain sales been carried out as planned, supplies available for domestic use would have been further depleted, and inevitably, the higher prices of foods on grocery store shelves would reflect these tighter supplies. All of us must eat, and naturally, consumers hate to see the cost of food continue to rise. Yet, too often we forget that, even with the higher food prices, we Americans enjoy a more varied and higher quality diet at lower real cost than do the citizens of any other country in the world.

Our grain production and marketing is certainly a matter of critical national importance, and I continue to have reservations about giving the Soviet Union and other Communist nations free rein to disrupt our grain marketing system. These nations, in which the government owns and controls all grain-buying agencies, are not always guided by the normal price system of allocating goods and services. Political considerations and economic warfare are as likely to prompt Soviet decisions to purchase our grain as are legitimate needs for agricultural commodities.

Unfortunately, the recent administration decisions appear to be most unfavorable to a large segment of our agricultural economy. Those who are hurt the most by the imposition of any kind of modified export controls on grains are our American grain farmers. They deserve the best price obtainable for the goods which they produce, but they will probably bear the brunt of the losses caused by the recent administration decisions. Cancellation of the $500-million grain sale with the Soviet Union caused limit declines on grain commodity future trading markets Monday and Tuesday of this week, and it is likely that further drops in prices will occur, due to the uncertainty over whether sizable exports will be permitted in the future.

Grain prices have plummeted in the local spot markets as well as in the speculative futures markets. Numerous South Carolina farmers have called my office reporting that soybeans are down as much as $1 a bushel from last week, corn at least 50 cents a bushel, and the price of other grains also lower.

With our farmers presently in the midst of harvesting corn, and preparing to combine soybeans, these falling prices are a staggering blow. Many agricultural producers do not have grain drying and storage facilities to enable them to hold their harvested grains until prices recover. They must sell their crops as they take them from the field, and they can ill afford the losses they may have to sustain.

It is certainly no secret that the cost of basic materials which farmers must buy has skyrocketed this year. The prices of mixed fertilizer, nitrogen, pesticides, farm machinery and equipment, labor and virtually every other good and service which farmers must purchase, have all greatly increased in the last 18 months. On the other hand, the prices which farmers receive for their commodities are, in the majority of cases, lower than at this time last year.

Before the imposition of Government review of exports, our grain farmers had hopes of possibly making ends meet. Now, with these price declines and cost increases, they rightfully want to know why it is that the farmers are again having to sacrifice the most. With good reason, they ask why their Government imposes limits on the export of grains which they produce, while it encourages the foreign sale of fertilizers which they must buy.

Mr. President, this is exactly what I have contended for some time. It is terribly unfair and economically disastrous to limit the sale of farm crops, thus holding down prices received, while nothing is done to stop the rising cost of goods which farmers must buy. Our agricultural producers are the backbone of this Nation, and unless they are allowed a fair return on their labor, management, and investment, I fear that too many of them will be forced out of business. If that occurs, future food and fiber prices will make the present prices seem like special discounts.

I am hopeful that USDA predictions, that the present dramatic drop in grain prices is a temporary phenomenon, will prove correct. I would urge that forthcoming USDA guidelines for allocation of U.S. grain exports to foreign customers be drafted with the farmers' interest at heart, insofar as possible. Recognizing the reasons for the administration's decision to restrain grain exports, I nevertheless strongly recommend that the

United States pursue a policy of maximum free trade. To do otherwise is contrary to the best interest of our whole free enterprise system.

ELIMINATION OF THE OIL DEPLETION ALLOWANCE

Mr. BARTLETT. Mr. President, I sent the following telegram to President Ford. I ask unanimous consent that it be printed in the RECORD.

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

[Telegram]

The Honorable GERALD FORD,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am deeply shocked at your announcement supporting the elimination of the oil depletion allowance.

Your announcement is as inconsistent as it is counterproductive. On the one hand, you propose increasing the investment tax credit for general industry, and on the other, you eliminate the key tax incentives for attracting capital to the oil industry.

Starting in 1913, when the first income tax was levied, a form of depletion allowance was provided because it was recognized that income from a depletable asset should be treated differently from normal income. The percentage depletion allowance as we know it today began in 1927, and has been accepted as a sound tax principle ever since.

Your proposal, if enacted, and with your support I am confident it will be, will have a disastrous effect on an industry already plagued with price controls. It makes no sense to shackle the very industry which is the key to solving our energy crisis and strengthening our economy.

Your proposal will be particularly harmful to the small independent oil producer by making it more difficult for him to attract capital. In 1969, the reduction of the depletion allowance from 27½% to 22% decreased profits by an estimated 500 million dollars.

Certainly, it will mean many small producers will be driven out of business, thus eliminating competition, making us more dependent on the large producer, and ultimately on the OPEC cartel.

Additionally, and again inconsistent with the entire thrust of your message on the economy, the elimination of the oil depletion allowance will reduce the supplies of crude oil and natural gas, eventually drive up the prices of refined products, reduce competition, make us more dependent on the OPEC countries for energy, and fuel inflation.

Seven Presidents and twenty Congresses have supported the oil depletion allowance as important to our Nation's security. At a time when our economy and national security are threatened by energy shortages, an increase in the depletion allowance would be far wiser—it would increase energy supplies rather than reduce them.

From our conversation on the telephone this afternoon, there is some doubt in my mind whether you favor eliminating just the foreign depletion allowance rather than the entire depletion allowance. If this is the case, I strongly urge you to make your position clear, and I further urge you to support the domestic depletion allowance of at least 22%. I will vigorously support you in that position.

DEWEY F. BARTLETT.

MORTGAGE CREDIT FOR HOME PURCHASES

Mr. CRANSTON. Mr. President, the bill, S. 3979, to increase the availability of reasonably priced mortgage credit for home purchases was reported on October 3, 1974.

Through a clerical error, Senator MATHIAS, one of the original cosponsors of S. 3979, was omitted as a cosponsor on the printed copy of S. 3979 as reported.

Senator MATHIAS, as the ranking member of the HUD, Space, Science, and Veterans Subcommittee of the Appropriations Committee, testified on the urgent need for this legislation on August 6, and has given invaluable assistance and support to the passage of this measure.

WASHINGTON STRAIGHT TALK

Mr. ROBERT C. BYRD. Mr. President, on Monday, October 7, I was interviewed on "Washington Straight Talk," a National Public Affairs Center for Television program hosted by NPACT Correspondent Paul Duke.

I ask unanimous consent that the transcript of the program be printed in the RECORD.

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

ANNOUNCER. Senator Robert C. Byrd, Democrat of West Virginia, and Assistant Majority Leader in the Senate. Tonight on "Washington Straight Talk," Senator Robert Byrd is interviewed by NPACT correspondent Paul Duke.

PAUL DUKE. Senator, we are delighted to have you with us tonight.

We should tell our viewers that our scheduled guest, Robert Hartmann, the President's number one adviser, unfortunately could not be with us because Mr. Ford gave him orders to stick to writing his economic address, which Mr. Ford is giving to Congress tomorrow.

But since we had planned to have you as a guest in a couple of weeks, we just moved up the time, and we are delighted you could oblige.

And speaking of Mr. Ford's economic address, what are you hoping for when he delivers it tomorrow?

Senator ROBERT C. BYRD. I hope he will be utterly frank with the American people and tough in his recommendations.

PAUL DUKE. Now, when you say you hope he's tough in his recommendations, would you be specific? What—what would you like the President to lay out for the American people? What kind of sacrifices do you think we must make to meet the current economic crisis?

Senator BYRD. I think he ought to lay out a tough conservation program.

DUKE. You're talking about energy now?

Senator BYRD. Yes, because energy is one of the basics that go into the inflationary spiral. I think he ought not rule out standby wage and price controls. I think he ought to—I think he ought to indicate that he's going to have standby wage and price controls and that he will do some strong jawboning and that he will initially rely on voluntary compliance. But he ought to have some back-up, standby wage and price controls, with authority to cut back, to roll back if necessary. Then, too, I think he ought to indicate that heavy pressure is going to be placed on the Federal Reserve to lower the interest rates. And I think he ought to also indicate that he feels that he should have standby gasoline rationing authority. I'm against gasoline rationing. I'm against wage and price controls in ordinary circumstances. And even recently, back in the spring, I was opposed to gasoline rationing. But I think that the voluntary approach is not working, and the President needs a stick in the closet.

DUKE. Well do you think that the time has come for gasoline rationing?

Senator BYRD. I think the President ought to have standby gasoline rationing authority so that the American people would really see that we are in a crunch and that—and that, inasmuch as the voluntary approach is not working, that the government is prepared to go somewhere else.

DUKE. Well, there's no reason that Congress can't give the President standby authority for gas rationing, is there?

Senator BYRD. No reason that it can't, and it sought to do so early this year. The effort was not successfully in that instance. I voted to give him the standby authority. But that was met with opposition from the administration. . . .

DUKE. What you're suggesting is that the White House take the lead in a tough program?

Senator BYRD. The White House has to take the lead, because the action arm of the government in dealing with inflation has to be the executive branch. There has to be a leader. Five hundred and thirty-five men and women in the Congress of the United States can't administer the programs that are going to be administered.

DUKE. Senator, what about a surtax increase, or a surtax imposed on our income taxes? We're told that this will be in Mr. Ford's package. Do you favor that?

Senator BYRD. It depends upon where the level is, where it strikes, where it applies.

DUKE. Well, for example, we've been told that Mr. Ford may recommend a surtax on income levels above seven thousands dollars. There's another report that it might be above fifteen thousand dollars. Where do you think it should be placed?

Senator BYRD. Well, I think it should be above either of these levels. . . .

DUKE. Do you. . . .

Senator BYRD. To talk about a surcharge on income taxes above seven thousand five hundren dollars is utter nonsense. And to talk about it even at a fifteen thousand dollars—even at a fifteen thousand dollar level, I think is unrealistic, because the people who are in the fifteen thousand dollar-a-year category are the people who are suffering.

Now, the federal government pays for health care for the poor. It provides educational assistance for the disadvantaged. It provides for food stamps. And I voted for all these things, and I want to help the poor. But we've got to think about the fellow who's in the middle who's been paying the bills. Now the rich—they can take care of themselves. They can provide their own health care; they can provide for their own education; they don't need food stamps. But it's the fellow who is struggling on a fifteen thousand dollar a year income, twelve thousand dollar a year income, who has to pay for a house. The interest rates are up. If he hasn't already purchased a house, he's not going to get one, because the interest rates are out of sight. He can't get a loan. He's got to send his children to school. The federal government isn't going to send them to school. And that poor fellow who's struggling along on fifteen thousand dollars a year—while it sounds like a high salary to those who make less, naturally, but he is the fellow who's been paying the freight all along.

Now, I'm for continuing to help the poor, but we've got to think about this fellow in the middle, who's been paying the bills while the wealthy are able to hire the lawyers to find the loopholes so that they don't have to carry their share of the freight.

So I would be in favor perhaps of a surcharge on income taxes, but somewhere above the fifteen thousand dollar level. I don't mind paying it myself. And certainly—I don't know where the level would be. But twenty-five thousand dollars, thirty, that's fine. But

fifteen thousand dollars, no. Those people—it's about time they got some relief.

DUKE. There's also been talk, as you know, Senator, about cutting the federal budget. Can we cut the federal budget at a time when unemployment is going up and a recession is now here?

Senator BYRD. Congress has reduced the appropriations budget requests over the past five years by twenty-three and a half billion dollars. Now, the Senate recently reduced the defense budget request by five billion dollars. Other cuts are being made. We'll probably end up this year with six or seven or eight billion dollar total reductions in the federal appropriations budget. But this isn't going to be sufficient. The economists say that a five billion dollar reduction in the federal budget will only amount to a one-tenth of one percent or, at most, two-tenths of one percent reduction in the rate of inflation. This is not going to be enough. What it would do, of course, would be—it would have a psychological impact. It would let the American people know that the federal government does mean business. But there has to be a lot more done other than just cutting the federal budget.

DUKE. Senator, Mr. Ford in his first speech to Congress talked about conciliation, communication, compromise and cooperation with the legislative branch. Is he living up to that pledge?

Senator BYRD. Yes, I think he is, in the main. He's trying to be conciliatory. He's trying to be cooperative. He, I think, is—I think he's a warm, decent man. And I think he is conscientiously and sincerely trying to do the right thing. And that in itself is good. But it's going to take more than just that to run this country.

DUKE. How would you assess his performance thus far?

Senator BYRD. The first thirty days, fine. Fine. There was a new era of good feeling ushered in. And everybody felt that this was a clean breath of fresh air, that the people needed it. It was openness in government that we needed for so long. But then when Mr. Ford pardoned former President Nixon, ten days after he had said in a news conference that he wouldn't do that until the judicial process had had an opportunity to work its will, this then immediately set Mr. Ford back. I think he blew it. His standing in the polls dropped twenty-three points within forty-eight hours. His amnesty program for draft evaders and deserters also hurt him. It didn't please anybody. It didn't please either side in that controversy. The agreement that was worked out by the General Services Administration with Mr. Nixon concerning the tapes and documents of Mr. Nixon was 99.99 percent favorable toward Mr. Nixon and one-tenth of one percent [sic] favorable toward the American people. And that was a—that was a blunder. And these things have helped to destroy the initial feeling of openness and candor and forthrightness.

And then on top of that, the President's request for eight hundred and fifty thousand dollars for the former President at times when people are struggling to pay their bills, at times when we're told that we've got to cut back, in my judgment was a serious mistake on this part.

DUKE. Well, the President is appearing this week before the House Judiciary Committee to give a further explanation of the pardon. Aren't you pleased by that? Isn't this an example of openness?

Senator BYRD. It is. I'm pleased that he's going to do this. But what more can he say? He made his statement at the time of the pardon as to his reasons. He came on later in a press conference and really indicated that there was nothing new to say, that the pardon had not been granted by virtue of any medical reasons. And as far as I know, no medical report up to that time had ever been requested by the President concerning Mr. Nixon's conditions—condition. He indicated that it was merely to bring about a healing of the wounds.

But what more can he say in an appearance? I think it's fine that he's going up, but I understand that he won't be put under oath. And I think . . .

DUKE. Do you think he should be put under oath?

Senator BYRD. I think—I think he should be put under oath, because if this is to set the example that the President is just like any other citizen appearing before a congressional committee and that there's going to be candor and openness, why shouldn't he? Why shouldn't he be put under oath? Otherwise it's not as the average citizen. It's not as the Attorney General when he appears before a committee. It's not as a cabinet officer when he appears before a committee. Surely I think he should be put under oath. You know, that's—that's the best way of really getting down to the nuts and bolts.

DUKE. Well, going further into the nuts and bolts of it, Senator, you have been one of those who's talked a great deal about executive privilege and the dangers of a President refusing to provide information to Congress, refusing to permit his closest aides testifying before Congress.

Now do you feel by Mr. Ford's willingness to appear this time before the Judiciary Committee that this will open the door for future appearances by this President or another President before other committees of Congress?

Senator BYRD. Well, regardless of what one may say, it sets a precedent. One can say, well, it's not supposed to be a precedent. But it is a precedent.

I would not want to see the Congress abuse what I think are its legitimate powers and, in the future, unduly press for the appearance of the President or people in his administration. But there is a line somewhere and there is an area in which the President should allow his aides to come before Congress. And I think that we have witnessed, we've come through a period in which the doctrine of executive privilege was run into the ground. And I was happy to see the Supreme Court, in its eight to nothing decision, take the position that there is no such thing as absolute executive privilege.

Yes, this is a precedent. I don't—I would only hope that the President would be put under oath and that he would be asked some straight, hard questions. I don't mean that he should be harassed or pilloried or badgered. He should be dealt with courteously as should every witness. But the American people are not satisfied with the reasons that Mr. Ford gave. And I'm not saying that they were not sincere reasons. I think he made a mistake in judgment.

DUKE. Well—well, some people feel that Mr. Ford still has not broken his ties sufficiently wtih Mr. Nixon. One of the things being done is a plane is being dispatched each week to California, a government plane, to brief Mr. Nixon on security matters and to provide him with some security papers.

Do you feel this is wrong?

Senator BYRD. I don't think it's justified. I realize that this has been a practice that has been carried on in the past. But I don't think it's justified in this instance.

Now, I think that there could come a time and circumstance in which Mr. Ford might want to talk with Mr. Nixon about some situation if a national emergency arose involving international affairs. But he has Mr. Kissinger, who was really the spark plug in the operations that involved the Nixon international policy, which was a successful policy.

So I don't see any justification for this. It's an expenditure of the taxpayer's money that I think could be stopped. And it's—I think it continues to leave a bad taste in the mouth of the American people.

DUKE. Senator, despite everything you say, if Mr. Ford succeeds in getting the economy back on keel, isn't he going to be unbeatable in 1976?

Senator BYRD. Oh, no, I wouldn't say he'd be unbeatable. And you say "if he succeeds"—and I hope he will succeed—but into that "if," one has to infuse believability in government. Because if there isn't the believability in government, if government doesn't have credibility, then it cannot expect the support from the American people in its programs. Mr. Ford, as I say, is a decent man. I like him. He's very personable and charming. But he hurt his credibility when he pardoned Mr. Nixon, when he proposed the amnesty program, because he proposed that first. Many people thought when they heard that, that there was something else coming, like perhaps a pardon of Mr. Nixon. And then the eight hundred and fifty thousand dollar request for Mr. Nixon. The incredible agreement that was worked out between Mr. Ford's people and Mr. Nixon concerning the tapes and documents indicated that Mr. Ford had not learned the lesson of Watergate. And all of these things, as I say, his pardon of Mr. Nixon ten days after he had said in a press conference he'd do just the opposite, have hurt his credibility. Now without credibility, the American people really don't know whether or not there is the kind of energy problem that necessitates their cutting off the lights, their cutting off the heat, their not wasting gasoline.

DUKE. Well, in the light of all this, Senator, what kind of candidate should the Democrats nominate in 1976?

Senator BYRD. This goes across the board. Democrats are going to have to nominate men who have credibility, integrity, courage, common sense and guts. A Harry Truman-type Democrat, I would say, is the kind. And men who are in the middle of the road. He's going to have to have a program that's in the middle of the road.

Now, both sides can infuse opinions and input, the left and the right. But the party must not go off to the left or off to the right. It's going to have to field a moderate program and moderate candidates who can appeal to the great mainstream. . . .

DUKE. Such as?

Senator BYRD. . . . of America today. Such as the independents, the small business people, the blue collar workers, the ethnic groups, the South, the border states, and all of these who didn't leave the party, but who felt that the party had left them in the last election.

DUKE. Well, who do you see in the Democratic Party who fits into this mold that you've just given us?

Senator BYRD. It's far too early.

DUKE. Give me some names though.

Senator BYRD. I don't want to give any names. But it's far too early. The presidential elections are two years away, and we still have the 1974 election. The people are going to be considering the 1974 election—elections. The political leaders, the political figures, candidates, and so forth, are wrapped up in the 1974 elections, and I don't want to get into naming names at this point. There's ample time to do that.

DUKE. Does Robert Byrd fit this mold?

Senator BYRD. Robert Byrd is not disinterested.

DUKE. Put another way, you are interested then?

Senator BYRD. Let's put it my way. He's not disinterested. And I think there's plenty of time to observe and watch developments. It is a possibility. It's probably only a mere, thin possibility, but I wouldn't rule it out.

DUKE. Well, not ruling it out, is it possible then that you will enter the West Virginia Democratic Primary in 1976?

Senator BYRD. That's a long way down the road. I'm—I'm not projecting myself that far.

DUKE. But not ruling out the presidency, would you also not rule out the vice presidential nomination?

Senator BYRD. I—as I say, I'm not disinterested. I'm not lying awake at nights and I'm not staying up at nights thinking and planning about what may happen in 1976. But I wouldn't rule out the possibility of a spot on the national ticket. I'm certainly not disinterested.

DUKE. Well, Senator, this brings us to the question of the Republican vice presidential situation. Now you indicated clearly at the Senate hearings on Governor Rockefeller that you were not satisfied with some of his answers to the questions. Is it possible that you will vote against his confirmation?

Senator BYRD. As of today, I expect to vote for Mr. Rockefeller's nomination. Now, I don't know what may develop yet. I was impressed by his knowledge of multitudinous subjects. I was disappointed in some of his answers.

I felt that he was evasive, and it left me very uncertain as to where Mr. Rockefeller really stood on some of the issues. That bothers me. But I don't think that that in itself is enough to cause me to vote against him, because I don't think I should vote against him purely on that narrow philosophical basis. There are many things that he probably stands for that I do.

DUKE. Are you at all disturbed by the disclosure that Mr. Rockefeller gave a fifty thousand dollar gift to Henry Kissinger and gave other monetary gifts to aides who served him while he was governor in New York?

Senator BYRD. Not necessarily on its surface. I'm told that he reported the gift and that he paid a gift tax on each gift. That being the case, I see nothing on the surface that disturbs me.

Now the Rules Committee will meet on Wednesday and will discuss this. It will depend upon what else surfaces, if anything else does. It will depend upon the audit that is being made by the Joint Committee on Internal Revenue Taxation in conjunction with the Internal Revenue Service. But this in itself, with nothing more, would not disturb me greatly.

DUKE. There's another controversial nomination now pending in the Senate, that of Peter Flanigan. . . .

Senator BYRD. Except, if I may add this, and I ask you to pardon my interruption. It does show what one can do when he has tremendous wealth, really, that goes beyond the comprehension of the average individual. . . .

DUKE. Well, that leads to. . . .

Senator BYRD. . . . And this is the thing that troubled us during the hearings.

DUKE. Well, that leads to another question, Senator. If you have that much wealth—and Mr. Rockefeller has enormous holdings in oil stocks, chemical stocks, various other companies which do a great deal of business with this government—how can you possibly avoid conflicts of interest, given the fact that he has such tremendous wealth?

Senator BYRD. I think it comes down to the question as to whether the individual, Mr. Rockefeller, can conscientiously divorce his considerations of the financial aspects regarding himself and his family in the making of decisions that he would have to make as Vice President of the United States. Can he differentiate between what benefits big business and what benefits the American people? This is the key.

I don't doubt that he has so much wealth—Mr. Rockefeller I think would be above political corruption. Why have—why have another million dollars when you already have a hundred and eighty-five million, or two hundred million? What difference does it make?

So I think—I think he can stand above that. But yet, one can live so long in the forest that he can't see the forest for the tree. And this is what concerns me. He's been tied up with big insurance, big banks, big oil, big business for so long that I'm wondering if he really can differentiate between the interests of the American people and the interests of big business. And sometimes those interests run parallel. They're not necessarily counter to each other. But is he able to do this? This was the—this was the question that troubled me.

DUKE. What about the nomination of Peter Flanigan to be Ambassador to Spain? Some senators are suggesting that may never get through.

Senator BYRD. Well, it may. I have already indicated that I would object to any waiver of Senate Rule 38, which requires that in a recess of more than thirty days, any nominations that are before the Senate have to be sent back to the President. Of course he can return those nominations after the recess. But this—this would, in effect, kill the nomination of Mr. Flanigan, except that Mr. Ford could revive it following a recess and could send it back.

Now my problem with Mr. Flanigan goes again to this whole drab episode of Watergate and the bad taste that it has left in the mouth of the body politic. Here we are, Mr. Ford naming Mr. Haig to take over the head of NATO and to be commander of U. S. forces in Europe, after Mr. Haig's close association with Mr. Nixon during the years, the last two years when Mr. Nixon was trying to cut the losses and save himself and after Mr. Haig had resigned from a military commission, had become a—had taken on a civilian political role, and then is again appointed to a high command position. I think this is bad for the military. I think it's bad for morale. I think it's the wrong thing to do. But the same thing on a much lesser scale can be said about Mr. Flanigan. Here was a man who was—who—we had a difficult time getting him up before the Senate Judiciary Committee during the nomination—hearings on the nomination of Mr. Kleindienst. And the Senate Judiciary Committee had to stand with its hat in its hand and draw a narrowly restricted line within which we said we would ask Mr. Flanigan questions; we wouldn't go beyond that boundary. And I voted against Mr. Kleindienst partly for that reason.

But here now is a man who's being appointed to the ambassadorship of Spain. This is the thing that bothers me.

DUKE. Senator, you have the reputation of being the hardest working senator because you tend to a lot of minute details in the Senate. And you once said "I place my office ahead of my family, my church and everything else."

Did you really say that? Do you really feel that way about your job?

Senator BYRD. Yes. Robert E. Lee said that duty is the sublimest word, or the most sublime word in the English language. I feel that way about it. I think that when the American people, which include my wife, my daughters, elect me to an office, I have a duty to give my best and to give my all, and that's the way I've approached it.

DUKE. Thanks again, Senator Byrd, for coming here and joining us for this initial program in the new "Washington Straight Talk" series.

THE $300 BILLION 1975 FISCAL YEAR EXPENDITURE LEVEL

Mr. PERCY. Mr. President, the President, in his address this week to Congress, urged Congress to join him, before our recess, by voting to set a target spending limit of $300 billion for the Federal fiscal budget for 1975.

I am introducing now, together with Senator MUSKIE, a concurrent resolution to implement this urgent request of the President, and to do so in accordance with procedures outlined in the Budget and Impoundment Control Act of 1974—Public Law 93-344.

This joint leadership, Majority Leader MIKE MANSFIELD and Minority Leader HUGH SCOTT, vitally interested in this matter, are both cosponsors.

Because this resolution is of particular interest to the chairman, ranking minority member, and members of the Appropriations, Budget, and Government Operations Committees, I ask unanimous consent that the resolution be printed in the RECORD following my remarks so that it might be studied by the aforementioned as well as all Senators and hopefully brought up for consideration on Thursday, October 10, 1974, in order to meet the request of the President and not lose valuable time during the congressional recess for work on the revised budget for fiscal year 1975.

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

CONCURRENT RESOLUTION

(By Mr. PERCY, Mr. MUSKIE, Mr. MANSFIELD, and Mr. HUGH SCOTT)

Whereas the President in his address to the Joint Session of Congress on October 8, 1974 requested Congress to establish a target for budgeted outlays during the fiscal year beginning July 1, 1974 of $300,000,000,000; and

Whereas the Budget and Impoundment Control Act of 1974 (P.L. 93-344) provides for the submission of proposed budget authority rescissions and deferrals by the President for consideration by the Congress; and

Whereas the Congress finds continuing inflation to be a most urgent national problem requiring concerted action by the legislative and executive branches of government: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring)

That the appropriate level for budgeted outlays during the fiscal year beginning July 1, 1974 is $300,000,000,000; and

That the President is requested to submit to Congress, within 30 days of adoption of this Resolution by the Senate and the House of Representatives, the proposed rescissions and deferrals in budget authority necessary to achieve this level of outlays.

Mr. MUSKIE. Mr. President, I welcome the opportunity to join with my distinguished colleague from Illinois (Mr. PERCY), along with the distinguished majority and minority leaders, in introducing this resolution to limit fiscal year 1975 outlays to $300 billion. We are requesting that action be taken immediately on this resolution in keeping with President Ford's request to the Congress yesterday. Congress and the executive branch must cooperate closely in the fight against inflation, and we hope this action will signal that Congress intends to do its part.

The President has indicated that he will submit specific recommendations for budgetary cutbacks when Congress returns from its election recess in November. I look forward to having his proposals. I have in recent weeks stressed the need for budgetary restraint—while avoiding the kind of heavyhanded budget cutting which would deepen a recession or eliminate programs which are focused on the problems of people who are hurt most by inflation and unemployment.

The budget ceiling we are calling for in this resolution is a realistic one. But it will take careful planning and circumspect vision to prune from the budget those items which are wasteful or not urgently needed. I hope the President will exercise such judgment in making his recommendations to the Congress. And I am sure the Congress will act wisely in considering those recommendations.

FUEL STAMP PROPOSAL

Mr. HUGH SCOTT. Mr. President, during the past year I have been working with our Members in Congress, officials of our Federal, State and local governments, representatives of industry, and concerned citizens to deal with problems resulting from the energy crisis. We all share a common concern and are contributing to the formulation of a blueprint for Project Independence that is to be presented to President Ford by November 1.

Because this matter is of great importance, I presented testimony at the Project Independence hearing held in Philadelphia at Drexel University on September 30 of this year. Although the announced purpose of the hearing was to focus on the utilization of coal and environmental considerations, I presented a detailed statement of my views on the energy crisis. At that time, I reiterated my concern for the problems confronting our aged as a result of the rising cost of energy.

On September 25, 1974, I submitted testimony to the Special Committee on Aging. I am indebted to my distinguished colleague from Vermont, Senator ROBERT STAFFORD, for presenting my testimony to the committee. As you know, I was required to be present at the hearings for Vice President-designate Rockefeller.

My testimony endorsed a fuel stamp program as one way of providing direct assistance to our elderly and others on low-fixed incomes. This concept was first presented to the U.S. Senate on September 18 by Senator MATHIAS as amendment No. 1877. I voted for the amendment. However, for reasons known only to our press, Governor Shapp of my State has been credited with the idea as a result of his September 25 testimony to the Special Committee on Aging. I think this is a great injustice to Senator MATHIAS, myself and the other Senators who are on record as endorsing the concept a week before the Governor visited the Capitol.

It appears that Governor Shapp and his staff are better attuned to the public record than our so-called investigative reporters.

Mr. President, I ask unanimous consent that my testimony to the Special Committee on Aging and my statement to the Project Independence hearing be printed in the RECORD.

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

STATEMENT BY SENATOR HUGH SCOTT BEFORE THE SPECIAL COMMITTEE ON AGING, SEPTEMBER 24, 1974

Mr. Chairman, I sincerely appreciate this opportunity to present testimony during your consideration of the problems confronting our aged as a result of the rising cost of energy.

In the past year, we have witnessed a tremendous increase in the cost of energy. All of us have been affected, but unfortunately many of our citizens, particularly the aged and those on fixed incomes, are suffering because their budgets are already stretched to the limit. If this trend in rising energy prices should continue, adequately heated homes with minimal use of utilities and the basic transportation required for essential activities will be beyond the reach of many of our senior citizens. Now is the time for our responsible officials at the federal, state and local levels to formulate a plan of action to meet the needs of our aged and others on fixed incomes.

This problem is particularly acute in the Commonwealth of Pennsylvania and other states in Northeastern United States because of our dependence on the higher cost imported petroleum. Also, a great number of our families rely on bituminous and anthracite coal to heat their homes. Coal, particularly anthracite, is already in short supply and a threatened strike this winter could create a serious shortage of bituminous coal.

I have been working with members of the Congressional Delegation and top energy officials at the federal and state level to avert a potential shortage of anthracite coal in Northeastern Pennsylvania. Although the Federal Energy Administration had estimated a potential shortage of 250,000 tons of coal available to homeowners, it appears that production and processing problems have been corrected and there should be no significant shortage. However, as a result, the price of coal has increased dramatically from $25 per ton last year to $50–$55 per ton this year. Hopefully, by increasing supplies, the price will drop to a more reasonable level. In the short term, however, it may be necessary for our local, state and federal governments to be of direct assistance.

I have communicated several times with the Federal Energy Administration to express my concern for the higher cost of energy, its impact on our aged and those on fixed incomes, and the inequity in the price of petroleum based products available to the Commonwealth and other states in Northeastern United States. I know that the Administrator of the Federal Energy Administration, John Sawhill, is cognizant of these problems and doing everything within his power to correct the situation. I understand that some of the proposals being considered by Mr. Sawhill and others include a crude oil equalization program to blend the higher cost imported petroleum with the lower cost domestic petroleum; a lower rate structure for energy consumed by the elderly and conservation minded families who tend to use less energy than the average; and direct subsidies. One form of direct subsidy that is worthy of consideration is an energy stamp program similar in design to our food stamp program.

I look forward to reviewing the findings of this Committee and the studies being conducted by the Federal Energy Administration. I want you to know that you can count on my full support of an appropriate plan of action that will bring relief to our elderly and others on fixed incomes; and correct the inequities in the price and supply of energy.

INTRODUCTORY STATEMENT OF U.S. SENATOR HUGH SCOTT TO THE PROJECT INDEPENDENCE HEARINGS IN PHILADELPHIA, SEPTEMBER 30, 1974

Mr. Sawhill, distinguished guests, and members of the panel, I appreciate this opportunity to be with you today to open the Project Independence Hearings. President Ford has stated that inflation and the energy crisis are the major problems confronting our country today. As we must all work together to conquer inflation and restore faith in our economy, we must develop and implement an effective national energy policy. Our nation's energy policy, Project Independence, must be designed to minimize our dependence on foreign sources, to meet our future energy needs at reasonable prices, and to protect our environment.

I have prepared for submission to this hearing a detailed statement of my views on the energy crisis and what I believe to be important considerations for Project Independence. In accordance with the announced purpose of this hearing, I have focused on the utilization of our vast coal reserves and environmental considerations. Because of time limitations, I will submit this testimony for incluison in the record of the hearings and make it available to anyone on request.

Briefly, I believe our energy and environmental goals are compatible. In the long run, expanding domestic energy production and promoting energy conservation will be compatible with an improving level of environmental quality. In the short run, there are bound to be a number of temporary conflicts between energy supply objectives and environmental regulations. What is needed during this period is a spirit of compromise and the willingness to provide realistic answers to real problems.

The greater utilization of our nation's coal resources is one of the areas where a number of short-term conflicts have occurred. Strong national strip mining legislation along the lines of the strict Pennsylvania standards are essential to meet environmental quality objectives. Pennsylvania experience has shown that the increased production of coal and environmental considerations are compatible. We can preserve our streams from the threat of acid mine drainage and our hills from the scars of poorly planned and inadequately regulated strip mining and still produce the coal needed to generate the energy required by every American.

Coal represents over 80% of all the United States energy reserves. Because it is such a pervasive resource, it must play a central role in any future national energy policy.

The possibilities for expanding coal production nationwide appear to be good. However, achieving these increases in production will not be possible without overcoming some large problems. Labor supply will present a real problem over the next decade. At present, there are insufficient numbers of trained miners, foremen, engineers and technicians. Improved labor relations will be a necessity in order to expand production. Federal and state regulations for underground coal mining must be improved through better staffing and streamlined regulatory policies. Research and development on coal mining technology, conversion processes and new uses for coal will also be an important priority. Finally, every effort must be made to insure the supply of financing to increase productive capacity, educational programs and regulatory programs.

Another area of major concern to me is the ever increasing price of energy available to consumers, particularly the impact on the elderly and others on fixed incomes. This problem is particularly acute in Northeastern United States because of our dependence on the higher cost imported petroleum. I believe that action is needed to correct this inequity in the price of petroleum products as well as direct assistance to those in need. I know that the Federal Energy Administration is studying a variety of proposals to correct these problems and I have communicated my concern to John Sawhill.

The Special Committee on Aging is reviewing the problems confronting our aged as a result of the rising costs of energy. Both John Sawhill and I have submitted testimony to the Committee hearing on September 25, and I have expressed my support of appropriate action to provide relief. Examples of the ideas proposed by Mr. Sawhill and myself in-

clude a crude oil equalization program to average the high prices of imported oil with the lower price of domestic oil, the implementation of an energy stamp program similar in design to our existing food stamp program, and lower energy rates for low income and conservative minded families who tend to use less energy. I intend to study this problem and work with representatives of both Federal and State Governments to find an acceptable solution.

In conclusion, I am confident that we will be successful in meeting the problems confronting our Nation, because I know we can count on your efforts as well as the full cooperation of the American people.

CONCLUSION OF MORNING BUSINESS

Mr. MANSFIELD. Mr. President, is there further morning business?

The President pro tempore. Is there further morning business? If not, morning business is concluded.

FURTHER CONTINUING APPROPRIATIONS—CONFERENCE REPORT

The PRESIDENT pro tempore. Under the previous order, the Senator from Arkansas (Mr. McCLELLAN) is recognized to call up the conference report on House Joint Resolution 1131.

Mr. McCLELLAN. Mr. President, I submit a report of the committee of conference on House Joint Resolution 1131, and ask for its immediate consideration.

The PRESIDENT pro tempore. The report will be stated by title.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1131), making further continuing appropriations for the fiscal year 1975, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD at page 33698.)

The PRESIDENT pro tempore. The Senator from Arkansas.

Mr. McCLELLAN. Mr. President, the Congress passed in late June of this year a continuing resolution to enable the Government to operate agencies and departments for which appropriations had not been made for the current fiscal year. As Members of the Senate know, that continuing resolution expired over a week ago on Monday, September 30. Much of the Government has been running without any availability of funds for expenditure on a legal basis since that time.

Among these departments and agencies are the Department of Agriculture and related agencies; the Departments of Labor-Health, Education, and Welfare and related agencies thereto; and Foreign Assistance programs. These agencies of the Government, such as those I have named, are without legal authority to incur obligations; for example, even to pay the salaries of their employees.

This has been and is the situation today, with respect to those that I have enumerated.

Mr. President, I believe that everyone is familar with the issues that confronted us on this continuing resolution, and I see no need to elaborate or discuss this conference report at great length.

I stated on the floor of the Senate when this continuing resolution was originally before us for consideration, and when the Senate proceeded to adopt a number of legislative provisions and write new legislation on this continuing resolution which I protested, that I would do my best in conference to have the Senate amendments agreed to. That I did. As chairman of the committee, I continued to insist on the Senate amendments until other conferees who were proponents of those amendments agreed to compromise in order to get a conference agreement on the continuing resolution. I stated this position at the beginning of the conference, and I held to it throughout the conference. I make reference to this because of statements I made on the floor when some of these controversial amendments were being debated in the Senate.

Mr. President, I will briefly mention one of the issues which was in conference, but is not in the conference report. That issue is the matter of assistance to Turkey. Although there was agreement in conference, it is outside of the conference report and will be dealt with separately—apart from the conference report.

Let us review this issue: The House-passed joint resolution contained the following provision, known as the Rosenthal amendment:

SEC. 3. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) to the Government of Turkey until the President certifies to the Congress that substantial progress toward agreement has been made regarding military forces in Cyprus.

The Senate amended the House language—the Eagleton amendment—by striking out part of the House language, and inserting new language to make the provision read:

SEC. 3. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) or for the transportation of any military equipment or supplies to any country which uses such defense articles or services in violation of the Foreign Assistance Act of 1961 or the Foreign Military Sales Act, or any agreement entered into under such Acts.

In conference, the conferees came up with a compromise between the House and Senate language supported by the White House and the Secretary of State. That compromise language combined features of both the House and Senate language and read as follows:

SEC. 3. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) or for the transportation of any military equipment or supplies to the Government of Turkey unless and until the President determines and certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, or any agreement entered into under such Acts by making good faith efforts to reach a negotiated settlement with respect to Cyprus.

The conferees reported this compromise language in disagreement, and Monday evening, in the House of Representatives, this compromise language was rejected by a vote of 69 yeas to 291 nays.

A subsequent motion for the House to recede from its disagreement to the Senate amendment and concur therein with an amendment was passed by voice vote.

The new House amendment would amend the provision to read as follows:

SEC. 3. None of the funds herein made available shall be obligated or expended for military assistance, or for sales of defense articles and services (whether for cash or by credit, guaranty, or any other means) or for the transportation of any military equipment or supplies to Turkey until and unless the President certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, or any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military force in Cyprus.

That is what the House overwhelmingly passed on Monday night and will be a matter for consideration before the Senate after the disposition of the conference report.

Mr. President, the conference report has been printed in the RECORD and the printed report itself has been available to Senators.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. HATHAWAY). The question is on agreeing to the conference report.

Mr. CHILES. Mr. President, I wish some clarification regarding the intent of the Committee on Appropriations in requiring additional budget information on next year's Department of Health, Education, and Welfare budget.

As passed by the Senate, the committee report No. 93–1146, states on page 9:

Because of the continuing difficulty in identifying and eliminating uncoordinated HEW programs, the Committee directs the Department to supplement its fiscal year 1976 budget request. The Committee believes a more simplified framework of budget information is both essential and long-overdue. The Committee will work with HEW to set forth specific steps toward meeting this objective.

I regret that I was unable to attend the committee meeting when that language was approved, because of a domestic summit conference, but specific requirements were approved by the committee at that time, on September 11. It was my understanding that the distinguished chairman, Mr. McCLELLAN, offered specific language.

I ask the distinguished Senator from Arkansas whether my understanding is correct.

Mr. McCLELLAN. Yes. the Senator from Florida is correct in his understanding.

It was only through an unfortunate oversight that the report language agreed to by the committee was not actually printed in the committee report. I recall the incident very well. We did not learn that it was not in the report during the further processing of the bill. I do not know why it was overlooked.

The Senator and I have discussed opportunities for improving budget information over many months now, and I was pleased to concur with his suggestion that a simplified format for the HEW budget and breakdown of HEW program steps would be most helpful, as did the distinguished subcommittee chairman, Mr. MAGNUSON, and other members present at the September 11 committee meeting.

So that there will be no further misunderstanding of the committee's intent, I ask unanimous consent that the letter of the Senator from Florida to me and the intended committee report language be printed in the RECORD.

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

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, D.C., September 10, 1974.

Hon. JOHN L. McCLELLAN,
Chairman, Senate Committee on Appropriations, Washington, D.C.

DEAR MR. CHAIRMAN: I regret I will be unable to attend the meeting of the Appropriations Committee to consider the fiscal year 1975 Labor-HEW appropriation bill scheduled for September 11 due to a commitment to attend a White House session on the economy.

I did want to inform you, however, that I intended to offer additional committee report language to accompany H.R. 15580 and may do so on the floor if it is not proposed in committee.

The purpose of the additional report language is to require that the Department of Health, Education and Welfare submit, along with next year's budget, some simplified information to help us in our deliberations to identify and eliminate program duplication. Simply, the added information would:

Collect into common groups all the agency's programs and activities designed to achieve similar end-purposes, or functions; and

Identify to what stage each activity had progressed, from definition of goals through operation and monitoring.

I feel this can be a positive step toward having the committee more easily come to grips with the complicated maze of agencies and programs in HEW, an approach we discussed when I testified before you at hearings on the FY 1975 budget earlier in the year. There is no reason, for example, why we should not be able to see—collected for us in one place—the 18 separate programs Mr. Ash told us last year were all being run for the common end-purpose of preventing school drop-outs. There is no reason why HEW should not identify for us overlapping programs all designed for the same function, an overlap that numbered 54 according to Secretary Richardson in 1971.

And, I believe, there is no reason why the Department of Health, Education and Welfare cannot comply with a request for a straightforward budget tabulation to identify what they're trying to accomplish, what programs are underway department-wide, and at what stage they are.

The report language, attached with some descriptive material, derives from the requirements of S. 1414, which passed the Government Operations Committee on a unanimous vote and whose provisions were partially incorporated in the Budget Control Act of 1974. Cosponsors included Senators Muskie, Javits, Nunn, Johnston, Hatfield, Moss, Brock, Mondale, Tunney, Church, Packwood, and Humphrey.

I would be glad to discuss this proposal with you, if you so desire, and will be sure my own staff provides any necessary follow-up if it is accepted.

With best personal regards,
Sincerely,

LAWTON CHILES.

ADDITIONAL COMMITTEE REPORT LANGUAGE:
FISCAL YEAR 1975 HEW APPROPRIATION

Committee Print, page 10, under the heading "Program Duplication and Overlap" Add the following paragraphs after the second paragraph which reads: "The Committee notes that little progress has been made to eliminate duplicative activities."

Continue:

Because of this continuing difficulty in identifying and eliminating uncoordinated programs, the Committee directs that the Department of Health, Education, and Welfare provide, as a supplement to its fiscal year 1976 budget request, information to define for the entire departmental budget

(1) The end-purposes, or functions, for which funds are being expended;

(2) For each such function, a complete list of all program activities being directed at that end-purpose, and which organization is sponsoring such activity;

(3) For each program activity, a description of its status in terms of its stage of evolution whether it be at the stage of

(a) defining needs and goals;

(b) exploring alternative program approaches;

(c) selecting a preferred program approach; or

(d) implementation and monitoring.

The Committee believes this simplified framework of information has now become indispensable in order for it to perform its role in assessing and adjusting the Department's budget. This information, in conformance with the provisions of Section 601 (i) of Public Law 93-344, the Congressional Budget and Impoundment Control Act of 1974 (88 Stat. 324), shall be in accordance with the legislative intent set down in Senate report 93-675.

Mr. CHILES. Mr. President, I thank the distinguished Senator for his clarification.

I take this opportunity to commend the Senator from Arkansas again for his leadership as chairman of the Committee on Appropriations during a difficult year for the Nation in its budget deliberations. His decisions as chairman have been most difficult to make, much more than any of us can truly appreciate.

I also commend the chairman for his desire to see that we have budget information come to us from the executive branch that we can fully understand, so that we can make intelligent decisions on them.

Mr. McCLELLAN. I thank the distinguished Senator from Florida.

We do have a difficult job, but it could be much more difficult, except that I received splendid cooperation from members of my committee who are sympathetic and understanding and often try to lighten my burden. I am grateful for that.

Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

Mr. GRIFFIN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRIFFIN. As I understand it, after the conference report is agreed to—if that is the will of the Senate—we will then turn to the amendment adopted by the House. Is that correct? There will be debate on that, if a motion is made.

Mr. McCLELLAN. I may say to the distinguished Senator that upon the adoption of the conference report, I intend to move the adoption of the House amendment. I do this not because I am overenthusiastic for the amendment on its merits, but we do have a difficult situation.

As the Senator will recall, when this measure was before the Senate, I undertook to keep it a clean continuing resolution. This is an outgrowth of the Eagleton amendment.

The controversy has grown out of the Eagleton amendment which was adopted. I thought the Eagleton amendment was quite appropriate, in view of the fact that it was an amendment to a provision in the bill that passed the House. I think it was quite an appropriate amendment.

We did have some extraneous amendments adopted on the floor of the Senate, as the Senator will recall, and we were able to eliminate those in conference. Now the conference report has been adopted without those, and we have the bill with the resolution, with every provision agreed to except this one, which is in disagreement between the two Houses. I understand that there is a possibility of a Presidential veto if it is enacted in this form, but we have here a continuing resolution.

As I have pointed out, Mr. President, there are a number of agencies—HEW, Agriculture, foreign aid—that have no appropriation. They have no money now. They cannot legally pay the salaries of the people who are working for them, and it is imperative that we move to a disposition and to enactment of the continuing resolution.

As to which is better, this provision or the provision that would be acceptable to the President, or which is a better and wiser course for us to pursue, I am not trying to settle at the moment. In order to expedite it without taking a firm and final position upon the issue that is here before us in this amendment we have to move to get the continuing resolution enacted.

For that reason, Mr. President, I move adoption.

Mr. GRIFFIN. The chairman has clarified the situation. I wanted it to be understood that a vote for the conference report at this point does not signify or indicate approval of the House amendment, that we shall actually be adopting the conference report in the form that the conferees agreed upon it at this point, but it will be subject later to a motion to agree to a House amendment, which can then be debated on its merits.

Mr. McCLELLAN. What we shall be

doing in adopting the conference report will be adopting everything that has been agreed upon and not adopting this one amendment, which has not been agreed upon, but which will be immediately presented for consideration following adoption of this amendment.

Mr. GRIFFIN. I might say that if we could hold the conference agreement to the provisions that were agreed upon by the conferees, there is not any question that the continuing resolution would be signed by the President, and we could have it, if we did not go any farther than that.

I shall vote for the conference report in the hope that we can hold it to that.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

The PRESIDING OFFICER. The clerk will state the amendment in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 3 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the language inserted by the said amendment, insert:

"or for the transportation of any military equipment or supplies to Turkey until and unless the President certifies to the Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such Acts, and that substantial progress toward agreement has been made regarding military forces in Cyprus."

Mr. McCLELLAN. Mr. President, for reasons I have already stated, in order to expedite this matter and get it to an issue before use so that we can vote and bring it to a conclusion, I now move that the Senate concur in the amendment of the House to the amendment of the Senate No. 3.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arkansas.

Mr. MANSFIELD. I would like to make a unanimous-consent request, in view of what I understand will be the time used, that it be in order, at an appropriate time, to ask for the yeas and nays on the motion to concur at the hour of 11:30.

The PRESIDING OFFICER. Is there objection?

Mr. McCLELLAN. Mr. President, reserving the right to object, will the Senator include in that request that in the meantime the time on the discussion of the motion be equally divided between the distinguished Senator from Missouri and myself? I do not know how that time will be used, or who might want to talk, but I thought that request should be made.

Mr. MANSFIELD. I make the request.

The PRESIDING OFFICER. That the vote on the motion to concur in the House amendment to the Senate amendment occur at 11:30?

Mr. MANSFIELD. Yes.

Mr. GRIFFIN. That the vote on the Eagleton amendment occur at 11:30.

Mr. MANSFIELD. And that the time between now and then be equally divided.

Mr. McCLELLAN. And I suggest that we have a quorum call immediately before the vote.

Mr. MANSFIELD. I ask unanimous consent that that be part of the order.

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

Mr. EAGLETON. Mr. President, I should like to speak to the motion of the distinguished chairman of the Committee on Appropriations.

Mr. President, the primary concern of Congress in the Cyprus matter should be that our policy is consonant with American law. The House of Representatives voted yesterday to assure that the laws governing our military assistance will be applied to the Government of Turkey. That resounding vote 291–69, was not a vote against the nation of Turkey, it was a vote for the rule of law.

I am supporting the prohibition voted yesterday by the House because it strongly reaffirms the validity of the Foreign Assistance Act of 1961 and the Foreign Military Sales Act. I have expressed concern both on the floor of the Senate and in conference that provisions originally proposed by the House and by the Senate Appropriations Committee would override current law by tying continued military aid to a Presidential determination of "substantial progress" or "good faith efforts."

These clauses may or may not be legitimate policy objectives but they must be proposed by Congress as additional qualifications for continuing our aid to the Government of Turkey. They should not be considered the means by which the Government of Turkey can comply with our bilateral arms agreement with that country.

According to the House-passed language—which is the result of an agreement between Congressmen ROSENTHAL, BRADEMAS, SARBANES and myself—Turkey can now meet the conditions of American aid by withdrawing its forces from the island of Cyprus. The House has reaffirmed the statutory requirement by stating that the President must certify to Congress that the Government of Turkey is in compliance with the Foreign Assistance Act of 1961, the Foreign Military Sales Act, and any agreement entered into under such acts * * * In addition to this requirement, he must certify that "substantial progress toward agreement has been made regarding military forces in Cyprus."

Mr. President, it is obvious that the Government of Turkey cannot be in compliance with our bilateral agreement and American law until it agrees to remove its forces from the island of Cyprus. Therefore, the language passed by the House simply adds a condition to the law which would be met in the course of bringing the Government of Turkey in compliance with our military assistance laws.

Mr. President, I have with me today a letter from the Comptroller General of the United States, Mr. Elmer B. Staats, which is highly critical of the administration for its failure to implement the appropriate provisions of the statutes governing military assistance. While the GAO states that it is not in a position to assess "the nature and purposes of Turkey's intervention on Cyprus," Mr. Staats makes the following statement:

Turkey's unilateral military intervention on Cyprus certainly appears to run counter to the general tenor of the provisions of the Foreign Assistance Act and the terms of the 1947 agreement . . . and on the basis of our entirely unofficial understanding of developments on Cyprus it would seem that such intervention has gone beyond the bounds of possible defensive or peace-restoration efforts. Moreover, as has been noted previously, President Johnson failed to perceive any justification for a unilateral intervention in Cyprus contemplated by Turkey in 1964. While the present situation may differ in some respects from that presented in 1964 it is notable that the United States has joined in unanimous adoption of two resolutions by the United Nations Security Council . . . concerning the present Cyprus crisis which appear to oppose Turkey's actions.

The GAO observes that if the determinations and decisions mandated by Section 505(d) of the Foreign Assistance Act and Section 3(c) of the Foreign Military Sales Act "are not made promptly and timely—the punative aspects of the respective provisions are rendered virtually meaningless contrary to the intent of Congress." In expressing this concern, the GAO then goes directly to the failure of the State Department to properly administer our military assistance programs:

There is, of course, a general mandate upon cognizant officials to administer the military assistance and foreign military sales programs in a manner consistent with and in furtherance of all relevent statutory provisions, including those provisions dealing with prohibitions and sanctions. Beyond this we believe that Section 505(d) of the Foreign Assistance Act and Section 3(c) of the Foreign Military Sales Act—in view of their expressed terms (particularly the references to "immediate' ineligibility) purposes, and legislative history—place a specific duty upon cognizant officials to expeditiously consider and make appropriate determinations concerning the applicability of such provisions in circumstances which clearly suggest potential violations.

I now make another quotation from this very intriguing document from the Comptroller General dated October 7, 1974. At an appropriate time, at the end of my remarks, I shall ask unanimous consent to put the full document from the Comptroller General in the RECORD, but not at this time.

The GAO goes on to point out an additional point of law:

We note that an agreement between the United States and Turkey which became effective June 16, 1960 provides that military assistance furnished by the United States to Turkey could not be deployed to Cyprus without the formal consent of the United States Government, and even then only as to such items and quantities thereof specifically agreed upon prior to deployment.

Mr. President, this is a very important point that the Comptroller General makes, because, as Senators will recall, initially it was the 1947 bilateral agreement between the United States and Turkey which prohibited Turkey from using American weaponry to perpetrate acts of aggression on neutral countries, in this instance Cyprus. That was the agreement we had between the United States of America and the Government of Tur-

key in 1947, and that agreement was buttressed, 13 years later, as recently as 1960, by yet another agreement, and this one was even more specific than the 1947 agreement, because this 1960 agreement, signed by our Government, our President, and our Secretary of State at that time—it happened to be President Eisenhower, in the last year of his term of office—with their government. That agreement specifically referred to Cyprus, and specifically said that Turkey would not deploy to Cyprus any of our American military equipment unless they got—and hear this again, Mr. President—"the formal consent of the United States Government."

No such consent has been sought by Turkey, and I hope to God no such consent has ever been given, either covertly or overtly, to Turkey. At least it has not been brought to my attention if it has.

So we have this situation, Mr. President. We have a 1947 general agreement with Turkey that says they cannot use arms to invade neutral or sovereign nations. We have a 1960 agreement with Turkey specifically dealing with Cyprus saying that it is a no-no to use American arms to go to Cyprus without our approval.

We have two statutes that have been on the books for almost two decades, the Foreign Assistance Act and the Foreign Military Sales Act, that say, "You cannot use American equipment to invade neutral countries."

So the law and the agreement pursuant to the law are clear.

Then, coupled with that, which I will get to later in my speech, was the 1964 situation when Under Secretary of State George Ball told Turkey when it threatened to invade Cyprus back then 10 years ago, "Turkey, if you invade Cyprus with your equipment, aid will be terminated under our agreement and under the law."

I know in the law, Mr. President, that good and reasonable lawyers can oftentimes disagree on what a statute says or what a contract means. But when you have this much law, both statutory and in terms of bilateral agreement, there is no one who can say there is any shadow of a doubt as to whether Turkey can or cannot use American military equipment to invade Cyprus. They cannot. They should not have used it.

They have been warned previously in 1964 not to do so. They had signed an agreement both of a general nature in 1947 and of a specific nature in 1960 that they would not, and yet they did. And we are supposed to stand back after they do that, with all of this history of both law and bilateral agreements, and smile benignly at Turkey and say, "Turkey, well, we wish you had not done that. You should not have used our equipment, but we are going to ignore our laws and ignore our agreement and, indeed, we are going to continue to send you more aid because we think you are a pretty nice fellow."

If that is our foreign policy, Mr. President, if our foreign policy is predicated on the theory that the law is to be ignored, that the law is useless, that the law is a wasted effort in legislative futility, then we had better make a very piercing and thorough reexamination of our foreign policy posture because, in my opinion, any sound and rational foreign policy has to be predicated on one thing above all, that the law is above all of us; that we are all subservient to it, and we are all obliged to obey it, and if we go into some kind of twilight foreign policy era when the law becomes just something of convenience to use when you see fit to use it, and becomes something to ignore when you see fit to ignore it, then I think we will be pinning our foreign policy on a very weak reed.

Now, Mr. President, as I have said on numerous occasions, the Secretary of State has been made aware of his obligations in this matter. State Department lawyers unlike the General Accounting Office, have immediate access to the information they require to determine whether Turkey has substantially violated the terms of our military assistance programs. The Secretary has had access to the documentation of the 1964 Johnson letter—that is the Johnson letter to Turkey as delivered and explained by Undersecretary of State Ball—documentation which shows that our Government was aware of the requirement to stop further military aid to Turkey if that nation used our arms to intervene in Cyprus. The Secretary of State has also been made aware of the sense of Congress concerning the implementation of its laws. It would, therefore, be impossible for him to confuse the intent of Congress in this particular situation.

In light of this recent performance I would like to remind my colleagues of a comment Dr. Kissinger made during his confirmation hearings as Secretary of State. Responding to an inquiry by Senator CHURCH over whether Americans are illegally advising Cambodian forces, Secretary Kissinger said the following:

> If what I have said to this committee is to have any meaning then it would be totally inappropriate for me as Secretary or as adviser to the President to behave like a sharp lawyer and to try to split hairs and find some legal justification for something clearly against the intent of the law. So I think the better answer to you, Senator, is to say that when the law is clearly understood—and it will be my job to make sure that I clearly understand the intent of Congress—we may disagree with it, but once the intent is clear we will implement not only the letter, but the spirit. If such an event occurred as you describe, I will do my best to have it stopped.

Now, this is the testimony of Dr. Kissinger when he was being confirmed as Secretary of State. I think it was a very honorable statement he made then, a very wise one, a very prescient one and, in that statement, he says when the law is clear he will obey it, he will enforce it. When the law is clear he will implement it whether he agrees or not with the policy implications inherent in that statute, and that is what he testified to back at the time of his confirmation hearings as Secretary of State.

I just wish the Secretary would reread his own testimony. He need not read my speech, he need not answer my letters—some of which are there and unanswered on this Cyprus situation. All he has to do is reread what he said himself as to what the law means.

Let me repeat:

> So I think the better answer to you, Senator, is to say that when the law is clearly understood—and it will be my job to make sure that I clearly understand the intent of Congress—we may disagree with it, but once the intent is clear, we will implement not only the letter, but the spirit. If such event occurred as you describe, I will do my best to have it stopped.

These are not the words of EAGLETON; these are not the words of any U.S. Senator; these are the words of the Secretary of State of the United States, Dr. Henry Kissinger.

Mr. President, in the case of Cyprus, Secretary Kissinger has clearly violated his promise, in my opinion, to the Foreign Relations Committee. He is acting contrary to the law because he believes that it is not in the national interest to follow the law. I disagree with that most strenuously.

Mr. President, the policy considerations given by the Secretary of State in attempting to justify an override of American law is subject to considerable debate among members of the foreign affairs community. Former Under Secretary of State George Ball, for example, is highly critical of U.S. Cyprus policy and has urged that Congress reaffirm its statutes governing military assistance.

In testimony before the House Foreign Affairs Committee, Mr. Ball addressed the Cyprus matter in considerable detail and discussed the role he played in 1964 in stopping Turkey from intervening militarily on Cyprus.

I would like to read what Mr. Ball said about the situation which exists today—this is testimony just a few weeks ago before the House Foreign Affairs Committee:

> Mr. BALL. Today the Turks occupy 40 per cent of the Island and not only that but the best 40 per cent because it is the northern coast which is the great source of revenue because it is the tourist coast. It is the coast that is the part of the Island that is obviously the richest in that sense.
>
> Now, how we persuade the Turks to leave or even to reduce that 40 per cent to any kind of dimension that is commensurate with the proportion of the population . . . I think remains to be seen. I am not sure we can.
>
> Actually the problem that we face right now is a very acute one. We have put almost insupportable pressures on the government in Athens and the government in Athens is an excellent government. Mr. Karamanlis in my opinion is the finest Prime Minister in Greece since he was Prime Minister before. I think what has occurred in the intervening period is not from the point of view of the Greek people or of the Western world very useful . . .
>
> We ought to give this Democratic Government in Greece a real chance. We are destroying it. We are destroying it as long as we put them in the situation where 40 per cent of Cyprus has been taken over by the Turks and all that we can say is that we would be glad to mediate . . .

Again continuing to quote from Mr. Ball:

> Let me say that if this situation persists, particularly with Mr. Andreas Papandreou running in Greece, and his relations are very much on the left side to the point where I suspect that he would not be deeply disturbed if a substantial Soviet influence were to develop in Greece, I think we are in a position where we may very well have so weakened the democratic political fabric in Greece that we could permit a substantial

Soviet influence in Greece which could be quite disastrous.

Going ahead with George Ball:

Think what would happen if Greece were to be led toward some kind of new arrangement in which we would have a very substantial Soviet influence. In the first place, think of the consequences insofar as Yugoslavia is concerned. Yugoslavia is a country with an aging dictator whose life span is not going to go on forever, a country that could very easily be subject to strong centrifugal forces if he were to pass from the scene.

We would have isolated the Turks because we would have interposed between Turkey and the West a country that had begun to develop strong leftist ties. We would have put the position of Israel in much greater jeopardy than it is today because we would have injected a new element in that part of the Eastern Mediterranean which could be a very disturbing element indeed.

Mr. FINDLEY. What leverage do we have at this juncture we can use? Military assistance?

Mr. BALL. That is primarily the leverage we have, the leverage of military assistance, if we can get an understanding amongst all of the NATO partners that we are following and the course we would expect them to follow.

This can be reasonably effective, in my judgment. Military assistance is a continuing thing or it is nothing. We can give a country a substantial amount of equipment but if you don't continue to give them the spare parts and supplies it becomes quite useless. This is the effective hold that is implied in this.

Mr. President, Mr. Ball is a student of this situation and his advice should not be lightly dismissed. It will be argued, of course, that Dr. Kissinger is also an expert on foreign policy and that he holds an opposite view with regard to Cyprus. I do not challenge Dr. Kissinger's expertise, but I believe it is important when we have such strong differences of opinion that we follow the law and implement its provisions in an even-handed manner.

Finally, Mr. President, there are reports that Turkish troops on Cyprus are running out of ammunition. At the present time we have $6 million worth of ammunition in the pipeline ready to go to Turkey. The amendment we discuss today, therefore, is not simply an ethereal proposal to slap Turkey on the hand for its past actions. If we agree to send ammunition to rearm the Turkish Army, then we will participate directly in the continued occupation of the island of Cyprus.

I do not believe that the American people desire to see its Government tilt in the direction of aggression by our failure to adopt this measure. I urge my colleagues to reaffirm the law and to reaffirm the notion that American weaponry will not be used against the friends of the United States.

At this point, Mr. President, I ask unanimous consent that the 21-page letter dated October 7, 1974, from the Comptroller General of the United States, Mr. Elmer Staats, be printed in full in the RECORD.

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

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C. October 7, 1974.

Hon. THOMAS F. EAGLETON,
U.S. Senate

DEAR SENATOR EAGLETON: Reference is made to your letters of September 11 and 18, 1974, requesting our opinion on whether the use by Turkey of American-supplied defense articles and defense services for the purpose of intervening militarily in Cyprus would be in "substantial violation" of applicable statutory provisions and agreements so as to render Turkey "immediately ineligible" for further assistance under section 505(d) of the Foreign Assistance Act of 1961, as amended, and section 3(c) of the Foreign Military Sales Act.

Both of the above-cited statutory provisions contain similar prohibitions and involve similar considerations. We will first address your question in the context of the military assistance program.

Part II of The Foreign Assistance Act of 1961, approved September 4, 1961, Public Law 87–195, 75 Stat. 434, as amended, 22 U.S.C. §§ 2301, *et seq.*, currently governs the furnishing of defense articles and defense services on a grant basis. Subsection 505(d) thereof, as amended, 22 U.S.C. § 2314(d) (1970), provides:

"Any country which hereafter uses defense articles or defense services furnished such country under this Act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance Act, in *substantial* violation of the provisions of this chapter [22 U.S.C. 2311 *et seq.*] or any agreements entered into pursuant to any of such Acts shall be *immediately ineligible* for further assistance." (Emphasis added.)

Military assistance has been furnished to Turkey pursuant to an "Agreement on Aid to Turkey" which was signed and entered into force at Ankara on July 12, 1947, T.I.A.S. 1629, 61 Stat. 2953. The initial recitations of agreement are as follows:

"The Government of Turkey having requested the Government of the United States for assistance which will enable Turkey to strengthen the security forces which Turkey requires for the protection of her freedom and independence and at the same time to continue to maintain the stability of her economy; and

"The Congress of the United States, in the Act approved May 22, 1947, having authorized the President of the United States to furnish such assistance to Turkey, on terms consonant with the sovereign independence and security of the two countries; and

"The Government of the United States and the Government of Turkey believing that the furnishing of such assistance will help to achieve the basic objectives of the Charter of the United Nations and by inaugurating an auspicious chapter in their relations will further strengthen the ties of friendship between the American and Turkish peoples;

"The undersigned, being duly authorized by their respective governments for that purpose, have agreed as follows: * * *."

Article I of the Agreement provides:

"The Government of the United States will furnish the Government of Turkey such assistance as the President of the United States may authorize to be provided in accordance with the Act of Congress approved May 22, 1947, and any acts amendatory or supplementary thereto. The Government of Turkey will make effective use of any such assistance in accordance with the provisions of this agreement."

The second paragraph of Article II of the Agreement provides:

"*The Government of Turkey will make use of the assistance furnished for the purposes for which it has been accorded.* In order to permit the [United States] Chief of Mission to fulfill freely his functions in the exercise of his responsibilities, it will furnish him as well as his representatives every facility and every assistance which he may request in the way of reports, information and observation concerning the utilization and progress of assistance furnished." (Emphasis added.)

Article IV of the Agreement provides:

"Determined and equally interested to assure the security of any article, service, or information received by the Government of Turkey pursuant to this agreement, the Governments of the United States and Turkey will respectively take after consultation, such measures as the other government may judge necessary for this purpose. *The Government of Turkey will not* transfer, *without the consent of the Government of the United States,* title to or possession of any such article or information nor *permit,* without such consent, *the use of any such article* or the use or disclosure of any such information by or to anyone not an officer, employee, or agent of the Government of Turkey or *for any purpose other than that for which the article or information is furnished.*" (Emphasis added.)

The act of May 22, 1947, ch. 81, 61 Stat. 103, pursuant to which the foregoing "Agreement on Aid to Turkey" was consummated, is a "predecessor foreign assistance act" for purposes of section 505(d) of The Foreign Assistance Act of 1961, quoted hereinabove. Accordingly, subsection 505(d) applies fully to military assistance furnished to Turkey.

Subsection 505(a) of The Foreign Assistance Act of 1961, as amended, 22 U.S.C. § 2314(a) (1970), provides in part:

"In addition to such other provisions as the President may require, no defense articles shall be furnished to any country on a grant basis unless it shall have agreed that—

"(1) it will not, without the consent of the President—

* * * * *

"(C) use or permit the use of such articles for purposes other than those for which furnished * * *."

Article IV of the "Agreement on Aid to Turkey," *supra,* in conformity with the foregoing provision, explicitly includes the required restriction on the use of defense articles furnished.

The exclusive purposes for which The Foreign Assistance Act of 1961, *supra,* authorizes the furnishing of military asisstance are set forth in section 502 thereof, as amended, 22 U.S.C. 2302, which provides in part:

"Defense articles and defense services to any country shall be furnished *solely* for internal security, for legitimate self-defense, to permit the recipient country to participate in regional or collective arrangements or measures consistent with the Charter of the United Nations, or otherwise to permit the recipient country to particiote in collective measures requested by the United Nations for the purpose of maintaining or restoring international peace and security, or for the purpose of assisting foreign military forces in less developed friendly countries * * * to construct public works and to engage in other activities helpful to the economic and social development of such friendly countries. * * *" (Emphasis added.)

We note that an agreement between the United States and Turkey, which became effective June 16, 1960, provided that military assistance furnished by the United States to Turkey could not be deployed to Cyprus without the formal consent of the United States Government, and even then only as to such items and quantities thereof specifically agreed upon prior to deployment. That agreement, effected by an exchange of notes reprinted in Hearings on

United States Security Agreements and Commitments Abroad, Greece and Turkey, Before the Subcommittee on United States Security Agreements and Commitments Abroad of the Senate Committee on Foreign Relations, 91st Cong., 2d Sess., pt. 7, at 1780 (1970), states:

"ANKARA, *June 16, 1960.*

"His Excellence FLETCHER WARREN,
Ambassador of the United States of America, Ankara.

"EXCELLENCY: I have the honor to acknowledge receipt of your Note of May 16, 1960 which reads as follows:

" 'EXCELLENCY: I have the honor to draw the attention of the Government of Turkey to the provisions of Article 4 of the Agreement on Aid to Turkey of July 1947, and with regard to the desire of the Turkish Government to use certain Military Assistance Program materiel for its planned military force in Cyprus to request that Turkey ask formal consent of the United States Government for such use for a purpose other than those for which the materiel was furnished.

" 'It must be clearly understood that United States consent for the use of this equipment in Cyprus, which will be granted immediately upon receipt of Turkey's request, should not provide a basis for requests for additional Military Assistance Program materiel. The equipment sent to Cyprus, which was provided by the U.S. as grant aid under the Military Assistance Program cannot be dropped from accountability and will be considered as assets available to requirements for the Military Assistance Program for Turkey. The materiel to be deployed initially to Cyprus has been agreed upon by the Turkish General Staff and JUSMAT and is listed in the attached schedule and any Military Assistance Program materiel Turkey may subsequently wish to deploy to Cyprus will have to be the subject of a separate request.

" 'I have the honor to propose that, if this Note is acceptable to Your Excellency's Government, this Note and Your Excellency's Note in reply, asking for formal United States consent and agreeing to the list submitted, shall constitute an agreement between our two Governments which shall enter into force on the date of Your Excellency's reply.

" 'Accept, Excellency, the renewed assurances of my highest consideration.'

"In reply, I have the honor to inform you that my Government is in agreement with the foregoing.

"I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

"SELIM SARPER."

The schedule of materiel initially authorized to be deployed to Cyprus appears at pages 1776–1780 of the foregoing hearings.

In a 1964 crisis in Cyprus, Turkey contemplated intervening militarily. In a letter, dated June 5, 1964, President Lyndon Johnson wrote to the Turkish Prime Minister expressing grave concern over such action, and refusing to permit use of any United States supplied military equipment for such purpose. President Johnson's letter, reprinted in Hearings on United States Security Agreements and Commitments Abroad, Greece and Turkey, *supra*, at 1848–1850, states in part:

"* * * I am gravely concerned by the information which I have had through Ambassador Hare from you and your Foreign Minister that the Turkish Government is contemplating a decision to intervene by military force to occupy a portion of Cyprus, I wish to emphasize, in the fullest friendship and frankness, that I do not consider that such a course of action by Turkey, fraught with such far-reaching consequences, is consistent with the commitment of your Government to consult fully in advance with us. Ambassador Hare has indicated that you have postponed your decision for a few hours in order to obtain my views. I put to you personally whether you really believe that it is appropriate for your Government, in effect, to present a unilateral decision of such consequence to an ally who has demonstrated such staunch support over the years as has the United States for Turkey. I must, therefore, first urge you to accept the responsibility for complete consultation with the United States before any such action is taken.

"It is my impression that you believe that such intervention by Turkey is permissible under the provisions of the Treaty of Guarantee of 1960. I must call your attention, however, to our understanding that the proposed intervention by Turkey would be for the purpose of effecting a form of partition of the Island, a solution which is specifically excluded by the Treaty of Guarantee. Further, that Treaty requires consultation among the Guarantor Powers. It is the view of the United States that the possibilities of such consultation have by no means been exhausted in this situation and that, therefore, the reservation of the right to take unilateral action is not yet applicable.

* * * * *

"I wish also, Mr. Prime Minister, to call your attention to the bilateral agreement between the United States and Turkey in the field of military assistance. Under Article IV of the Agreement with Turkey of July 1947, your Government is required to obtain United States consent in the use of military assistance for purposes other than those for which such assistance was furnished. Your Government has on several occasions acknowledged to the United States that you fully understand this condition. I must tell you in all candor that the United States cannot agree to the use of any United States supplied military equipment for a Turkish intervention in Cyprus, under present circumstances.

* * * * *

"Finally, Mr. Prime Minister I must tell you that you have posed the gravest issues of war and peace. These are issues which go far beyond the bilateral relations between Turkey and the United States. They not only will certainly involve war between Turkey and Greece but could involve wider hostilities because of the unpredictable consequences which a unilateral invention in Cyprus could produce. You have your responsibilities as Chief of the Government of Turkey; I also have mine as President of the United States, I must, therefore, inform you in the deepest friendship that unless I can have your assurance that you will not take such action without further and fullest consultation I cannot accept your injunction to Ambassador Hare of secrecy and must immediately ask for emergency meetings of the NATO Council and of the United Nations Security Council."

Turkey did not militarily intervene in Cyprus in 1964.

Your question concerning the use of military assistance by Turkey in connection with military intervention on Cyprus relates, of course, to the current situation, wherein it is our understanding that Turkey has used substantial quantities of United States supplied military assistance in the course of its military intervention dating from July 20, 1974. We believe that this situation gives rise to two principal issues with reference to possible violations subject to section 505(d) of the Foreign Assistance Act as follows: (1) whether the nature and purposes of Turkey's intervention on Cyprus are fundamentally inconsistent with the permissible uses of military assistance; and (2) whether the diversion of military assistance to support Turkey's intervention, absent the prior specific approval of the United States is, in and of itself, unauthorized.

With reference to the first issue, section 502 of the Foreign Assistance Act, quoted previously herein, authorizes the furnishing of military assistance solely for the following purposes: for internal security; for legitimate self-defense; to permit participation in regional or collective arrangements consistent with the United Nations Chapter; to permit participation in collective peacekeeping or peace-restoration measures requested by the United Nations; or to assist military forces of less developed friendly countries in promoting the social and economic development of such countries. Other provisions of the Foreign Assistance Act are consistent with, and tend to reenforce, the basic emphasis of section 502 upon defensive, peacekeeping and restoration, and peaceful purposes. Thus section 501 of the Act, as amended, 22 U.S.C. § 2301 (1970), which sets forth congressional declarations of policy concerning military assistance, states in part:

"The Congress of the United States reaffirms the policy of the United States to achieve international peace and security through the United Nations so that armed force shall not be used except for individual or collective self-defense. The Congress finds that the efforts of the United States and other friendly countries to promote peace and security continue to require measures of support based upon the principle of effective self-help and mutual aid. It is the purpose of this subchapter to authorize measures in the common defense against internal and external aggression, including the furnishing of military assistance, upon request, to friendly countries and international organizations. * * *

* * * * *

"In enacting this legislation, it is therefore the intention of the Congress to promote the peace of the world and the foreign policy, security, and general welfare of the United States by fostering an improved climate of political independence and individual liberty, *improving the ability of friendly countries and international organizations to deter or, if necessary, defeat Communist or Communist-support aggression, facilitating arrangements for individual and collective security, assisting friendly countries to maintain internal security,* and creating an environment of security and stability in the developing friendly countries essential to their more rapid social, economic, and political progress. The Congress urges that all other countries able to contribute join in a common undertaking to meet the goals stated in this part.

* * * * *

"Finally, the Congress reaffirms its full support of the progress of the members of the North Atlantic Treaty Organization toward increased cooperation in political, military, and economic affairs. * * *" (Emphasis added.)

Consistent with this declaration of policy, section 511 of the Act, as amended, 22 U.S.C. § 2321d (Supp. II, 1972), provides:

"Decisions to furnish military assistance made under this part shall take into account whether such assistance will—

"(1) *contribute to an arms race;*

"(2) *increase the possibility of outbreak or escalation of conflict;* or

"(3) prejudice the development of bilateral or multilateral arms control arrangements." (Emphasis added.)

While not specifically subject to the operation of section 505(d), section 620(i) of the Foreign Assistance Act, as amended, 22 U.S.C. § 2370(1) (1970), seems to reenforce the foregoing observations concerning the nature and limits of military assistance purposes, and also seems particularly relevant in the instant context. This section provides:

"*No assistance shall be provided under this Act or any other Act, and no sales shall be made under the Agricultural Trade De-*

velopment and Assistance Act of 1954, to any country which the President determines is engaging in or preparing for aggressive military efforts, or which hereafter is officially represented at any international conference when that representation includes the planning of activities involving insurrection or subversion, *which military efforts,* insurrection, or subversion, are directed against—

"(1) the United States,

"(2) *any country receiving assistance under this Act or any other Act, or*

"(3) any country to which sales are made under the Agricultural Trade Development and Assistance Act of 1954, *until the President determines that such Military efforts or preparations have ceased,* or such representation has ceased, *and he reports to the Congress* that he has received assurances satisfactory to him that such military efforts or preparations will not be renewed, or that such representation will not be renewed or repeated. *This restriction may not be waived pursuant to any authority contained in this Act.*" (Emphasis added.)

Finally, section 505(b) of the Act, as amended, 22 U.S.C. § 2314 (b) (Supp. II, 1972), provides:

"No defense articles shall be furnished on a grant basis to any country at a cost in excess of $3,000,000 in any fiscal year unless the President determines—

"(1) *that such country conforms to the purposes and principles of the Charter of the United Nations*;

"(2) that such defense articles will be utilized by such country for the maintenance of its own *defensive strength,* or the *defensive strength* of the free world;

"(3) that such country is taking all reasonable measures; consistent with its political and economic stability, which may be needed to develop its defense capacities; *and*

"(4) that the increased ability of such country to defend itself is important to the security of the United States." (Emphasis added.)

The 1947 agreement between the United States and Turkey, discussed previously, appears equally clear concerning the purposes for which military assistance is furnished to Turkey. The agreement recites, *inter alia,* that such assistance "will enable Turkey to strengthen the security forces which Turkey requires for the protection of her freedom and independence and at the same time to continue to maintain the stability of her economy * * *"; and that "the furnishing of such assistance will help to achieve the basic objectives of the Charter of the United Nations * * *." Article I of the agreement in effect incorporates applicable statutory provisions concerning the purposes of military assistance. In Article II, Turkey agrees to make use of assistance for the purposes for which it has been accorded.

Turkey's unilateral military intervention on Cyprus certainly appears to run counter to the general tenor of the provisions of the Foreign Assistance Act and the terms of the 1947 agreement discussed above; and, on the basis of our entirely unofficial understanding of developments on Cyprus, it would seem that such intervention has gone beyond the bounds of possible defensive or peace-restoration efforts. Moreover, as has been noted previously, President Johnson failed to perceive any justification for a unilateral intervention in Cyprus contemplated by Turkey in 1964. While the present situation may differ in some respects from that presented in 1964, it is notable that the United States has joined in unanimous adoption of two resolutions by the United Nations Security Council—Resolutions Nos. 353 (July 20, 1974) and 360 (August 16, 1974)—concerning the present Cyprus crisis which appear to oppose Turkey's actions, among other matters. Resolution No. 353 provides in part:

"*The Security Council,*

"Having considered the report of the Secretary-General at its 1779th meeting about the recent developments in Cyprus,

* * * * *

"*Gravely concerned* about the situation which led to a serious threat to international peace and security, and which created a most explosive situation in the whole Eastern Mediterranean area,

* * * * *

"*Conscious* of its primary responsibility for the maintenance of international peace and security in accordance with Article 24 of the Charter of the United Nations,

"1. *Calls upon* all States to respect the sovereignty, independence and territorial integrity of Cyprus;

* * * * *

"3. *Demands* an immediate end to foreign military intervention in the Republic of Cyprus that is in contravention of operative paragraph 1;

"4. *Requests* the withdrawal without delay from the Republic of Cyprus of foreign military personnel present otherwise than under the authority of international agreements including those whose withdrawal was requested by the President of the Republic of Cyprus, Archbishop Makarios, in his letter of 2 July 1974; * * *."

Resolution No. 360 provides in part:

"*The Security Council,*

* * * * *

"*Gravely concerned* at the deterioration of the situation in Cyprus, resulting from the further military operations, which constituted a most serious threat to peace and security in the Eastern Mediterranean area,

"1. *Records* its formal disapproval of the unilateral military actions undertaken against the Republic of Cyprus; * * *."

Nevertheless, the precise delimitation of the nature and purposes of Turkey's present intervention involves, in our view, complex questions dependent for their resolution upon analysis of factual information not available to us and the exercise of an expertise beyond our purview. We recognize, for example, that under the 1960 Treaty of Guarantee concerning Cyprus, Turkey, Greece, and the United Kingdom guaranteed the independence, territorial integrity and security of the Republic of Cyprus, and each of these parties expressly reserved the right, "in so far as common or concerted action may not prove possible," to take unilateral action "with the sole aim of re-establishing the state of affairs created by the present Treaty." (Articles II and IV). The relevance of this treaty to Turkey's present actions is one such question. Another is whether Turkey's actions, even if initially justified, have since changed character and, if so, at what point.

In view of the foregoing considerations, our Office is not in a position to formally determine the nature of Turkey's intervention on Cyprus with reference to the criteria applicable under the Foreign Assistance Act and the 1947 agreement concerning the furnishing of military assistance. Therefore, while the Turkish intervention obviously raises serious questions under the Act and the agreement, we cannot conclude definitively that such use of assistance *in consideration of the nature of Turkey's military actions* constitutes a substantial violation under section 505(d) of the Act.

As indicated previously, however, we believe that the present situation raises a second issue in terms of violations subject to section 505(d), *i.e.,* whether the use of United States furnished military assistance by Turkey in connection with its intervention on Cyprus would be impermissible, apart from the precise nature of the intervention, on the basis of failure to obtain the prior formal consent of the United States for such use.

II

Section 505(a)(1)(C) of the Foreign Assistance Act and article IV of the 1947 Agreement on Aid to Turkey, quoted previously herein, both expressly provide that military assistance may not be used for a purpose other than those for which it is furnished without the consent of the United States. For the reasons stated hereinabove, we cannot conclude that the use of military assistance by Turkey in support of its intervention on Cyprus would be flatly prohibited by the Foreign Assistance Act or the 1947 agreement. Nevertheless, we believe it is clear that such a use of assistance is not specifically provided for or contemplated by either the Act or the agreement, and, accordingly, that it constitutes a diversion of assistance from the purposes for which provided. This being the case, such a diversion could, under the terms of section 505(a)(1)(C) and article IV of the agreement, be accomplished only upon the consent of the United States.

Any doubt as to this conclusion in the present context is, in our judgment, dispelled by consideration of the 1960 agreement in an exchange of notes between the United States and Turkey concerning the use of defense articles on Cyprus. In this exchange of notes, discussed previously, Turkey requested formal consent to the use of United States furnished defense articles on Cyprus, presumably in connection with the routine deployment of forces on the island consistent with the 1960 Treaty of Guarantee. The Turkish request was submitted at the insistence of the United States. Thus the United States Ambassador to Turkey stated in his note:

"I have the honor to draw the attention of the Government of Turkey to the provisions of Article 4 of the Agreement on Aid to Turkey of July 1947, and with regard to the desire of the Turkish Government to use certain Military Assistance Program material for its planned military force in Cyprus to request that *Turkey ask formal consent of the United States Government for such use for a purpose other than those for which the material was furnished.*" (Emphasis added.)

Consent was granted, limited to specified types and quantities of defense articles. However, the Ambassador's note added:

"* * * The materiel to be deployed initially to Cyprus has been agreed upon * * * and is listed in the attached schedule and *any Military Assistance Program materiel Turkey may subsequently wish to deploy to Cyprus will have to be the subject of a separate request.*" (Emphasis added.)

For the reasons stated above, we conclude that the diversion of military assistance for use in Cyprus beyond that specifically provided for in the 1960 agreement would, absent formal consent thereto by the United States, violate the 1960 agreement, article IV of the 1947 agreement, and section 505(a)(1)(C) of the Foreign Assistance Act as a matter of law. We assume that no such consent has been given with respect to Turkey's present intervention.

The foregoing violations would clearly fall within the scope of subsection 505(d) of the Act. Since this subsection renders a country immediately ineligible for further military assistance on the basis of "substantial" violations, it remains to consider whether these violations would be "substantial." The legislative history does shed some light on which violations were intended to be characterized as "substantial." Section 505(d) derives originally from the House version of legislation enacted as the Foreign Assistance Act of 1962. See H.R. 11921, 87th Cong., 2d Sess. 2201 (1962). The House bill contained in substance the language ultimately enacted, but did not include the word "substantial." The House Committee on Foreign Affairs in its report on the bill, H. Rept. No. 1788, 87th Cong., 2d Sess. 27 (1962), observed in part with reference to this provision:

"The present act requires that military assistance furnished either through grants or sales shall be solely for the purposes of internal security, legitimate self-defense or the participation in collective arrangements or measures consistent with the United Nations Charter or as requested by the United Nations for maintaining or restoring international peace and security. It also provides for certain conditions of eligibility which include the reaching of agreements as to the use, observation, protection, and disposition of the assistance furnished.

"This amendment will provide the positive penalty not now contained in the law for the future violation of the requirements of this chapter or agreements under which the equipment or services are furnished.

"The committee believes that such a penalty is necessary and will serve notice on recipient countries who may view these conditions or agreements as having little or no effect. *It is not intended that every small disagreement between the United States and recipient countries on the possible deployment of units or uses of equipment would serve to make such country ineligible for further assistance. However, where a country actually undertakes an act of aggression or refuses to allow continuous observation of the equipment, diverts substantial quantities of the items furnished, or otherwise violates the terms of its agreements, further assistance under this chapter would be prohibited by this amendment.*

"The President's special waiver authority contained in section 614(a) of this act may be used to waive the requirements of this subsection." (Emphasis added.)

The word "substantial" was added in conference. With respect to this provision the conference report stated, H. Rept. No. 2008, 87th Cong., 2d Sess. 18 (1962):

"Section 201(a) of the House amendment provided that any country which hereinafter used defense articles or defense services furnished such country under this act, the Mutual Security Act of 1954, as amended, or any predecessor foreign assistance act, where such use was in violation of the provisions of the military assistance chapter or any agreements entered into pursuant to any of such acts, should be immediately ineligible for further assistance.

"The Senate bill contained no comparable provision.

"The committee of conference accepted the House provision with an amendment which provided that in order for the section to become operative there must be a 'substantial' violation of the provisions of the military assistance chapter or applicable agreements. *The purpose of this amendment is to make clear that minor instances of diversion or improper uses would not work to make countries ineligible for further military assistance.*" (Emphasis added.)

In light of the foregoing, we interpret the conference addition of the word "substantial" as a clarification of the language of the bill designed to formalize intent of the provision as expressed in the House report. Consequently, while "minor" violations do not require ineligibility the examples of violations set forth in the House report—such as an actual act of aggression or diversion of "substantial" quantities of defense items from authorized purposes—apparently represent violations intended by the Congress to render the provision operative and cause immediate ineligibility for further military assistance.

Any diversion of substantial quantities of military assistance items furnished by the United States from authorized purposes would thus constitute a "substantial" violation of section 505(d) under the intent expressed in the House report. Moreover, even though any substantial diversion thus seems sufficient in and of itself to trigger section 505(d), the purposes and use to which the diverted military assistance is applied would certainly also be relevant to the gravity of the violation. If such purposes and use were in contravention of the explicity stated policies and purposes of the Foreign Assistance Act of 1961, the violation would undoubtedly be "substantial." It is our impression that Turkey has diverted substantial quantities of military assistance items furnished by the United States, although we have no official information as to the types and quantities of defense articles which are involved. In addition, as noted hereinabove, the particular purposes for which the items were diverted and the uses to which they were applied may well be in contravention of the policies and purposes of the Foreign Assistance Act of 1961.

III

The Foreign Military Sales Act, approved October 22, 1968, Pub. L. 90–629, 82 Stat. 1321, as amended, 22 U.S.C. §§ 2751 *et seq.*, governs the furnishing of defense articles and defense services on a sales basis. It repealed and superseded those provisions of the Foreign Assistance Act of 1961 dealing with military sales. Section 3(c) of the Act, as amended, 22 U.S.C.A. § 2753(c) (Pocket pt. 1974), referred to in your letter, provides:

"(c) Except as otherwise provided in subsection (d), any foreign country which hereafter uses defense articles or defense services furnished such country under this Act, in *substantial* violation of any provision of this Act or any agreement entered into under this Act, shall be *immediately ineligible* for further cash sales, credits, or guarantees." (Emphasis added.)

Subsection 3(d) relates to the treatment of "sophisticated weapons."

The conclusions expressed in parts I and II hereof concerning section 505(d) of the Foreign Assistance Act apply generally to section 3(c) of the Foreign Military Sales Act and its related provisions. Subsection 3(a) of the latter act, as amended, 22 U.S.C.A. § 2753(a) (Pocket pt. 1974), provides in part:

"No defense article or defense service shall be sold by the United States Government under this Act to any country or international organization unless—

* * * * *

"(2) *the country* or international organization *shall have agreed* not to transfer title to, or possession of, any defense article so furnished to it to anyone not an officer, employee, or agent of that country or international organization and *not to use or permit the use of such article for purposes other than those for which furnished unless the consent of the President has first been obtained*; * * *." (Emphasis added.)

Article IV of the 1947 Agreement on Aid to Turkey, discussed previously and also applicable to military sales to Turkey, includes this restriction on the use of defense articles furnished. For the reasons given in Part II hereof, it appears that the use of substantial quantities of defense articles furnished under the Foreign Military Sales Act and Article IV to support military intervention on Cyprus would constitute substantial violations for purposes of section 3(c). Other provisions of the Foreign Military Sales Act—comparable to provisions of the Foreign Assistance Act discussed in part I—are also relevant in this regard. See 22 U.S.C.A. § 2751 (Pocket pt. 1974) and 22 U.S.C. § 2754 (1970).

IV

We recognize that the determination of whether a "substantial violation" of the statutory provisions and agreements discussed previously has occurred, so as to actually render Turkey "immediately ineligible" for further assistance under section 505(d) of the Foreign Assistance Act and section 3(c) of the Foreign Military Sales Act, is, at least in the first instance, entrusted to the officials charged with the administration of these provisions. The pertinent delegations of authority are set forth in Exec. Order No. 10973, as amended, 3 C.F.R. 90 (1974), 22 U.S.C. § 2381, note (Supp. II, 1972), and Exec. Order No. 11501, as amended, 3 C.F.R. 267 (1974), 22 U.S.C. § 2751, note (1970 and Supp. II, 1972).*

If these determinations or decisions are not made promptly and timely, however, the punitive aspects of the respective provisions are rendered virtually meaningless, contrary to the intent of Congress. With respect to subsection 505(d) of the Foreign Assistance Act, House Report No. 1788, 87th Cong., 2d Sess. 27 (1962), stated:

"The amendment will provide the positive penalty not now contained in the law for the future violation of the requirements of this chapter or agreements under which the equipment or services are furnished.

"The committee believes that such a penalty is necessary and will serve notice on recipient countries who may view these conditions or agreements as having little or no effect. * * *"

Adequate provision has been made in the law to facilitate the availability of necessary pertinent information to the responsible official(s). Subsection 505(a) of the Act, as amended, 22 U.S.C. § 2314(a) (1970), provides in part:

"In addition to such other provisions as the President may require no defense articles shall be furnished to any country on a grant basis unless it shall have agreed that—

* * * * *

"(3) it will, as the President may require, permit continuous observation and review by, and furnish necessary information to, representatives of the United States Government with regard to the use of such articles; * * *."

Articles II and III of the "Agreement on Aid to Turkey," *supra*, make specific provision to fulfill this requirement. Also, subsection 623(a) of the Foreign Assistance Act of 1961, *supra*, 22 U.S.C. § 2383(a) (1970), provides in part:

"In the case of assistance under part II of this Act, the Secretary of Defense shall have primary responsibility for—

* * * * *

"(3) the supervision of end-item use by the recipient countries * * *."

In addition, subsection 624(d) of the Act, as amended, 22 U.S.C. § 2384(d) (1970), provides in part:

"(2) The Inspector General, Foreign Assistance, shall report directly to the Secretary of State and shall have the following duties and responsibilities:

* * * * *

"(B) For the purpose of ascertaining the extent to which programs being carried out under part II of this Act and the Agricultural Trade Development and Assistance Act of 1954, as amended, are in consonance with the foreign policy of the United States, are aiding in the attainment of the objectives of this Act, and are being carried out consistently with the responsibilities with respect thereto of the respective United States chiefs of missions and of the Secretary of State, as well as the efficiency and the economy with which such responsibilities are discharged, he shall arrange for, direct or conduct such reviews, inspections and audits of programs under part II of this Act and the Agricultural Trade Development and Assistance Act of 1954, as amended, as he considers necessary.

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* It should be noted that subsection 620(i) of the Foreign Assistance Act, as amended, 22 U.S.C. § 2370(i) (1970), quoted previously herein, sets forth separate prohibitions and sanctions which operate on the basis of Presidential determinations. This subsection applies to all forms of foreign assistance.

"(3) *The Inspector General, Foreign Assistance, shall maintain continuous observation and review of programs with respect to which he has responsibilities under paragraph (2) of this subsection* for the purpose of—

"(A) determining the extent to which such programs are in compliance with applicable laws and regulations;

"(B) making recommendations for the correction of deficiencies in, or for improving the organization, plans or procedures of, such programs; and

"(C) evaluating the effectiveness of such programs in attaining United States foreign policy objectives and reporting to the Secretary of State with respect thereto.

"(4) In order to eliminate duplication and to assure full utilization of existing data, the Inspector General, Foreign Assistance, shall, in carrying out his duties under this Act, give due regard to the audit, investigative and inspection activities of the various agencies, including those of the General Accounting Office and of the military Inspectors General.

"(5) For the purpose of aiding in carrying out his duties under this Act, the Inspector General, Foreign Assistance, shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material of the agencies of the United States Government administering parts I or II of this Act, and of the Latin American Development Act, as amended, the Peace Corps or the Agricultural Trade Development and Assistance Act of 1954, as amended, and section 290f of this title. All agencies of the United States Government shall cooperate with the Inspector General, Foreign Assistance, and shall furnish assistance upon request to the Inspector General, Foreign Assistance, in aid of his responsibilities.

* * * * *

"(8) Whenever the Inspector General, Foreign Assistance, deems it appropriate in carrying out his duties under this Act, he may from time to time notify the head of any agency primarily responsible for administering any program with respect to which the Inspector General, Foreign Assistance, has responsibilities under paragraph (2) of this subsection that all internal audit, end-use inspection, and management inspection reports submitted to the head of such agency or mission in the field in connection with such program from any geographic areas designated by the Inspector General, Foreign Assistance, shall be submitted simultaneously to the Inspector General, Foreign Assistance. The head of each such agency shall cooperate with the Inspector General, Foreign Assistance, in carrying out the provisions of this paragraph." (Emphasis added.)

There is, of course, a general mandate upon cognizant officials to administer the military assistance and foreign military sales programs in a manner consistent with and in furtherance of all relevant statutory provisions, including those provisions dealing with prohibitions and sanctions. Beyond this, we believe that section 505(d) of the Foreign Assistance Act and section 3(c) of the Foreign Military Sales Act—in view of their express terms (particularly the references to "immediate" ineligibility), purposes, and legislative history—place a specific duty upon cognizant officials to expeditiously consider, and make appropriate determinations concerning, the applicability of such provisions in circumstances which clearly suggest potential substantial violations.

As indicated previously, we do not have a sufficient basis, at the present time, to formally characterize Turkey's military intervention on Cyprus; nor do we know precisely what United States defense articles have been used in connection with it. We believe there can be no doubt, however, that the present situation with respect to Cyprus is sufficiently serious to require that the determinations described above be expeditiously made.

We note that section 614(a) of the Foreign Assistance Act, as amended, 22 U.S.C. § 2364 (a) (1970), provides:

"The President may authorize in each fiscal year the use of funds made available for use under this Act and the furnishing of assistance under section 520 in a total amount not to exceed $250,000,000 and the use of not to exceed $100,000,000 of foreign currencies accruing under this Act or any other law, without regard to the requirements of this Act, any law relating to receipts and credits accruing to the United States, any Act appropriating funds for use under this Act, or the Mutual Defense Assistance Control Act of 1951, in furtherance of any of the purposes of such Acts, when the President determines that such authorization is important to the security of the United States. Not more than $50,000,000 of the funds available under this subsection may be allocated to any one country in any fiscal year. The limitation contained in the preceding sentence shall not apply to any country which is a victim of active Communist or Communist-supported aggression."

We have not specifically considered whether the waiver authority of section 614 (a) would be appropriate in this case. We would point out, however, that any such waiver would be subject to the publication and congressional notification requirements set forth in section 654 of the Act, as amended, 22 U.S.C. § 2414 (Supp. II, 1972).

Finally, the views expressed herein are, of course, subject to any subsequent actions which the Congress may take relative to this situation.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

Mr. EAGLETON. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCLELLAN. Mr. President, I yield myself such time as I may use.

Mr. President, I will expect to be rather brief, but I want to make a statement for the record since I moved for the adoption of this amendment and I have already made some brief statements with respect to my reason therefor.

I would like to further state for the record that in considering this amendment we are dealing with a very sensitive issue, one that can have some far-reaching and maybe some most adverse consequences, Mr. President.

I do not know what the import of this amendment will be if it is adopted on the Greek-Turkey situation, what the reaction of these countries, Greece and Turkey, will be, what will be the reaction of other countries, and whether its adoption will hinder or prevent good faith and meaningful negotiations for settlement of the Cyprus problem.

Although there are sharply conflicting opinions and differing viewpoints with respect to this, I do not think anyone really knows at this time, what the reaction of these countries and others will be.

The President of the United States and the Secretary of State, Mr. Kissinger, our chief negotiator, strongly oppose this provision and insist that its enactment will at least hinder progress toward peace in the Cyprus conflict, that it will weaken our position and influence as a meditator trying to restore peace and to bring about a settlement of the differences.

Mr. President, if we could know that is true, then we would certainly be voting in the best interest of our country to reject the amendment. In other words, if the President's position is valid, then we may be doing serious harm by taking this action.

The distinguished Senator from Missouri (Mr. EAGLETON), and others, are just as sure, they are just as convinced and are just as adamant in their position, that the enactment of this provision is necessary to preserve integrity in the enforcement of statutes that have been enacted relating to foreign policy and particularly with reference to military assistance and restrictive uses that have been placed thereon.

So, Mr. President, this is not an easy problem to resolve.

I respect the sincerity and good faith of all, of each of the sponsors of and the opponents of this amendment.

I note we have on our desks here this morning a statement by the President dated yesterday, October 8, that he will veto this bill if this amendment is in it.

Now, Mr. President, that is a responsibility that the President has to take. He has that power, he has that authority. If his conclusions are that this measure will do more harm than it will good, if it would seriously handicap or interfere with successful negotiations to resolve the Cyprus problem, I think it would be his duty to veto it.

If it is enacted, and I am sure the amendment will pass here this morning, and if the President does veto it, although I have moved the adoption of this amendment and although I shall vote for it this morning, in doing so I am not making any committal to vote to override a veto if the President should veto this continuing resolution.

I make that reservation, Mr. President, because, as I have tried to indicate, this is a very, very serious matter. I shall reserve the right to consider further all information and viewpoints that are pertinent to the consideration of a veto, if a veto occurs. I thought I ought to make that statement, Mr. President.

I do not think anyone here would really want to do anything that would hinder progress toward peace in any area of the world. In the President's message it is contended that it could even have an overflow impact on problems in the Mideast. In other words, Mr. President, here is one of the dangers. If the President and the Secretary of State cannot go to foreign conferences, to international meetings, or to peace conference negotiations, with the confidence, the good will and the support of Congress, then they are handicapped; they are disarmed; they are practically immobilized before they start on their mission.

Wherever the right or wrong is in this particular issue before us today, this country needs, Mr. President, for the President, the Congress, and the American people to unite so we can present a position, so we can present a united consensus, a united support of any efforts that we are making, or may make hereafter, to try to bring about peace; to try

to settle these international differences that are the cause of war and that continue to pose a threat of war.

Whether we will be able to get together on this particular issue, I do not know. I would hope we could. But, Mr. President, the divisiveness in America, the condition that prevails today where there cannot be, or is not in being, a strength that comes from unity in dealing with foreign countries, is a situation that is doing much harm to this country. This is not placing blame. We are doing harm to ourselves, more so than we are to some particular political party or some particular individual. America does not profit at all by this situation. We need to take politics out of these international matters and unite on what is good for our country. We need to unite on a proper position for our country, and then use all of our strength and our influence so that we might move toward peace rather than continue to fan the flames of dissent and discord within our own country.

Mr. President, I do not know whether anyone else wishes to speak. If so, I would be glad to yield.

I yield to the distinguished Senator from Michigan such time as he would wish.

Mr. GRIFFIN. Mr. President, the issue before the Senate now is one that already has been debated fully and at length. The reasoning—the arguments—which were applicable to the so-called Eagleton amendment, when this continuing resolution was earlier before the Senate, apply now with equal force and logic. Indeed, the language before us now is even more troublesome.

Mr. President, the distinguished chairman of the Appropriations Committee, Mr. MCCLELLAN, was right in his assessment when he said that no one can be absolutely sure what the effect will be if Congress adopts this amendment. He is probably correct in predicting that the amendment will be passed by a large majority.

However, it seems to me that when we face a situation in which we are sure that certain proposed action will be helpful—and when we have been warned by our President and Secretary of State that indeed that action will seriously damage the chances for peace—it is a time, I suggest, to exercise some caution and restraint. We have been advised that adoption of the pending amendment will not help to bring peace to Cyprus; instead that it will severely damage and possibly destroy the opportunity that now exists to achieve a just settlement of that very difficult, complex problem.

I am keenly aware of the strong political pressures that have been brought to bear upon Members of this body by many well-intentioned, well-meaning Greek-American friends and supporters in this country who believe sincerely that this amendment will serve the cause of Greece and Greek Cypriots. However, I am impressed and very concerned by the argument of our Secretary of State that this amendment will work against—not for—the very cause which our Greek-American friends espouse.

Surely, neither the Greek Government nor our Greek-American friends would want to put the U.S. Government in a position where we no longer have any meaningful influence with Turkey in negotiations to settle the Cyprus problem.

Just as it is essential for the United States to have influence in the Middle East with both the Arabs and the Israelis, it is important with respect to Cyprus that the United States have influence with both the Turks and the Greeks.

A statement made yesterday by the President of the United States has already been referred to by the distinguished chairman of the Committee on Appropriations. I believe it should be read in the RECORD at this point.

STATEMENT BY THE PRESIDENT

Yesterday the House of Representatives, once again acting against the almost unanimous advice of its leadership, amended the continuing resolution granting funds for our foreign aid programs. The amendment requires an immediate cessation of all U.S. military assistance to Turkey, and is, in my view a misguided and extremely harmful measure.

Instead of encouraging the parties involved in the Cyprus dispute to return to the negotiating table, this amendment, if passed by the Senate, will mean the indefinite postponement of meaningful negotiations. Instead of strengthening America's ability to persuade the parties to resolve the dispute, it will lessen our influence on all the parties concerned. And it will imperil our relationships with our Turkish friends and weaken us in the crucial Eastern Mediterranean.

But most tragic of all, a cut-off of arms to Turkey will not help Greece or the Greek Cypriot people who have suffered so much over the course of the last several months. We recognize that we are far from a settlement consistent with Greece's honor and dignity. We are prepared to exert our efforts in that direction. But reckless acts that prevent progress toward a Cyprus settlement harm Greeks, for it is the Greek government and the Greek Cypriots who have the most to gain from a compromise settlement. And it is they who have the most to lose from continued deadlock.

Thus I call upon the Senate to accept the original conference report language on Turkish arms aid and to return the bill to the House of Representatives once again. And I ask the House of Representatives to reconsider its hasty act and, working with the Senate, pass a bill that will best serve the interests of peace.

Those in this body who are determined to take on their shoulders the responsibility for defying that solemn advice by the President of the United States are free, of course, to do so. However, I believe the better course—the better part of wisdom—would be to exercise a degree of caution and restraint in a situation such as this. I believe it makes sense to give the President and his Secretary of State at least a benefit of the doubt.

After all, Secretary Kissinger has a pretty good track record. He has done an outstanding job of getting contending parties together and helping to reach settlements under difficult circumstances. It does not make sense now for the Senate to slap him in the face and to wreck the chance for success as he strives to achieve a just settlement of the Cyprus problem.

Mr. President, I urge my colleagues to register their votes against the pending motion.

Mr. President, I ask that an Associated Press story by Fred Hoffman be printed at this point in the RECORD.

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

TURKISH AID

(By Fred S. Hoffman)

WASHINGTON.—U.S. officials warn of possible grave consequences for the United States and the North Atlantic Alliance if the Senate votes to cut off military aid to Turkey.

President Ford stopped short of threatening a veto as he attacked the cutoff move, already approved by the House, as "a misguided and extremely harmful measure." The Senate takes up the issue today.

But some administration officials indicated they believed Ford might use the veto, even though such action would mean rejection of a resolution continuing other foreign aid programs.

The Turkey aid halt was attached to that resolution as an amendment that would require Ford to certify "substantial progress" toward negotiating a Cyprus settlement before aid could be resumed.

Assessing the implications for the United States and NATO if Congress should force a break in military aid to Turkey, officials listed these possible results:

Turkey might pull its armed forces out of NATO, as Greece did in anger over what it considered a U.S. tilt toward Turkey during the summer crisis over Cyprus.

The entire eastern flank of NATO would then be in danger of crumbling.

Turkey might deny the United States and NATO use of important bases on its soil. One of these is the Incirlik Airbase where the United States normally stations some F–4 Phantom jets and which could be vital for air support of the U.S. Sixth Fleet in a crisis.

(Unmentioned by these officials were secret installations in Turkey from which the United States operates sensitive electronic intelligence-gathering devices beamed into the Soviet Union.)

U.S. military transports that fly through Turkish airspace en route to destinations in the Middle East and elsewhere might have to be rerouted.

The Turks might decide to shuck all restraints on the growing of opium-producing poppies, which the United States has been trying to persuade the Ankara Government to curb in order to inhibit the drug traffic.

Efforts to work out a peaceful diplomatic settlement of the Greek-Turkish dispute over Cyprus would be disrupted, raising the danger of a new flare-up of fighting.

Officials said a cutoff would force the Turks to turn elsewhere for the military equipment they have received from the United States for decades.

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

The PRESIDING OFFICER. On whose time?

Mr. GRIFFIN. The time to be equally divided.

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

Mr. MCCLELLAN. Mr. President, I do not know whether anyone else wishes to speak.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. BUCKLEY. Mr. President, I am pleased to join the Senator from Missouri, Mr. EAGLETON, and others in support of the restrictions on aid to Turkey contained in the new language in H.J. Res. 1131.

It seems to me it strikes the necessary balance between an unmistakable declaration of our determination that new American arms shall not be used to prolong the occupation of Cyprus by Turkey, and the kind of flexibility that will enhance the ability of our negotiators to secure what we all desire; namely, the withdrawal of Turkish troops and the restoration of full Cypriot sovereignty over all the island.

I thought the restrictions most recently adopted by this body would have been counterproductive, because in terms of human relations it would on the one hand have us give up in advance an important element of our leverage over Turkey, while on the other it would have made it politically more difficult for the Turkish Government to do what we and the Greek Government most want; and that is for serious, good faith negotiations to be initiated at the earliest possible time.

I believe the new House language makes it possible to provide the strongest possible leverage for all our negotiators; leverage that is desired by all parties concerned, without so inflaming the emotions of proud Turkish citizens so as to make a settlement of this dispute impossible. I strongly urge the adoption of the House language.

Mr. MONDALE. Mr. President, we have seen in recent weeks an unprecedented administration effort to block the normal legislative process regarding foreign aid. We all know that this continuing resolution which is before us now is not due to any lack of expeditious attention by the Senate Foreign Relations Committee or, indeed, by the Senate Chamber of the normal foreign aid authorization bill. Rather, it is the product of a sometimes confused administration strategy to avoid the very sensible, practical, and much-needed restrictions that have been written into the Senate version of the foreign aid bill.

Last week, I proposed taking the Israeli portion of the foreign aid bill authorization and putting it on this continuing resolution. I explained at the time that this was not a question of vitiating the foreign aid bill itself, nor was it an effort to be one sided. I wanted to accomplish three things:

First and foremost. To get much needed aid to Israel, which suffered a loss of a year's gross national product during the October war a year ago.

Second. I wanted to leave some incentive for the administration to continue to support the foreign aid bill itself. It was clear to me that if I would take the Egyptian and other Arab parts of the foreign aid bill, and put them on the continuing resolution, I would end any incentive on the part of the administration to go forward with that bill.

Third. I wanted to insulate Israeli aid from the politics being played by this administration on the foreign aid bill. There is no question in my mind but that the administration hoped that by leaving Israeli aid in the foreign aid bill, it would be able to to pry out of the bill those restrictions that it does not like in the name of getting on with the job of providing aid to Israel. I do not believe Israeli aid should be held hostage to unfettered aid to Saigon and Seoul.

Since that time, the administration, at the highest levels, has been trying to distort what is really happening in regard to the aid bill. If, indeed, the administration was concerned about making sure that both Israel and the Arab States were treated evenly, before Secretary Kissinger's trip to the Middle East, I, and the others who supported my amendment last week, were perfectly willing to accept the addition of the Arab part of the package. Now, we are confronted with a cruel choice—do we, once again, put in the Israeli part of the appropriation which is so desperately needed by the Government of Israel, leaving to later the longer termed programs aimed at helping the Arab States? The administration claims that this would be one-sided. Do we put in the whole Middle East package, and end forever any chance of pursuing the normal and correct course of legislation in passing the aid bill? Or do we refrain in the hopes that, despite administration opposition, we can report and vote on an aid bill before the end of the year?

After consulting with others, and with great reluctance, I have decided on the latter course: to work as best I can, with other Senators in this Chamber, to get the foreign aid bill passed this year. May I only say, in this connection, that our objective will be a vote on the aid bill. And if it is defeated, then the administration will have no grounds for seeking a further continuing resolution. And, if it is adopted, and vetoed by the President, then, at least, the true position of the administration will have been made abundantly clear—that they would rather sacrifice aid to the Middle East, to both Israeli and Arab, rather than yield to the controls written into the aid bill because the American people have had enough of underwriting to dictators in Asia and Latin America.

Thank you, Mr. President.

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

Mr. McCLELLAN. I yield to the Senator.

SENATOR HATHAWAY COMPLETES 100 HOURS AS PRESIDING OFFICER OF THE SENATE

Mr. MANSFIELD. Mr. President, inasmuch as we have such a splendid attendance in the Senate Chamber, I think it is most appropriate at this time to announce that the distinguished junior Senator from Maine (Mr. HATHAWAY), now occupying the chair as the Presiding Officer, has just completed 100 hours of service as the Presiding Officer of this body.

I want to express the appreciation of the Senate to Senator HATHAWAY for his devotion to duty and his dedication to the job of being the Presiding Officer, and to assure him that we are all appreciative and thankful for the outstanding service he has performed both in and out of that chair.

Mr. HATHAWAY subsequently said: Mr. President, I thank the distinguished majority leader for his commendation.

It has been a pleasure to serve 100 hours and 4 minutes presiding over this distinguished body.

Mr. MANSFIELD. It has been a pleasure for us to have the Senator up there.

FURTHER CONTINUING APPROPRIATIONS—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1131) making further continuing appropriations for the fiscal year 1975, and for other purposes.

Mr. MANSFIELD. Mr. President, are we still under controlled time?

The PRESIDING OFFICER. The Senator is correct.

Mr. MANSFIELD. Mr. President, will the Senator yield back the remainder of his time, so that we will vote at 11:30?

Mr. McCLELLAN. I am willing to do so, if the distinguished Senator from Missouri——

Mr. MANSFIELD. I think he has finished. I will take the responsibility and yield back his time, because I was told that he just wanted to make a brief speech.

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

DEEPWATER PORT ACT OF 1974

Mr. MANSFIELD. Mr. President, in accordance with the statement made by the joint leadership on yesterday, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 1153, S. 4076, that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER (Mr. METZENBAUM). The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 4076) to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LONG. Mr. President, I ask unanimous consent that the following members of my staff be permitted to be present on the floor during the consideration of the deepwater port measure: Wayne Thevenot, Doug Svendson, John Steen.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the following staff members be allowed the privilege

of the floor during the consideration of S. 4076, and the Deepwater Ports Act of 1974, and any votes thereon: James P. Walsh, John Hussey, Robert Lane, Art Pankopf, Jr., Earl Costello, and Hank Lippek, of the Committee on Commerce.

M. Barry Meyer, Philip T. Cummings, Bailey Guard, John Yago, Larry Meyers, Ann Garrabrant, Sally Walker, Harold Brayman, Richard Hellman, Jackee Schafer, and Wes Hayden, of the Committee on Public Works.

Suzanne Reed, Michael Harvey, Lucille Langlois, William Van Ness, Roma Skeen, David Stang, and Harrison Loesch, of the Committee on Interior and Insular Affairs.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John I. Brooks of my staff have the privilege of the floor during the consideration of S. 4076, the Deepwater Ports Act of 1974.

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

Mr. BEALL. Mr. President, I ask unanimous consent that Neil Messick of my staff have the privilege of the floor.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT AND EXTENSION OF THE REHABILITATION ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 14225.

The PRESIDING OFFICER (Mr. METZENBAUM) laid before the Senate a message from the House of Representatives announcing its disagreement to the amendments of the Senate to the bill (H.R. 14225) to amend and extend the Rehabilitation Act of 1973 for 1 additional year; and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MANSFIELD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. RANDOLPH, Mr. CRANSTON, Mr. WILLIAMS, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. HATHAWAY, Mr. TAFT, Mr. SCHWEIKER, and Mr. BEALL conferees on the part of the Senate.

QUORUM CALL

Mr. GRIFFIN. Mr. President, I suggest the absence of a quorum, the time to be equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR WAIVER OF REPORT BY COMMITTEE ON FOREIGN RELATIONS—SENATE RESOLUTION 174

Mr. MANSFIELD. Mr. President, in behalf of the distinguished Senator from Arkansas, the Chairman of the Foreign Relations Committee (Mr. FULBRIGHT), I ask unanimous consent that the requirement of Senate Resolution 174 that the Committee on Foreign Relations file a written report with the Senate with respect to its study and investigation of the United States participation in the Southeast Asia Collective Defense Treaty and Treaty Organization, be waived.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I renew my unanimous consent request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Arkansas (Mr. FULBRIGHT) I ask unanimous consent that a statement in connection with this request be printed in the RECORD at this point.

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

STATEMENT BY SENATOR FULBRIGHT

On November 2, 1973, the Senate agreed to S. Res. 174 directing the Foreign Relations Committee to review United States participation in the Southeast Asia Collective Defense Treaty and Treaty Organization and to report to the Senate the Committee's findings and recommendations no later than March 31, 1974.

The Committee held a hearing on this subject March 6, 1974, receiving testimony from Mr. Robert S. Ingersoll, then Assistant Secretary of State for East Asian and Pacific Affairs and now Deputy Secretary; Professor George Kahin of Cornell University; and Professor Bernard Gordon of the University of New Hampshire. In addition, the Congressional Research Service prepared two studies for the Committee's use, "The Role of SEATO in U.S. Foreign Policy" and "Precedents for U.S. Abrogation of Treaties."

The Committee was not, however, able to complete its review and formulate recommendations by the deadline of March 31, 1974, and the deadline was extended a number of times. Because of its preoccupation with other matters, the Committee is not yet prepared to submit a report by October 31, 1974, as presently directed.

Consequently, I ask unanimous consent that the requirement of S. Res. 174, that the Committee on Foreign Relations file a written report with the Senate with respect to its study and investigation of United States participation in the Southeast Asia Collective Defense Treaty and Treaty Organization, be waived.

QUORUM CALL

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

The PRESIDING OFFICER. On the same conditions, to be equally divided?

Mr. MANSFIELD. Yes, equally divided.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

TIME LIMITATION AGREEMENT—SENATE JOINT RESOLUTION 247

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when Calendar No. 1182, Senate Joint Resolution 247, is called up later this afternoon, very likely at the conclusion of the consideration of the pending business, the so-called deepwater ports bill, that Senate Joint Resolution 247 be laid down, and that there be a time limitation of 1 hour, the time to be equally divided between the Senator from Montana, now speaking, and the distinguished Senator from Missouri (Mr. EAGLETON), under the usual conditions.

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

Mr. MANSFIELD. And that at the end of that hour a final vote occur on the resolution.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask unanimous consent that any time taken from the allocation to the deepwater bill be negated, and that the time begin to run at the conclusion of the vote on the conference report on the continuing reslution.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

FURTHER CONTINUING APPROPRIATIONS—CONFERENCE REPORT

The Senate continued with the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution—House Joint Resolution 1131—making further continuing appropriations for the fiscal year 1975, and for other purposes.

The PRESIDING OFFICER (Mr. METZENBAUM). Under the previous order, the question is on agreeing to the motion to concur in the House amendment to the Senate amendment No. 3.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. TOWER (when his name was called). On this vote I have a pair with the distinguished Senator from Oregon (Mr. PACKWOOD). If he were present and voting, he would vote "yea"; and if I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. McCLURE (when his name was called). On this vote I have a pair with the distinguished Senator from Arizona (Mr. GOLDWATER). If he were present and voting, he would vote "yea"; if I were at liberty to vote, I would vote "nay." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), and the Senator from Alaska (Mr. GRAVEL), are necessarily absent.

I further announce that the Senator from Indiana (Mr. HARTKE) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH), and the Senator from Indiana (Mr. HARTKE), would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG), are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Vermont (Mr. STAFFORD), are absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 62, nays 16, as follows:

[No. 467 Leg.]

YEAS—62

Abourezk	Haskell	Moss
Allen	Hathaway	Muskie
Beall	Helms	Nelson
Bentsen	Hollings	Nunn
Biden	Huddleston	Pastore
Buckley	Hughes	Pell
Burdick	Humphrey	Percy
Byrd, Harry F., Jr.	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Chiles	Johnston	Roth
Clark	Kennedy	Schweiker
Cotton	Magnuson	Sparkman
Cranston	Mathias	Stevens
Domenici	McClellan	Stevenson
Eagleton	McGovern	Symington
Ervin	McIntyre	Taft
Fannin	Metcalf	Talmadge
Fulbright	Metzenbaum	Tunney
Hart	Mondale	Weicker
	Montoya	Williams

NAYS—16

Bartlett	Eastland	Pearson
Bennett	Griffin	Scott, Hugh
Brock	Hansen	Stennis
Brooke	Long	Thurmond
Case	Mansfield	
Curtis	McGee	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

Tower, against
McClure, against

NOT VOTING—20

Aiken	Dole	Hatfield
Baker	Dominick	Hruska
Bayh	Fong	Packwood
Bellmon	Goldwater	Scott, William L.
Bible	Gravel	Stafford
Church	Gurney	Young
Cook	Hartke	

So the motion to concur in the House amendment to the Senate amendment No. 3 was agreed to.

REFERRAL OF H.R. 10627 TO THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. TALMADGE, on October 2 H.R. 10627, for the relief of Benjamin Baxter, was referred to the Committee on Agriculture and Forestry. This private relief bill to return a patent to Mr. Baxter is more properly under the jurisdiction of the Committee on the Judiciary. Therefore, I ask unanimous consent that the Committee on Agriculture and Forestry be discharged and the bill be referred to the Committee on the Judiciary.

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

CORRECTION OF PRINTING ERRORS IN SENATE REPORT 93-1177 AND SENATE REPORT 93-1234

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. JACKSON, I ask unanimous consent that several printing errors be corrected in two reports filed recently in the Senate by the Committee on Interior and Insular Affairs.

The first correction to be made is in Senate Report 93-1177, to accompany H.R. 10337, relating to the Navajo-Hopi land disputes. On page 30 of that report, the first sentence in the second paragraph should read as follows:

Thus, the Committee recognizes both the responsibility to provide partitioning authority, and, if judicial adjudication should become necessary, the likelihood that such authority would be exercised.

The second correction is in Senate Report 93-1234, to accompany H.R. 7730, to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip. The correction should be made on page 4, in the third sentence in the paragraph entitled "Present Status: Private or State Ownership," which should read as follows:

Approximately 4,500 of those acres have been formally conveyed to the State. Approximately 11,000 acres have been included in the Colorado (formerly Crook) National Forest, and about 6,340 acres have been patented under the homestead laws.

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

Mr. CURTIS. Will the distinguished Senator yield for 1 minute?

Mr. HOLLINGS. I yield.

Mr. CURTIS. I thank my distinguished friend.

ANNOUNCEMENT OF INTENTION TO MOVE TO POSTPONE CONSIDERATION OF THE CONFERENCE REPORT ON CARGO PREFERENCE BILL

Mr. CURTIS. Mr. President, when the conference report on the cargo preference bill comes up for consideration in the Senate, I shall move to postpone further consideration until November 20 for the purpose of securing an inflation-impact estimate on this proposal, should it become law.

I thank my distinguished colleague.

DEEPWATER PORT ACT OF 1974

The Senate continued with the consideration of the bill (S. 4076) to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

Mr. HOLLINGS. Mr. President, I rise today on behalf of three Senate committees, each of which has completed work on and ordered favorably reported an original bill, S. 4076, the Deepwater Port Act of 1974.

This bill is the culmination of a half-year joint effort by the Committees on Commerce, Interior and Insular Affairs, and Public Works to draft a bill authorizing the construction and operation of port facilities, specially designed to handle deep draft oil tankers. Joint consideration of the issue and of the several deepwater port bills introduced was facilitated by the creation of a special joint subcommittee comprised of five members, three majority and two minority, from each of the three committees. The subcommittee held 6 days of hearings, and met seven times in executive session to mark up the bill.

In my view, this procedure has been extremely successful and I wish to congratulate my colleagues on the joint subcommittee for their efforts: Senators MAGNUSON, LONG, STEVENS, and BEALL

from the Committee on Commerce; Senators JACKSON, METCALF, JOHNSTON, HANSEN, and HATFIELD from the Committee on Interior and Insular Affairs; and Senators GRAVEL, BENTSEN, BIDEN, BUCKLEY, and SCOTT from the Committee on Public Works.

S. 4076 is a well considered and needed piece of legislation. I urge my fellow Senators to give it a favorable vote. The House has already approved a comparable measure, H.R. 10701, and a conference will no doubt be required.

A deepwater port, in the context of today's discussion of oil, refers to facilities located in water at least 70 feet or more in depth capable of handling vessels of 200,000 deadweight tons or larger loaded with oil.

Mr. STENNIS. Mr. President, may we have order in the Chamber, at least to the extent of being able to hear the speaker? We cannot hear him, and he has a good voice.

The PRESIDING OFFICER. There will be order in the Senate.

The Senator from South Carolina.

Mr. HOLLINGS. I thank my distinguished colleague.

Mr. President, tankers are projected to be at least this large on the average, with drafts of 70 feet or more, because of the economies of scale occasioned by moving immense quantities of oil over long ocean distances. It is said that this trend in tanker size is to some degree inevitable, especially since such tankers are now being built, some in the United States. In fact, the Federal Government has committed $259.5 million in subsidies for construction of nine oil tankers ranging from 225,000 to 265,000 tons. Use of very large crude carriers—VLCC's—is said to cut the cost of transportation of oil over long distances by as much as 50 percent.

Supertankers have become popular because they reduce the aggregate cost of crude oil: the larger the ships, the lower the transportation costs. In 1970, it cost $10.50 per ton of crude oil from the Persian Gulf to the U.S. North Atlantic in an 80,000-deadweight-ton tanker versus $5.70 in a 250,000-deadweight-ton ship.

Four hundred tankers in excess of 200,000 deadweight tons each are in existence or are being built. Only two ports in the continental United States can accommodate such deep-draft vessels—Long Beach, Calif., and Seattle, Wash. Most of our principal ports have operating depths of only 36 to 45 feet.

Furthermore, existing ports are becoming dangerously crowded as vessel traffic of all types is on the increase. The sheer size of these new oil superships would force other vessels out of today's harbors, even if the depths were adequate, thereby creating even more congestion.

While it may be possible to dredge existing channels, harbors, and ports, an alternative is to locate supertanker terminal facilities in natural deep water offshore. There are a wide range of offshore terminal designs. However, the one which appears to be most widely used, and which has been proposed for installation off U.S. shores, is a monobuoy structure known as the single-point mooring buoy, which you will find on page 7 of the committee report. Such facilities consist of mooring buoys anchored to the sea floor. The vessel moors to this buoy which also serves as the connecting point for a floating hose from the ship and a submarine pipeline to shore. Single-point mooring systems have been in operation worldwide for several years.

I might elaborate further that, in essence, really, this is a pipeline or a delivery system, more pipeline in nature than port. In fact, they say that the actual lines will be in excess of some 46-inch pipelines that are now being designed to bring in the Alaskan oil. In contrast, these will be about 56 inches in diameter and there could be three or four coming from 20 to 30 miles offshore England. So the vast cost, operation, and everything else really is a pipeline coming in, the delivery system.

Several industry groups and a number of State governments have developed plans to construct deepwater oil ports off the coast of the United States. However, these plans involve the installation of structures several miles beyond the territorial limits of the United States. Without Federal enabling legislation, none of these proposals can become realities.

Coastal waters beyond 3 miles from the shoreline are international waters—high seas. Although the United States possesses special purpose no statutory power to regulate deepwater port construction beyond 3 miles exists. Sufficient international legal authority does exist in article 2 of the Convention on the High Seas on which to base legislative action by this country. But it must be Federal action. However, deepwater port development within 3 miles under existing Federal and State law could proceed. S. 4076 fills the gap and would enable deep draft oil projects beyond 3 miles to proceed.

I was questioned a moment ago, and I say to the distinguished Senator from Mississippi that I think their proposal could be one in the imminent future which would be within that State's control.

Since the Arab oil embargo, the question has frequently been asked as to whether the United States actually needs deepwater ports. Clearly we must have legislation to exercise the option of building of large-scale oil importing terminals. There is no question about that. But many wonder whether Project Independence calls for the importation of the immense quantities of oil which make deepwater ports economical. The special joint subcommittee answered this question in the affirmative: deepwater ports are needed.

All available evidence suggests that the United States will need to import substantial quantities of oil for the next decade at least. By 1980, according to some experts, oil imports will be needed to satisfy nearly 50 percent of total U.S. demand. Also, there appears to be a need to build deepwater ports on the west coast, in order to facilitate the transportation of oil from Alaska's North Slope. If but a single deepwater port beyond 3 miles is feasible, this legislation is needed.

Will deepwater ports and supertankers be economical? Based on oil import projections before the oil embargo, the U.S. Army Corps of Engineers predicted that using supertankers instead of convention tankers could achieve average annual transportation cost saving as high as $1.7 billion by the year 2000. This figure is far from certain, but all agree that substantial cost savings will come from deepwater port use.

According to a Treasury Department study, locating a deepwater port on the east coast can achieve considerable cost savings relative to location of such ports in Nova Scotia, Canada, and the Bahamas if the throughput capacity of an east coast deepwater port is at least 600,000 barrels of oil per day. At throughput levels of under 1 million barrels of oil per day, there would be no advantage to a gulf coast deepwater port compared to transshipment of imported oil in smaller tankers to existing ports from the Bahamas. At higher throughput levels, the cost savings from a U.S. port could range between 2.7 cents per barrel—for 1.4 million barrels per day—and 18.2 cents—for 14.7 million barrels per day.

It should also be pointed out that the economics of large tanker operation is tied to the length of the haul. This would rule out use of supertankers to carry Venezuelan oil. Imports from that country, and possibly Libya and Algeria, will still be carried by smaller tankers through conventional port facilities. Deepwater ports make the most sense if they handle large amounts of oil from the Persian Gulf.

In sum, since the importation of crude oil to the United States appears to be both necessary and economical in large quantities, deepwater ports are the most efficient mechanism for transporting the oil.

Deepwater ports are also considered preferable from an environmental point of view. Keeping oil-carrying vessels, offshore lessens the possibility of collisions and grounding in crowded harbor areas where most oilspill mishaps occur. In addition, estuaries and coastal wetlands are the most sensitive to oilspill damage. Deepwater ports would remove oil vessel movements out to deeper water. The possibility of damage to coastal ecosystems from an oilspill from such a port is much reduced. Furthermore, supertankers are being unloaded by smaller vessels offshore without any regulation. This process, known as lightering, creates great danger of spill.

In fact, a great deal of that is going on in the gulf right now. If deepwater ports were constructed, the transfer of oil cargo from terminal to shore would be accomplished by means of underwater pipeline rather than by lightering.

Overall, it has been concluded that offshore supertanker terminals offer the greatest environmental advantages of any deep draft harbor design.

The benefits of deepwater ports are the following:

First. Building deepwater ports will prevent reliance on foreign-based refinery capacity;

Second. Transportation savings will be realized; and

Third. Using fewer, larger ships will

reduce shipping hazards at already crowded ports, thereby reducing the risk of pollution from collisions.

The main arguments against deepwater ports are the following:

First. They are not needed because oil imports will not grow at the rate predicted because of the lack of stable sources of oil and because of offsetting domestic energy development and conservation measures; and

Second. The Nation should not rely upon foreign sources of energy and deepwater ports would facilitate reliance.

It is the special joint subcommittee's view that deepwater ports would be built beyond 3 miles from shore if legislation were enacted. Oil imports will grow and, like it or not, the Nation will be dependent on Mideast oil for some years to come. If supertanker ports are not built in the United States, they will be located elsewhere. If this happens, cost savings will be lost and smaller tankers carrying toxic oil products will be entering conventional ports in growing numbers.

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

Mr. HOLLINGS. I yield to the distinguished Senator from Texas.

Mr. President, I thank the Senator from Texas, the Senator from Louisiana, and the Senator from New York for their wonderful cooperation and leadership in connection with this bill.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from South Carolina. He has devoted long hours and many days and nights to the study of the need for deepwater ports and has helped bring forth what I consider a very constructive piece of legislation.

For more than a year now, the Senate has been active in committee consideration of the Deepwater Port Act of 1974. I am most hopeful that this body will be expeditious in its consideration of the bill and will move swiftly to conference with the House. If we face further delay, all our work to date could have been in vain.

The Deepwater Port Act of 1974 authorizes construction of the deepwater crude oil terminals we must have to import crude oil.

With such terminals, the United States will catch up with the rest of the world in the ability to receive the very large crude carriers—VLCC's—which make economy of scale possible. These vessels dramatically lower the transportation cost for moving large volumes of crude oil over long distances. Hopefully, that saving in turn will be passed on to the consumer. It is estimated that VLCC's can reduce transportation costs by a dollar a barrel as compared to the tankers now coming to our ports. That would be a very substantial savings. We will also reap the environmental benefits of keeping these large ships offshore where chances of accidents and oilspills are held to a minimum. The President's Council on Environmental Quality has estimated that use of VLCC's and offshore deepwater terminals can reduce this risk of accidents and oilspills by 90 percent from what it would be if the smaller tankers in use today had to move these volumes of crude oil into narrow channels and already crowded ports and harbors.

We like to talk in terms of self-sufficiency for our energy supply, but self-sufficiency does not mean that we will not import any oil. What we have to do is to see that we work toward self-sufficiency to the degree we can—what is economically feasible. There will continue to be an exchange of fuels. Self-sufficiency will only mean that no foreign cartel can bring this Nation to its economic knees. We should build a superport on the gulf coast so that we can move the imports that continue in the most efficient way possible. That does not mean 100 percent self-sufficiency or that we will not have this interchange of fuels along our coast.

Long leadtimes are involved in building these deepwater port facilities. Nearly 3 years of construction time will be needed. With additional time for licensing procedures spelled out in this bill, such a facility could not be in operation before early 1978. And that makes no allowance for preliminary design work and environmental studies.

If Congress fails to act this year or fails to provide a bill that encourages and facilitates construction of these terminals, we could well find ourselves importing large volumes of oil in small tankers at higher cost and higher environmental risk for years to come.

I suggest another thing that is going to happen: there is going to be some economic determination made by these companies. If they see that it is going to be delayed for some time, they are going to build these ports in the Caribbean. The cost savings is only about 10 cents to 15 cents a barrel less for them to build the facilities in the Caribbean and convert the oil then, to smaller tankers, for the purpose of transshipment to the United States.

Mr. STEVENS. Will the Senator yield to me for a unanimous-consent request?

Mr. BENTSEN. I am delighted to yield.

Mr. STEVENS. Mr. President, I ask unanimous consent that David Clanton, of the Committee on Commerce, be granted the privilege of the floor throughout the debate on this measure.

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

Mr. BIDEN. Mr. President, will the Senator yield to me?

Mr. BENTSEN. Yes; I am happy to yield.

Mr. BIDEN. Mr. President, I ask unanimous consent that Vincent D'Anna and Richard Andrews of my staff be granted the privilege of the floor during consideration of S. 4076.

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

Mr. BENTSEN. One of the conflicting factors, Mr. President, in saying we ought to move expeditiously, is the escalating cost of building these ports. Some of these companies are trying to make a decision now. If they see that it is going to take us a long time here, they will try to save what they see as increasing costs in the future, and they are going to build these ports in the Caribbean. Then the refineries will be built, usually, next to the port itself, and we are going to see jobs going into the Caribbean rather than into the economy here.

Failure of Congress to pass legislation this year, therefore, could mean, first, higher cost for deepwater ports if they are built or, conversely, pricing them out of the market so they cannot be built; second, possible loss of U.S. jobs and U.S. investment in refinery expansion to foreign transshipping terminal points; third, a significant increase in environmental risk; and fourth, a severe weakening of U.S. ability to meet its energy needs during the next decade while it develops the alternate domestic energy sources envisioned by Project Independence.

The bill we offer today comes only after careful consideration and, I must say, artful compromise on the part of the Senators from South Carolina, New York, and Louisiana. I urge my colleagues to give it swift approval.

It is not the total consensus of opinion, and there will be some amendments that will be offered, I am sure, during the consideration of this bill.

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

Mr. HOLLINGS. I yield to the Senator from Louisiana.

Mr. JOHNSTON. The bill now pending on the floor of the Senate represents somewhat more of an accomplishment, being the product of these various committees, than is readily discernible to the untrained eye. What we have here, Mr. President, is a bill that cuts across the cutting edge of so many of the dramatic and important issues of the day as well as the various conflicts between committee jurisdictions in Congress and the conflicts among the administrative departments of Government.

There were issues that had to be settled—issues on environmental control, issues on the rights of adjacent States to veto and under what kind of circumstances they can veto, issues on liability, on antitrust, on common carrier provisions.

All of these things, Mr. President, were adjusted, reconciled, worked out, and put together in this one bill representing the joint product of three committees. I think it does represent quite an accomplishment, and I think it is a great thing for the Senators here who are handling the bill—Senators HOLLINGS and BENTSEN, representing the Committees on Commerce and Public Works respectively—and a great thing for the members of the Committee on the Interior, to work with these groups and resolve all of these problems.

The stakes in this bill, Mr. President, are rather high. It is difficult to quantify precisely the exact savings that will result from this bill. But to give you an idea of the scope of the savings, the superport planned off Louisiana's shore, according to the figures used by that proposed superport, may result in a savings by 1980 of as much as $255 million a year.

The testimony before our committee is such that at least three superports will be needed in the Gulf of Mexico, and two on the Atlantic coast, for a total of five. If this can be translated to the same kind of savings which the superport off Louisiana would anticipate, then we are

talking about savings of over a billion dollars a year. Those five superports, with over a billion dollars a year in savings to the consumer, are the differential between shipping through a superport as opposed to transshipping through the Caribbean. And if we do not assume transshipment from the Caribbean, the savings could be as much as $5 billion a year.

I am not saying these are precisely the savings, but, Mr. President, the point is that this bill has the potential of producing as much savings for the American consumer as the entire tax package talked about yesterday by the President of the United States—which, I might say, is causing some consternation by taxpayers across the country.

The point is that it is a most, most important bill. This bill makes it possible to build a superport, first, by providing the necessary one-window licensing, which is an absolute prerequisite—a sine qua non, to the building of any superport.

It provides for the best available technology, the best in environmental controls, the best kind of coordination, the best input from the State to insure safety for the environment.

It provides for the necessary veto from the adjacent coastal State so that we can be assured that any adjacent coastal State wishes to have a superport off its shores.

It provides for a preference for a State to build a superport if that State wishes to build it—a preference for a State over a private company and a preference for a private company not engaged in the oil business over an oil company. But it does not prohibit an oil company from building a superport, provided that it is either in the national interest to do so or that a State or an independent company does not want to do so.

Mr. STENNIS. Will the Senator yield for a question, one short question?

Mr. JOHNSTON. Yes, I yield.

Mr. STENNIS. The Senator has enumerated what the provisions are. These are provisions written into the face of the bill itself, as I understand it.

Mr. JOHNSTON. Yes.

Mr. STENNIS. Not in the record, but this is part of the basic law itself?

Mr. JOHNSTON. That is part of the basic law itself.

Mr. ERVIN. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. ERVIN. What effect will the provision of this bill have on such ports as the Morehead City port in North Carolina and the Port of Wilmington port in North Carolina?

Mr. JOHNSTON. It would have no effect or control over these ports, because this involves a superport only outside the territorial waters of the United States.

Mr. ERVIN. I thank the Senator.

Mr. JOHNSTON. Mr. President, it also provides for a liability fund to be financed by a throughput tax on the oil that comes through the superport. Without this liability fund, there would be no adequate fund, no adequate protection for the environment in the event of a spill.

It provides for an antitrust review. It provides for common carrier status to insure that any company that uses that superport may do so according to common carrier status.

Finally, it provides for a beginning, an assurance of a beginning, toward coastal zone management by insuring that anyone who gets a superport, any State that has a superport built may do so only if that State is receiving grants under the Coastal Zone Management Act at the time its application is filed.

Mr. President, it has been a pleasure to be associated with the other committees in drafting this act. I think we have a good bill—a bill that will begin the process of insuring that saving to the consumers which superports should provide.

Mr. BEALL. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. JOHNSTON. I yield.

Mr. BEALL. I ask unanimous consent that Thomas E. Beery of the staff of the Senator from Oklahoma (Mr. BARTLETT) be accorded the privilege of the floor.

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

The Senator from South Carolina has 30 minutes remaining.

Mr. HOLLINGS. I yield to the distinguished Senator from Alaska, who is controlling the time on the other side.

The ACTING PRESIDENT pro tempore. The Senator has 1 hour.

Mr. STEVENS. Mr. President, having served on the Senate Joint Subcommittee on Deepwater Ports through its many months of deliberations, I support this bill, the Deepwater Port Act of 1974, S. 4076.

After 6 days of public hearings held jointly by the Senate Commerce, Interior, and Public Works Committees, and after numerous work sessions of the joint subcommittee composed of representatives of the three major committees, S. 4076 was reported back to the parent committees. Each full committee rapidly reported the bill favorably to the floor of the Senate for vote. Whatever divergences from the subcommittee bill as were registered by an individual committee are to be pursued here as floor amendments. I am hopeful that the Senate as a whole will resolve the issues expeditiously and that agreement with the House can be attained before this session of the Congress comes to an end.

The subject of deepwater ports interfaces two issues of very personal concern to all Americans: Energy and the environment. S. 4076 is intended to assist the Nation in meeting its energy needs while minimizing the threat to its ocean and coastal environment. By unloading imported oil from huge supertankers far from our shorelines and transferring it from there through pipelines on the ocean bed to onshore refineries, we will eliminate the need for the hazardous helter-skelter traffic of small tankers now congesting and polluting our harbors. We will also decrease the costs of imported petroleum, and stimulate economic growth. Deepwater ports represent one effective way of sustaining our Nation's energy supply until we can fill our needs independently.

The bill does not seek to subsidize the creation of deepwater ports. It simply removes the existing legal obstacles to their development, and creates a regulative structure for controlling such development.

S. 4076 would authorize the Coast Guard to license the ownership, construction, and operation of ports outside the 3-mile territorial limit, and to transfer or amend a license. A license could be issued initially for up to 20 years and for renewed periods not to exceed 10 years.

Deepwater ports are defined in the bill as:

> Any structure or group of structures located beyond the territorial waters of the United States used or intended for use as a port or terminal for the loading or unloading and further handling of oil or natural gas for transportation to or from any State. The term excludes vessels but includes all components and equipment associated with the deepwater port such as pipelines, pumping stations, service platforms, and mooring buoys to the extent they are located seaward of the high water mark.

Importantly, the licensing process would include strict provisions to protect the environment, while enabling the preparation, by the Coast Guard, in cooperation with other Federal agencies, of a single environmental impact statement to fulfill all Federal requirements. At least one public hearing in each adjacent coastal State and in the District of Columbia would be required before a license may be issued or transferred.

When more than one application is received for a particular license area, first preference would be given to an adjacent coastal State, a subdivision of the State, or to a combination of adjacent coastal States. If no such entity applies, then, second priority would be given someone not in the oil or gas business or related activity. If there are no such applicants, the license could be issued to anyone else who otherwise qualifies under the act.

The Coast Guard could not issue, transfer or renew a deepwater port license unless it has received the opinions of the Attorney General and Federal Trade Commission as to whether such action would adversely affect competition, restrain trade, foster monopolization, or otherwise contravene antitrust laws. Transportation of oil through a pipeline and storage facility would be subject to ICC regulation, and transportation of natural gas through a pipeline would be regulated by the Federal Power Commission. A licensee would be required to accept, transport, or convey all oil and natural gas delivered to a deepwater port without discrimination.

The legislation provides that a license may not be issued without the approval of the Governor of the adjacent coastal State or States. Approval would be conclusively presumed if the Governor failed to notify the Secretary within 45 days after the last public hearing on the proposed license. The Secretary would have to condition the granting of a license so as to make it consistent with State programs relating to environ-

mental protection, land and water use, and coastal zone management.

A license would be liable regardless of fault for damage to natural resources relied upon by a damaged party for subsistence or economic purposes resulting from the discharge of oil or natural gas from a deepwater port. Compensation is limited to $100,000,000 for deepwater port licensees, and $150 per gross ton or $20,000,000, whichever is the lesser, for vessel owners and operators for any one incident. Compensation for any loss in excess of that would be determined by State or Federal law. Liability would extend to all components of a deepwater port, but not to damages caused by vessels.

Having been involved in the formulation of the Trans-Alaskan Pipeline Authorization Act, I am pleased that the Deepwater Port Liability Fund, financed by a 2-cents-per-barrel fee on each barrel of oil transported through the port, is patterned after the Trans-Alaskan Pipeline Liability Fund established by that act. The bill also provides stiff civil and criminal penalties, including revocation or suspension of a license for violations and noncompliance. The bill, furthermore, would authorize the Secretary of Transportation to sue to recover funds necesssary for the State and Federal Governments, to restore public resources such as fisheries and habitat.

Finally, the bill would authorize an appropriation not to exceed $1,000,000 for each of the next 3 fiscal years for administration of the act.

Mr. President, allow me to again emphasize my convictions that this legislation is of vital importance to our Nation. I believe it will enable deepwater ports to proceed in a manner to preserve our national interest, and I urge my colleagues to lend support to passage of S. 4076.

Mr. President, I wish to reemphasize a point raised by the Senator from North Carolina (Mr. ERVIN) in his comment to my good friend from Louisiana. That is that this bill has no impact whatsoever on any structure or group of structures within the 3-mile limit, unless they are related to a deepwater port located outside of the territorial waters of the United States. As such, it would not have an impact on the growth and development of the great port of Valdez in my State, which will handle oil coming from the North Slope for shipment elsewhere, whether it be to a deepwater port or a natural port.

I also emphasize the compromise provided in this bill, which is that the Governor of an adjacent State will have veto power. No deepwater port will be constructed without the concurrence of the Governors of adjacent States, although there is a procedure for presuming that there is approval.

I believe that the bill is a good one. I state to my good friend from South Carolina that I do not support the Commerce Committee's amendment which will be offered here, and for that reason I shall be happy to allow my good friend from New York (Mr. BUCKLEY) to manage the time in opposition to that amendment, which I understand he wishes to do.

It does seem to me that we ought to keep in mind what we are doing, however. We are trying a new concept of jurisdiction outside the 3-mile limit. It is a jurisdiction that is necessary in order to protect the national interest and the national security, and is one of which I approve. It is one quite similar to another concept we will bring before this body soon, the extension of the fisheries jurisdiction as provided in S. 1988, which is before the Armed Services Committee this morning.

I do support this measure as it has been reported, with the approval of all three parent committees, to those of us who have served on the Senate Joint Subcommittee on Deepwater Ports. It has been an interesting experience, and I think we should congratulate not only those Senators who come from States which are oil and gas producing, but also the States of some of those Senators, like my good friend from Delaware (Mr. BIDEN), who have forcefully expressed the opinions of those from other than oil-producing States.

The impact of this bill as approved, as it came out of the joint subcommittee, will be that we can move ahead to plan for the development of these superports where they will be recommended, under terms and conditions which will provide us the energy we need to continue our national development, and at the same time prevent any undue risk to the coastal environment or to our oceans.

I think it is a very significant accomplishment, and I congratulate those who have been a part of the Joint Subcommittee on Deepwater Ports.

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

Mr. STEVENS. I am happy to yield to the Senator from New York.

Mr. SPARKMAN. Mr. President, will the Senator yield to me long enough to submit a conference report?

Mr. BUCKLEY. Gladly.

DEPARTMENT OF STATE AUTHORIZATIONS, 1975—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on S. 3473, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore (Mr. METCALF). 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 amendment of the House to the bill (S. 3473) to authorize appropriations for the Department of State and the United States Information Agency, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The ACTING PRESIDENT pro tempore. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 8, 1974, at pages 34471–34473.)

Mr. SPARKMAN. Mr. President, I move the adoption of the conference report.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the requirement for the printing of the conference report on S. 3473 as a Senate document be waived.

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

DEEPWATER PORT ACT OF 1974

The Senate continued with the consideration of the bill (S. 4076) to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

Mr. JACKSON. Mr. President, today the Senate begins consideration of S. 4076, the Deepwater Port Act of 1974. This bill provides for the orderly development, construction, and regulation of deepwater ports on our outer continental shelf. It requires careful coordinated planning for the construction of such ports and provides for full State participation in any decision to construct a deepwater port. In addition, it sets rigid standards for the operation of these ports and requires strict liability for all damages in the event of an oilspill.

Mr. President, if the United States can persuade our friends in the producing and consuming nations alike of the mutual benefits of free trade and a free market we shall continue to import significant quantities of oil for a number of years. If historic trends continue, by 1980 we could well be importing 50 percent of our petroleum requirements, or about 10 million barrels per day. In order to manage such great quantities of oil with the greatest efficiency and the least amount of environmental risk, we must minimize the number of shipments we receive, and remove their delivery far from the environmtntally fragile coastal zone. Statistics show that most oil spills occur during transshipment and in near-shore areas. Use of supertankers and superports would reduce these occurrences by an estimated factor of 10 according to the Council on Environmental Quality.

Furthermore, if we are to be practical, we must realize that the trend in maritime construction is accelerating toward larger and larger tankers. In 1970, the average tanker size was 116,300 deadweight tons; by 1973 the average was already 147,200 deadweight tons. Of the 792 vessels under construction as of October 1973, 335 were in the 200,000–500,000 deadweight-ton class range. Nine vessels ranging from 225,000–265,000 deadweight tons are being constructed in U.S. yards under the merchant marine subsidy program administered by the Maritime Administration. Additional applications to construct more than 50 tankers ranging up to 425,000 deadweight

tons under the program have been received for 1974.

Yet the United States does not have any ports now capable of handling tankers over 150,000 deadweight tons. Furthermore, the cost of shipping oil in very large tankers is far lower than in smaller vessels. Shipping charges for a barrel of oil in a 400,000-deadweight ton tanker are about $0.25 a barrel, versus $0.75 a barrel for the same amount of oil shipped in a 50,000-deadweight ton tanker on a 10,000 haul. Clearly, if we are to share in the increased efficiency and economic advantages of using very large crude carriers, we must provide for facilities to accommodate them properly.

Once we assume, then, that it is in the national interest to develop deepwater ports, it becomes imperative that we also control that development in accordance with sound principles of engineering and design, to maximize the safety of their operation and minimize environmental damage. The present bill, I believe, does this. Further, while it provides for Federal oversight and coordination of deepwater port development, it also protects the vital interests of States affected by the construction and operation of supertanker facilities.

It would require a rigorous environmental review process by all Federal agencies with relevant jurisdiction and expertise and the preparation of a complete and detailed environmental impact statement before any license is issued. The bill also requires that the competitive impacts of any deepwater port proposal be assessed by the Attorney General and the Federal Trade Commission before that proposal is approved.

In addition, coastal States are given a strong role in the application review and licensing process and coastal States adjacent to a proposal deepwater port site are given the right to veto any such proposal. Furthermore, in the event of competing applications, the application of a State government entity would be given preference for a license over the application of any private entity thereby enabling public ownership of deepwater ports wherever possible.

While all Americans gain from the use of deepwater ports, these affected States must also bear the burdens attendant upon the landside facilities associated with deepwater ports. They will experience both increased pollution and growth as refineries and other petroleum-based industries are developed onshore. It is only right that these States have a voice in approving the construction of a deepwater port off their shores.

Principles of liability and the Deepwater Port Liability Fund established by the bill will enable any person suffering damages caused by discharge during deepwater port operations to receive full and expedient compensation. Provision is also made for Federal and State government to recover such funds as may be necessary to restore public resources damaged as a result of a deepwater port-related oil spill.

Mr. President, the Deepwater Port Act of 1974 is the product of 2 years of careful and thorough deliberation by the members of three full committees of the Senate. Each of its provisions have been thoughtfully addressed and painstakingly drafted. I believe the bill before us today represents an equitable balance of interest and provides the maximum possible environmental safeguards and controls.

Everyone familiar with the problems of tanker transportation and port and harbor development knows full well that we must continue our efforts to maximize navigational safety, improve standards of vessel construction and operation, and develop effective means of preventing, containing, and cleaning up oil spills in the marine and coastal environment. I believe that enactment of S. 4076, the Deepwater Port Act of 1974, is one step in the right direction and urge its passage by the Senate today.

DEEPWATER PORTS AID ENERGY CONSERVATION AND PROTECT THE ENVIRONMENT

Mr. RANDOLPH. Mr. President, the legislation we consider today deals with matters new to the Federal Government. It is before the Senate because of technological developments to alleviate one of our country's most persistent problems—adequate, reliable supplies of energy sources.

The bill before us would establish procedures and conditions for the construction and operation of tanker docking facilities at offshore locations. It is complex legislation, for we have attempted to anticipate a large number of questions that could arise in the development of an activity new to this country.

Issues of jurisdiction, ownership of the "superports," their numbers environmental protection, and liability are just a few of the major items with which we had to wrestle. The three concerned committees—Public Works, Interior, and Commerce—have experience in the relevant areas and were able to bring it to bear on these questions. The result is, I believe, a bill that provides for the orderly and workable development of whatever deepwater ports are deemed necessary for the United States.

A primary concern of the Committee on Public Works is the safeguards to environmental damage. For more than a dozen years we have been developing a body of law to halt the conscious degradation of our world by man's activities. It is now accepted that provision for environmental protection must be built into new activities.

Oil spills of whatever size pose potential dangers. This potential obviously is greater when large quantities of oil are transferred. This situation is further complicated when the transfers take place in the open sea as would be the case with the deepwater ports.

The bill, therefore, contains provisions intended to reduce the likelihood of spills to a minimum and to assure that those responsible for spills are held liable for the damage they cause.

Mr. President, I support this bill, but I have some reservations about the premises on which it is based.

The energy crisis remains a fact of American life. Unfortunately, full gasoline tanks have removed some of the urgency for dealing with this problem that we felt 6 months ago.

At that time we declared ourselves willing to undertake any measures necessary to conserve energy. We talked grandly of launching crash programs to give America energy independence and free ourselves from the uncertainties of foreign oil supplies. Gasoline and oil supplies have now become more plentiful, and there are indications that our resolve of the winter is withering.

Mr. President, the oil supply situation we are enjoying must realistically be considered as temporary. If we learned anything last winter it should be that the flow can be squeezed off at any time. Oil imports, however, are growing again, leading us into a false sense of security and doing severe damage to America's balance of payments.

It seems to me that the development of deepwater ports on any significant scale has the potential to undermine our efforts to give this country energy self-sufficiency. The trend toward growing reliance on foreign imports of oil could only be accelerated by the availability of large tankers and the docking facilities to accommodate them.

This country has the technical ability and the natural resources to produce vast quantities of energy on its own. We have huge reserves of coal; a substantial portion of the world's supply and enough to last us for up to 1,000 years. The oil shale that exists in our country plus the promising potential of some more exotic energy sources offer further possibilities. Under these conditions we need not be bound to foreign sources of energy supply.

The achievement of energy self-sufficiency through Project Independence or through other efforts that may be launched certainly will not take place overnight. The previous abundance of cheap, readily available energy imposed a sense of false security that kept us from fully developing our own resources.

While this time lag is overcome it may well be necessary to utilize deepwater ports to meet our growing appetite for oil. Clearly, shipment by supertankers is cheaper and more efficient than by older, smaller ships. It is essential, however, that we do not view deepwater ports as the ultimate answer to our energy needs. They should be only a temporary expedient to help satisfy the United States oil needs until long-term energy questions can be resolved.

Mr. President, this was difficult legislation to write. But I believe we have successfully met the challenge posed by the many issues involved. The chairman of the Committee on Interior and Insular Affairs, Senator JACKSON, and the chairman of the Committee on Commerce, Senator MAGNUSON, have both exhibited the cooperative attitude necessary to successfully complete this mission.

The initial drafting was accomplished by an ad hoc subcommittee with membership from all three committees. The Committee on Public Works was ably represented on this body by Senators BENTSEN, GRAVEL, BIDEN, BUCKLEY, and WILLIAM L. SCOTT.

Each of these Senators represents a coastal State in which this legislation is of great importance. Senator BENTSEN brought to the discussions his Texas ex-

perience relating to the production and movement of petroleum. As a Senator from a State with a newly-developing oil industry, Senator GRAVEL expressed Alaska's concern with environmental protection while providing an essential transportation service. Senator BIDEN's own State has been a leader in regulation of coastal activities, enabling him to make valuable contributions to the bill. The heavily populated Northeast States have a great stake in this legislation, and their interests were thoughtfully represented by Senator BUCKLEY. One of our country's largest existing port complexes is located in the State of Virginia, giving Senator WILLIAM L. SCOTT a background of expertise for development of this bill to regulate a new type of port.

Mr. President, this is legislation of great significance to our country. This Nation runs in substantial degree on oil, and so long as our economy is mainly dependent on this source of energy we must do what is necessary to assure its availability.

By authorizing the construction and control of deepwater ports, this bill facilitates the development of yet another alternative to increase the flexibility of our energy sources. It is a sound measure, one that will permit the proper development of these facilities, and I urge its passage by the Senate.

Mr. MUSKIE. Mr. President, I would like to express my support for S. 4076, legislation designed to license and regulate deepwater ports. This bill has received the approval of a special joint subcommittee of 15 members drawn from three full committees—Public Works, Commerce, and Interior. This bill has also received the approval of these three parent committees.

This legislation follows my recommendations to the special joint subcommittee in three significant areas: Protection of States' rights, veto authority for the Environmental Protection Agency, and effective oil spill liability provisions. Although I was not a member of the Special Joint Subcommittee on Deepwater Ports, I followed the development of this bill closely. The licensing and regulation of deepwater ports is of utmost importance to coastal States, so this particular piece of legislation has great significance for my State of Maine.

Because of the vulnerability of my State's coastal areas to the effects of potential oil spills in the marine environment resulting from operations at any deepwater port located anywhere off the New England coast, one of my major concerns in the development of this bill was the assurance that a State likely to be impacted by an oil spill from a port could exercise effective control over that port's development.

I am, therefore, pleased to note that a "host" State, a State located within 15 miles of such port, or a State likely to be affected by an oil spill—because of winds or currents—is given an opportunity to review and condition a license for the development of a port. No port may be developed if a State vetoes it.

I am also happy to see that this bill has addressed the question of oil spill cleanup and damage liability consistent with my recommendation to the subcommittee. Regardless of circumstances, cleanup of spilled oil must be accomplished promptly in order to avoid potential damage to our marine and coastal environments. Should any damages occur, all legitimate claims should be satisfied regardless of amounts. The liability provision of this legislation meets these two needs.

I would also like to mention that an interesting new concept in damage liability was included in this bill at my request. This is the provision in which the United States may act on behalf of the public as a trustee of natural resources that are damaged. Any sums recovered under this provision will be applied to the restoration of those damaged resources. The intent of this provision is to provide for the protection of public resources such as beaches and fisheries and to provide for their restoration if they are damaged by an oil spill originating from activities connected with the operation of a deepwater port.

In connection with this liability provision and in the effort to protect the rights of those States which have or seek to establish more stringent liability laws than provided for in this bill, I support the amendment proposed by the Public Works and Interior Committees to revise the preemption provision as currently written. This amendment, like the oil pollution liability provision I have already described, is consistent with oil pollution legislation which I have sponsored and which has become law. This amendment would specify that any State laws defining liability for oil spills or setting higher liability limits than those provided in this bill would not be preempted. Damaged parties could, therefore, sue for recovery under more stringent State law if they so preferred, while double recovery for the same damage claim would be prevented. I concur with the committees' view that the States' rights precedent established in the Water Quality Improvement Act of 1970 and further established in the 1972 amendments to the Federal Water Pollution Control Act should be upheld.

This legislation has also established a licensing procedure for deepwater ports which assures careful environmental review. The single coordinating agency for this licensing procedure will be the Department of Transportation. This agency was chosen because of the Coast Guard's expertise in matters of navigational safety and marine environmental protection. In the process of licensing a proposed deepwater port, all other involved Federal agencies will be consulted in order to assure that a proposed port will meet the requirements of the laws within their jurisdictions.

As a result of my recommendation, however, the Environmental Protection Agency plays more than a consultative role in this process. The Administrator of the EPA has a specific veto authority over any proposed deepwater port if he finds that such port would violate any requirements of the Clean Air Act, the Federal Water Pollution Control Act, or the Marine Protection, Research and Sanctuaries Act. The Secretary of Transportation may not issue a license for the construction and operation of a deepwater port until the Administrator of EPA is satisfied that the port will comply with environmental laws.

In summary, Mr. President, I would like to commend the action of the Special Joint Subcommittee on Deepwater Ports. I feel this bill establishes an effective mechanism for the regulation of deepwater port development and at the same time, protects our environment and the rights of coastal States such as my own State of Maine.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, I yield the Senator from New York whatever time he wishes.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that Roma Skeen of the staff of the Committee on Interior and Insular Affairs, Nolan McKean of Senator HANSEN'S staff, and Harold Brayman and Jackee Schafer of the Committee on Public Works staff be accorded the privilege of the floor.

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

Mr. BUCKLEY. Mr. President, the ranking Republican member of the Committee on Public Works, the Senator from Tennessee (Mr. BAKER), is unavoidably absent on business, but he did ask that I submit his statement for inclusion in the RECORD. I ask unanimous consent that it be printed in the RECORD at this point.

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

STATEMENT BY SENATOR BAKER

The use of supertankers and the delivery of oil through deepwater ports provides us with the opportunity to restrain the inflationary pressure on oil prices, by lowering the cost of transporting that oil. This bill makes such savings possible. Similarly, this legislation creates an opportunity to lessen the danger of oil spills that occur with dangerous regularity from tankers prowling our coasts and crowded harbors and the lightered of supertankers offshore.

I support this legislation. It is necessary and important to the progress and environmental safety of our nation.

But the advent of superport era brings with it the potential for superspills. This bill recognizes that possibility, however remote, and the fact that existing Federal law fails to provide either the geographical or the financial coverage to protect the public from the catastrophic economic and environmental damages of a superspill.

In Section 18, the bill creates a standard of liability for deepwater ports and their users that should encourage the highest degree of responsible operation. Such responsibility, I am confident, will protect the public and the environment.

As my colleagues have noted, the standard requires that any oil tanker, when it enters the safety zone surrounding a port, is liable for the costs of damages and pollution clean-up to $150 per gross ton of the vessel, or $20,000,000, whichever is the lesser. While that level is modestly above the $100 a ton requirements of section 311 of the Federal Water Pollution Control Act, the Section 311 liability extends only to spill clean-up; it leaves an open-ended liability for other damages. This revised standard of liability is in line with that imposed under the pending civil liability convention. In addition, the defenses against liability provided to the vessel's owner or

operator are similar to those incorporated within the civil liability convention.

Before a vessel may use any licensed deepwater port, the owner or operator must show evidence of insurance or some other recognized form or financial capability that covers the vessel's full liability. This is a most important provision, I believe. Should a licensee allow a vessel lacking liability coverage to use the port, the licensee would become liable to suspension of the license. It is therefore in the best interest of the licensee that he determine adequacy of liability coverage for all vessels that use the port.

The bill imposes a similar standard, with identical exceptions and requirements for insurance coverage, upon the licensee of the port. This includes publicly owned ports. And such liability will cover spills from the port itself, leaks from the pipeline to shore, or spills from any tanker moored at the port, and thus under the port's control. Because of the nature of port operations, together with the vast potential for spill damage from the port, this bill sets the port's liability at $100,000,000.

I am convinced that such liability standards will encourage the owners of ports and supertankers to do everything they can to prevent or contain incidents of oil spills, and expeditiously to clean up any spills that inadvertently do occur.

The basic concepts of this liability provision were those that we developed in the 1970 amendments to the Water Pollution Control Act.

As in that law, this bill lifts the liability limits if the vessel's owner or operator or if the licensee acts with gross negligence or willful misconduct in causing a spill.

We, of course, must recognize that an oil or gas spill might occur, causing damages in excess of the limits on liability. Such excess damages should be borne by those benefiting from the deepwater port, not those who suffer the damages. Therefore, I support the proposed creation of a Deepwater Port Liability Fund that will cover all damages and clean-up costs exceeding the liability limits. This bill sets no limit at all on what ultimately can be recovered in damages and clean-up from the fund. I believe any such restriction, however "reasonable", would have effect of transferring costs of a spill onto the damaged parties. I believe that would be unfair.

While I find much to praise in this bill, I support the amendment that will be offered to correct what I believe is an unwarranted intrusion on the rights of an American citizen. This is the language that creates, without proper safeguards, a civil penalty of as much as $25,000 a day. The language in the bill places far too much power in the hands of the Secretary to levy administration penalties.

I would like to conclude with a word of gratitude to each of the 15 members who served on the Special Joint Subcommittee, which worked long and hard to bring this important legislation to the floor. The members representing the Committee on Public Works—Senators Buckley, Scott, Gravel, Bentsen, and Biden—were particularly attentive to their duties. I believe we owe each of them our thanks, as well as those representing other Standing Committees.

Mr. BUCKLEY. Mr. President, I, too, wish to express my appreciation for the efficiency, effectiveness, and fairness of the Senator from South Carolina in chairing this cumbersome, three-committee effort. Under his leadership, we have come up with legislation that I believe will be effective and that will advance our urgent energy needs. Most particularly, it's legislation that will improve the environmental situation because of the hazards of the increased traffic of smaller and older tankers in our coastal waters.

Mr. President, I support passage of S. 4076, the Deepwater Port Act of 1974. While I disagree with some of the provisions in the bill—disagreements I have outlined in my additional views that appear on page 95 of the report—I support the thrust of the legislation. It is sound from an environmental point of view. It is generally sound from a regulatory view. And it is necessary.

President Ford has noted this legislation is necessary if we are to take full advantage of the economics of scale available in supertankers, and thus place a restraint on the inflation in petroleum prices.

Let me touch first on some of the many positive aspects of the bill. Tankers in great number ply our coastlines, bringing petroleum from the Middle East, from Venezuela, from Africa, and soon from Alaska.

The age of many of these vessels, together with the congestion they add to our existing ports, produces many minor collisions and oil spills, and the threat of major ones. We must do what we can to lessen the frequency and danger of these spills. But how can we, if we must import increasing quantities of oil?

One answer is to augment the size of each vessel, moving from older, smaller tankers to newer, larger ones. But where do we unload the oil? We cannot pilot these supertankers into our existing ports, which lack the necessary depth. Dredging existing harbors to supertanker depths—often double or triple existing depths—could prove to be a greater environmental danger than a spill. But with little danger to the environment, and a certain decrease in the danger of groundings, we can go offshore with monobuoys, into which supertankers would pump their oil, which would be carried by pipelines to distant refineries.

This keeps the tankers away from the shore in the necessary deep water.

This bill would create the administrative mechanism to consider such superport proposals. It mandates no superports. It commits no Federal funds to their construction. It makes no attempt to prejudge their merits. It simply establishes the mechanism for application and the criteria that must be met if someone wants to build such a port.

Section 4(c)(5) requires that the port must be built to the best available technological standards. This should go far toward minimizing spills. Under section 4(c)(3), the port must also be in the national interest, including our national goal of environmental quality. Section 6 requires that environmental review criteria be established to help the Secretary determine the merits of various competing proposals, and for the import environmental impact statement review.

The important liability provision in section 18 should prove a strong incentive to environmental responsibility. I would point out that page 16 of the report notes the committee's desire "to impose standards of liability that will induce maximum efforts to prevent the discharge of hazardous substances into the marine environment without imposing standards of financial responsibility that impare competition for deepwater port licenses."

These are pluses. But problems remain, and I shall not shun them.

Section 4(d) requires the Secretary to evaluate an application in comparison with the possible expansion of an existing, onshore port. This subsection, in effect, allows the existing public port in the State nearest to the proposed deepwater port to request a secretarial review of the superport application. To trigger such a study, the onshore port must have active plans for deepening its channel and harbor to supertanker depths or the Army Corps of Engineers must have an active study under way to evaluate such a deep-draft channel, or the port must have a pending application for a corps permit to dredge such a channel and harbor. While this is a fairly stringent requirement, I do not believe it is necessary or useful. I intend to detail my concern when I subsequently call up my amendment, No. 1954, to delete this subsection.

Section 5(i) establishes a priority system for granting licenses. I believe this is unnecessary. All applications should stand on their own merits without any arbitrary and artificial constraints.

This bill contains language relating to the supposed antitrust implications of deepwater port development. I shall support efforts by the Committee on Public Works to prevent that procedure from becoming a veto by inaction.

In closing, Mr. President I want to reiterate my general support for this bill. While I have problems with a few provisions, the scope of the bill as a whole is sound and it is needed. I urge my colleagues to support it.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HOLLINGS. Mr. President, I yield the Senator from Delaware (Mr. BIDEN) such time as he may require.

Mr. BIDEN. Mr. President, I thank my distinguished colleague from South Carolina, and I also thank the members of the special ad hoc committee on deepwater ports for putting up with my persistent point of view for several months, and giving me the opportunity to express a divergent point of view which oftentimes was not shared by the other members of that committee.

It has been a long journey to get where we are today.

My interest in deepwater ports goes back before my election to the Senate. At that time, the ocean off Delaware was a prime candidate for a port. This was a matter of great concern in our small State with its limited coastline and beaches.

After I came to the Senate, my interest spread from my immediate concern about Delaware to the national implications of the development of deepwater ports.

In the 92d Congress, the Interior Committee conducted hearings on deepwater port policy issues that produced much useful information. When the present Congress began, there were a number of studies completed or underway, these included: A study by the Maritime Administration suggesting a deepwater port off Delaware; a series of studies by the

Corps of Engineers of possible locations on the Atlantic, gulf and Pacific coasts; and a study of the impact of deepwater ports by the Council on Environmental Quality. These are only a few. Each study has contributed to a better understanding of such ports. They have important implications for our marine ecology and coastal wetlands. If they are well built and operated, they might actually lessen the amount of oil spilled.

On the other hand they pose a potential for major spills such as we have never before witnessed.

Perhaps more important is the impact of a deepwater port on the development of the coastline adjacent to the port. During the many days of hearings held on this bill. I was told many times that the States can control this development and even prohibit it if they so desire. This is good theory, but most witnesses agreed that refining, petrochemical, and industrial development have in fact followed deepwater port development around the world. The most honest evaluation was in a report by the Corps of Engineers on the east coast, which said:

> However, major land-side impacts could result from such facilities, if they are not carefully controlled. Creating a point source for the importation of large quantities of crude oil could induce heavy concentrations of industrial facilities in areas having high environmental value, such as wetlands and recreational areas. Local interests have the ability to regulate the extent and nature of such growth through conditions attached to state permits and through local land use control. Neverheless, historically, local governments have not demonstrated an ability to withstand pressures to use their lands for purposes of economic growth and development.

It was my privilege to chair the first hearings held in the Senate this session on this subject. These were before the Air and Water Pollution Subcommittee of the Public Works Committee in February 1972.

In opening the hearing I stressed that there were still many things we needed to know before we should proceed with legislation to permit construction and operation of deepwater ports. I enumerated a whole list of these things, without going into them all, let me say that many, perhaps most, of the issues I raised have been addressed in those and subsequent hearings and studies—some more satisfactorily than others.

As a result of that hearing—feeling that more comprehensive legislation was needed—I introduced with Senator MUSKIE, S. 1316. This bill not only provided a State veto over deepwater ports, but also required certain environmental protection against the effect of such ports on the adjacent shoreline. I am pleased that the spirit of our S. 1316 has been retained in the legislation before us today.

These ports also have a national importance that extends beyond the adjacent States. These ports and their location will have a bearing on how much crude oil we import; how much it will cost; and where it will be available. By making imported oil more easily available these ports may effect the intensity with which we seek new domestic energy resources. They may effect the availability of capital to develop our own coal resources. They are indeed a matter of national interest.

I am still deeply troubled by one as yet unanswered point that I raised at the Public Works hearing on deepwater ports. To quote from the record of the hearing:

> Among the various unanswered questions and unmet needs relating to any port decision are the following. . . . We need a national energy policy indicating demands, means of restricting demand, and the fuel sources required to meet essential needs.

And after all this time, we still do not have an energy policy in any true sense of the word, in my opinion. We have a phantom "project independence" which apparently never meant anything. We have a lot of talk about conservation, but not much real action. And we have an appropriation of energy research and development funds that hardly begins to meet the needs. Yet deepwater ports have a direct relationship to where and how we get our energy. Right now, imports account for more than 25 percent of our crude oil used. The national decision to build them, particularly if they are allowed to be built by petroleum companies, will have a strong bearing on efforts to develop a rational energy policy. This is not, therefore, a simple little licensing bill. It is an important building block in an energy policy which is not yet designed by these United States.

Leaving this point for the moment, I must say that the bill here today is a much better product than anything offered previously.

The administration bill, S. 1751, around which most of the hearings centered in my opinion was a very weak bill.

This bill was so vague and loosely worded as to represent a virtual blank check to the Interior Department to authorize these ports. The bill started from an assumption that deepwater ports were in the national interest. The Secretary of the Interior, after making some broad environmental findings, consulting with governors of affected States; and determining the financial responsibility of an applicant, could issue a license for a deepwater port. The secretary could hold a public hearing if he felt it necessary, but was not obliged to. He was to consult with other Federal agencies, but there was no list and no requirement to listen. There was no significant oil spill liability provision in the Bill either.

The bill before us today is certainly a vast improvement. It requires a determination that each port is in the national interest, including national environmental and energy policies. The bill provides a base for environmental criteria which must be developed to measure the impact of a port. It requires approval of the Environmental Protection Agency as to matters under its jurisdiction.

It requires that a public hearing be held in each affected State. It gives to each adjacent State an absolute right to determine whether such a port shall be built off the coast of that State. It contains the broadest oil spill liability requirements ever enacted—unlimited liability for clean-up costs and damages, including general damage to the marine environment. It requires antitrust review by the Federal Trade Commission and the Attorney General. It provides for Coast Guard to be the primary licensing agency—acting through the Secretary of Transportation. The Coast Guard has a good record of concern with oil and the environment.

As far as a licensing bill can, this legislation attempts to establish standards and criteria that will assure sound decisionmaking. However, I am still concerned about the energy policy implications of this bill. My concerns are magnified by a provision in the bill that would permit oil companies or their affiliates to build and operate these ports. Thus the constructors of these ports may well be the same corporations who brought us our first energy crisis and who are now helping to make us even more permanently dependent on imported crude oil. I do not want to deny people fuel to heat their homes, but I do not want these ports to be a stumbling block to that still hoped-for national energy policy. This is a matter which will probably be brought before the Senate before our deliberations are finished.

Regardless of the outcome on this bill and amendments to it, I would like to express my admiration for the fine efforts of my colleagues, in drafting and redrafting this legislation through countless hours.

I would also like to express my appreciation for their willingness to listen to the junior Senator from Delaware and, quite frankly, to incorporate almost every request that I made into the bill. I think this bill shows the value of a deliberative body such as this in producing soundly conceived legislation.

Lastly, I do not think that we should continue to try to fool the American people, as some Members who are not on this subcommittee have attempted to do, and the administration, on occasion, either knowingly or unknowingly, has attempted to do, by talking about Project Independence.

I hope they all listened to Senator HOLLING'S statement this morning. I hope they listened to everyone else who spoke here. Everyone has emphasized that this bill recognizes that we are going to be dependent to a significant degree upon the importation of Persian Gulf oil.

Further, the hearings are replete with testimony that the only justification for building these ports is if we are going to continue to import vast quantities of oil from the Persian Gulf States.

So I do not think anybody here should kid himself. I think we had better face straight up to it and recognize what we are saying when we, in fact, pass this legislation.

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

Mr. BIDEN. I certainly will.

Mr. STEVENS. I do not want the Senator to feel that I base my support of this legislation on Project Independence or expect it to be a reality. These ports can handle very large tankers coming from Alaska. They can also handle tankers that can be brought down from Alaska to the Panama Canal area and then carried by pipeline across the isthmus,

and then brought up the east coast and distributed anywhere along the east coast. There is not anything inconsistent with Project Independence.

Mr. BIDEN. That is where the Senator and I have disagreed consistently.

The testimony for several weeks of the hearings from the oil companies and the rest all indicated that the economies of this legislation were only justified if we were going to continue, for the east coast and gulf coast, to import increasing amounts of Persion Gulf oil. The testimony is replete with that.

I do not know how the Senator is going to get one of his supertankers around South America or through the isthmus in order to get over to little old Delaware to use the Delaware Deepwater Port.

Mr. STEVENS. By a simple little old pipeline. We are getting one up there just a few miles across the isthmus.

Mr. BIDEN. Mr. President, I feel badly because the Senator yielded to me so that I could make a statement. I am inclined to continue talking, but I will overcome that inclination and sit down.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that Mr. John M. Cross, legislative assistant of our distinguished colleague from New Hampshire be permitted the privileges of the floor.

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

DESCRIPTION OF THE DEEPWATER PORT ACT OF 1974

Mr. HOLLINGS. I would now briefly like to explain the key features of S. 4076.

LICENSING AGENCY

After considerable debate, the Special Joint Subcommittee agreed upon naming the Department of Transportation—Coast Guard—as the single lead Federal agency for licensing the construction and operation of deepwater ports. The Secretary of Transportation would exercise this authority in consultation with other Federal agencies which have or share jurisdiction over the various aspects of deepwater port development. All interested Federal agencies would be provided an opportunity for input in the licensing process. And each agency would insure that issuance of the license meets all the requirements of the laws they administer. Because the essential nature of the deepwater port relates to navigation, vessels, transportation and pipelines, it is the subcommittee's opinion that the Department of Transportation is the most qualified to act as lead agency.

ADJACENT STATE VETO

Section 4 of the bill would prevent the Secretary from issuing a license unless the Governor of the adjacent coastal State or States approves, or is presumed to approve, the issuance of the license. In effect, this constitutes an absolute veto for coastal States. An adjacent coastal State is broadly defined and includes:

First, a State which is directly connected to the port by pipeline;

Second, a State located within 15 miles of the proposed port; and

Third, a State threatened with a possible oil spill from the proposed port.

It would be in the discretion of the Administrator of the National Oceanic and Atmospheric Administration to determine which States would face substantial risk of oil spill damage from a deepwater port or from a vessel operating in a safety zone around the port. In addition, the Secretary must incorporate as conditions of the license any reasonable terms which an adjacent coastal State requests in order to make a deepwater port compatible with the environmental programs of that State. Existence of this veto authority will not, in the opinion of the committees, preclude the construction of deepwater ports, since several States are actually encouraging the construction of these facilities, notably States bordering the Pacific Ocean and the Gulf of Mexico.

PROCEDURE

A timetable for action on a license of 11 months is established. Procedures involved include: application, environmental impact statement, hearings, and final action by all Federal agencies. Applications to build ports in the same location are handled by a procedure designed to consider at one time all applications for any one location. If all applicants possess equal qualifications, the Secretary is directed to issue a license according to a set priority: First, a State application; second, an application by an independent terminal company; third, and any other application.

ENVIRONMENTAL REVIEW

Secretary of Transportation, together with the Administrator of the EPA and the Administrator of NOAA, is to establish environmental review criteria which shall be used to evaluate an application to build a deepwater port. Criteria are to include the full range environmental concerns associated with deepwater ports.

ANTITRUST REVIEW

Among the prerequisites to the issuance of a license is the requirement in section 7 for an antitrust review of the application by the Attorney General and the Federal Trade Commission. Both agencies are to give the Secretary an opinion as to whether issuance of the license would adversely affect competition, restrain trade, further monopolization, or otherwise create or maintain a situation in contravention of the antitrust laws.

COMMON CARRIER STATUS

The bill makes specifically applicable all existing statutes regulating the transportation of oil and natural gas in interstate commerce. In addition, regulation as a common carrier would apply not only to the pipelines involved, but also to the onshore storage facilities. Failure of the licensee to comply with these statutes would be grounds for suspension or termination of a license.

NAVIGATIONAL SAFETY

The Coast Guard is authorized to prescribe by regulation procedures to insure navigational safety around and near the port. Coast Guard is further authorized to designate a safety zone around the port within which no use incompatible with port operations is to be permitted. Additionally, a safety zone would be established during the construction phase to further insure that a navigational hazard is not created.

LIABILITY

Strict liability for pollution damage caused by discharge from the port or from the vessel within the safety zone around the port is prescribed. The bill allocates liability among: First, the licensee, up to $100,000,000; second, the owner or operator of a vessel, up to $2,000,000 or $150 per gross ton of the vessel, whichever is lesser; and third, a Deepwater Port Liability Fund for all other proven damages—including cleanup costs not actually compensated by the licensee or the owner or operator of a vessel. The fund is created by a 2 cents per barrel charge on oil, and on the metric volume equivalent of natural gas, and is to be administered by the Secretary. Because liability under this provision is unlimited, other State and Federal laws which might cover the same damages are preempted.

RELATIONSHIP TO OTHER LAWS

Section 19 makes the constitution laws and treaties of the United States specifically applicable to deepwater port activities. This legal regime is made applicable to activities connected, associated or potentially interfering with the use or operation of a deepwater port in the same manner as if the deepwater port were located in the navigable waters of the United States. For the purposes of this act, State law is deemed to be Federal law and would be enforced by the appropriate Federal officials.

Mr. President, I have two technical amendments to add to S. 4076. I have checked them through with the Committee on Public Works and the Committee on Interior, the majority and minority sides, and now I ask unanimous consent that they be printed at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Does the Senator offer these amendments at this time?

Mr. HOLLINGS. Yes.

The ACTING PRESIDENT pro tempore. The clerk will report the first amendment.

The legislative clerk read as follows:

Page 20, lines 12 through 14, strike the words "at least one public, formal hearing shall be held, in accordance with the provisions of section 554 of title 5, United States Code, in the District of Columbia", and insert in lieu thereof the following words: "if the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5, United States Code, in the District of Columbia. The record developed in any such adjudicatory hearing shall be basis of the Secretary's decision to approve or deny a license."

Mr. HOLLINGS. The Special Joint Subcommittee approved a two phase hearing requirement. The first phase would be one or more local, informal hearings near the proposed deepwater port site. The desire was to allow local residents the opportunity to voice their feelings about a project with such a large impact as a deepwater port.

The second phase involves a formal, adjudicatory hearing on the record. To

blend the two in a more efficient fashion, this technical amendment will allow the Secretary to call a formal hearing if material and specific factual issues need to be decided. If a formal hearing is held, it must constitute the record upon which a decision is based. Therefore, presentations of fact put forward at the informal hearings must be reintroduced at the formal hearing to satisfy the basic procedural requirements of cross-examination and rules of evidence.

This amendment merely perfects the language now contained in section 5(g) of S. 4076.

The ACTING PRESIDENT pro tempore. The clerk will report the second technical amendment.

The legislative clerk read as follows:

1. Page 40, line 9, after the word "zone" but before the word "or" insert the words ", from a vessel which has received oil or natural gas from another vessel at a deepwater port,".

2. Page 41, line 12, after the word "zone" but before the word "or" insert the words ", from a vessel which has received oil or natural gas from another vessel at a deepwater port.".

3. Page 42, line 14, after the word "zone" but before the word "except" add the words ", or from a vessel which has received oil or natural gas from another vessel at a deepwater port,".

Mr. HOLLINGS. It is possible that deepwater port facilities may be utilized for either lightering or transshipment. That is, large ships may tie up at a deepwater port and offload part or all of its cargo into smaller draft vessels for transporting the oil to shore. Once lightened the larger draft vessel could then enter shallower harbors.

This amendment extends to the liability provisions of section 18 of the bill to this type of deepwater port operation. Therefore, liability would attach to vessels which receive oil or natural gas from other vessels at a deepwater port. This would mean transfer of cargo either while moored or while both vessels are within the safety zone of a deepwater port. The liability provisions would apply wherever or whenever a spill of oil or natural gas occurs from such a vessel, until it offloads its cargo ashore.

This amendment fills the gap left in the liability section.

Now, Mr. President, I ask that these amendments be considered and agreed to en bloc, and the bill, as thus amended, be treated as original text.

The ACTING PRESIDENT pro tempore. Without objection, the amendments will be considered en bloc as part of the original text and, as submitted, they are agreed to.

Mr. HOLLINGS. Mr. President, I yield to the distinguished Senator from New York.

The ACTING PRESIDENT pro tempore. The Senator from New York. The Senator from South Carolina yielded to the Senator from New York?

Mr. HOLLINGS. No. The Senator from New York has the floor.

Mr. STEVENS. The Senator from New York has as much time as he wishes.

The ACTING PRESIDENT pro tempore. The Senator from Alaska yields time.

AMENDMENT NO. 1954

Mr. BUCKLEY. Mr. President, I call up my amendment No. 1954.

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

The legislative clerk read as follows:

Delete subsection 4(d) and reletter the following subsections accordingly.

Mr. BUCKLEY. Mr. President, I understand I am speaking on my own time, not on the minority's time.

The ACTING PRESIDENT pro tempore. The Senator has 15 minutes on each amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent to add the name of the Senator from Colorado (Mr. HASKELL) as a cosponsor.

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

Mr. BUCKLEY. This amendment is simple in its effect, Mr. President. It deletes subsection 4(d) of the bill. That is the subsection entitled "Port Evaluation," which begins on page 10, line 8, and continues through line 5 on page 11.

This subsection requires that the Secretary compare "the economic, social and environmental effects" of any proposed deepwater port with plans to dredge a nearby inshore port to superport depths, if requested by the adjacent public port. As part of this study, the Secretary must "determine which project best serves the national interest or that both developments are warranted."

I recognize that section 4(d) is drawn tightly. And many people may argue that such an evaluation sounds innocent, and might even have some value. I disagree. I believe that this language could prove harmful to the purposes of this bill, and may hamstring efforts toward sound deepwater port development. It is an exercise in comparing apples with oranges, and may prove a source of protracted delays and litigation.

Secretary Rogers C. B. Morton, in expressing the administration's position, describes the dredging language this way:

DREDGING OF HARBORS INSTEAD OF CONSTRUCTING DEEPWATER PORTS

Subsection 4(d) would direct the Secretary, after an application for a deepwater port is filed, to compare the economic, social and environmental effects of the construction, expansion, deepening and operation of a harbor if a State has existing plans for a deep draft channel and harbor or meets other requirements.

We strongly recommend that this subsection be deleted. All available information supports the conclusion that the construction of deepwater ports is environmentally and economically more satisfactory than the construction and maintenance of a deep draft channel and harbor. Deepwater ports avoid the risks of oil spills due to heavy tanker traffic within conventional ports, they avoid the environmental problems associated with dredging and the disposal of sludge, and they are less expensive to construct and maintain.

The National Environmental Policy Act of 1969 will require that alternatives to a deepwater port be evaluated before a license is issued, in any event. Subsection 4(d) of the bill, on the other hand, would require that special consideration be given to developing deep draft channels and harbors, a less preferable alternative, and it would encourage port authorities and dredging companies to prepare plans and exert pressure for constructing them. Moreover, the mandatory review of these plans would add delays and expenses to the review of applications to construct and operate deepwater ports.

This amendment is being pushed by those who fear the loss of dredging contracts. The purpose of section 4(d) is to balk deepwater ports under this bill in favor of doubling the depth of existing harbors.

Frankly, the dredging of any existing port to depths of 90 or 100 feet—the depth that the report on this bill refers to as that "required for supertankers to operate safely—could wreak environmental havoc.

Deepwater ports will assure a greater chance of controlling oil spills than provided by inshore ports. According to the bill's report, offshore superports "would reduce the risk of groundings, collisions, and oil spills" by keeping tankers away from the coast.

The dredging alternative poses other disadvantages. Harbor bottoms are deep with accumulated pollutants. According to the Commerce Department study:

The very act of dredging might stir up and recirculate pollutants that have settled to the bottom and reduce, thereby, the quality of water and the area where the dredged spoil is deposited.

According to a June 1974 discussion by the Corps' Office of Dredged Material Research:

It has been generally found that natural water sediment tend to be sinks of chemical toxicants where toxicants present in the water column become associated with particular matter and become incorporated in the sediment.

The Commerce study found other dangers related to deepdraft channels:

They would allow more extensive intrusion of salt water into Delaware and Chesapeake Bays, and would have an effect on the critical saline balance of this area. . . . The deeper channels would also threaten the water supplies of the region. The greater salinity penetration, particularly in the Delaware River, would increase the salt content of municipal and industrial water supplies.

But the alternative of dredging becomes almost ludricous in some locales. The Commerce Department estimated:

Primarily because of underlying rock, subsurface vehicular tunnels and myriad environmental and ecological problems, the existing 35 to 45-foot channel depths in North Atlantic ports are capable of only minor increases of about 10 feet at a projected 1980 Federal first cost greater than $2 billion.

That expense, of course, would do little to meet the requirements for vessels with drafts of 70 or 80 or more feet. Gouging channels to the depths required for supertankers appears physically, economically, and environmentally infeasible.

Look at the Philadelphia problem. The existing channel is authorized at 40 feet. One foot below that, I understand, lies bedrock. Corps surveys have indicated that deepening that channel to a supertanker depth of 90 feet would require the removal of some 330 million cubic yards of silt and rock.

If just half of that is rock, the removal cost will top $3 billion, since the cost of cutting through rock normally ranges from $15 to $25 per cubic yard. That assumption makes no provision for suitable disposal of a quantity of dredged spoil that would cover a square mile to a height of more than 100 feet.

The Commerce Department also figures that it would be impossible to bring supertankers into Hampton Roads, Va., because of the 55-foot depth of the bridge-tunnel that crosses the entrance to Chesapeake Bay. The Commerce Department study notes:

> The Port of Baltimore is, in fact, further limited in its inner harbor areas to a maximum water depth of 50-feet by the existing Harbor Tunnel.

Similar problems exist in harbors from New York to Texas. The Corps of Engineers is presently studying the feasibility of a deepwater channel into Corpus Christi, Tex. The Corps, I would note, estimates that the dredging a 100-foot channel into Corpus Christi would have to start 21.3 miles offshore, and involve the removal and disposal of 220,000,000 cubic yards of spoil. Frankly, I doubt if that is a reasonable alternative to a superport offshore.

Nor do I believe that the Secretary of Transportation can make the economic judgment this subsection requires. For one thing, the Secretary of Transportation has no control over the onshore port, so he can do nothing to implement that choice.

Local officials in harbor projects must generally agree to furnish lands, easements, rights of way, spoil disposal areas, and make any necessary relocations of utilities and pipelines. Further, the local interests must agree to hold and save harmless the Federal Government.

How can the Secretary of Transportation make a balancing study when any expansion of the inshore port depends on such local assurances, plus subsequent approval by the Congress?

The purpose of this bill is to establish a regime for the consideration of deepwater port licenses. If a State or private group decides that construction of such a port is to its economic advantage, and the sponsors can raise the necessary capital and comply with the other requirements of the statute, I do not believe that the Secretary should have the authority to withhold approval because he decides that the onshore port might be expanded.

Directed by the 1970 Rivers and Harbors Act, the corps is presently making a thorough study of dredging problems and alternatives. An early assessment by the corps comes to this conclusion:

> A basic premise in the problem assessment phase of the study was that dredging of large volumes of material will continue because of a lack of alternatives in creating and maintaining navigable waterways for the nation's economic development.

I agree. That is why I suggest that section 4(d) is unnecessary.

This bill creates an alternative that this one provision seeks to dismantle. To assure ourselves that this bill works, and that it does not become locked in 4(d) studies and litigation, I urge my colleagues to adopt my amendment and strike subsection 4(d).

Mr. HOLLINGS. Mr. President, I yield to our distinguished colleague from Arizona who wants to talk on his time on the bill.

Mr. FANNIN. I thank the distinguished Senator.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. FANNIN. Mr. President, I am greatly encouraged by the proposed Deepwater Port Act of 1974. It is well considered, reasonable legislation designed to facilitate the delivery of petroleum to American markets, with adequate protection for both the environment and the consumer.

S. 4076 provides an administrative structure for the licensing and operation of deepwater ports, which are acknowledged as the economically and environmentally preferable facilities for handling imported petroleum and petroleum products. Why are these ports so important?

First, because the economic benefits offered by deepwater ports are considerable. I think this speaks to the Buckley amendment.

As our population and industrial production continue to grow, our consumption of energy will increase. At the present time, our domestic production of coal, gas, and oil are not keeping up with demand. The Federal Energy Administration estimated last year that in order to meet our energy needs, we will have to import 15 million barrels of oil per day by 1985. There is no short term alternative which can overcome our need to import oil. Moreover, to the extent that we fail to bring nuclear power plants on stream as scheduled, we will have to augment oil imports. To the extent that we restrict the use of coal, we have to use imported oil. To the extent that we continue to rigidly control natural gas prices and discourage the development of new reserves, we must import more oil. The President's recommendations yesterday reflected that view. In short, oil is the swing fuel.

Absent a turnaround in domestic production, by 1985 approximately 8.5 million barrels of oil per day will arrive in the United States from Eastern Hemisphere sources alone, and the supertankers of 200,000 deadweight tons—dwt—will be used to import it. A fleet of about 350 tankers of the 250,000 dwt class would be required to transport that amount of oil to the United States. On the other hand, importing it in standard size small tankers would require about 3,000. There are two factors to consider here.

First, worldwide experience has proven that major savings in transportation costs result from the use of newer tankers of the 200,000 dwt and up variety These supertankers are too large to dock at existing U.S. ports. Consequently, they dock at deepwater terminals in Canada and the Bahamas and unload their cargo into tankers small enough to enter our ports. The United States hardly needs this drain on our balance of payments in these inflationary times.

Second, 3,000 small tankers bringing increasing volumes of oil from Eastern Hemisphere sources in adition to those carrying oil from the Western Hemisphere and those already in U.S. coastwise trade would pose a severe strain on our already overcrowded harbors.

So much for the economics. Now to the second reason deepwater ports are so important—the environmental considerations. They have been adequately mentioned by the distinguished Senator from New York in support of his amendment. Certainly, they are very impressive.

Historical data compiled by the Coast Guard on collisions and groundings dramatically demonstrate that most oil spill accidents—nearly 70 percent of all collisions and rammings and virtually all groundings—occur where harbor congestion is great and where maneuvering of ships is restricted by narrow, winding channels. These accidents are quite rare on the open sea. While no one is claiming that deepwater ports will end pollution of the seas, their location far offshore will certainly reduce this type of accident. In fact, data provided by the Council on Environmental Quality indicates that they will lead to an impressive 90 percent reduction in such incidents.

Poricelli and Keith, the acknowledged authorities on the world tanker fleet, report that in 1969–70 tankers over 80,000 deadweight tons made up 32 percent of the total tonnage of the world tankship fleet, accounted for 8 percent of the tanker accidents, and caused only 6 percent of the oil pollution attributed to tankers. As a matter of fact, they have concluded that—

> Tankers 80,000 dwt and larger can transport oil seven times safer than tankers below 80,000 dwt from a viewpoint of tanker casualties and subsequent pollution.

So in this regard, the larger tankers are the safest.

We are all aware that estuaries and coastal wetlands are extremely sensitive to damage from oil spills. Damage to those fragile areas from vessels close to shore is almost unavoidable. Spills from deepwater ports far offshore, however, might not even move toward shore—and if they did, natural weathering forces would have a longer period to remove its most toxic properties. Furthermore, recent improvements in cleanup technology, tanker construction, and port operation procedures have somewhat diminished the spectre of a giant tanker breaking up at sea. A number of facilities around the world are using equipment which can contain 1,000 tons of oil in each boom and pick up 100 tons of oil from the surface of the water each hour.

With respect to the environment I believe the weight of authority lies with the testimony of Russell Train on behalf of the Council on Environmental Quality:

> Based on studies conducted for the Council by the U.S. Coast Guard, it appears that creating superports in the United States carries a lesser risk of oil spill damage than does trans-shipping oil from foreign ports.
>
> The environmental impacts associated with port construction and oil spills can be significantly reduced by the development of far offshore deepwater ports which will be served by supertankers at locations dis-

tant from congested harbors and coastal areas. The environmental impacts associated with the development of petroleum refining and processing industries would occur to some extent if the same amounts of oil were imported in conventional tankers. To the extent that these impacts might be focused on areas served by deepwater ports, State and local governments can plan for and control them using their traditional powers within a framework of current and pending Federal pollution abatement and land use management laws.

Turning to the legislation before us, I believe S. 4076 protects the environment. It specifies environmental review criteria for consideration of applications for these ports. EPA is given absolute authority to insure compliance with the Clean Air Act, the Federal Water Pollution Control Act, and the Marine Protection Research and Sanctuaries Act. All Federal departments and agencies with relevant expertise will have opportunity to comment on applications. A NEPA impact statement is required. Navigational safety and marine protection requirements are included. Stringent liability provisions insure cleanup and payment of damages for any spills that may occur.

Mr. President, I support the bill, and I support the amendment of the distinguished Senator from New York. It would be most helpful in rounding out a very desirable bill.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, on our 15 minutes, before I yield to my distinguished colleague from Maryland to present the joint committee's position, we tried our best in marking up this bill between Public Works, Interior, and Commerce, and all interested parties, to have complete coordination. That is why I think we have a pretty broad support for this particular measure.

We wanted to allay the fears of anyone on the State side that they were not being considered. We put an absolute veto in the governor of an adjacent State. Then with respect to many, many port facilities around the land we wanted an evaluation of the impact of a deepwater port upon that particular port. So we put it in there.

It is not a delay. It is within the time period agreed to.

I could actually agree with almost everything our distinguished friend from New York has said, but that is the best argument, that the superport or deepwater port would prevail after the consideration.

I do not think this consideration of the several ports and their ongoing programs, dredging, expansion, or otherwise, should be just set-aside and not considered.

I yield to the distinguished Senator from Maryland.

Mr. BEALL. I thank the Senator for yielding.

Mr. President, I rise in strong opposition to this amendment. Section 4(d) was carefully considered by the Special Joint Subcommittee on at least two separate occasions, and was overwhelmingly agreed to by the Members as an important way to insure that the future of existing inshore ports is at least considered during the licensing process of a deepwater port. The section is in harmony with the rest of this landmark legislation in its concern for the environment and in its hope for prompt construction of offshore ports, and in my judgment to delete it would seriously weaken an excellent and well-balanced bill.

The "Port Evaluation" subsection would only be used in situations where an application is made for a deepwater port off of a State where an existing inshore port has either an active study by the Corps of Engineers relating to the construction of a deep-draft channel and harbor, or a pending application for a permit for such construction. In such an instance, the Secretary, upon the request of such a port, is required to review that port's existing plans for constructing a deep-draft channel in comparison with the proposed deepwater facility. Such a request must be made no later than 30 days after the Secretary receives an application for a deepwater port license. The Secretary will then determine which project, or both, best serves the national interest.

This section assures that a balanced evaluation will be made prior to a decision on a deepwater port license. This evaluation will be particularly important to ports where the diversion of oil traffic to the deepwater port might depress a positive cost-benefit ratio, thus jeopardizing deepening projects which are necessary for the handling of products other than petroleum.

I strongly believe that deepwater ports are needed. Their construction will facilitate the handling of critical supplies of foreign oil, and do it in a manner whereby our environment can be protected.

However, just as deepwater ports offer substantial benefits for petroleum in many locations, so existing inshore ports offer other important advantages in other situations. An inshore port's capability to handle bulk dry commodities can benefit from the same economies of scale as can oil transport. For example, in my State, the Port of Baltimore could enjoy much of the same economies in iron ore and related commodities destined for the Bethelehem Steel plant at Sparrows Point, if the Baltimore Harbor was deepened.

Additionally, studies previously conducted have indicated that the economic and environmental costs of dredging are not necessarily higher than other possible solutions, and may be less costly. For instance, a recent study by the Bechtel organization at Harbor Island, Tex., concluded that an inshore port would result in a $7 million cost saving over the single point mooring system.

As I mentioned before, I believe in the concept of deepwater ports, and I hope that the passage of this bill will lead to the prompt construction of such facilities. Thus, I am puzzled when some people charge that section 4(d) is an attempt to delay construction of deepwater ports. In fact, nothing could be further from the truth.

I quote from the committee report in this regard:

This subsection is not intended to encourage protracted study which would have the effect of delaying by months or years a final decision on a deepwater port application. The comparative evaluation is to be completed within the time table established for the Secretary to reach a decision granting or denying a license for the ownership, construction and operation of a deepwater port.

Thus, the committee's intention is clear—this section in no way can be construed to delay action by the Secretary.

Another objection raised by some concerns the supposed environmental problems raised by this section. Again, a reading of the bill clearly states that the Secretary in his evaluation is required to weigh the environmental, as well as the social and economic, factors in his comparison. If the inshore port offers environmental dangers greater than the deepwater facility, then I am confident the Secretary will decide accordingly.

I must also emphasize that this section in no way offers any preference to inshore ports. If any preference exists in this bill, surely it is on the side of the deepwater port. All this section attempts to do is to insure that somewhere along the licensing process, the effect of deepwater ports on inshore ports is considered. It is equity, and nothing more.

The Secretary is under no compunction to choose one port over the other. It is not, as some have charged, an "either-or" situation. The Secretary specifically has the authority to indicate that both ports are in fact in the national interest.

Mr. President, this section is designed to prevent licensing in a vacuum. The decision of the Secretary in this matter will have major implications for our country for many years, and to fail to require a comprehensive study by him on the short- and long-range effects of a deepwater port would be simply irresponsible.

Therefore, I urge the rejection of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. How much time do we have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 9 minutes remaining; the Senator from New York has 8 minutes remaining.

Mr. BUCKLEY. Mr. President, I appreciate the concerns of the Senator from Maryland. I know he has concern about the problems with Baltimore Harbor. But one of the problems that we face there is that if we were to go to the depths required for supertankers, we would have to remove certain tunnels that now cross under the harbor. I know he is not concerned with those depths at the present time. He is concerned about depths down to 55 feet.

On the other hand, we do see here the potential for conflicts that could create substantial delays, despite the statutory language.

I believe further there is a problem to which insufficient attention has been given. The Secretary of Transportation would be required to make the judgments on comparative economics.

I suggest that it is impossible for the Secretary of Transportation, with jurisdiction over a deepwater port dealing

only in oil and not in bulk cargoes, to make a meaningful comparison when you have quite different types of onshore responsibilities associated with harbors. Local interests would be required to provide onshore facilities, rights-of-way, easements, spoil disposal areas, and so forth. How can the Secretary of Transportation control that?

The way this bill would operate, without the section in question, would not be to impede ongoing plans for harbor improvements. They will or will not be justified on their own merits.

By the same token, we ought not throw roadblocks in the way of the Secretary's decision of deepwater ports. This is one of our most pressing national needs: to make it possible to bring in the quantities of oil we will be needing during the next decade or more, irrespective of the success of Project Independence, and to bring in that oil in the manner that is the most environmentally safe.

Speaking of the environment, I point out that the National Environmental Policy Act requires the Secretary of Transportation to make the necessary environmental comparison between the construction of the proposed deepwater port and the alternative port facilities that already exist.

For all these reasons, I respectfully recommend that my amendment be adopted.

Mr. BEALL. Mr. President, the Senator referred to Baltimore. I want to correct some misinformation he must have.

I refer the Senator to the amendment. No one, in considering the Baltimore Harbor or the Chesapeake Bay, has ever suggested anything other than 50 feet. All the tunnels are below 50 feet. There is no suggestion anywhere that anyone is going to deepen that tunnel to the point where it interferes with the Baltimore Harbor Tunnel or the Chesapeake Bay Bridge Tunnel at the mouth of the bay.

I do not know where the Senator gets his 90-foot figure. All engineering studies indicate that the current study, the current recommendations, the current proposals, in no way interfere with any tunnel crossings of the bay or the harbor.

Mr. BUCKLEY. Mr. President, I thank the Senator. I think that the situation to which I addressed myself nevertheless is valid. I do not believe that the elimination of section 4(d) will in fact interrupt the normal operation and improvement of such harbors as Baltimore, Philadelphia, New York, and others.

We also must remind ourselves that if we are talking about alternatives to ports for supertankers, one has to think in terms of 90- to 100-foot depths.

Mr. BEALL. I recognize that the supertanker requires a 90- or 100-foot depth. We are not talking about supertankers going into these ports. We are talking about the fact that when one uses the figures related to the deepwater ports and compares them, as has been done by OMB, with inshore ports, we have a depressed cost-benefit ratio that is used as an argument to discontinue work on the inshore port.

The purpose of this measure is to make sure that this fallacious argument will not be used by Government agencies as these ports try to make themselves more effective in serving the national interest in the areas of the country involved.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Alaska (Mr. GRAVEL) is necessarily absent. He worked long and hard on this bill, particularly on this provision. The distinguished chairman of the Committee on Public Works, the Senator from West Virginia (Mr. RANDOLPH), I believe has a statement on behalf of Senator GRAVEL.

Mr. RANDOLPH. Mr. President, I appreciate the comment of the able Senator from South Carolina (Mr. HOLLINGS).

It is my desire that the RECORD show at this point that I do oppose the amendment offered by the knowledgeable Senator from New York (Mr. BUCKLEY), and I hope that the amendment will be defeated.

I rise for the special purpose of adding to the announcement made by the manager of the bill that Senator GRAVEL is necessarily absent from the Chamber during this debate today. Senator GRAVEL chairs our Subcommittee on Water Resources. He has not only an intense interest in the general body of the proposed legislation, but also a particular point of view in opposition to the amendment now pending.

I ask unanimous consent, Mr. President, that the statement by Senator GRAVEL be printed in the RECORD.

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

STATEMENT BY SENATOR GRAVEL

A short 14 months ago this body took action that can be properly described as the first giant step down the road toward a solution to our country's critical petroleum supply problem.

I refer in that context, of course, to approval of the Alaskan pipeline bill which will make it possible to open the faucet on a vast untapped oil reservoir deep under my State's North Slope.

I had the honor of leading the fight for that legislation and I am happy to report today that the construction for which it gave the green light is already well under way.

Because we acted when we did, we can within the next two years look forward to an addition of close to two million barrels a day to the country's oil supply. No one in this chamber needs to be reminded of the importance and significance of that in today's world.

The wisdom of our decision to develop this major domestic source was quickly underscored, as each of you will recall, by the imposition of the oil embargo last October.

If doubters remained up to that point, I thing it is safe to conjecture that they became converts very soon thereafter.

It could scarcely have been otherwise, considering the force with which the oil cut-off impacted on every aspect of our economic and personal lives before it was lifted.

Hopefully, we will not be called upon again to undergo such a harrowing experience. I am disposed to believe that the risk of such a recurrence may have been diminished already at least to some degree by the steps we have taken to provide for a major new domestic source of petroleum stocks.

The problem of finding an adequate supply is not, however, the only one with which we are confronted in these troubled and uncertain times.

It is not enough just to have sufficient oil.

It must also be available at a price at which it can be used without totally disrupting the nation's business and industrial and governmental economy.

In addition, it must be distributed in the manner least likely to produce environmental damage or to adversely affect the areas through which it is moved for subsequent storage or processing.

The cost of transportation is a key factor in determining the ultimate price of crude oil.

So, if that price is to be cut, or even perhaps kept from rising even further, a way has to be found to move the oil at a lower per unit cost as well as with a lower spill risk.

In simple terms, those are the primary objectives of S. 4076, The Deepwater Port Act of 1974, which is before us for debate today.

The basic premise of the bill is that the most effective and economical means of transporting crude oil is in supertankers of from 200,000 to 500,000 deadweight tons and that development of deepwater ports linked to shore by underwater pipes affords the only practical way of discharging the cargo of those giant ships.

Those conclusions and the provisions of the measure proposing their implementation represent the composite views of the 15-member Ad Hoc Subcommittee from the Public Works, Commerce and Interior Committees formed for the specific purpose of developing such legislation. They are, I would emphasize, the product of extensive hearings, staff consultations and research and executive sessions covering a span of nearly 18 months.

Actually, the preparatory period was even longer than that. The first consideration of the deepwater port concept dates back to April of 1972, approximately a year before the Subcommittee was appointed and assigned the task of preparing a joint committee bill. Thus each of the proposals introduced during the ensuing period was available for review and consideration during the drafting of S. 4076.

I consider it a privilege to have served on that Subcommittee because of my strong conviction of the vital importance of the issue not only to my own State of Alaska but to the country as a whole and, indeed, to every oil-consuming nation in the world.

In my view, the legislation address itself in a balanced and effective way to an extremely complex subject and I am proud to have had a part in its preparation and in its presentation now.

I place my State first on the list of potential beneficiaries because, things being as they are, I think there is a strong chance that it is in the transfer of Alaskan oil to the "Lower 48" that the deepwater port plan can produce its first specific dividends.

That is so because the Port of Valdez, the southern terminal of the pipeline, is already a natural deep draft facility suitable for handling of tankers approaching super size.

Since the Alaskan oil would be principally destined for West Coast ports on the mainland, very substantial saving could be expected on a regular basis as soon as suitable receiving facilities were developed. Depending on the source of supply, the same thing would of course also apply on shipments from Alaskan producers to deepwater ports elsewhere on the United States ocean or Gulf coasts.

In a time of raging inflation and curtailed oil production designed to keep prices high, the importance of transportation savings cannot be over-estimated.

Let me stress at this point that the legislation addresses itself to the role of deepwater ports only for transportation of oil and natural gas products. It does not propose

that such facilities preempt the entire bulk transportation field or preclude the further development of on-shore facilities where that is demonstrably feasible and appropriate.

I will touch further on that point later in my remarks and I mention it now only so that other provisions of the bill can be viewed in proper perspective and in the context of that approach.

I will not attempt to discuss in detail each section of the bill, since that is being capably and effectively done by other proponents.

Instead, I propose to direct my remarks to what I consider to be its most important and significant provisions.

Certainly one of the key features of the legislation is its conceptual approach to the subject—one which limits the Federal role to that of regulator and leaves development and operation of deepwater port facilities to eligible non-Federal interests.

The bill would empower the government to set the rules for siting, construction and operation of deepwater port facilities and to insure compliance with those regulations through licensing and enforcement procedures.

It would, at that same time, preclude the need for any Federal investment by leaving it to State or private interests to provide the financing for port construction and operation.

By restricting its application to areas outside the territorial seas where adjacent states have jurisdiction, the legislation further pinpoints the scope of Federal authority in the matter of deepwater port development.

In my considered opinion, the division of authority and responsibility which S. 4076 delineates is entirely appropriate and the arrangement most likely to produce the desired results.

It has the double advantage of combining a potential for flexibility in operation with a capability for firmness in the area of enforcement.

Nowhere is there a better illustration of the measure's balanced and even-handed approach than in the options it provides for affected states with respect to siting and construction of port facilities.

On the other hand, a proposed port may be licensed by designated Federal authorities only with the consent of the directly affected coastal state or states. Conversely, such a state or a combination of such states may become a license applicant but only by meeting the same Federal standards set for all other applicants.

Strong environmental and economic safeguards are written into the legislation in other ways, too.

All Federal agencies with any interest in deepwater port development will, under terms of the bill, figure in a review of any port license proposal. While each of them may make recommendations for or against the plan, the Administrator of the Environmental Protection Agency will have specific veto authority if he finds the proposal would conflict with existing ecological protection laws or regulations.

On the economic front, a license applicant would be required to furnish proof of full financial responsibility as well as capability and intent to comply with all laws, regulations and license conditions.

The measure makes specific provision for license suspension or withdrawal in cases of proven violation of terms of the permit or other regulations.

As I indicated earlier in this statement, the legislation with which we are now dealing does not preclude the continued development of existing water freight handling facilities.

On the contrary, it specifically provides that the potential impact of a deepwater port on area harbor installations for which expansion or deepening is planned shall be one of the factors to be considered in the review of any pending license application.

I feel strongly that this is as it should be.

My experience as Chairman of the Public Works Subcommittee on Water Resources persuades me that there is an appropriate and essential role for deep-draft harbor facilities in this country's water commerce scheme.

There are instances, I believe, in which on-shore and deepwater facilities can complement each other rather than competing to the disadvantage of both. I think, too, that demonstrable national interest and security should be the determining factor in making a choice where long-range coexistence does not appear practical.

I am convinced that many of our major seaports can be beneficially expanded to accommodate larger bulk-commodity vessels even with the development of the deepwater port concept for oil and gas transportation.

It was in that context that I sponsored the on-shore installation impact amendment which was subsequently embodied in S. 4076.

I regard this provision as both valid and necessary if the bill is to provide an objective and balanced approach to the problem with which we are dealing.

I very much hope the Senate in its wisdom will retain it.

Another feature of the bill is the provision that no license can be issued without a finding that the application does not constitute a monopoly, restraint of trade or anti-trust violation.

The toughest section of the legislation, and justifiably so, is that covering liability for damages and clean-up costs in the case of oil spills.

That section requires a maximum of $20 million coverage for a vessel using a deepwater port, a $100 million maximum for the port operator and further insurance of up to $100 million through a fund created by assessments on oil and gas moving through any deepwater port.

That fund would be tapped after liability of the other agents had been exhausted in any particular spill incident.

Stiff civil and criminal penalties are also provided for willful negligence associated with oil spills and for failure to promptly report any which may occur.

In summary, I would make these observations about the legislation before us:

Deepwater ports of the type it proposes have ben operating in a number of European areas for a number of years so we are in no sense setting out on uncharted seas.

What we are seeking, therefore, is simply the right way of effectively controlling and regulating a development which current conditions dictate as necessary and perhaps even inevitable.

I believe we have succeeded in that aim in conceiving S. 4076.

In my view, it is a strong, comprehensive and balanced measure—an essential follow-up to the Alaskan pipeline bill.

The time has come for that vital second step.

I urge that you take it today with overwhelming approval of this bill.

Mr. BUCKLEY. Mr. President, I believe we have had sufficient discussion on the proposed amendment to lay the arguments before the Senate. I am now prepared to yield back the remainder of my time, but first I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. HOLLINGS. Mr. President, I want to go along with the Senator from New York in trying to get the necessary second for a rollcall vote. While we are trying to obtain the presence of a few more Senators, I will just say a word.

The joint committee considered all the ramifications that have been pointed out by the Senator from New York in his amendment, and we have yet to see the real danger with the mechanisms set up for actual siting of a deepwater port. On the contrary, we find that if we did not have that port evaluation, we would not have had the cooperation and the understanding so necessary for a complex measure of this kind to be passed.

This is one of the great things with respect to health. Everybody will agree on health care, but no one can agree on a particular measure. Everyone can agree on tax reform, but no one can agree on a particular measure. So they talk, and nothing happens.

We want something to happen in this area and to remove this one obstacle. To make certain that the adjacent ports were considered, we put in a very innocent provision that that port would be evaluated with respect to the impact of traffic and everything else if it had an ongoing program of expansion, by way of dredging or otherwise. The governor, without that evaluation, still could put in a veto, and the Secretary's decision would be final. It is not just a matter of abuse of discretion on appeal from it.

We think it is a very valid provision. The majority of the committee supports it. With that in mind, we have to oppose the Senator's amendment.

Mr. President, I suggest the absence of a quorum, the time to be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

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

BUCKLEY AMENDMENT NO. 1954

Mr. FANNIN. Mr. President, section 4 (d) of S. 4076 provides for the Secretary to compare the economic, social, and environmental effects of the construction, expansion, deepening, and operation of an onshore harbor, with those of a deepwater port. This provision tacitly condones dredging, which can be extremely harmful to the environment in that it disturbs the habitat of marine organisms, aquifers, water currents, and so forth. Additionally, it could be used as a delaying tactic to postpone the Secretary's decisions on issuing licenses for offshore ports.

The administration in a letter of August 22 recommended that this section be deleted. The letter points out that all available information indicates that deepwater ports are vastly preferable for the type of operations they will conduct, and more easily constructed and maintained in accordance with environmental standards. Furthermore, NEPA will require that alternatives to proposed deepwater ports be evaluated before any license is issued.

I also have a table which points out the tremendous amount of dredged ma-

terial which would be produced by enlarging 12 major ports, and the cost of that dredging.

I ask unanimous consent that the table be included in the RECORD at this point.

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

TABLE 9.—ESTIMATED COST OF DREDGING 90-FT CHANNEL TO EXISTING PORTS

Port	Approximate distance to be dredged (statute miles)	Volume to be dredged (million (cubic yards)	Cost[1] (millions)
Boston	12	150	[2]
New York	22	220	[3] $520
Philadelphia	100	1,660	[4]
Baltimore	+230	2,900	[5] 3,200
Norfolk	55	650	[6] 900
Charleston	43	560	750
Tampa	65	1,280	[6]
Mobile	51	470	970
Galveston	55	500	500
Corpus Christi	39	710	710
Los Angeles	5	40	60
San Francisco	13	130	150

[1] Costs are to dredge 1,300-ft-wide channel 90-ft deep and does not include docks, slips, turing basins, etc.
[2] Bedrock below 60 ft. Estimate $80,000,000 to dredge to 60 ft (60,000,000 yards[3]).
[3] Bedrock below 38 ft in part costing $15 per cubic yard to remove.
[4] Rock bottom in river and relocation of New Jersey Turnpike bridge would cost billions of dollars.
[5] Relocation of tunnel and bridge not considered but probable.
[6] Hard limestone below 30 feet also bridge interference.

Source: Reference for all data except that for Galveston: Offshore Terminal Systems Concepts, U.S. Department of Commerce, prepared by Soros Associates.

Mr. BUCKLEY. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from New York. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BIDEN (when his name was called). Mr. President, on this vote I have a pair with the Senator from Alaska (Mr. GRAVEL). If he were present and voting, he would vote "Nay." If I were permitted to vote, I would vote "Yea." Therefore, I withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Arkansas (Mr. FULBRIGHT), and the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Indiana (Mr. HARTKE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Vermont (Mr. AIKEN), the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that the Senator from Florida (Mr. GURNEY), is absent due to illness.

The yeas and nays resulted—yeas 38, nays 40, as follows:

[No. 468 Leg.]

YEAS—38

Bentsen	Haskell	Mondale
Brooke	Hatfield	Montoya
Buckley	Hughes	Muskie
Burdick	Jackson	Nelson
Cannon	Javits	Pastore
Case	Johnston	Pearson
Clark	Kennedy	Pell
Cotton	Long	Proxmire
Cranston	McClellan	Ribicoff
Fannin	McClure	Roth
Griffin	McIntyre	Weicker
Hansen	Metcalf	Williams
Hart	Metzenbaum	

NAYS—40

Abourezk	Hathaway	Randolph
Allen	Helms	Schweiker
Bartlett	Hollings	Scott, Hugh
Beall	Huddleston	Sparkman
Bennett	Humphrey	Stennis
Byrd, Harry F., Jr.	Inouye	Stevens
Byrd, Robert C.	Magnuson	Stevenson
Chiles	Mansfield	Symington
Curtis	Mathias	Taft
Domenici	McGee	Talmadge
Eagleton	McGovern	Thurmond
Eastland	Moss	Tower
Ervin	Nunn	Tunney
	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Biden, for

NOT VOTING—21

Aiken	Dole	Hruska
Baker	Dominick	Packwood
Bayh	Fong	Scott, William L.
Bellmon	Fulbright	Stafford
Bible	Goldwater	Young
Brock	Gravel	
Church	Gurney	
Cook	Hartke	

So Mr. BUCKLEY's amendment was rejected.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BEALL. Mr. President, I move to lay that motion on the table.

Mr. HANSEN. Division, rollcall.

The motion to lay on the table was agreed to.

Mr. BUCKLEY. Mr. President, I send an amendment to the desk and ask the clerk to report it.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk proceeded to read the amendment.

Mr. BUCKLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

Beginning with page 35, line 23, strike everything through line 10 on page 37, and insert in lieu thereof the following:

"(b)(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any provision of this Act or any rule, regulation, order, license, or condition thereof, or other requirements under this Act, he shall issue an order requiring such person to comply with such provision or requirement, or he shall bring a civil action in accordance with paragraph (3) of this subsection.

"(2) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day of such violation, for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty."

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senate will please come to order.

The Senator from New York.

Mr. BUCKLEY. This amendment is offered on my behalf and on behalf of the Senator from Tennessee (Mr. BAKER). It involves a feature of the legislation, as reported from committee, that was not considered during the course of our deliberations.

This amendment would amend the language that begins on page 35, line 23, and continues through page 37, line 10. That provision grants to the Secretary of Transportation the authority, without reference to a court, to impose a $25,000-a-day civil penalty.

During the development of the landmark environmental legislation to control air, water and noise pollution, the Committee on Public Works and the Senate wrestled with the problem of developing fair enforcement provisions. The Clean Air Act, as amended in 1970, the Federal Water Pollution Control Act as amended in 1972 and the Noise Control Act of 1972 contain language authorizing stiff criminal penalties for any violation. The 1972 amendments to the water pollution law, in section 309(d), also subject a violator to a court-imposed civil penalty of up to $10,000 per day.

S. 4076 goes far beyond these standards by giving the Secretary preemptory authority to impose civil penalties subject to court review after the fact. My amendment would conform this legislation with the precedents of the air, noise and water pollution laws.

I recognize that section 15(b)(1) of this bill requires that the Secretary hold "an adjudicative hearing in accordance with section 554 of title 5, United States Code" before imposing any civil penalty. But while a section 554 hearing is an adjudicatory proceeding with a hearing record, it does not provide the level of protection necessary to assure the rights of an alleged violator in a case where he is subject to civil penalties of up to $25,000 per day. Therefore, I believe the legislation should provide the proper legal safeguards of a court trial rather than the lesser safeguards of an administrative proceeding subject to possible court review.

Make no mistake, this penalty pro-

vision is broad. The report on page 52 states that the penalty can be imposed on anyone "found in violation of a provision, rule, regulation, order, or license condition established by or in accordance with the act." That latitude seems overly broad in view of the administrative nature of the penalty.

I would also point out the anomaly that exists within the terms of this bill. Section 16, which authorizes citizen suits, provides in subsection (b)(1)(B) on pages 38 and 39, that no such action by a person can be commenced "if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States." Clearly, this language implies that civil actions should be brought in court, not administratively.

For these reasons, my amendment would require that the Secretary go to court to obtain a civil penalty or to enjoin a violation. I am convinced that the courts are the only bodies competent to make such a ruling.

My amendment also creates a new enforcement mechanism which authorizes the Secretary to issue a compliance order and to go to court for action if the order is not complied with.

My main concern is that violations be halted promptly without violating anyone's basic rights. I am convinced that this language will accomplish that objective.

I hope that the distinguished manager of the bill would be willing to accept it.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The amendment of the Senator from New York is a definite improvement. He is correct, we did not go that deeply into the actual civil penalty section which is what was agreed to in the markup of that other bill, namely, to provide for court action rather than administrative procedure with respect to civil penalties. I think it is a definite improvement.

My distinguished colleague from Louisiana, I am sure, would have a say on this and, if there is no objection, I would like to yield to Senator JOHNSTON.

Mr. JOHNSTON. Mr. President, I certainly think the amendment is an improvement in respect to the due process considerations involved in that there is an opportunity for a hearing.

The thing that concerns me about this amendment is that a violator who violated the law would not be able to be fined until after there was a hearing and until after he was given the opportunity to comply.

I think he ought to have a hearing and he ought to be able to have the charges against him laid out and he ought to be able to be presented with the evidence as to those charges, and he ought to be able to present his side of the case. But he should not be able to continue to violate the law during that period of time and to be immunized from his violations of the law until after the ruling of the court comes down, because such a hearing may take some time.

Certainly a court proceeding would take some time and, I think, all of the deterrent effect of the $25,000 a day fine would be done away with.

If there is some way the Senator could modify his amendment so as to provide for a hearing on the question of violation, but after the notice and the specificity and the hearing, that the Secretary would have the right to grant a fine for his past violations, I could certainly go along with him. But I believe, as presently worded, it would excuse too much misconduct.

Mr. BUCKLEY. I believe we do provide here for peremptory violations through the mechanism of the preliminary injunction.

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

Speaking for the majority side of the Public Works Committee, the provision in the bill follows the procedures in the Environmental Protection Act. We are ready to accept it.

Mr. HOLLINGS. Mr. President, this does not eliminate it. We always have a preliminary injunction proceeding under the regular law. So what we have really done is rather than provide for an administrative proceeding in the bill, the Senator has protected by court procedure the rights of the individual. In our markup, as the Senator from Texas has pointed out, it conforms to the environmental protection law provision with respect to civil penalties.

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

I concur. I think it is consistent with the protection we have given the individual in the past; at the same time, authorizing the Secretary to bring about an immediate cessation of anything he deems to be a violation. So I would hope the Senator from Louisiana would accept it as being a twofold approach: one, the injunctive relief and, two, if there is to be a fine he would have to go to court. It seems to me it is very fair.

Mr. JOHNSTON. Mr. President, there are some good provisions to this amendment which I would like to see incorporated under the law.

My concerns are not totally answered, however, I recognize there are some good points in this amendment, and I am willing not to interpose any objection to it provided that all members here will agree to consider this matter in conference committee with an open mind, as I will do, to determine how best to both preserve due process and to provide some incentive not to violate the law.

That is my whole concern—that someone could violate the law with impunity and it would only be after an injunction was issued that he would face any penalty at all.

If the Senator is willing to work on that problem in conference, I would be willing to accept it.

Mr. BUCKLEY. I would be delighted to.

I am confident that this amendment strengthens the safeguards we want all Americans to enjoy.

I also suggest that in conference we will determine it does not add to delay because, after all, the Secretary, under the existing act, must operate within the procedures outlined in existing law.

So, Mr. President, I certainly believe the record will support my desire to have an open mind, as we discuss this in conference.

Mr. HOLLINGS. With that understanding, we are happy to yield back the remainder of time and accept the amendment.

Mr. BUCKLEY. I yield back my time.

The PRESIDING OFFICER (Mr. CLARK). All time having been yielded back, the question is on the amendment of the Senator from New York.

The amendment was agreed to.

Mr. BUCKLEY. I move to reconsider the vote by which the amendment was agreed to.

Mr. HOLLINGS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1963

Mr. METZENBAUM. Mr. President, at this time I call up amendment No. 1963, as modified. I send the amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 46, lines 10 and 11, strike the words "The Secretary," and insert in lieu thereof the following: "The Attorney General".

On page 46, line 14, after the word "group." insert the following: "If, within 90 days after a discharge of oil or natural gas in violation of this section has occurred, the Attorney General fails to act in accordance with this paragraph, to sue on behalf of a group of persons who may be entitled to compensation pursuant to this section for damages caused by such discharge, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this paragraph.

"(2) In any case where the number of members in the class exceeds 1,000, publishing notice of the action in the Federal Register and in local newspapers serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.".

On page 46, line 15, strike the number "(2)" and substitute in lieu thereof the number "(3)".

Mr. METZENBAUM. Mr. President, the purpose of this amendment, which is a committee amendment of the Interior Committee, is to remove the possibility that any person damaged by reason of problems created under this act would be deprived of their legal right in court as a consequence of recent Supreme Court decisions.

Under the act, the Secretary is permitted to file a class action on behalf of all of those similarly situated, but if the Secretary fails to act, no recourse is provided those damaged by reason of an oil spill.

Under this proposed amendment, the

rights would accrue to any individual on behalf of all others similarly situated and it would make it possible for publication to be obtained where more than 1,000 persons are involved, and publication in the Federal Register as well as in newspapers of local circulation.

I urge adoption of the amendment, Mr. President.

Mr. HOLLINGS. Mr. President, we are prepared to accept the amendment. I conferred earlier in the day with the distinguished Senator from Ohio, and the distinguished Senator from North Dakota, the chairman of the subcommittee of the Judiciary Committee (Mr. BURDICK), they were very apprehensive about this particular decision in not having to prove $10,000 worth of damage in order to be included in the damage actions of our particular measure here at hand.

In order to clarify that, I think we should move in at this point with an amendment submitted by Senator METZENBAUM, and the Senator from North Dakota (Mr. BURDICK) as subcommittee chairman will be having hearings and provided general law along this line when we reconvene after the recess.

Mr. JOHNSTON. Mr. President, on behalf of the Interior Committee, I believe the Interior Committee has already approved this amendment.

I would like to make one point clear—while this amendment permits class actions and specifies the notice required by the Rules of Federal Procedure, there is no intent here or in the other parts of the bill to have any requirement for jurisdictional amount.

In other words, the Federal courts will have jurisdiction of any case or suit arising under this legislation without reference to the amount in controversy.

I wanted to make that very clear.

But I think the amendment is an excellent one and certainly the Interior Committee sponsors it and agrees with it.

Mr. BENTSEN. Mr. President, I would say, as far as the Public Works Committee, we are in accord with the suggestion that the amendment is an improvement and we, in turn, are willing to accept it.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. FANNIN. I yield back my time.

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified, of the Senator from Ohio.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. McINTYRE. Mr. President, will the distinguished floor manager of the bill yield to me for a question?

Mr. HOLLINGS. I yield to the Senator.

Mr. McINTYRE. I would like to say, Mr. President, that on page 5, the definition of a deepwater port indicates it would exclude those deepwater ports as defined here as a group of structures, man-made structures, that would be built within the territorial limit of the States.

Mr. HOLLINGS. That is correct, that was the intent.

Mr. McINTYRE. It so happens that in New Hampshire, there is a great deal of consideration pointed directly to a situation such as that.

Off the New Hampshire coast, there are four or five small islands, the Isles of Shoals, and the 3-mile territorial line extends around them since the islands belong to New Hampshire.

We find proposed locations for a deepwater port would be 5 or 6 miles from our coast but in our State waters. Of course, the thing that occurs to me under this definition here is that they would be excluded, in the event such a rig is put in, from the benefits of the Federal Liability Insurance.

Mr. HOLLINGS. The Federal Liability Insurance provisions would not extend within the territorial limits, 3-mile limit of the State.

Mr. President, in trying to define a deepwater port, that was the real drawing, where we drew the line and made a decision with respect to all the particular ports now in operation. We have these island situations, we have these offshore lighters, and everything else, and we did not want to invoke the Federal preemption over the States or come within that 3-mile zone, and specifically, even beyond the 3-mile zone, to try to emphasize that.

Now, we do realize on our ocean policy study that there are very salutary and desirable provisions with respect to liability and coverage within this section that we are gradually coming down after the ocean pollution dumping bill with provisions on liability coverage, to try to extend those within, on a cooperative basis, that territorial limit.

But I do not think it would be wise to satisfy the Senator's desire at this particular moment to disrupt the whole licensing procedure and everything else, the Army Corps of Engineers which license all the ports within a 3-mile limit. We would have to change the entire thrust of the Deepwater Act.

But the Senator has made a very valid point. It sort of complements the joint committee work that has been done, the States already asking for the Federal provision to extend to them. We appreciate it. We are going to have it in the ocean policy study hearings after the recess and we will be glad to consider it at that time and try to make provision for it the same as we did on the Alaska pipeline.

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. Yes.

Mr. STEVENS. I think the Senator from New Hampshire has a real problem. I believe the avenue is to have a bill and consider it in terms of extending this fund to those ports within the jurisdiction of the State, that the State approves.

In other words, we have complete control over the Corps of Engineers' authorization, but I see no reason why the liability provision could not extend to a port within a State, territorial sea, under conditions that would be compatible with this form.

As the Senator from South Carolina says, we have such a fund for Alaskan oil. I see no reason why we could not ask for contributions from oil coming across the dock on a boat within the jurisdiction of New Hampshire and have that money go into the fund.

But this is not that bill. This deals only with deepwater ports and not with natural ports available to individual States within their jurisdiction.

I would hope the Senator would approach it on that basis.

I see the Senator from Louisiana here. I know they have some deepwater ports, and Texas does, too. I see no reason for the liability fund not to extend coverage to them, but not under this bill.

Mr. McINTYRE. It is my understanding that our proposed port would be a monobuoy construction that will exist off the Isles of Shoals, and that it would be a technologically modern deepwater port as I conceive of it here. It would be within the territorial limits.

To be sure, New Hampshire has a considerable amount of control over the situation, but I know that we will not have the benefit of this Federal insurance. I am not sure that our activity would compare with the State of Alaska.

I am heartened, if I understand my good friend from South Carolina with his chairmanship of this Ocean Policy Study Committee, that a major study is in process, and I would look forward, hopefully—if we could solve some of these problems—to the day when we would be able to enjoy just as much insurance as a deepwater port under this bill.

Mr. HOLLINGS. It would only be realistic that once we reach the 3-mile limit we extend that liability provision right into the territorial sea, but not in this particular bill.

Mr. McINTYRE. I would urge the good Senator from South Carolina to press forward as quickly, as intelligently, and rapidly as possible so that in the 94th Congress we may be able to have such a law passed to protect States such as New Hampshire and Delaware.

I thank the Senator for yielding.

Mr. HOLLINGS. I thank the Senator for bringing this to our attention. We look forward to hearing from him after the recess when we get into that ocean policy study.

Mr. BENTSEN. Mr. President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. BENTSEN's amendment is as follows:

On page 25, line 3 strike all after the period through line 10 and insert in lieu thereof the following:

"Within 45 days following the last public hearing, the Attorney General and the Federal Trade Commission shall each prepare and submit to the Secretary a report assessing the competitive effects which may result from issuance of the proposed license and the opinions described in subsection (a) of this section. If either the Attorney General or the Federal Trade Commission, or both, fails to file such views within such period, the Sec-

retary shall proceed as if he had received such views."

Mr. BENTSEN. Mr. President, the Committee on Public Works offers an amendment which will provide more time for consideration of a license application by the Attorney General and the Federal Trade Commission. The amendment will also preclude either agency from delaying or preventing the issuance of a license by failure to act.

The bill, as developed by the ad hoc committee and reported by the three standing committees, creates several different procedures for the review of deepwater port license applications by appropriate Federal agencies and adjacent coastal States.

The Governor of each adjacent coastal State, for example, is given up to 285 days after the filing of the application to approve or disapprove a license application. If he fails to respond during that time period, however, his approval is presumed. The licensing procedure is not delayed.

In the same manner, the Environmental Protection Agency is given up to 285 days after the filing of an application to exercise its veto should the application not comply with provisions of the Clean Air Act, the Federal Water Pollution Control Act, or the Marine Protection, Research, and Sanctuaries Act. But if EPA does not comment adversely within that 285-day period, its consent to the application is assumed. EPA's failure to comment, therefore, will not hold up the application process.

Provision is made in the legislation for consultation with the Secretaries of the Army, State, and Defense, and with other agencies having expertise in the area. But in no case do those agencies have the power to veto an application, and submittal of their views is not a prerequisite to the granting of a license.

The ad hoc committee felt, and rightly so, that the opinions of the Attorney General and the Federal Trade Commission should be solicited as to possible antitrust violations in connection with the construction and operation of a proposed deepwater port. It was not the subcommittee's intent to give these two entities veto authority.

Yet, under section 4(c)(7) and section 7, either the Attorney General or the Federal Trade Commission, or both, can delay or prevent a license being granted by simply failing to provide its views within 90 days of receipt of an application.

Specifically, the language of these sections prohibits the Secretary from issuing a license for a deepwater port unless he has received reports from these two agencies. If reports are not received, the Secretary may not make a decision on a pending application.

Thus the bill contains, in a sense, a contradiction in terms. An adverse report by the Attorney General or the Federal Trade Commission on a proposed license cannot prevent the Secretary from issuing a permit. But a simple failure on the part of these agencies to reply to their mail would hold up the Secretary's decision indefinitely.

The full Committee on Public Works, in executive session, unanimously voted to recommend that an amendment be offered on the floor to grant the Attorney General and the Federal Trade Commission the same 285-day comment period as other agencies, while at the same time assuring that failure to provide such comments shall not prohibit the Secretary's decision.

Mr. President, I urge adoption of this amendment by the Senate.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Texas has a very good point. There was no intent in the joint committee work to give a pocket veto to the Attorney General or the Federal Trade Commission. In fact, even in the one we just voted on with respect to the assessment made of existing ports and everything else, it moves right along in our time schedule.

I think this amendment would certainly clarify that. Within 45 days if they had not ruled, the Secretary proceeds. In other words, he would not be blocked with just no opinion.

In fact, I rather like this. I wish we could put this with the Federal Power Commission. If the Senator gets this passed, maybe we should have a rollcall to see how many people in Congress approve it.

That is really the trouble of government today, its indecision.

On behalf of the committee, unless my colleague on the other side has objection, I would accept it.

Mr. FANNIN. Mr. President, I have no objection.

Mr. JOHNSTON. Mr. President, on behalf of the Interior Committee, we would like to endorse the amendment. We think it clears up a hiatus.

I would like to ask two questions.

If they fail to receive the opinion within the requisite period of time, within the 285 days, is the Secretary free to reach his own conclusion, or does he conclude that it is not anticompetitive? That is the first question.

Second, can the Attorney General or the Federal Trade Commission render an opinion after the 285 days?

Mr. BENTSEN. The time was extended to 285 days, the same as the Governor and the same as EPA. I am sure there would be no precluding the Federal Trade Commissioner or the Attorney General rendering an opinion afterward if he wanted to. But the Secretary of Transportation would not have to wait for it at all.

Mr. JOHNSTON. If he does not receive one, the Secretary of Transportation is to conclude that it is not anticompetitive? Ir other words, if there was a failure to make a statement on behalf of the Federal Trade Commission or the Attorney General, he would assume it would be all right.

Mr. BENTSEN. One would assume that the assumption would be that there was not an objection to it, or they would say so.

Mr. JOHNSTON. We accept the amendment.

Mr. BENTSEN. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HOLLINGS. I yield back the remainder of our time.

Mr. FANNIN. Our remaining time is yielded back.

Mr. JOHNSTON. I yield back the remainder of our time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The Public Works Committee indicated at one time they would offer a preemption amendment. I am sure that that has now been taken care of.

Mr. President, I will step aside at this time and ask the distinguished Senator from Louisiana to act as manager of the bill.

I call up the amendment offered on behalf of the Commerce Committee and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 12, line 11, amend subsection (g) to read as follows:

"(g) ELIGIBILITY FOR A LICENSE.—Any person who is engaged in, or directly or indirectly owned by, or an affiliate of any business entity which is engaged in, or which is an affiliate of any other business entity which is engaged in, the development, production, refining, or marketing of oil or natural gas, shall not be eligibile for a license issued or transferred pursuant to this Act."

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the Senator from Delaware (Mr. BIDEN), and myself, among others, have developed a strong feeling which became substantiated as we worked on this particular bill.

One of the things of great interest to us was a series of developments and statements made with relation to the transport of oil through pipelines.

Looking at the findings of the House Small Business Committee and listening to the testimony of a representative of the Justice Department, we became aware of the fact that perhaps it would be wise to prevent big oil companies in America from controlling this means of delivery.

This means of delivery, that is, the big pipelines, are common carriers. But it was said, in essence, by the House Committee, and more particularly the Antitrust Division, that antitrust enforcement has been generally ineffective to prevent anticompetitive abuse of pipelines owned by major oil companies.

In reality, they have not operated as common carriers. The actual result of oil company ownership of pipelines is that the actual delivery of oil is being accomplished in large measure—the control of it, the pricing of it, the marketing of it—in violation of antitrust.

So we have come to the matter of a superport which, in essence, is really a pipeline delivery system. Superport is a misnomer in the sense that it is not just a large port. If you will look at the particular design on page 7 of the joint

committee report, you will see that the major portion of a superport consists of large pipelines, sometimes 56 inches in diameter, with some 4 or 5 coming in 20 to 30 miles, costing millions and millions of dollars.

What really with my amendment is in issue is control of this delivery system.

The tankers would hook up to buoys and the oil would be piped to tank farms on the shoreside.

We felt that, rather than giving an advantage to the major integrated oil companies by giving them ownership, we could eliminate that advantage and infuse competition with respect to delivery of imported oil, and, on the other hand, we could give the oil companies what they wanted, that is an economical deepwater port.

I think that the President's message given yesterday was very much like the little girl with the curl on her forehead. When she was good, she was very, very good; but when she was bad, she was horrid.

The message had some good sections: it had words on balancing of the budget; it talked of energy conservation; there was antitrust; and some fine things were recommended. I join President Ford in his campaign for all those good things.

But from the standpoint of the big oil companies, they could not have written a better program. Here was the President of the United States saying that the chief culprit, the villain, the most inflationary factor, was energy. And what did he do? He said, "Eliminate the one control that you have over oil companies. Deregulate gas and add $11 billion to the cost of energy in America." And everyone clapped. I looked on in amazement. They all clapped.

A single energy board was created—we have been pushing for that. The Senate has passed a measure providing for an Energy Policy Council four times, to try to get coordinated energy policy for America. But now they turned it over to Rogers Morton, who is a delightful fellow, a former colleague, a nice man, thoroughly honest, and everything else. But he is in the Department of the Interior. Look how that Department has conducted the energy programs of the past. It is the house of oil. When we talk about belt tightening, there is no belt large enough to get around the girth of oil in this Government.

Here I have a small provision which says, "Big oil just put your money in the ground. Don't buy these circuses, department stores, or deepwater ports. Get out of those businesses. Don't try to run ports. Just do drilling, as you say you want to do, and get out a little more oil, and then have port facilities operate as public utilities, public entities, common carriers, where they could all have independence and every shipper would have an equal bite at the apple, and they would not use any advantage."

Here is the advantage they have been using. I am going to use the State of Texas as an example, because they have made a thorough study. I have in my hand a plan for the development of a Texas deepwater terminal. The State of Texas said it could build a good superport in short order at a cost of $400 million. Ninety percent of that, of course, is bank money.

In other words, if you get up 10 percent, and you get eight big oil companies, these consortia, these joint ventures they talk about, and they put in their part, and the bank finances the rest. They are bound to deliver with something that is economically sound and feasible and works fine.

After long study, the State of Texas said, "We want to maintain the public utility, the public entity, the common carrier characteristic of superports. So we are going to recommend that oil companies have no ownership whatsoever."

Under the Elkins case, under that consent decree, a 7 percent return on investment is allowed—not on their direct investment but on the total value of the pipeline, including debt capital—and in 1 year they have a bonanza. So a joint venture of oil companies would get back $28 million, 7 percent of the $400 million. They get it back, and then they whiplash other shippers for the rest of the time and have an economic advantage.

We all have Mr. Rockefeller's remarks. Here is where they started—John D.; John D.'s secret weapon. Even the Rockefellers wondered how they made that money. They got a historical narrator, quite a writer, Albert Carr, and give him access to all records. He told the story in this book. I do not want to take too much time, because the Senator from Delaware is ready to be heard on this matter.

You ought to see how zealous he was at every turn to control transportation, to get at that bottleneck. By 1900, he had it. There were 5,200 tank cars in America to deliver oil. The country had 200, and John D. had 5,000. He had it in what was known as a trust. He had it in a quiet, secret trust that the U.S. Government could not even get at, and they tried for 13 years. It was one of these closed trusts. They could not find out when they met, what their liabilities were, or anything else. It was a legal entity, undiscovered at the time. When they found it, the best they could come up with was a consent decree which itself guaranteed an advantage, guaranteed discriminatory practice in which they engaged.

We met in the Commerce Committee. We discussed this matter and we voted. The vote was in favor of assuring that the oil companies should not be given particular advantage or have anything to do with deepwater ports. We wanted to keep them out of it—drilling oil, that is where they do the best job. But to do it they have to have development allowances, foreign investment and tax credit, accelerated depreciation—all those things. The President of the United States should have hit big oil, rather than hitting middle America with his inflation policies, and the Nation could have gotten more than $2.6 billion.

In any event, the Commerce Committee approved that provision. Within a few days, oil company lawyers started calling at my office. That vote changed around until now only two were left—the Senator from Delaware and myself. We kept saying that perhaps we made a mistake; that we just did not understand private, free enterprise; that we did not understand competitive, free enterprise; that we did not understand consortia and joint ventures. The more we studied, the more we were convinced of the conclusion reached by the State of Texas: keep oil out of the terminal.

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

Mr. HOLLINGS. Not yet. I will yield in a minute.

Whoever heard of turning over a port in America to a trucking company? All our ports are public entities, either quasi-public, or corporate bodies, or, as in the State of South Carolina, a port authority, such as the State of New York Port Authority. You would not turn over the bottleneck, the delivery point, to one trucking company. They could tell you where to deliver, how to deliver, and—in this case—how many thousand barrels of oil would have to come in in order to use the facility. They could use it to whiplash their competitors.

We put it on a no-oil company basis. They then came crying, "you can't get through-put contracts." But everyone is ready. They are ready in the State of Texas. They are ready in several other States. The State of Alabama is moving. I just talked to the Senator from Mississippi, and they are getting ready to move. Do not worry about through-put contracts and operating a port. For heaven's sake, do not say that oil has money and Government does not.

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

Mr. HOLLINGS. The Senator from Alaska has plenty of time.

We have here a provision that one would think would have satisfied the situation, but one has to work in industrial development to understand the gimmick. We compromised the gimmick by putting in priorities. We had already agreed that oil could not do it until everybody changed, and then the pressure started around Capitol Hill.

They said that the State should have the first bite at the apple, and the second priority would be private companies, port authorities, and third, if you could not get those two, the oil companies. Under that gimmick, the oil company comes in and uses the full faith and credit, because everybody is agreeing.

I had a debate with the distinguished Senator from Arkansas (Mr. FULBRIGHT) about revenue bonds, industrial development bonds, and everything else, to show that States have plenty of full faith and credit. I said that I realized that is why we could not build any schools. All the money went to industry they said, and we were not coming up with public funds for other things. But why do financiers come in? At a lower rate? Every industry in America—DuPont, General Electric, Timken Roller Bearing, I can give a long list of the 500 in Fortune, backing industrial bonds, they come in on the bond market because they can get a better rate and pay less for it. When big oil talks, they say they are the only ones

to get the money, the contract, and the financial assistance.

We did not want to go along with that section, which, frankly, in Louisiana will go right on down to big oil. I think that offshore development belongs to the State of South Carolina as well as to the State of Louisiana. I wish that the State of Louisiana would operate the superport. I wish it were not subjected to all of this oil company pressure. We will help them get the money.

We know that States can get the financing. Louisiana has an AA credit rating. Other States have, too.

I should like to say, in the light of the pressures of the time, since I wish to yield to my distinguished colleague from Delaware, that we have not put this in just lately. We put it in after the Department of Justice, after hearings, and after everybody else who considered this particular measure said, "Look, one of the real reasons for the high cost of fuel in America is the monopolistic feature of the oil transportation system and the ownership of the delivery system."

It was John D. Rockefeller's secret weapon, and, Mr. President, "There ain't no education in the second kick of a mule."

It is time to do what President Ford said yesterday—enforce vigorous antitrust procedure. Big oil owns 72 percent of the natural gas; they own 50 percent of the uranium. They are now buying up the coalfields. This afternoon, they hope to cart off the delivery system by gaining control of deepwater ports.

Mr. STEVENS. Will the Senator yield?

Mr. HOLLINGS. I yield, on your time.

Mr. STEVENS. I think the manager of the bill controls the time in opposition.

Mr. President, will the manager of the bill yield to me just 3 minutes to make an inquiry?

Mr. JOHNSTON. Yes, I yield 3 minutes to the Senator from Alaska

Mr. STEVENS. We sat through the special subcommittee sessions and we put a provision in the bill to meet the objection of the Senator from South Carolina. I wonder how he can indicate that the oil companies own all these projects, when we have said on page 22 of the bill that the Secretary must operate according to the following order of priorities:

First, he must issue a license to an adjacent coastal State or combination of States, any political subdivision thereof, or agency or instrumentality, including a wholly owned corporation of any such government.

The second priority is that they shall issue a license to a person who is neither in producing, refining, or marketing oil or natural gas, nor an affiliate of any person who is engaged in producing, refining, or marketing oil or natural gas or an affiliate of any such affiliate.

The third is "to any other person."

In other words, there cannot be anyone involved who is in any way engaged in the oil and gas business unless there is nobody willing to come up from a governmental level, nobody willing to come up who has no interest in oil or gas. Then is the only time that they get the license.

How is it that the Senator tells us that oil and gas companies are going to own it all when, as I pointed out to the Senator, in Valdez, in the largest port in the United States today, at the request of the pipeline people, the city is going to own the dock. The city is going to provide these functions?

Why is it that the Senator presumes that those of us who agreed to this compromise have "sold out" as he put it, to big oil and gas?

Mr. HOLLINGS. Mr. President, I am delighted to answer the Senator on his time: because I have learned one thing in the 8 years I have been up here. Oil owns government. Oil owns government In this case, oil owns State government.

They will go right to the States and say, "Look, brothers,"—and I have been a Governor. My distinguished colleague, the Senator from Arizona, and I were Governors together. They will come in and they will have their lawyers around and, why, they will have a party.

And by the way, they will write that off. The party that they have will be an income tax deduction. The party that they have will be an income tax loophole. And we are going to hit middle America today.

They sit down and have a big dinner, and it will be in the newspaper how we have progress and how we are going to go ahead when the State agrees to X, Y, Z consortium. They will have the State in there, No. 1, and they will be the operating agency and they will take over the bonds after the State has fulfilled and its credit has been pledged. That is the way it is.

Mr. STEVENS. What, in the Senator's amendment, will prevent that?

Mr. HOLLINGS. My amendment says that the oil companies cannot own it one way or the other.

Mr. STEVENS. Under the Senator's amendment, the State, or the city of Valdez, could go ahead to provide that dock, with the guarantee from the oil industry. The Senator has done nothing to prevent what we have tried to prevent with the order of priorities.

Mr. HOLLINGS. Anybody who is directly or indirectly owned by or an affiliate of an oil company shall not be eligible, for a license.

Mr. STEVENS. Mr. President, I should like to express my opposition to the amendment, as proposed by the Commerce Committee, to the deepwater port bill. That amendment would prohibit companies engaged in the oil or natural gas business from owning deepwater ports.

In its report supporting this amendment the Commerce Committee relied heavily on testimony given before the Special Joint Subcommittee on Deepwater Port Legislation by James T. Halverson, Director of the Bureau of Competition of the Federal Trade Commission. In his testimony Mr. Halverson spoke of the potential anticompetitive abuses involved in the ownership of deepwater ports. As I stated in my separate views on this amendment, I share Mr. Halverson's concern that special care be taken to prevent anticompetitive abuses in a deepwater port system. I believe that the bill as amended prevents such abuses since the major suggestions made by Mr. Halverson with regard to improvements to be made on the earlier bill, S. 1751, have been adopted.

In his testimony, Mr. Halverson stated that the FTC's first concern was that S. 1751 made no requirement that the Secretary of the Interior consult an antitrust enforcement agency for its assessment of the possible anticompetitive consequences of the issuance of a particular license. The ad hoc subcommittee amended the bill to specifically provide for such a requirement.

Section 4(c)(7) provides that as a prerequisite to the issuance of a license the Secretary must receive the opinions of both the Federal Trade Commission and the Attorney General "as to whether issuance of the license would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situation in contravention of the antitrust laws." Under section 7 of the bill, the Secretary must receive the same opinions from the FTC and the Attorney General before he can renew or transfer a license.

Mr. Halverson also considered it a serious shortcoming of S. 1751 that it contained no requirement that the Secretary include in licenses conditions designed to assure that operation of a deepwater port would not substantially lessen competition and to assure that nondiscriminatory access to deepwater ports would be available to all users at reasonable rates. Mr. President, the ad hoc subcommittee has rectified this shortcoming. Section 4(e) of the bill now before the Senate provides that "the Secretary shall prescribe any conditions which he deems necessary to carry out the provisions of this Act." This provision should be read in conjunction with section 8(b) of the bill as reported out which requires a license to "accept, transport, or convey without discrimination all oil and natural gas" delivered to the deepwater port in question. Read together, these provisions would require the Secretary to attach all necessary antidiscriminatory conditions to the issuance of a license.

Mr. Halverson further suggested that the FTC should be authorized to initiate any proper complaint pursuant to its statutory responsibilities in the event that a license were issued contrary to its recommendations. In this regard, Mr. Halverson noted that S. 1751 provided that the grant of a license would not operate as a defense to any action brought for violation of the "antitrust laws of the United States."

Mr. Halverson expressed approval of the thrust of that provision, but he recommended that the definition of "antitrust laws" be amended to specifically include the Federal Trade Commission Act. Mr. President, the ad hoc subcommittee adopted this recommendation and section 3 of the bill now before the Senate defines "antitrust laws" as, among other things, the Federal Trade Commission Act.

Mr. Halverson made the further recommendation that the bill expressly provide for a private right of action for persons injured by anticompetitive practices. Mr. President, the ad hoc subcommittee also adopted this recommenda-

tion, and a private right of action is established by section 16 of the bill now before the Senate.

Finally, I wish to emphasize that Mr. Halverson did not state in his testimony that oil companies and natural gas companies should not be allowed to own deepwater ports. In fact, he stated specifically that ownership of deepwater ports could pose problems of an anticompetitive nature regardless of who the owner might be:

> The threat of competition is real regardless of whether or not the owners of the deepwater port facilities are to be petroleum companies.

The objective of his testimony was to suggest means by which S. 1751 could be strengthened to combat anticompetitive abuses regardless of the identity of the owners of a deepwater port system. Mr. President, the ad hoc subcommittee adopted the most significant of the recommendations made by Mr. Halverson. The bill now before the Senate prohibits anticompetitive practices, allows participation at the outset by the FTC and the Attorney General and provides means for both the Government and aggrieved citizens to redress abuses. Mr. President, for these reasons the amendment proposed by the Commerce Committee should be rejected.

Mr. HOLLINGS. Mr. President, I yield to the Senator from Delaware.

Mr. BIDEN. I thank the Senator.

Mr. President, for a half century after the sinking of Drake's Well in Titusville, Pa., in 1858, the first production drilling in the United States, American oil concerns dominated sales and production of petroleum in the world marketplace. The rapid-growth era of industrial boom in the last half of the 19th century enabled John D. Rockefeller to singlehandedly monopolize the domestic oil industry through a series of vertical and horizontal combinations. A principal means of achieving this marketplace dominance was his acquisition of most of the transport facilities necessary to transfer crude oil from remote gusher sites to the refinery where it was converted to a usable grade product.

It was specifically to legislate an end to such overweaning control over supply and prices by a noncompetitive corporate entity such as the Standard Oil trust that Congress enacted all of the antimonopoly legislation which has been stipulated in the deepwater ports authorization which we are considering today. In drafting this bill, the special subcommittee extended to superport facilities constructed on the high seas beyond our territorial waters, all Federal and consistent State laws and jurisdiction, specifically Federal antitrust statutes. These include Sherman Antitrust Act of 1890 (26 U.S.C. 209), the Restraint of Import Trade Act of 1894 (15 U.S.C. 570), the Federal Trade Commission Act of 1914 (38 U.S.C. 730).

Yet, with all of these laws forming a well-articulated corps of market-protective legislation, the only significant application of them was in the 1911 Standard Oil-American Tobacco case, in which the Standard Oil Co. was forced to divest itself of many of its holdings.

Extra legal pressure and bureaucratic trepidation have combined over the last 6 decades to contribute to a worldwide oil cartel, which sees domestic and foreign competitors working together and even entering partnerships and joint ventures, and a sluggish oligopoly in the extractive industries.

The oil industry has been a part of, if not the leader in the concentration wave which has now collapsed a market that in 1941 was shared by 1,000 firms, into one that today numbers barely 200 competing businesses.

The distinguished chairman indicated that oil owned big government, that in this case, they own State government, and that is how they will make the inroads.

I can tell the Senator, although I have never been a Governor—I have not been much of anything prior to coming here, except on the county council. I can tell the Senator, having dealt with the oil companies at a county council level, that they will promise anything and convince the people down home that they will do it.

In my case, they promised to build a major refinery and make it look like a schoolhouse. That was their quote, they would "make it look like a schoolhouse, and it would not be any different from the little old schoolhouse down the block." They have ways of bringing in their statisticians, their attorneys, their accountants, the people in public office—not that people at the State or local level are corrupt or are going to be bought by them. It is just that they do not have the hardware to compete with the oil companies.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator will suspend.

The Senate will be in order.

Mr. BIDEN. I think it is indicative of something to note that during the debate in the subcommittee on this issue, when the Senator from South Carolina and I were insisting upon this amendment, at one point, the question was raised by one of our other distinguished colleagues. He said, "Well, if we do not allow the oil companies to own these ports, you know what they will do? They have told me"—this is the other Senator speaking—"that they will not use the port; they will go outside and go to the Caribbean or to some other place and they will not use the deepwater ports."

Yet the justification for constructing these ports in the first place is testimony, which is replete with oil companies coming before us, saying that in order to save America, we have to build these ports, because the only way we are going to get oil into America is if we have these ports. If we are going to do it in any sort of economical fashion, this is the only way; we have to do that.

These are the very same companies, although they have not said it to me, who have apparently said to some members of the committee that if we do not let them have a chance at owning these ports, they are going to take their ball and go home; they are not going to play in our deepwater ports. These are the same companies who, if the Senator will recall, during everything from the Vietnam war through the student riots and the protest marches, were talking about patriotism in America and putting the flag patch on their employees' lapels. They wear the American flag in their buttonholes. They talk about how they are so concerned about the welfare of America. Yet the veiled threat is that if we do not let them own these ports they are not going to play, they are going to take their oil and go to the Caribbean, or they are going to take their oil and not let us have any.

I do not want to go over too much ground that the Senator from South Carolina has already covered, because that will only detract from his arguments.

Let me mention one point, the question of transportation. No one here will deny that transportation and that group which controls the means of transporting the oil, have a significant input into what happens to that oil. The counter argument is, "Well, we have antitrust laws on the books which can be enforced and which really do take care of this problem. This is going to be a common carrier, so they will be covered; we have no problem."

I should like to ask anybody in this Chamber, any of my colleagues or any of my constituents, how many of them feel that the antitrust laws as written on the books now have been vigorously enforced, and whether or not they have sensed at least a timidity on the part of the enforcing agencies to go the route with regard to enforcing the existing legislation.

Of the oil industry alone, eight of 1960's top 25 concerns, including Standard of Kentucky, Pure, Tidewater, Richfield, Sunray DX, Sinclair, Standard of Ohio, and Amerada, have merged into larger entities.

The overwhelming advantages visited upon corporations who control the transportation sector of their industry, such as oil company ownership and operation of pipelines by which 20 percent of all intercity freight is conveyed in the United States, have been documented conclusively by House Report No. 1617 of the 92d Congress, published by the House Select Committee on Small Business. I recommend their work and the public record of their hearings to any of my colleagues endeavoring to better understand the need for strict antitrust enforcement in this area.

Labeling the Interstate Commerce Commission oversight over pipeline access "complacent," the Justice Department Antitrust Division's monopoly deterrence "largely ineffective," and the exclusionary tendencies of owner-operated pipelines a "severe anticompetitive force," the report detailed charges of discrimination that were repeated as recently as last week.

In hearings on August 8, 1974, held before the Antitrust and Monopoly Subcommittee of the Senate, the President of APCO Oil Corp., a small independent oil producer, testified that it was able to get its crude oil into the only pipeline leading from the wellhead only after threatening to sue the owner, Sun Oil.

A further indication of the anticompetitive nature of the oil industry, can be noted by the fact that the president of Ashland Oil, the Nation's largest independent petroleum refiner testified before the Senate Antitrust Committee that companies that produce crude oil should not be permitted to refine it.

He said that major oil companies that control production and refining acquire a "market power" "greatly enhanced" by the tax allowance for oil depletion—which positions them to apply "undue competitive pressure upon independent refiners and marketers. He testified further that "the balance of market power has shifted drastically in favor of the major integrated oil companies." Sound remedies must be found if the competitive vigor of the oil industry is to be maintained.

At this point, Mr. President, I ask unanimous consent to have two Washington Post articles from the August 8 and August 9 issues printed in the RECORD.

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

[From the Washington Post, Aug. 8, 1974]

OIL PRODUCTION, REFINING SPLIT RECOMMENDED

(By Morton Mintz)

The nation's largest independent petroleum refiner and a leading critic of the oil industry have agreed in Senate testimony that companies that produce crude oil should not also be allowed to refine it.

Breaking with other leading oil companies, Ashland Oil testified that production should be divorced from refining—"on a case-by-case basis"—to assure that profits from production are not used to subsidize "impairment of competition at the refining and marketing levels."

Ashland expects sales in fiscal 1974 of $3 billion, has approximately 2,500 branded stations, and ranks in refining with Phillips, Continental, Standard of Ohio and Marathon.

Major oil companies that control production and refining acquire a "market power"—"greatly enhanced" by the tax allowance for oil depletion—which positions them to apply "undue competitive pressure upon independent refiners and marketers," Ashland President Robert E. Yancey testified.

Recent increases in crude oil prices have raised production profits to "unheard of heights," with the benefits of the tax shelter rising commensurately, he told the Senate Antitrust Subcommittee.

The result has been that the ability of independent refiners and marketers "to remain competitive through superior efficiency has been overwhelmed," Yancey said.

"The balance of market power has shifted drastically in favor of the integrated major oil companies," he continued. "Sound remedies must be found if the competitive vigor of the oil industry is to be maintained."

Yancey, who testified Tuesday, was followed yesterday by an economist who said that the "documented anti-competitive behavior" of the oil industry and its "wasteful and unresponsive performance" are a "direct consequence" of the "malignant" combination of production and refining in major companies.

Prof. James Patterson of Indiana University said most crude oil is transferred within integrated firms to "captive" refineries, rather than being sold on the open market.

"Destroy or isolate the power of crude, and the whole house of cards will fall," he said. "Independent refiners would enter in droves if they could procure dependable crude supplies on equal terms with their other competitors.

"And if refined products from independent refiners were available, independent marketers would enter and challenge the market position of the majors," Patterson testified. "Even integration between refining and marketing by the present majors would pose no serious problem for competition."

On that point, Yancey warned against "extremism in divorcement policy." As an example, he cited "the state of Maryland's attempt to separate marketing from refining," saying that this "would injure independents far more than major companies."

Patterson, co-author of the soon-to-be-published "Highway Robbery: An Analysis of the Gasoline Crisis," said that Congress must legislate the separation between production and refining. "It is a political rather than a judicial matter," he said. "It would require a generation to re-structure the industry through litigation."

The Federal Trade Commission's staff, having the same aim as Patterson, filed a complaint against the eight largest refiners a year ago. The case is expected to be litigated for many years.

[From the Washington Post, Aug. 9, 1974]

OIL PRODUCER TESTIFIES ON PIPELINE

(By Morton Mintz)

For years, independent oil producers have complained on Capitol Hill—bitterly but privately—that pipelines owned by major oil companies illegally discriminate against them.

But rarely, if ever, has an independent company publicly documented such a complaint, contending that to do so could invite retaliation.

Yesterday, however, at a Senate Antitrust Subcommittee hearing, Apco Oil Corp. testified that it was able to get its crude oil into a pipeline only by threatening to sue the owner, Sun Oil, a company approximately 16 times as large.

In doing go, Apco contradicted an assurance that had been given minutes earlier by Sen. Dewey F. Bartlett (R-Okla.) whose home state is headquarters of Apco.

Bartlett said independents making "a reasonable request" to any common carrier pipeline are "guaranteed access" because the Interstate Commerce Commission requires it.

Apco President Charles P. Siess Jr. of Houston, under questioning by Sen. John V. Tunney (D-Calif.), told this story:

Outbidding Sun Oil, Apco arranged last year to buy 22,000 barrels of crude oil a day for three months from General Crude Oil. This is a producing enterprise controlled by the Pew Family Foundation. The Pew family is also a dominant influence in Sun Oil.

Apco needed part of the crude to keep its own refineries operating at capacity. It wanted to combine the leftover crude with its own production in West Texas, which was insufficient to qualify for access to the Basin Pipeline, owned by ARCO, Cities Service, Gulf and Texaco.

A Sun Oil subsidiary in Tulsa, Sun Pipeline, which operates the only line from General Crude's wellheads, and which had been "throwing obstacles in our path," refused to take Apco's oil.

The justification was that the crude did not meet Sun's "vapor specifications." Yet, Sun Pipelines had regularly moved identical oil out of the same field for General Crude, the Apco supplier.

Several days of negotiations ensued. Finally, very early one morning, Apco gave Sun Pipeline an ultimatum: agree to move the oil by noon or face a lawsuit. At 10:30 a.m., Sun agreed.

Gulf Oil, a customer for the crude that Apco wanted to ship through the Basin Line, predicted to Apco during the negotiations that Sun Pipeline would "cave in" rather than litigate.

Siess said he had discussed the Sun Pipeline problem with Gulf, but had not asked it for help. He also disclaimed knowledge of a rumored threat by minority stockholders of General Crude to sue it unless it sold oil to the highest bidder—in this case, Apco.

Siess also intimated discrimination by the owners of the Basin Line, saying they had cut back Apco's input as much as 90 per cent while, he believed, reducing their own by a much smaller proportion.

On Wednesday, Sun Oil Vice President John L. Olsen at first insisted to Tunney that Apco "had no problems." General Crude and Sun Oil operate "completely independent" of each other, he testified.

Later, Tunney asked Olsen if he was aware of Sun Pipeline's initial refusal to ship oil to Apco.

"I must admit that . . . we deliberated," Olsen said. "But, in the end, we chose that we would cooperate with Apco.

"And you never indicated to Apco that you would not cooperate?" Tunney asked.

"Again, hearsay—I cannot say that some individual did not have a conversation with Apco," Olsen replied.

In his prepared testimony Siess said that major oil companies which own pipelines contribute to the decline of independents by making it difficult for them to move crude to their refineries.

He testified that the pipelines are always able to come up with reasons to reject independent shipments when it "does not suit the interest or convenience" of the pipeline's owners to accept crude from independents.

Mr. BIDEN. After a year of media blitz and tax-deductible lobbying efforts, Congress finds itself confronted with a bill to allow the oil consortia, who through the collusion of joint-venture investment in supertankers are on the brink of making all oil not shipped in their tankers noncompetitive, to acquire the last link in the integration of their industry from well-head to gas tank. By allowing oil concerns to build shipping resources which are capable of amortizing their construction costs in half of the operational lifetime, and to own crude oil terminals capable of accepting these ships, the major firms of the industry will have secured as firm a lock on the fossil fuel market as John D. Rockefeller could ever have imagined.

The potential for monopolistic abuse of oil company ownership of deepwater ports has been clearly documented in the Committee on Commerce recommendation on this amendment and the testimony of James T. Halverson, Director of the Bureau of Competition of the Federal Trade Commission in hearing before the Special Joint Subcommittee on Deepwater Ports Legislation.

The response that members of the special subcommittee who were concerned about the dangers of oil company ownership, was that only oil companies were technically and financially capable of building superports and that the extension of the antitrust and other regulatory legislation to deepwater ports would be adequate protection.

In fact, the joint subcommittee report states that the proposal to bar oil companies from obtaining licenses to own, construct, and operate deepwater ports was because it believed that:

In many cases, oil companies will be the only entities with the financial and technical

capabilities necessary to undertake deepwater port development.

Then two sentences later in a schizophrenic lapse the report concludes that others were qualified for receiving a license when it stated that:

Recognizing that both State governments and firms independent of the oil industry are actively planning to seek licenses for deepwater ports, the subcommittee felt that in the interest of promoting competition it would be desirable to give preference to such entities in granting licenses for deepwater port development.

I suggest that the competence of other than oil interests has been recognized by the subcommittee and that this amendment must be decided on the basis of the desirability of oil ownership and the ability of the Government to prevent oil ownership of deepwater ports from further monopolization of the industry through the enforcement of present antitrust and other regulatory statute.

The bill before you requires that the Attorney General and the Federal Trade Commission submit opinions as to whether the issuance of a license would adversely affect competition, restrain trade, promote monopolization or otherwise create or maintain a situation in contravention of antitrust laws.

There is no question that the consultative determination required of the Secretary of Transportation in conjunction with the Attorney General and the FTC Chairman, that all laws dealing with anticompetitive practices are met, as presently required by the bill, is indispensible. However, we need only refresh our memories concerning the failure of antitrust legislation to effectively control monopolistic acquisitions, price fixing, predatory price wars, exclusive dealing contracts, "full-line forcing", tying arrangements and other anticompetitive schemes by the oil industry, to perceive the need for further safeguards of marketplace freedom and consumer responsiveness. I am worried that instead of being passed through to the ultimate consumers of the product eventually refined from the VLCC—cargoes, the blessings of deepwater port facilities will end in the profit margins of the major suppliers.

It is my concern that superports become models of safe and efficient throughput of low-cost fuels vital to the Nation's needs, not simply another choke point in an already-concentrated industry's monopolistic structure, which may be used to manipulate supply and price, as happened in the past. Myself and many others have spent the entire 93d Congress studying this legislation, trying to establish guidelines in the public interest for a venture never previously attempted. This bill has reached its final stages because, for the most part the interest of the oil companies in thrifty transport of crude oil has been paralleled by overlapping benefits to the national energy situation. However, the public interest and the good of the industry diverge when it is contemplated that oil companies actually own and dictate the use of the facilities which will reduce the costs and hazards of lightering and tanker traffic in crowded estuary harbors. As I see the future of superport construction, there is an unavoidable obligation to provide for the independent control and protection of these crucial arteries of international commerce. I salute all of my colleagues who have labored to bring this far-sighted legislation to the Senate, and I concur with the judgment of the Committee on Commerce, with whom jurisdiction over common carrier transport is lodged, that port facilities for supertankers ought to be one link that is excluded from the chain of oil company capital investments. I urge adoption of the amendment. We simply, unequivocally cannot pass legislation enabling an industry to establish a complete vertical monopoly.

Mr. President, I do not want to take much more time, but it comes down to a very simple proposition, it seems to me. We are told, "Mr. BIDEN, Mr. HOLLINGS, or Mr. Whomever Else, it is unfair to the interests of the American consumers to prevent the oil companies from owning these ports, because the oil companies are the only ones financially capable of constructing them."

Then I contacted the Philadelphia bankers, for example, in my area, who stated that they were ready, willing, and able to construct any kind of deepwater port that the State of New Jersey, the State of Delaware, or the State of Maryland would allow them to construct off of their shores.

In fact, I stated, half facetiously, to the Senator from South Carolina that it might be in our interest to resign from the Senate and represent those States which want to put together these deepwater ports, because the banks, as of 2 months ago, had absolutely no reluctance to go in and build, as the Senator from South Carolina would say, "Anything you all want to construct."

Absolutely no evidence has come before our committee other than the verbal protestations of those who indicate they do not like what we are about to do to indicate that independent people, independent cartels, independent of the oil companies, are not able to go out and finance the construction of these ports. Quite to the contrary, in my State they are chomping at the bit to be able to go out. In the Philadelphia, Pa., area, they are as anxious as the devil to go out.

They have come down and talked to our legislature, various groups, expressing a desire to retain the port that I am committed to move to Louisiana, because I would like nothing better than for Louisiana to have our deepwater port, stating that it was no problem. They even talked about retaining the port for the State. In addition to constructing the port, because they are independent outfits, they talked about building everything from schools to highways and everything else to make life more livable in Delaware.

So I do not know where the evidence is that we cannot come across with the money independently of the oil companies to construct these ports, assuming that we need and want them.

Lately, Mr. President, it seems to me that the Senator from South Carolina has touched upon something which is exceedingly important here, which I and other members of this body have often lost sight of in the last year-and-a-half, and that is the willingness of the American people to believe, and the ability of this institution to prove to them that we understand their problems, and that we are willing to take on big interests that the American people view as having interests contrary to their own.

We all talk, and Senator Moss has been talking for a long time, about vertical integration of the oil companies, and what effect that has upon prices and competition. We have not listened very much here.

I said to my colleagues on the subcommittee, "assume for a moment that we should let the oil companies own them; assume they can build them better; assume for the moment it would not have an anticompetitive impact. What is wrong with at least showing the American people that if we are not going to break up vertical integration, we are not going to further enhance it?"

But we are not only going in the opposite direction from that which Senator Moss has been trying to get us to go for years, we are saying to the American people that we are going to give the oil companies control of the spigot.

Do not forget that the justification for the construction of these ports is solely—solely—based upon the assumed fact, in my opinion, that we are going to continue to import vast quantities of oil from abroad, particularly from the Persian Gulf, and this is the only economical way to do it.

We are going to say that to the same folks who, during the all-out worldwide alert, said to our navy bases, "Golly, fellows, I am not sure we can really get you all that oil, you know. The little old fellow over here said to me that if we did that, it might not be to our best interests of this country."

The little old fellows they were talking about were those sheiks over there. These were the multinational oil companies that go out and beat their breasts about how they are interested in free enterprise and patriotism and the American way.

I am tickled every time I turn on the television and see such things as the very personable oil company president sitting there in front of the television camera with a model of a mass transit system, and saying, "My fellow Americans, this is just one suggestion toward mass transit that has been offered to you good Americans."

"We are interested in mass transportation. Won't you all send us your letters and recommendations. Thank you very much."

Then I turn to the next channel, and I learn that the only reason we have beef cattle in this country is because they drink Texaco's water. You know that ad we turn on where they show the water around, I think it is, a Texaco plant, and they show those hefty Texas steers out there lapping up that water. [Laughter].

And I say, "you would think that the reason why the beef is so good is because they drink the oil company's water."

Then you also have the ads that you

turn on, where they talk about, "How we want you to conserve energy." They give you tips on how to drive your car slowly.

At the same time we are assuming in this country, as we in the Senate assume the oil companies assume, that that average American out there is a darn dummy, that he does not sit back there and say, "Hey, I am getting ripped off by you people, while you are doing this."

We pick up the paper today and the President says the way he is going to lick the energy crisis in America is maybe to do things like let—right now old crude which is selling at $5.25, or please correct me if I am incorrect on that exact figure—we may let that just go and meet the market price of $11 a barrel.

Then I asked the president of an oil company, who will remain nameless, who was sitting in my office, I said to him, "Sir"—he went on with this great tirade to me about how, in fact, it was totally—I will stop, Senator HOLLINGS, in just a moment—he went on and said to me—and I will end on this, and I think this is indicative of the way they think or at least may be indicative of how I do not understand how they think—he sat in front of my desk and he said, "Well, Senator, it was absolutely outrageous what those Arabs did to us when they raised that oil price to $11 a barrel. What they did was totally unrelated to the market. It had nothing to do with production costs. They just arbitrarily said, 'Now it is $11 a barrel,' and that was blackmail, Senator."

I said, "I am glad to hear you say that, Mr. President"—and I do not often get to say "Mr. President"—I said, "I was glad to hear you say that."

I said, "Let me ask you a question. You have come to us and you say to us now the new oil we are drilling for in this country we should be able to sell at $11 a barrel."

I said, "If it is outrageous for them to sell it at $11 a barrel, how come it is not outrageous for you to sell it at $11 a barrel?"

He said, "Senator, market forces." [Laughter.]

I said, "I am not sure I understand that."

He said, "Competition." He said, "If they are selling at $11 a barrel, we have got to sell at $11 a barrel."

I said, "Wait a minute. We have been telling the American people here we are not exporting oil. With whom are we competing? All the oil in the world you can produce America will buy. You cannot produce too much for us to buy, so where is the competition?"

Now they come along and they say if HOLLINGS—by the way, Senator HOLLINGS, no one called me. I guess they thought I was beyond the pale. They do not even talk to me anymore. They call you and they say, "HOLLINGS, if you are not going to let us own that deepwater port then we are going to take our ball and we are going to go home." In the name of America, God bless America. Well, I think it is about time we showed the American people that we have got just a little bit of gumption.

I see no down side in not letting the oil companies be able to own these ports. And, if a year from now no ports are built, assuming this passes, I will commit to this body, not that it means a thing, that I will introduce an amendment that says, "OK, oil companies can build them," because the rationale being used here, is that they will not get built if we do not let the oil companies do it. I am saying let us test it.

I appreciate being able to take so much time. I hope, for a change, we stand up and say, "Not this time."

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. HOLLINGS. How much time do we have left, Mr. President?

The PRESIDING OFFICER. The Senator has 24 minutes remaining.

Mr. MOSS. Just 5 minutes.

Mr. HOLLINGS. I yield to the Senator from Utah.

Mr. MOSS. I thank the Senator from South Carolina for yielding to me.

Mr. President, I rise in support of the proposed amendment. This is a commonsense piece of legislation whose need is clear.

The Commerce Committee's hearing record documents in ample detail the anticompetitive dangers of allowing oil companies to own deepwater ports. The joint report succinctly describes these risks to competition and consequent potential losses to consumers.

Therefore, I shall not take up the Senate's time with a recitation of facts which have been set down with great eloquence and detail on the public record by the Senator from South Carolina. Every Senator knows that putting the oil companies' hand on the deepwater port spigot means tightening the majors' stranglehold on the industry.

The bill itself acknowledges that deepwater ports in oil company hands are a threat to competition, by giving a preference to non-oil licensees. I ask the Senate not to stick its head in the sand and hide from the oil companies on this issue. The time has long since come when the U.S. Senate should say to "big oil," "enough."

Some might argue that, despite anticompetitive dangers, oil company ownership must be allowed because only the oil companies will have the capital to bear the risk, construct, and maintain such facilities. To so argue would be to capitulate to blackmail. To so argue is to permit a further accretion of power in hands already too strong. The necessity of oil company ownership is a contention not borne out by the record.

Others might argue that adequate protection of the public interest is secured by the preference the bill grants to non-oil company licensees. To so argue is to acknowledge the problem but evade our responsibility to solve it.

Similarly, to rely on prelicensing antitrust review by executive agencies to protect the public interest is to avoid a forthright solution. None of us is blind to the influence the major oil companies hold in the councils and decisions of the Government. Why should we pretend, when facing this crucial problem, that the Federal agencies will be immune from pressures in making their antitrust decisions?

No one who has so much as read a newspaper the last few years would believe such a thing.

To so pretend is to slough off to another part of the Government, with a hope and a whistle, our responsibility to promote the public welfare.

I am tired of seeing the Congress give away its powers in such a fashion. I hope that, by now, my colleagues are as well. They can show it by voting to adopt this amendment.

The Senator from South Carolina and the Senator from Delaware, our colleagues, have so eloquently stated the case that there is not much I can add. But the thing I wanted to emphasize and underline, which has been stated well by both of my colleagues, is this matter of integration that we already suffer from the oil industry.

The Senator from Delaware was kind enough to mention the fact that this has been bothering me for a long time in my efforts as a consumer advocate, as chairman of the Consumers Subcommittee. As we looked into this oil picture, we found out that the same companies are exploring for, drilling for, producing oil and transporting it to refineries, refining it and transporting it again to the retail outlets, and selling it at the retail outlets, and then we find it is controlled from the very ground right to the end, and the element of competition is gone.

Now, the one thing that our whole economic structure in this country is built on, and the reason we say we have the best kind of economic structure, is competition, and competition is what enables us to get the lowest price for the consumer, on the one hand, and to require efficiencies and all kinds of improvements along the way by the producers and the sellers in order to deliver at the lower price.

That is what we would be giving up here. I think the Senator from Delaware said it very eloquently. We already have concentration, why should we add one more facet to it, permitting the oil companies to own or control the deepwater ports?

If we are going to have any opportunity in this country to bring petroleum prices down or back in range of consumer interests, we must do it through this competition factor.

Therefore, I agree with my colleagues, both of whom have stated this so eloquently, that it is time we restored a measure of competition in this industry, at least in this facet, and also to show the people of our country, the people of the United States, that we do not simply sit back and let the oil companies go their way, the big integrated oil companies.

Now, of course, they will continue to utilize this means of delivering oil to us. The bill itself recognizes that there is this element possibly of preference because it sets out the A, B, C listing and puts them finally down into the C category. I think that is an admission that there is this element of monopoly that would intrude into the delivery of oil that is imported into this country.

Therefore, I strongly support the amendment that has been offered. I

think that it is incumbent upon us to put this kind of prohibition on the ownership and control of deepwater ports for delivery of petroleum coming into this country. If we do not do so we have handed one more stick in the bundle over to the oil companies, and one more thing that we are unable to control adequately to protect the consumers of America.

Mr. President, I yield.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. I yield to myself such time as I may need.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, we have had an awfully good time here today. We have talked about Rockefeller, robber barons, natural gas, TV ads, circuses, the depletion allowance, and mass transit, and I do not know what else. But none of this has a thing in the world to do with building superports, and certainly does not have anything to do with the central question at issue today—that is, where lies the national interest on this amendment.

I would like for the Senate to face this question based on what the national interest is and not based on the prejudice against oil companies because, Mr. President, I can read the polls even in my State of Louisiana. The people in my State are against oil companies. I have got to confess to you that when I go to the filling station and I have to pay over 60 cents a gallon, I am opposed to the oil companies, too.

All I am asking on this amendment, however, is that we consider the national interest.

Now, what is the national interest?

First of all, the national interest is to build superports.

I pointed out in my opening remarks that the savings to consumers as a result of superports by the 1980's, perhaps as early as 1980, may be as high as $5 billion a year.

That figure is as high as the savings in President Ford's proposed 5-percent surtax program. In other words, we may save as much from superports as the President proposed in his tax package.

So, is the national interest here to build that superport? You bet it is.

I believe that most of us in this Chamber recognize that there is not only a prejudice against oil companies, but also there is a real issue as to the proper role of oil companies in the licensing of deepwater ports. We do not deny that. But on our committee, Mr. President, we had two groups, one said, "Do not let oil companies have any ability to build the superports."

That is the position taken by the Senator from South Carolina and the Senator from Delaware.

The other group said, "Do not give the State or do not give an independent any preference at all."

What we did, Mr. President, was come up with a compromise—a preference in favor of States and nonoil companies.

If the State of Louisiana or if the State of Delaware wants to submit an application and build a superport, they get the preference.

Or if a State does not submit an application and an independent company—say, Woolworth or Montgomery Ward—submits the application for a superport, they get a preference over an oil company.

Senator BIDEN says, if I wrote his words down correctly, that the independents are anxious to build these superports.

He says there is a group of bankers up in Philadelphia that is just anxious to finance a superport. I say to those friendly bankers, "Please come down to Louisiana, we want you to come build a superport."

If they are anxious to build, Mr. President, they have the advantage. It is as clear as the noonday Sun on a cloudless day—the license shall be issued to the State or independent applicant subject to only one proviso, and that proviso is that it goes to such State or independent applicant unless the national interest is clearly best served by an oil company receiving the license.

Now, you may ask, "Well, what does that mean?"

We have defined that concept very clearly in the bill. First of all, the environment is taken into consideration. We do not want Woolworth or Montgomery Ward building a superport off the coast of Louisiana if they are going to pollute the environment. We have too many valuable shrimp, oysters, and other kinds of seafood down there. We want to protect our environment.

So if an applicant can show its proposed superport clearly serves the national interest by having a cleaner environment, they have shown a factor that indicates that their application is in the national interest.

I am sure my friend from Delaware does not disagree on that environmental question.

Second, we want to take into consideration the reliability of the deepwater port as a source of oil and natural gas.

Now, what does that mean?

Well, we do not want to get caught in the position, Mr. President, of being reliant upon a foreign source of oil unless it is reliable. Let us say we have one deepwater port applicant that comes in with an application that will bring us Venezuelan oil, and the other will supply oil from Libya, and the Libyan contract is for 1 year and the Venezuelan contract is for 30 years.

We look at the politics, the length of the contract, and the history of the source of supply, the kind of geology that they have in the oil fields—we look at all these questions and if one is clearly more reliable than the other, then that is another factor that indicates that such an application is in the national interest.

Another item in determining which proposed superport clearly best serves the national interest is the completion date. We do not want a group to come in and say, "We have a preference, but we are not going to be able to build the superport for 10 years."

We have a potential saving to consumers of up to $5 billion a year involved in this matter, we do not want that kind of delay. Nobody can disagree with that being an element of national interest.

Finally, Mr. President, there is a question of the ultimate cost to the consumer as affected by the cost of construction and operation.

We do not want, again, Sears Roebuck to build a superport if it is going to cost 5 cents a gallon at the gas pump more than for Standard Oil to build it.

As much as anyone may hate Exxon, if they can save us 5 cents a gallon, or 1 cent a gallon, then, for goodness' sake, that is in the national interest.

That is what I am pleading for, Mr. President—the national interest, not a decision made on prejudice or on feeling or on polls against the oil companies. If the issue is the oil companies—whether they are popular or not, should we hit him in the nose or not—then all of us would join in and say, "Give them one strong one in the nose," because the polls say everybody dislikes the oil companies.

All I am arguing for is the national interest.

Now, let us talk about this antitrust provision. Let us talk about the comments of Mr. Halverson of the FTC.

Mr. President, we asked the FTC and the Justice Department to comment on the bill. Did they ask for the Hollings amendment?

The answer to that question is, "No."

What they asked for, and what they got, is the ability to look at the application in advance and to comment on it and the ability to stop the Secretary from issuing a permit if it is going to be anticompetitive.

What they asked for, they got and they deserved.

We do not want a superport to be built if it is going to be anticompetitive, and that is what the Federal Trade Commission says.

What the Antitrust Division says, what the committee says, and what this bill will say, but at no time, at no point, did either the FTC or the Justice Department ask for a total, complete prohibition against any oil company for a——

Mr. BIDEN. Will the Senator yield for one question?

Mr. JOHNSTON. Yes.

Mr. BIDEN. Does the Senator think the Justice Department or the FTC reflects the view of the administration?

Mr. JOHNSTON. Well, I know that Mr. Halverson does not, and let me quickly add, I do not reflect the view of the administration, either.

The reason I mentioned the FTC is because of frequent references to Mr. Halverson in the FTC with reference to the oil companies.

Mr. BIDEN. I raise it because I am of the opinion the Justice Department and the FTC have been little more than the product of whomever the President has been at that time.

We asked the Justice Department to look into a few things since I have been here, and we got some answers. We asked them to look into Watergate. They gave us really clear, crystal answers. Bang, right back.

I think we are getting the same kind of answers we got before. We get back the answer that reflects the view of

whoever happens to be in the administration at that time.

At this point in time, to steal a phrase from this committee, at this point in time we have definite views, I and others, on what is an oil company point of view.

My point, it is not quite as independent as the distinguished Senator makes it seem.

Mr. JOHNSTON. Let me make it perfectly clear, I was not here to defend the FTC, although it is an independent agency under the law; it is purported to be. I was simply replying to the evidence or to the arguments made by the distinguished Senator from South Carolina with reference to the FTC employees who say we should break up big oil. All I was doing was replying.

The point is valid, though, that they are an independent agency under the law and that they have not asked for the kind of relief stated here.

Mr. BIDEN. But the employees were the ones, the way the Senator phrased it, the employees.

Mr. JOHNSTON. As far as I know, the employees of the FTC did not recommend this amendment. The employees recommended divestiture of integrated oil companies, but that is another question.

I am, by the way, on the Interior Subcommittee on Integrated Oil Companies, and we have not come up with a divestiture recommendation at this point.

Mr. President, there is one other point about this bill, and that is the extensive regulation to which a superport will be subject. Under this bill, any superport must be a common carrier and must be subject to regulation by the Interstate Commerce Commission. That means that their rates, their tariffs, and their duties will be regulated by the Interstate Commerce Commission.

We have heard arguments here that the Interstate Commerce Commission is something less than perfect. I am not here to defend the Interstate Commerce Commission. But I believe it defies logic to argue that the oil companies will be able to go into a consortium, fix the rates, and have anticompetitive practices after going through examination by the FTC, an examination by the Justice Department, regulation by the ICC, and still being subject to the antitrust law. We have put every regulation that we thought proper, and even conceivable, to make positive that superports, when built, will not be the anticompetitive monster that they are described as being.

Mr. President, I hope that the independents are anxious to build superports. I hope that the States are. However, I must state for the record, Mr. President, that my State has had the opportunity now to look this situation over for a couple of years. As a result of that study Louisiana has decided that it would rather not risk the State's credit for such a project. Instead, it has decided it needs every bit of its credit to build highways, hospitals, and numerous and sundry other State needs that, according to the wishes of the Governor and the State legislature, bear a high priority.

Indeed, Mr. President, if it was left up to my State, we might not have a superport. If it were left up to all these independent companies, we may not have a superport. They may figure the risk is too great.

I do not want that to happen, Mr. President—not because my State is going to get any direct tax revenue or anything else out of this superport, but, rather, because the national interest, the interest of all 50 States, the interest of all those consumers, is served by having superports. If we in the Senate ignore that national interest because we are reading the polls about the popularity of Exxon, I think we are making a grave mistake.

I would urge my colleagues to vote against this amendment.

Mr. ALLEN. Will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. ALLEN. I have been very much interested in the fine explanation by the distinguished Senator from Louisiana of the bill as it now stands, and in his opposition to the Hollings amendment.

The Senator from Alabama understands the bill as it is before the Senate. The matter of who shall build the superports has a priority. The first priority is States or State agencies. The second priority is nonindependent companies. It takes getting down to the third priority, coupled with the fact that before the third priority is reached—that is, the oil companies—there must be a finding that to grant the license to the oil company must be in the national interest, and it must not be noncompetitive. It would have to comply with those two standards before the license could be issued to an oil company, is that correct, if it got down to the third priority?

Mr. JOHNSTON. The provision reads as follows: That it "clearly best serves the national interest."

If you have more than one application, if there is somebody in competition with the oil company, the only way that oil company can get a license is if its proposed superport clearly best serves the national interest. It is not that it is in the national interest, but clearly best serves the national interest. In other words, there is not only a preference in favor of non-oil companies, but a strong preference.

As a friend of mine down in Louisiana once said, "We want a fair advantage."

This gives the independent a fair advantage.

Mr. ALLEN. We in Alabama are very much interested in the superport concept, and we hope, in concert with the people of Mississippi, to build a superport somewhere in the Gulf, roughly on an extension southward of the boundary between Alabama and Mississippi. We are hopeful that this can be done by our States working in concert, or by public agencies of the States. It would be a comfortable feeling for us, if we could not swing this port and a non-oil company could not swing the port, to be able to fall back on an oil company if they were in the market to build a port.

As I understand the Hollings amendment, it would knock out this third layer of priority, the oil companies, and under no circumstances, whether in the national interest or whether on a noncompetitive basis, if the Hollings amendment passes, could the license be given to an oil company. Is that correct?

Mr. JOHNSTON. The Senator from Alabama states it very well and accurately.

Mr. ALLEN. Under those circumstances, then, I will certainly follow the leadership of the distinguished Senator from Louisiana and vote against the Hollings amendment, much as I respect the motives and the logic of the distinguished Senator from South Carolina.

Mr. BIDEN. Will the Senator yield for a clarification?

Mr. JOHNSTON. I will yield first to the Senator from Texas.

Mr. BENTSEN. Speaking for the majority view of the Public Works Committee, and speaking as a Texan who has been advised of the Texas position, let me read the rest of that report. It is quite true that the Texas Off-Shore Terminal Commission preferred that the State build it. I understand that. That is what I prefer. We put that as the first priority. What was not read in the commission's report was the rest of the language. It states:

> However, the commission recognizes that each of these alternatives may become more attractive because of change in circumstances. Therefore, the commission recommends that legislation be enacted that would permit any alternative, including private ownership, if such an alternative can be shown to be more attractive.

That is what we are talking about. That is the way we set up the priorities.

I have a letter here in which the Governor of Texas stated that he was approving the Public Works Committee's bill in the House of Representatives. That bill did not even set up the order of priorities. So that is the Texas position. I can read the polls. I understand what is politically popular in this position. I think it would be a great stump speech to make, and I think both Senators have done it very eloquently.

But I really think that what we ought to be thinking about is the consumer in this kind of a situation, and see that these ports are built.

We are talking about saving about $1 per barrel in the way of transportation costs. That is a very major item to the consumers in this country today.

We are talking about whether they are going to be built on our shores, or whether they are going to be built in the Caribbean. Let us talk basic economics for just a minute, apart from the emotions and the oratory.

The cost for transshipment today is about 15 cents per barrel more. That means that the giant tanker can come into the Bahamas, come into the deep port there. These major oil companies can build their facilities there. They can build their refineries there. Then they can transship the oil to the ports along the east coast, by way of small tankers. They can do it for just 15 cents a barrel more.

What do you think they are going to do if you tell them that they cannot build on our coast, or if the public facility is not built, for example, by the State of Texas?

The State of Texas is not going to fund these things unless they feel they are going to have some through-put, unless they feel they are going to have some business. They do not want a deep-

water port in Delaware, and that is their choice. I hope the Senator represents the will of his people, and I am sure he does.

We do want one. We want the jobs. We want the refineries. We want the lower cost of oil and gas to our people. We support this bill.

We set up the order of priorities to try to make it a State agency, to try to make it the State government, if they will do it, and, if they will not, then allow it be an oil company.

The economics of this situation dictates this kind of a decision.

The problem is on us now. When they turned off the valves in the Middle East, we acted almost as though we had a crisis in this country, and we were close to it. Then, when they opened the valves again, we saw the situation go back to normal.

Again, we are going to continue to import oil, and we are going to continue to import it for a while. During that period of time, if the State does not want to take the risk, for whatever that period of time is, if they do not want to take the risk on whether or not these valves are going to be turned off in the Middle East, then perhaps the major companies ought to do it. But, again, they have a way of accomplishing it at a very small economic cost—15 cents a barrel more—by doing it in the Bahamas and transshipping it, in the small tankers that will be up and down this country's coasts.

Who understands that? The Environmental Policy Center, which opposes the amendment that is being offered, understands it. The Sierra Club, which opposes this amendment, understands it. The Friends of the Earth, who oppose this amendment, understand it. They think it is in the environmental best interests of the people of this country that we have the deepwater port located on our shores and that we do not have this great proliferation of small ships and lighters going up and down our coast.

Sure, this is not a politically popular position. I understand that very well. But I think it is in the best interests of the people of this country.

I ask that the amendment be defeated.

Mr. HANSEN. Mr. President, as a member of the Ad Hoc Special Subcommittee on Deepwater Ports, I am well aware of the careful deliberation accorded this bill. The administration and others recommended legislation on this important matter 2 years ago, and I am pleased to note that we finally have a bill before us. S. 4076 meets the need for deepwater port legislation, and I believe it meets it well. It provides for careful scrutiny of applications and careful monitoring of port operations. It covers the bases on environment, antitrust, and the consumer. At the same time it does not place undue burdens on those who will hold the licenses for these faciilties.

I am encouraged that the membership of three committees was sufficiently persuaded of the importance of having a Deepwater Port Act to issue a joint report and hold proposed amendments for floor action. We will discuss a number of them here today. Some I will support. One, in particular, I will not.

Senator HOLLINGS and Senator BIDEN, on behalf of the Commerce Committee, are sponsoring an amendment which would prohibit oil companies from owning deepwater ports. As indicated in the additional views on S. 4076, which I signed, I do not concur that such a restriction serves any legitimate governmental interest. On the contrary, it would exclude those probably best qualified to operate these facilities in an environmentally sound manner. Furthermore, it is of questionable constitutionality. I have seen no factual information which would justify such a prohibitive measure.

I have carefully considered the arguments for the Commerce Committee's amendment as presented at length in the report on S. 4076. There are several statements in the committee's recommendation with which I feel compelled to take issue.

First. At several points the Commerce Committee views state that "allegations have been voiced," that "concern" has been expressed, and that "some argue" that ownership of transportation facilities by oil companies is anticompetitive. It is significant, however, that in spite of the fact that the Commerce Committee has held extensive hearings on a bill to require divestment of pipelines, the committee has not endorsed any such legislation. Furthermore, the joint ownership and operation of pipelines by oil companies has never been challenged under the Federal antitrust laws. Nor has it been held by any court or agency to be in violation of the antitrust statutes.

Second. The recommendation alleges that through pipeline ownership each oil company knows what all others are shipping and in what quantities, and where the others' terminals and shipping points are located. Any common carrier by pipeline of crude oil or petroleum products must file its tariffs with the Interstate Commerce Commission. These tariffs must be just and reasonable and must contain all rates, charges, classifications, regulations, and practices for transportation between all points on the pipeline system. Such information is available to the public, accordingly there is little more competitors within the petroleum industry could learn about each other through operation of a deepwater port than they can already learn from reviewing ICC records. At the same time there are adequate legal remedies including those provided by the Interstate Commerce Act, to prevent the type of collusion or discrimination suggested here.

Third. The committee asserts that "nonowners can be denied the opportunity to ship on such a facility."

I am afraid that on this item the Commerce Committee has ignored some of the evidence. In response to questions posed by that committee, the Association of Oil Pipelines surveyed its members and made the following submission to the committee on February of this year: of 909 shippers who utilized interstate products pipelines in 1973, 806 were nonowner shippers, and of those 573 were independents. With respect to crude oil shipments made by pipeline in 1973, of 555 shippers using crude trunk lines, 489 were nonowners, and of those 291 were independents. It would seem to me this data indicates that petroleum industry ownership of pipelines has not subjected independents or nonowner shippers to discrimination.

Apparently the authors of this amendment also ignored a November 6, 1973, letter sent to Senator STEVENSON by the Independent Petroleum Association of America. IPAA is a national trade association representing approximately 4,000 independent producers of oil and natural gas from all over the country. Quoting from their letter:

> We are not aware of any producer who is having difficulty selling or moving his crude oil and we do not believe discrimination exists in this respect. The conclusion that independent crude oil producers may have difficulty securing shipment of their oil, and are subject to discrimination by pipeline companies, *is not supported by the experience of independent producers.*

Fourth. The committee quotes James T. Halverson, FTC Bureau chief, as follows:

> Not only will each port be a government-licensed, local monopoly over imported oil destined for refineries in certain sections of the country, but each port will also be a bottleneck. All of the affected commerce . . . must flow, through these deepwater ports since the transportation economies involved will render imported oil not carried in a supertanker non-competitive.

This statement is patently incorrect. One of the facts of life with respect to these supertankers is that they are cost-effective when used over very long distances. The trip from Venezuela, for example, is not long enough to warrant using supertankers. It is possible that imports from Libya and Nigeria will still be carried by smaller tankers through conventional port facilities as well. And, as anyone who has studied the situation knows, for the foreseeable future Alaskan oil will be brought to west coast ports in conventional tankers. Although the above quotation is not specifically cited in the report, it is likely from one of the several times Mr. Halverson has testified on his own behalf without expressing the sentiments of the Federal Trade Commission.

Fifth. The recommendation supporting this amendment expresses concern that—

> The local monopoly position of each port will afford any joint ventures participating in it a stranglehold position over port users [to] set arbitrary quantities which would have to be met in order to receive the most advantageous price.

I feel obliged to point out that price differential for these facilities will be subject to ICC approval. Minimum quality deliveries will be subject to review and challenge before the ICC as well, and must reflect the volumes of deliveries for which the facilities are designed. Need I remind everyone that half the Federal Government has to pass on the design of proposed facilities—and rightly so—before the port can be built?

Sixth. It is alleged that regulation of pipelines as common carriers under the ICC is "one of the most illusory things in the world."

The fact is that there is substantial competition between pipelines. If Congress finds it in the public interest to

modify the policies and standards which guide the ICC, it should do so directly and comprehensively, and not by enacting legislation prohibiting petroleum industry ownership of deepwater port facilities. S. 4076 provides that every application for such a port be thoroughly scrutinized for possible anticompetitive effects long before the license is even issued, and acknowledges the role of the FTC and the Justice Department in monitoring the effects of port operations. Thus, the allegation respecting sizing and routing of facilities so as to cause discrimination is unrealistic.

Seventh. The Commerce Committee in support of its amendment quotes from the report issued by the Texas Offshore Terminal Commission this January, to the effect that the optimum first deep water Texas port would be one financed by public revenue bonds and regulated by a State agency. Unfortunately, the committee failed to quote the conclusion of that commission. I would like to clear the record by doing so. The Texas commission reported:

> However, the Commission recognized that each of these alternatives may become more attractive because of changed circumstances. Therefore, the Commission recommends that legislation be enacted that would permit any alternative, including private ownership, if such an alternative can be shown to be more attractive.

Thus the recommendation of the Texas commission is squarely in opposition to the recommendation of the Commerce Committee.

Eighth. The committee further relies on the Texas Offshore Terminal Commission conclusion that if a public entity owns and operates a deepwater port, its ability to obtain tax exempt bond financing, and its willingness to forego the 7-percent profit margin allowed by the ICC under the Elkins Act will reduce costs.

This alternative assumes financing with 100 percent tax exempt revenue bonds bearing a 7-percent interest rate. It also assumes the commitment of approximately $400 million to an investment which will not generate any tax liability. The reduced cost which will flow from public ownership is the avoidance of direct taxes on the facility, on the income generated by the facility, and on bond interest. The direct consumer of services provided by the port would benefit from such an arrangement. The taxpayers at large, however, would lose the benefit of the taxes that would be generated by private ownership of such a facility.

Mr. President, it is basically for these reasons that I strongly oppose adoption of the Commerce Committee amendment. I cannot condone this type of pointless punitive legislation, of which the 93d Congress has seen all too much.

My chief concern is that we respond promptly to the President's September 18 call for deepwater port legislation as one of the administration's energy priorities. S. 4076 as reported is an effective response to that request, and I urge my colleagues to give it their favorable consideration.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield to the senior Senator from Louisiana.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 35 minutes.

Mr. JOHNSTON. I yield to the Senator such time as he may require.

Mr. LONG. Mr. President, it may very well be desirable that we should require the oil producing companies to divest themselves of their filling stations. In terms of more fierce competition and antitrust policy, it might be worth considering that at some point. At some point it also might be desirable to require them to divest themselves of their refineries, in order to promote more intensive competition in the industry.

However, this amendment, in the name of antitrust, is not going to achieve anything in terms of stimulating or not stimulating competition. Some of this oil will be moving over 8,000 miles in company-owned ships around Africa, through the Indian Ocean, to the Atlantic Ocean, to the Caribbean, the gulf, to one of our ports. It can go in company-owned barges or company-owned pipelines anywhere in the United States.

The Senator wants to say: "Hold on a minute. Here is that sacred 40 miles from the mooring buoy to the shore. Don't let them move it that 40 miles. That sacred 40 miles from the mooring buoy to the shore must never be touched by $1 of oil company investment, even though the other $10,000 would be all right."

The bill provides that if the oil companies get in on this, they will be regulated by the Interstate Commerce Commission and the Federal Power Commission on the rates they can charge. We know those agencies are pretty effective.

As a matter of fact, the consumer probably will get the oil cheaper if the oil companies build it than if the State builds it, for reasons that have not been discussed as yet. If a State builds it, the State will want to make as much profit as possible, especially if it can be passed on to the other consumer outside that State. So if a State collects as much as it can for the benefit of that State government, it is good business from the standpoint of State tax policy.

The Senator says that oil owns government. That is not true in Louisiana. The State legislature in Louisiana called a special session this year on the energy crisis, and it trebled the taxes on the oil companies.

As a matter of fact, the oil companies wish they owned the Senate. We recently passed a bill against the best dedicated efforts they could muster. They fought the bill which would make the oil companies use American seamen on these tankers. They wish they owned the Senate. But they do not. They were beaten here and in the House of Representatives on a bill to make them move oil with American union labor, with which they will have to contend.

So that is not a problem. The problem is that, with regard to a State's options, if a State does not want to go $400 million more deeply into debt, the State would rather pledge its credit for something else, such as building a road. We would like to build a toll road in Louisiana, between north Louisiana and south Louisiana. It would cost more than $400 million. Louisiana would like to use its credit for that, rather than for the superport. If we cannot find an independent terminal operator willing to build the superport, why not let the oil people build it and put up their $400 million? Let them take the risk that is involved.

One of these days, if somebody makes a breakthrough in atomic power so that the atom can be fused and that heat can be used to produce energy effectively, then all the investments in oil around the world are going to be worthless; and so will the superport be worthless at that point. There is a risk involved.

If a State does not want to build a port, for its own reasons, if it does not want to go more deeply into debt or take the risk, and it cannot find an independent operator to build it, then, for the benefit of the consumer, to give him low-cost energy by reducing the transportation expense to bring it to him, it makes sense, in the third order of preference, that the oil company should build it. That is the only way to assure that you are going to get the superport and the benefit of the savings and the benefit to the environment, by the additional protection of the environment that results from the more efficient handling of the energy.

Mr. JOHNSTON. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. I thank the Senator.

Mr. President, I will just take a few minutes to say that I heard the splendid argument made by the Senator from South Carolina, and there is no one I would rather have on my side. No one can beat him in an argument. I heard the fine presentation made by the Senator from Delaware. I did not hear all the other statements, but I did hear those of the Senator from Texas and the Senator from Louisiana.

Mr. President, for several years, I have been worried. We have some oil in Mississippi, not a great deal. It is scattered around, and a great many people benefit from it. But we have not been able to do much about refineries.

I have been interested in the deep port question and have been worried about the money to build such ports. I have thought about Federal funds, State funds, and other funds.

It seems to me that our committee has been working together and has come through. They have come through with ideas, when we have to put the emphasis at every turn on less Federal dollars and leaving out new programs and trying somehow to prevent an unbalanced budget. At the same time, they have protected the public.

This is a way to let the industry bear the cost; $400 million is still a lot of money to me and in our State, where we have many demands on the public treasury.

I strongly support the bill as it is now. I think that the argument made by the Senator from Texas and others is unanswerable. We need the refineries. We want the refineries. We want the business that goes with it, the jobs that go with it, the activity that goes with it. Unless we have something along this line, I fear that we might be left out.

We are certainly going to have to turn to different ways than just let the Federal Treasury or State treasuries finance everything. I hope that the bill will be protected and that this amendment, with all deference to its authors, will be decisively defeated.

I thank the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield 1 minute to the Senator from North Dakota (Mr. BURDICK).

Mr. BURDICK. Mr. President, the able Senator from Texas (Mr. BENTSEN) referred to the fact that this amendment was opposed by various environmental groups, including the Environmental Policy Center, the Sierra Club, and Friends of the Earth. At this time, I ask unanimous consent that a letter written by these people, signed by Barbara Heller of the Environmental Policy Center, Brock Evans of the Sierra Club, and Ann Roosevelt of the Friends of the Earth, be printed in the RECORD at this point.

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

SEPTEMBER 30, 1974.

DEAR SENATOR: A bill to establish licensing procedures for deep water ports should be coming up for floor action in the very near future. We feel that overall, it is excellent legislation, and clearly needed. Currently the oil companies are offloading oil from large tankers to smaller tankers off the East and Gulf coasts. The companies will be bringing oil in on these huge vessels, and it makes much more sense for them to unload their cargo at an offshore superport and pipe it ashore, than to have the oil lightered onto multitudes of small tankers and barges which will create vessel traffic congestion and a high risk of accidents.

There are 2 provisions about which we are particularly concerned:

(1) As now written the bill requires licensing of superports by the "Secretary of the department in which the Coast Guard is operating." This makes eminent good sense since the Coast Guard is the federal agency with the most experience and expertise in the realm of vessel and port safety, and given its legal authority under the Ports and Waterways Safety Act. Other agencies, including the Interior Department, must be consulted at several stages in the licensing process, including the establishment of regulations and environmental criteria, and are to "review the application and . . . recommend to the Secretary approval or disapproval of the application. . . ." In our opinion this is an adequate and responsible role for the Interior Department. Interior's experience with Outer Continental Shelf matters is irrelevant to the subject of superport licensing and construction. We therefore urge that you support the licensing authority as now delegated in the bill.

(2) A provision is contained in the bill which gives an unstated preference to dredged harbors over offshore deep water ports. Under this legislation the license is only to cover superports outside the 3 mile limit. The dredging provision would mandate consideration of facilities which could not even be licensed under the bill, and which must be considered anyway as alternatives in any environmental impact statements. This provision could cause delays in the licensing program. Many studies have been completed comparing the effects of dredging and of offshore ports. Offshore superports have been found to be superior for many reasons: dredging and maintenance are uneconomic; dredging and disposal of dredge spoil are extremely harmful to marine ecosystems; keeping tankers out of crowded ports avoids much of the risk involved in transporting oil, which is one of the main reasons for having offshore superports.

We urge that you support the deep water port licensing bill, that you vote against any amendments to alter the licensing authority, and that you support an amendment to delete the dredging provision. We hope that the Senate will act expeditiously on this important legislation.

Sincerely,

BARBARA HELLER,
Environmental Policy Center.
BROCK EVANS,
Sierra Club.
ANN ROOSEVELT,
Friends of the Earth.

Mr. BURDICK. To summarize the important part, I quote the last paragraph in the letter:

We urge that you support the deep water port licensing bill, that you vote against any amendments to alter the licensing authority, and that you support an amendment to delete the dredging provision. We hope that the Senate will act expeditiously on this important legislation.

I think the fact that environmental groups quoted herein oppose this amendment should have some weight.

Mr. JOHNSTON. Mr. President, I yield to the Senator from Arizona.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 24 minutes.

Mr. JOHNSTON. I yield 5 minutes, or such time as the Senator from Arizona wishes.

Mr. FANNIN. I thank the Senator.

Mr. President, we have heard a good deal about the oil companies this afternoon. I know that it is popular to criticize the oil companies, and certainly, it has been eloquently done by the distinguished Senators. I recognize their sincerity of purpose.

I feel it is also very unpopular to take the position of the oil companies, or even to quote factual information that would be considered in favor of the oil companies. It is regrettable that it is that way.

This afternoon, we are talking about something entirely different. We are talking about how we can best serve the people of this country in satisfying the need that they have for petroleum products. We have an energy crisis, Mr. President, and a serious one. We have a balance-of-payments problem that is a very serious one, and we do not want that imported oil to cost any more than is absolutely necessary. That is why this is so important.

To arbitrarily adopt an amendment that would be punitive, I think, would be most disadvantageous to the American consumers.

We would prohibit the members of the oil industry from holding licenses for these facilities. After all, this is a backup position. Every protection that can be has been given to other entities to get into the business of having the deepwater ports, and the backup position is the one that will probably be the most important.

Adoption of the provision that is recommended by the distinguished Senator from South Carolina would be a grave mistake. The two most advanced proposals for U.S. deepwater ports, Loop, Inc., and Seadock, have been put forth by industry consortia. American oil companies have been building and operating deepwater terminals around the world for many years, and no one else in this country can touch their experience and expertise. The sponsors of this amendment would deprive the American consumer of the benefits of that expertise.

I see no logic in excluding from this process the single group best equipped to bring vitally needed petroleum to this country consistent with standards of economic efficiency and environmental protection. As a practical matter, if American oil companies are prohibited from being licensees, and thus owners, of these facilities, it is doubtful that they will be built. Both financial and engineering realities all point to this conclusion.

Let me say that I am certainly not advocating excluding States or Du Pont or GM or any other private entity, from getting into the deepwater port business. I think that is what is being done in this bill. What I am saying is, let anyone who wants to apply and can meet the requirements of the legislation do so, and let the Secretary decide who is best qualified. That would seem simple enough.

The major risk involved in owning deepwater terminals is the risk of becoming suddenly unprofitable.

I understand there has been argument against that this afternoon.

At the same time, this is a consideration. Profit loss could occur due to international political developments, changes in energy supply and demand, and, as mentioned by the distinguished Senator from Louisiana, competition from foreign operations. If, for instance, the Government of Canada, Mexico, or the Bahamas were to subsidize a terminal to lure shipping away from established facilities, similar U.S. deepwater ports could face an uphill battle.

Such a competitive threat could dangerously undermine the financial integrity of a publicly owned terminal financed by revenue bonds. However, any private port owner financing his operation with bonds and equity capital would of necessity accept reduced returns as a result of competition.

Mr. President, instances may arise where the development of a major refinery is linked to the development of a deepwater port. The only party with an interest in the development of the port facility would be the developer of the proposed refinery. If, under the statute, the port could be developed only by a governmental agency, or some third party, and no one else was willing to undertake the burden of financing such a facility, it could not be built.

Certainly no national interests would be served by such an obstacle to private economic developments.

I do not understand the way of thinking which would have the United States summarily scrap what might prove to be far and away the best deepwater port proposal. It does not sit well with me to ask American taxpayers to assume risks which private industry is willing to shoulder. Yes, if they have the desire and they feel they can make money, as stated this afternoon. But there are many instances in which this will not be true.

Further, I do not agree with hacking away at antitrust issues by arbitrarily legislating a single group out of the deepwater port field. I have carefully considered this amendment and ask my colleagues to reject it.

The thrust of this legislation should be to build these ports, and to bring them into operation quickly. Without the oil companies in the picture, then who else has the expertise and the ability to do it?

The applicant who can build them safest, cleanest, cheapest should be allowed to do so, consistent with the safeguards already in the bill. Mr. President, I oppose this amendment.

The PRESIDING OFFICER (Mr. HELMS). Who yields time?

Mr. HOLLINGS. Mr. President, I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I should like to point out two things. No. 1, with regard to preferences, we have heard a lot about how this is wide open and everyone has an equal shot. As a matter of fact, there is a supposedly unequal advantage given to States and independents who have first preference.

In the report, in the section entitled "Preferences," we find the following:

> Section 5(h) requires the Secretary first to consider competing applications within any application area on the basis of which will "best" serve the nation. Such a consideration shall include a comparison of such factors as the environmental, technological, economic and timing aspects of the various applications.

I do not know how to say politely, without saying "oil companies." I do not know how to say "oil companies" any better than we have said it in that section where the Secretary has to consider them first because, as a practical matter, they have all the technological advantage. They have the economic wherewithal. They have more economic wherewithal than anybody in the whole world.

They have the timing. As that old song says, "timing is the thing." They have the timing, too.

It seems to me, as a practical matter, that what we are saying through all this facade about priorities is that there really is only one priority, and the priority goes, "Them that has, gets," and the oil companies have those things.

The same argument was made, again to go back to John D. Rockefeller, that he had all of those things. He had the economic advantage, he had the timing, he had the technology, and he had the rest. He ended up owning it all.

Another point, and I shall be brief: I was interested to hear the distinguished senior Senator from Louisiana say that one of the reasons that all States should not own these things, if we wish to consider that possibility, is that they will want to make a profit.

The implication is that the good old oil companies, if they own these, would not want to make a profit on the operation of these ports. That gives me a real warm feeling inside, to know that they would not want to do that.

The other thing is that, though it is not going to have any bearing, probably, on the argument, the distinguished senior Senator from Louisiana raised another very important point. He said:

> What happens if we come along and develop an alternative source of energy which makes oil obsolete?

Then he ran through a scenario from there.

I ask the same question and suggest another scenario. What happens after we have invested tens of billions of dollars around this Nation constructing three deepwater ports off the Atlantic coast, three in the gulf, and several off the west coast, and we make a total investment of many billions of dollars, including the construction of ships to carry all this oil, and 2 or 3 years down the road some smart scientist comes along and develops an alternative source of energy?

Do we honestly think, after all that investment, under the free enterprise system, we are going to have those people say, "we now have a better and cheaper way to serve the American people, so we are going to forego that investment"? Or do we think they are going to do all they can, directly and indirectly, to stymie development of that source of energy?

I say that if they cannot buy it, they are going to stymie it. It seems to me if we are locking ourselves into the development of all of these ports, and just one little part of the picture is the ownership of them, to let the energy policy of this Nation be determined by those who already control it—and I do not see how we could avoid that—would be the height of folly.

Mr. HANSEN. Mr. President, through the generosity of the Senator from South Carolina, I ask my colleague from Louisiana to yield me time, because I do not support the amendment.

Mr. JOHNSTON. How much time?

Mr. HANSEN. Two minutes.

Mr. JOHNSTON. I yield the Senator 2 minutes.

Mr. HANSEN. Mr. President, it seems strange, indeed, that the distinguished junior Senator from Delaware would have so much advice to give us on this issue. You know, it is his State that said, "Do not build any refineries along our coastline." I suppose it might follow, if they did not build any refineries, that they would not need any deepwater ports. I would certainly think so. And for one who says, "We do not want any of this business in our State," I am surprised, indeed, that he would express such great interest in this bill and this sort of facility.

I think I need add nothing to the persuasive arguments that have already been made on this floor by the distinguished Senator from Louisiana and others who have spoken, who call attention to the good sense that it makes to let people who are in the business at least to be able to participate and to compete. If there is a better way of doing it, that is all well and good, too, but I say the time may come when we might be very glad, indeed, to have private industry welcomed and willing to commit the amount of money necessary to build the kind of facilities that we are talking about.

You know, a deepwater port is like a refinery. It is not so much a question of is there enough money to build it as it is a question of is there going to be oil to run through it and use in it.

When we had hearings on refineries in this country, contrary to what a lot of people thought, Mr. President, it was not a question of sufficient funds to build the refineries. There is all kinds of money that can be found to build refineries. The question is, Is there going to be oil? Will there be crude to use it?

I think that underscores one of the most important points the Senate should keep in mind when it votes on this issue. And I do not know of anyone better able to make the best kind of judgment that is required than our people in the oil business. The Senator from Arizona has pointed out that we have adequate laws on the books to assure that there will be no collusion, that there need be no concern expressed by Americans over the inadequacy of the antitrust laws and antimonopoly laws. They are on the books.

So I say in conclusion, Mr. President, it makes good sense to me not to support the Hollings amendment to this deepwater ports bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BIDEN. Mr. President, will the Senator from Wyoming yield for a question?

Mr. HANSEN. I yield.

Mr. BIDEN. I just wish to point out a fact to the distinguished Senator from Wyoming.

Delaware was one of the first States that exported energy. We have a very large refinery. In addition, in a 20-square-mile area, we probably have more refineries than anywhere else. We have the biggest slum in the world at Marcus Hook, between southern Philadelphia and Wilmington. We have more refineries than you can imagine.

So my interest comes from some little experience, with our small State having as much to do with net exporting of refined oil as, I suspect, any State in the Nation in terms of percentages.

Mr. HOLLINGS. Mr. President, I yield myself the remaining minutes.

The opposition to this bill still fascinates and frustrates me, to have this body taking the "politically unpopular position."

They know they are on the majority side. They know this amendment is not going to pass. But we are going to salve the consciences of America. We will lose this round, I say to the Senator from Wyoming, but some day America will win

on this one. We will win; we will cut this Gordian knot that holds this Nation energywise.

Talk about expertise. Expertise in antitrust violation, yes. Expertise in making money—that is what they have—a lot of expertise in. But in running a port?

What about the atom? How did that get into this conversation? What about the taxpayer assuming the risk? Is this a taxpayer protection bill? Are we going to protect them by letting the oil companies make, again, those exorbitant profits that the President is talking about?

The ICC regulation? Hah; 46 Senators sponsored a bill to do away with that agency. Surely you know ICC is not going to regulate them.

The Interstate Commerce Commission is particularly disappointing in its antitrust enforcement as the committee report from the House side concluded.

No one ever came around here and tried to sell us that junk on the ICC, that in doing that we are going to save the taxpayers money.

Let me say as clearly as I possibly can that this is a moneymaking bill. Whether it is owned by the State, the private industry, or the oil companies, it will make money. That is the whole reason for this bill. That is one thing that Senator JOHNSTON, Senator HOLLINGS, and Senator BENTSEN can talk about and agree on; it makes money. It cuts in half the cost of transportation by bringing these tankers into deepwater ports. We are not saying just the State would make it, or just the private interests, or just the oil companies. They are all going to make it.

What we are saying is that the tremendous advantage of profit should not be used as a bottleneck to engage in discriminatory practices. That is what my amendment is all about.

When they talk about national interest, who else do they mean other than the man they are talking about, the consumer? The gentleman's name is James T. Halverson, Director of the Bureau of Competition, Federal Trade Commission, put in by this administration. He has been there 6 or 7 years. I did not put him there. He is the one who attests that the oil companies should not have an ownership in this particular area. And that is not a stump speech; that is testimony from the Competition Division of the Government's Federal Trade Commission. Uncontradicted, if you please.

Who is the next gentleman who came up and testified for the public interest? I almost fell over backward when that gentleman said affirmatively, came forward and said, "We are going to save you 5 cents, and that is in the national interest."

Where in the world have they ever said that? We have been trying to get them to roll back prices. I find it one of the most discouraging, disappointing, demeaning thing to sit as a member of the energy policy study marking up a bill on energy with the Senator from Washington (Mr. JACKSON) as chairman, and have Mr. Simon, the then "Energy Czar," say, "We do not know; the oil companies will not tell us." We sat there through Christmas; we sat there through January and February, and still he sat there and said, "The oil companies will not tell us."

Mr. President, the oil companies own the Government.

You cannot get a depletion allowance bill through the committee in the Senate. You cannot get a repeal of that. Direct Investment Sales Corporation, investment tax credits, the foreign investment tax credits—who owns the Government and who is going to really protect the taxpayer?

Well, along came a gentleman from the Justice Department, Mr. Keith Clearwaters, Deputy Assistant Attorney General in the Antitrust Division. He was not making a stump speech. He concluded by saying:

> We believe there are sound reasons for enacting legislation which would require——

And this is the Hollings amendment—

> require that oil pipelines be independently owned.

Here is the administration's Antitrust Division spokesman, after all their experience, talking about competition, talking about the consumer, talking about the law, talking about this real life in which we live, and he said the oil pipelines should be independently owned, free from control by persons engaged in any other phase of the petroleum business.

The national interest, the national interest. What did the State of Texas say when it talked about the ownership? Who was around here saving the taxpayers' money? Here is a distinguished group that planned for the development of a Texas deepwater terminal, and here is the Texas position on it. It was not an easy one down in Texas. I have got to congratulate these fellows, but they said:

> Public ownership provides the least costly financing alternative and this provides the least cost to the ultimate user, the consumer.

Now, I think if there is one thing the people from Texas know about, that is how to make money. I wish the people of South Carolina would adopt some of their practices. I think they are experts on knowing how to make money.

I guess they have got a poor Texan, although I have never seen one. Maybe some——

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

Mr. HOLLINGS. Yes.

Mr. TOWER. If he will look in this direction, he will spy one. [Laughter.]

Mr. HOLLINGS. I must give that fellow food stamps. [Laughter.]

I can say, Mr. President, in all candor, this is something which has been a guide for those dealing with the consumer in the Federal Trade Commission, dealing with the Justice Department in the Antitrust Division, dealing with the oil pipeline delivery system, and it has been found in all the records that we could possibly find, and that we do not come forward with now when we talk about the national interest, but let us get going and let us hurry up. Let us protect the consumer from these fanciful arguments and talking about the politically unpopular thing.

We know what the politics of oil are in this Government. We have yet to get an energy policy. We could roll back prices, we could tighten the belt of the consumer, we could put a little pin on him, we could do everything but one, and that is to give big oil, natural gas, $11 billion more through deregulation.

That's the only regulation we have got—but the President recommended against it in dealing with the oil companies. The oil companies could not have written a better message on energy yesterday. Why? Because they say they need the money for drilling. Why don't they just drill and quit trying to really get the control old John D. Rockefeller tried to get. The Rockefeller people cooperated in the edition of this particular study, a historical account of how John D. made his billions, so that the Congress of the United States could have hearings 40 and 50 years later about those same villains.

Now, let us give the consumers, the taxpayers, a break in America. Let us go ahead with the construction of deepwater ports. The States are ready. They can get the financing.

About financing and the making of the profits, again this is from the Texas report, I quote, "The public ownership alternative would provide the lowest tariff, an estimated average of present value of 2.91 cents per barrel over the 20 years due to the lower interest rates"—that is the tax exempt and the secured bonds—"and exclusion of the 7 percent return on base."

Now, that is what Texas found after considerable study, that the public entity could build it more cheaply and that the consumer and the taxpayer would benefit. There would be no enticement to big oil. But instead they come in here and grab you by the neck and they say, "Oh, you take the unpopular position."

I do not know what is unpopular about it. The popular position the least number of heads—and you count heads, or watch it when you count, Mr President, and let us see whether we protect the consumer, whether we protect the real interest of this country with respect to the delivery of energy.

Are we really going to put it in the hands of a few oil people? I wonder if my distinguished colleague from Louisiana would agree to a 10-percent limitation on return, not just 7 percent, now that we have got inflation, but a 10-percent return on actual investment.

I would yield to the Senator from Louisiana if he will agree to that; if he will agree to just a 10-percent return on their direct capital investment, no total investment. I will yield now to the Senator from Louisiana, and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, will the Senator yield me 3 minutes?

Mr. JOHNSTON. I yield to the distinguished Senator from Texas 3 minutes.

Mr. TOWER. Mr. President, I will not address myself to every point made by the distinguished Senator from South Carolina. He has obviously done his

homework very well, and he has familiarized himself with a great deal of documentation on this matter.

But I think there were some general implications made by the Senator from South Carolina that should be addressed.

I should like to say, first, that perhaps some of his better points were obscured by absolutely the most professional histrionic performance I have ever seen in the U.S. Senate. And, having been an amateur actor at one time myself, I can recognize theatrical talent when I see it.

I had visions of Pitchfork Ben Tillman standing here in the U.S. Senate Chamber when I listened to the great Populist doctrine being laid down by the distinguished Senator from South Carolina maligning an industry that has produced in the United States of America a surfeit of cheap fuel up until recently.

It is certain that the major oil companies do not come to this place with clean hands, and there is much that we could criticize about the major oil companies. But we had better understand the economics of the oil business, and we had better understand that there is a dichotomy between the major oil companies and the independents, the wildcatters, the gamblers, if you please, who risk their fortunes to try to find and produce oil and gas in this country.

It is wrong to think that by maintaining a lid on the price of crude oil or a lid on the price of natural gas that we are somehow limiting the profits of the major oil companies. What we are doing is forcing us to rely on external sources for energy in this country.

The fact of the matter is that 80 percent of the exploration, production of existing sources of oil and gas in this country——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JOHNSTON. I will yield 2 more minutes.

Mr. TOWER. Eighty percent of the exploration and production of existing sources of existing oil and gas in this country have come under the auspices of the independents, and I can tell my friend, the Senator from South Carolina, that far more have gone broke than have gotten rich. We have geologists and petroleum engineers in my hometown serving as bank tellers and shoe clerks. So the Senator cannot tell me that the oil business has been living off the fat of the land.

I am not talking about the majors. I am talking about other matters the Senator addressed himself to, such as the deregulation of gas, rolling back the price of crude. Perhaps the people of South Carolina would rather buy Algerian liquefied natural gas for $1.50, $1.60, $2 per mcf than buy it from the good people of the great State of Louisiana and the good people of the State of Texas—who once joined the people of South Carolina in the thin Gray Line—for 85 or 90 cents per mcf.

That is what should be faced up to, that is the choice.

Today, right here in Washington, they are distilling natural gas from naphtha for about $1.50 per mcf.

We can sell it cheaper than that if everyone will just let us produce it at an economic rate.

I regret that the Senator from South Carolina had to bring those matters into a discussion of deepwater ports. I would submit, my colleague from Texas who addressed the body earlier made a very good point when he said it is popular to whip the oil industry. Everybody does it. The mass media does it. It is a sure way to be a hero.

I can suggest this, too. If we phase out the depletion allowance, we had better deregulate the price of gas and let the price of crude seek a market level or Project Independence is going right down the drain.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I was given somewhat of a challenge just a few moments ago, not in the form of an amendment, but a question was asked—would I be willing to limit the profits of these big, huge conglomerates and consortiums to 10 percent?

The fact of the matter is that my friend from South Carolina is perhaps not familiar with the provisions of the Elkins Act relevant to the consent decree or with the provisions of the decisions that have been decided by the U.S. Supreme Court, particularly, United States against Atlantic Refining Co.

All those decisions provide is that the 7-percent profit, not 10 percent, allowed to oil companies can be based upon their whole capital structure and not simply on paid-in capital.

Now, that is consistent with all the accounting procedures I know anything about. Accounting procedures always take into consideration debt capital, as well as paid-in capital. But the point is that they do not provide for 10 percent.

Not only is the 10-percent limitation not required under present ICC regulations, but the figure used by the ICC, as I understand it, is 7 percent based upon the total amount of capital, and I ask the distinguished Senator if that is not correct.

Mr. HOLLINGS. My question is, Would the Senator limit it to 10 percent or, if he insists, 7 percent of the direct investment, not the total cost to the project, what their capital is, but $400 million, and they put in $40 million as a group, will they be allowed 10 percent on the 40? I would propose they be allowed only 10 percent on the $40 million because this is a big gimmick they use in what they call discriminatory rebates.

Mr. JOHNSTON. I assume then my interpreation of the Elkins Act on consent decrees in United States against Atlantic Refining is a correct interpretation.

Mr. HOLLINGS. That is correct.

Mr. JOHNSTON. Very well, then we have established that the rate is not 10 percent or something in excess of 10 percent, but rather 7 percent.

Now, the only issue is, are we going to use it on only the amount of paid-in capital, or debt capital as well, and that is a brandnew issue which I would be delighted to debate here if an amendment were up to address that question.

Mr. HOLLINGS. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. HOLLINGS. That issue was the issue in 1942 when they made the Elkins case consent decree, and it has been an issue from 1942 to 1972, for 32 years.

Mr. JOHNSTON. Well, United States against Atlantic Refining Co., decided by the Supreme Court, pointed out that decision and that act is entirely consistent with all of the accounting procedures used by companies across the country and debt capital is, nevertheless, capital.

Indeed, if the State of Louisiana is going to build this superport, they are not going to use money from the treasury, it will be debt capital borrowed from the people on the sale of bonds.

The fact of the matter is that the returns from a superport under ICC laws and regulations are not exorbitant.

Indeed, if they are exorbitant, then Senator BIDEN's bankers from Philadelphia will be there in Louisiana and Texas and Mississippi and Alabama. They will be building that superport because they will have a fair advantage. They will have a preference to build it.

The argument, Mr. President, is unanswerable and certainly has not been answered today. If a State can build a deepwater port and make a profit, it will be there to do it; and if the independents can build it and make a profit, they will do it, because they have a preference under the bill.

I repeat, and I am ready to yield back the remainder of my time, the national interest is served by the defeat of this amendment. If a State will not or cannot build a deepwater port, and if Sears, Roebuck or any other independent company cannot or will not build a deepwater port, then the American public nevertheless deserves and is entitled to the savings which a superport can give them—a savings which in yearly effect may be as big as President Ford's 5-percent surtax. We are entitled to that.

For that reason, I hope we will defeat this amendment.

I am ready to yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. Mr. President, let me get right to that point, we are asking in this amendment—excuse me, the senior Senator from Texas tried to make a comparison of Algerian oil and Saudi Arabian. While on contrast, this superport is only going to be used for Algerian, Saudi Arabian, and the rest; they will not bring Texas oil through a superport.

Now, Alaska is——

Mr. TOWER. Will the Senator yield?

Mr. HOLLINGS. On his time, I only have 2 minutes.

Mr. JOHNSTON. I yield to the Senator.

Mr. TOWER. The Senator was knocking deregulation price of gas, I was addressing myself to that particular additional——

Mr. HOLLINGS. I am addressing myself to the deepwater port, and in this amendment, we are only asking what is provided for the rail carriers in America.

Section 49, United States Code 18, and Senator Lodge of Massachusetts got this passed back in 1906, states that railroads are barred from shipping any articles or commodities except timber or timber products which a railroad "may, own in whole or in part, or in which it may have any interest, direct or indirect."

That was referred to as the commodities clause provision.

We ask simply enactment of the same clause for oil companies.

Mr. STEVENS. Will the Senator yield me 2 minutes?

Mr. HOLLINGS. Yes.

Mr. STEVENS. I wonder if the Senator from South Carolina can possibly postulate how we could have the Alaska pipeline under construction now if we were waiting for an independent entity to come forward with the money, in view of all the problems we had.

The only reason we got that transportation mechanism is because those people invested their money in the exploration and development of that field. They had to have a transportation mechanism to get it to market to recover their investment. And today you would have us say that the oil indsutry, which invests its money in this oil so it can be brought forth from Alaska or Algeria, is going to be barred from participating in one segment of the transportation mechanism to get this oil to market. To me, this is like saying, in regard to the pass we put the railroad through to the West, that we should have given priority to that man at the pass. Remember the old Western movies always used to have a guy at the pass who collected more money than the railroad. That is what the Senator is recommending. He is saying, let somebody else, the people who make money off cotton in South Carolina, or peanuts in South Carolina, whatever it is, let them come in and invest so they can hold us up at the deepwater port on the price. Under such circumstances what it is going to cost to get Alaskan oil across to the consumers of America.

The Senator is saying he is for the consumer. I say the Senator is putting one of the greatest roadblocks in the way of cheap oil for the American public I have ever seen conceived, and that is, they already have an investment in the growth, an investment in the transportation of the oil. They have paid for the ships—the Senator has not said anything about who is building the supertankers to ship the oil. Why? Because they have to get the oil to the market to get back their money.

If the Senator wants to ask me what I think about his idea of allowing someone to hold us up at the pass, to charge more money——

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEVENS. I yield myself 2 minutes on the bill.

As a practical matter, the Senator is in the position of creating the worst kind of roadblock for the American consumer. We defeated this amendment in the joint subcommittee on its merits. We established the priority so that no one in the oil industry can have anything to do with this if anyone else in the United States is willing to do it. That means that, as a last resort, the people who have put the money in, the front-end money to explore for, develop, produce, and transport that oil all the way down to the consumer, have the right to do it if no one else will do it.

To me, that is protecting the public interest.

I wish I was as histrionic as my friend is about some of these things. Believe me, I would ask him how the Alaskan pipeline could be other than a pipedream if we were waiting for the people who made their money in other industries to come in and put money into that pipeline today? It would not be there. It would not be there until hell freezes over.

The PRESIDING OFFICER. Who yields time?

Mr. HOLLINGS. How much time have I remaining?

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. HOLLINGS. Mr. President, the Senator and I would go into the oil business and we would build it, if we were allowed to. Once they found oil anyone would build the pipeline, that is the reason they went to Alaska. But the Senator has finally joined me. He said let us eliminate the man at the pass. That is all we want to do in this amendment, eliminate the man at the pass who would control it, who would create a bottleneck, who would discriminate against the consumer, who would take the poor independent, and gobble up everything else. What is the national interest? Is it what the Justice Department, the Antitrust Division, through Keith Clearwaters ask for; the Federal Trade Commission, the head of the Consumer Division? Do they speak for the national interest? Yes they do and they have asked for it.

At least we should try to break this Gordian knot and eliminate that man at the pass. That is what this amendment is all about.

I thank the Senator very much.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. JOHNSTON. Mr. President, in spite of the fact that I have the last word and can hold forth at some length, I do not want to take the Senate's time, except to make one very brief observation.

We have talked about what is the popular position in this bill, and the Senator from South Carolina says:

> Well, the Senator from Louisiana must have the popular position because he has the votes.

Mr. President, I hope so, and I think we have the votes. It is because of one reason: It is because the national interest is so absolutely clear in defeating this amendment. I am confident the Senate is not going to read the Gallup poll; it is not going to read the rest of the polls, but it is going to vote the national interest—the interest of the consumer. This bill will make it possible, Mr. President, for an independent, Sears, Roebuck, or anybody else, to come to Louisiana, Texas, Mississippi, or any other place, and build a deepwater port and have a preference over an oil company. They will be able to build it in preference to that oil company, if they just want to come down there to do it.

Mr. LONG. Will the Senator yield at that point?

Mr. JOHNSTON. Yes.

Mr. LONG. Might I refer the Senator to a letter from the IPAA? They do speak for independents in this country, speaking for 4,000 independent producers of oil and gas. They say:

> We are not aware of any producer who is having difficulty selling or moving his crude oil, and we do not believe discrimination exists in this respect. The conclusion that independent crude oil producers may have difficulty in securing shipment of their oil and are subject to discrimination by pipeline companies is not supported by the experience of independent producers.

There is their organization, 40,000 independents saying that.

On what the Senator said about Rockefeller, that was right 50 years ago. Maybe it was a little further back. Let us make it 70 years ago. He had a good point. In the year 1974 we all know better than that. The Senator from Louisiana knows better than that. I know I do. My own father was squeezed out of the oil business as a youngster because of the kind of methods that the Rockefellers used back at that time.

That has been a long time ago. The Senator is for many, many years out of date in making his speech about how Rockefeller made his money. That has not anything to do with it.

Whoever builds a superport, anybody who wants to will be able to use it. Is that not correct?

Mr. JOHNSTON. That is absolutely correct. It is in the law as clear as we could write it. In addition, every application is subject to examination by the FTC and the Justice Department, and the operation of deepwater ports is subject to citizen suits under this bill. I do not know how we could build any more protection in the bill without absolutely preventing the building of superports.

Mr. President, when I yield back the remainder of my time, I am going to move to table.

At this time I ask unanimous consent for the yeas and nays on a motion to table.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. JOHNSTON. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JOHNSTON. Mr. President, I yield back the remainder of my time, and I move to table.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment of the Senator from South Carolina.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. HASKELL (when his name was called). I have a pair with the distinguished Senator from Alaska (Mr.

GRAVEL). If he were present and voting, he would vote "yea." If I were permitted to vote, I would vote "nay." I therefore withhold my vote.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL) are necessarily absent.

I further announce that the Senator from Indiana (Mr. HARTKE) is absent on official business.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Nebraska (Mr. HRUSKA), the Senator from Hawaii (Mr. FONG), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 48, nays 34, as follows:

[No. 469 Leg.]

YEAS—48

Aiken	Fannin	Percy
Allen	Fulbright	Proxmire
Bartlett	Griffin	Randolph
Beall	Gurney	Roth
Bennett	Hansen	Scott, Hugh
Bentsen	Helms	Sparkman
Brock	Huddleston	Stennis
Buckley	Johnston	Stevens
Burdick	Kennedy	Symington
Byrd, Harry F., Jr.	Long	Taft
Byrd, Robert C.	Mansfield	Talmadge
Cannon	McClellan	Thurmond
Case	McClure	Tower
Cotton	McGee	Tunney
Curtis	Nelson	Williams
Eastland	Nunn	
	Pearson	

NAYS—34

Abourezk	Hollings	Mondale
Biden	Hughes	Montoya
Brooke	Humphrey	Moss
Chiles	Inouye	Muskie
Clark	Jackson	Pastore
Cranston	Javits	Pell
Domenici	Magnuson	Ribicoff
Eagleton	Mathias	Schweiker
Ervin	McGovern	Stevenson
Hart	McIntyre	Weicker
Hatfield	Metcalf	
Hathaway	Metzenbaum	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Haskell, against.

NOT VOTING—17

Baker	Dole	Hruska
Bayh	Dominick	Packwood
Bellmon	Fong	Scott, William L.
Bible	Goldwater	Stafford
Church	Gravel	Young
Cook	Hartke	

So the motion to table Mr. HOLLINGS' amendment was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HUGH SCOTT. Mr. President, will the Senator from Arizona yield me 2 minutes?

Mr. FANNIN. I am very pleased to yield 2 minutes to the distinguished Senator from Pennsylvania.

Mr. HUGH SCOTT. I thank the distinguished Senator from Arizona.

WAIVER OF RULE XXXVIII AS TO ROUTINE NOMINATIONS ONLY

Mr. HUGH SCOTT. Mr. President, I rise for the purpose of making a motion with regard——

The PRESIDING OFFICER. The Senate will be in order. The Senator cannot be heard.

The Senator will proceed.

Mr. HUGH SCOTT. Mr. President, I wish to point out that while——

The PRESIDING OFFICER. The Senate will be in order. The Senator has a right to be heard.

The Senators will please return to their seats or take their conversations to the cloakroom.

The Senator will proceed.

Mr. HUGH SCOTT. Mr. President, I wish to point out that while a motion to waive rule XXXVIII will be in order, I shall not make such a motion, other than as to routine nominations at the clerk's desk.

In a moment, I shall move that rule XXXVIII be waived as to routine nominations at the clerk's desk. Other nominations will be, as a matter of routine, referred back to the White House for resubmission, in the President's discretion, upon the reconvening of Congress.

It is understood from discussions I have had with the distinguished assistant majority leader that this motion has no reference to the nomination of the Vice-President-designate, which is here under the 25th amendment, and is covered by the necessity for confirmation by both Houses.

Mr. STENNIS. Will the Senator yield?

Mr. HUGH SCOTT. I am glad to yield.

Mr. STENNIS. We happen to have some routine nominations here from the Armed Services Committee that have been filed today. They will be subject to routine confirmation. Will the Senator except those?

Mr. HUGH SCOTT. I except them.

Mr. STENNIS. I thank the Senator.

Mr. HUGH SCOTT. As in executive session, then, I move to waive rule XXXVIII as to routine nominations at the desk today, as requested by the Senator from Mississippi, and as to other routine nominations at the desk. I do not move to waive rule 38 in other aspects.

The PRESIDING OFFICER. The Chair advises that a unanimous-consent request is necessary.

Does the Senator make a unanimous-consent request?

Mr. HUGH SCOTT. I ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Reserving the right to object.

Mr. ROBERT C. BYRD. Reserving the right to object.

Mr. NELSON. I notice that Senator EAGLETON is not here.

Mr. HUGH SCOTT. This would apply to postmasters, if we confirmed postmasters.

Mr. ROBERT C. BYRD. I have no objection.

Mr. EAGLETON. Reserving the right to object, I just walked on the floor, Mr. President.

What was the unanimous-consent request?

Mr. HUGH SCOTT. The unanimous-consent request is to waive rule XXXVIII only as to routine nominations at the clerk's desk, including such routine nominations from the Armed Services Committee as are there today. It does not apply to the Vice-President-designate, whose nomination comes here under the 25th amendment. It applies to everyone else.

Mr. EAGLETON. The routine nominations would not include ambassadorial nominations?

Mr. HUGH SCOTT. I hope that the Senator will accept the statement between the distinguished assistant majority leader and myself that it does not apply to anything except routine nominations at the desk, including those nominations from the Armed Services Committee which are there today.

Mr. ERVIN. Reserving the right to object, I should like to address an inquiry to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. ERVIN. As I understand, this only applies to nominations that have been reported by committees.

Mr. HUGH SCOTT. I am going to defer again to the assistant majority leader, because his ideas will be of interest to the Senate.

Mr. ROBERT C. BYRD. This will only apply to routine nominations.

Mr. ERVIN. I do not know exactly what a routine nomination is.

Mr. ROBERT C. BYRD. What did the Senator have in mind?

Mr. ERVIN. I have in mind Earl Silbert's nomination to be U.S. attorney for the District of Columbia.

Mr. ROBERT C. BYRD. He would not be excepted under this.

Mr. ERVIN. I thank the Senator.

Mr. MANSFIELD. Will the Senator yield?

I believe that on the Consent Calendar there are mentioned routine nominations. Those are the ones grouped together and are not to be considered on the basis of individual nominations.

Mr. ERVIN. I object if it includes the nomination of Earl Silbert to be U.S. attorney for the District of Columbia.

Mr. MANSFIELD. No, it is the group under the armed services—the Army, Navy, and Marine Corps.

Mr. ERVIN. I have no objection, then.

Mr. ABOUREZK. Reserving the right to object, Mr. President.

Mr. HUGH SCOTT. Mr. President, I think the Presiding Officer has ruled, has he not?

The PRESIDING OFFICER. The Chair has not ruled.

The Senate will be in order.

Is there objection?

Mr. ABOUREZK. Reserving the right to object, Mr. President, I should like to ask the Senator from Pennsylvania if his definition of routine nominations includes Melvin Conant to be Assistant Administrator for the Federal Energy Administration?

Mr. HUGH SCOTT. It does not include any nomination except those which are on the desk in group form; those which refer, for example, to the Army, Navy, Air Force, Coast Guard, Marine Corps, et cetera. It does not refer to others, and it does refer only to nominations at the desk, not those which are pending.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished minority leader yield?

Mr. HUGH SCOTT. I yield.

Mr. ROBERT C. BYRD. Mr. Conant's name would be sent by the Secretary back to the President, because under rule XXXVIII that nomination would not live through the recess. If the President wishes, he may send his name back up after the recess.

Mr. ABOUREZK. I withdraw my objection.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

DEEPWATER PORT ACT OF 1974

The Senate continued with the consideration of the bill (S. 4076) to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HOLLINGS. Mr. President, for the information of my colleagues, we have a colloquy with the Senator from Michigan (Mr. HART) which will take about 10 or 15 minutes. We have two amendments which we hope to accept, and vote on final passage in about 20 minutes. There will be a rollcall vote.

Mr. SPARKMAN. Mr. President, will the Senator yield me 1 minute to take up a conference report?

Mr. HOLLINGS. I yield to the Senator from Alabama.

REGULATION OF INTEREST RATES—CONFERENCE REPORT

Mr. SPARKMAN. Mr. President, I submit a report of the committee of conference on S. 3838, and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. HELMS). 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. 3838) to authorize the regulation of interest rates payable on obligations of all affiliates of Federal depository institutions, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Is there objection to the consideration of the conference report?

There being no objection, the Senate proceeded to consider the report.

(The conference report is printed in the House proceedings of the CONGRESSIONAL RECORD of October 8, 1974, at page 34427.)

Mr. SPARKMAN. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

DEEPWATER PORT ACT OF 1974

The Senate continued with the consideration of the bill (S. 4076) to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes.

Mr. JOHNSTON. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The Senate will be in order. The Senator will suspend until order is restored.

The amendment will be stated.

Mr. JOHNSTON. I ask unanimous consent that the reading of the amendment be dispensed with.

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

Mr. JOHNSTON'S amendment is as follows:

On page 38, line 13, after the word "this" delete the word "section" and insert in lieu thereof the word "Act".

Mr. JOHNSTON. Mr. President, this is a technical amendment, the sole effect of which is to make it clear that the Federal district courts in the adjacent States have jurisdiction without regard to the amount in controversy with respect to all provisions of the act, and not simply the provision on liability without fault.

Mr. HOLLINGS. This is a clarifying amendment. We have checked it through with the three committees, and we are willing to accept the amendment. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

Mr. GRIFFIN. Mr. President, is there any time on this amendment?

Mr. HOLLINGS. Oh, yes. I yield the Senator such time as he may require.

Mr. GRIFFIN. As I understand it, this amendment would provide for power to bring suits under this act——

The PRESIDING OFFICER. Will the Senator suspend? The Chair cannot hear, and other Senators cannot hear. The Senate will be in order.

Mr. GRIFFIN. In jurisdictions other than the District of Columbia; is that correct?

Mr. JOHNSTON. Under other provisions of the bill, the Federal district courts in the adjacent States have jurisdiction of all matters arising under this act. That is stated a time or two in the bill. However, on page 38, line 13, it is stated:

In suits brought under this section, the district courts shall have jurisdiction, without regard to the amount in controversy.

We simply wanted to make it clear that, as is stated elsewhere in the act, in all suits, whether under this particular section with reference to citizens' suits or with respect to other claims under the act, the Federal courts have jurisdiction without regard to the amount in controversy.

Mr. GRIFFIN. And those suits would not have to be brought in the District of Columbia?

Mr. JOHNSTON. That is correct.

Mr. GRIFFIN. I think that is fine. I endorse the principle. I only wish it were applied more evenhandedly in the legislation we pass in this body.

Another piece of legislation which came out of the Committee on Commerce, which had to do with automobile safety regulations and suits related to matters of that kind, was carefully drafted so that about the only place actions can be brought is in the District of Columbia. Efforts to try to get some reason into that legislation, unfortunately, failed.

I think that we need to focus attention on this problem where, in some instances, there is unfair and unrealistic restriction and direction in terms of the venue for some of this litigation.

Frankly, I commend the viewpoint here, and the only point I am making is that we ought to take a look at some of the other legislation which goes through here from the same point of view.

Mr. JOHNSTON. I thank the Senator from Michigan, and I agree very much with his comment that the courts which ought to have jurisdiction, not only in this act but in other acts, are the courts closest to home, which involve less expense and often greater capability.

Mr. BURDICK. Mr. President, will the Senator from Louisiana yield?

Mr. JOHNSTON. I yield.

Mr. BURDICK. The bill, particularly on page 38, line 13, confers jurisdiction on the district courts of the United States. Does this include class actions also?

Mr. JOHNSTON. That is right, it would include class actions also. If the Senator will look on page 51 of the bill, jurisdiction is conferred on the U.S. district courts of—

cases and controversies arising out of or in connection with the construction and operation of deepwater ports,

So that would include class action suits, without regard to the amount in controversy. There is no $10,000 requirement under this amendment.

The PRESIDING OFFICER. Is all remaining time yielded back?

Mr. JOHNSTON. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. HELMS). All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON).

The amendment was agreed to.

Mr. MUSKIE. Mr. President, I call up an amendment which I have at the

desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. MUSKIE. I ask unanimous consent that reading of the amendment be dispensed with.

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

Mr. MUSKIE's amendment is as follows:

On page 47, strike lines 8 through 12 and insert in lieu thereof the following:

"(k) Preemption—(1) This section shall not be interpreted to preempt the field of liability without regard to fault or to preclude any State from imposing additional requirements or liability for any discharge of oil or natural gas from a deepwater port or a vessel within any safety zone.

"(2) Any person who receives compensation for damages pursuant to this section shall be precluded from recovering compensation for the same damages pursuant to any other State or Federal law. Any person who receives compensation for damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same damages as provided in this section."

Mr. MUSKIE. I can explain this amendment very simply. It has to do with section 18(k), which, as presently written, provides that all State and Federal liability laws are preempted for cleanup costs and damages resulting from a discharge of oil or natural gas from a deepwater port or from a vessel within a safety zone surrounding a deepwater port.

Both the Committee on Public Works and the Committee on Interior and Insular Affairs oppose this preemption section of the deepwater port legislation. The Interior Committee and the Public Works Committee developed proposals for dealing with it. This amendment is the amendment of the Public Works Committee.

This principle of not preempting States' rights in defining liability for oil spills or setting higher liability limits is contained in the Federal Water Pollution Control Act. Section 311 of that law established liability for cleanup costs for oil spills in navigable waters and in the contiguous zone, but also provided that States and political subdivisions not be precluded from imposing any requirements or liability with respect to the discharge of oil or hazardous substances into any State waters.

The State's right to set more stringent liability laws is a well-established principle.

The Committee on Public Works supports this principle. The committee thinks it is preferable that the principle be clearly stated.

There is this provision of the Federal Water Pollution Control Act Amendments of 1972:

Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substances in any waters within the State.

The same principle is found in the House version of the pending legislation, and it makes a great deal of sense.

One example of the necessity for this, for example, was the California law with respect to auto emission requirements. Because California had an especially acute problem, after long debate on the Clean Air Act, we allowed California an exemption to set more stringent limits than the Federal law.

There are going to be situations in the various States which call for more drastic action than the general Federal law requires, and it is for that purpose that the Public Works Committee, in all of its legislation dealing with the environment, has avoided preempting this right of the States. It is for that reason, Mr. President, that I offer this amendment and commend it to the distinguished floor manager of the bill.

Mr. HOLLINGS. Mr. President, we lean toward agreeing to accepting the amendment. I am checking with my colleagues.

The reason for the difference in this particular bill from the Clean Air Act and other provisions was that we provided for unlimited liability for all damages and, thereby, we did not think the State or anybody else could really increase that liability or require a higher degree of culpability or whatever.

In that light we did not want the State to be misled by it, and we included that preemption section that is found on page 47, section (k).

However, the Senator's argument then would be since it is unlimited liability for all damage, what damage or injury can be done by the inclusion or adoption of his amendment and if there is no misunderstanding. We are just as zealous as he is that it be unlimited and it be for all damage. The reading of the section is:

The Fund shall be liable, without regard to fault, for all cleanup costs and all damages in excess of those actually compensated—

in the other different sections there.

I ask my colleague on the other side of the aisle, the Senator from Arizona (Mr. FANNIN), how he feels about it.

Mr. FANNIN. Mr. President, the financial responsibility provision in the bill, I think, is adequate. It is all-encompassing.

In the discussions in the committee it was felt that this was going to the full extent of the need that is involved. So I do not feel that there would be any benefit to adding this amendment. I would think that this is fully covered, and the distinguished Senator from Maine would recognize that.

I think that the item of dual coverage is brought up, and we certainly do not want to confuse the issue. I think that might be the case if this amendment is adopted.

Mr. MUSKIE. If the Senator will yield, what is involved are two questions: What are the standards of liability and, second, what is the amount of recovery?

What I am talking about are the standards of liability. We have an unlimited recovery with respect to the particular damages that are covered. The specific limits of liability for the port and vessel owner, however, are limited. But I do not think, for example, that this legislation encompasses the kind of extensive liability which is found in the oil pollution control legislation that we enacted several years ago which, in effect, is faultless liability and hazardous situations.

The second point I would like to address——

Mr. HOLLINGS. Mr. President, will the Senator yield at that point?

Mr. MUSKIE. If I may make the second point, then I shall yield. If the Senator feels he is in accord with what the amendment does, there is no problem in accepting the amendment and working out whatever problems may exist subsequently in conference.

If the Senator agrees or if he believes that the bill does what this amendment does, then let us accept the language and work out whatever misunderstanding we may have on that score.

Mr. JOHNSTON. Will the Senator yield?

Mr. MUSKIE. Yes.

Mr. HOLLINGS. Let me just clarify that one section because when the Senator talks about faultless liability, that is exactly what is provided for in this bill.

On page 42, line 11, the bill says:

Notwithstanding any other provision of law, except as provided in subsection (g) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault . . .

In other words, it provides for no fault or faultless liability. We did not know how to make it more encompassing than that.

Then it says: "for all damages," so there should not be any misunderstanding.

If we do accept this amendment, we do not want any confusion. I do not mind taking the amendment, if any colleagues are directed to, in the light of trying to clarify any misunderstanding, and we can certainly work it out in conference.

I yield to the Senator from Alaska.

Mr. STEVENS. I respectfully say to my friend, the Senator from Maine, that this is the most comprehensive liability that has ever been imposed by any statute on pollution or any other type of damage as far as recovery is concerned. It includes all costs, it includes all damages without regard to liability. It is a funded liability and, as such, I do not see any reason why it should not be the sole source of recovery for actions resulting from the operations of this type of a port.

I think if we put in the Senator's amendment he is being redundant, and it raises the specter of a double liability for the cost or damages incurred.

Mr. MUSKIE. May I say to the Senator I do not accept that conclusion.

May I also point out that this provision is included in the House bill, so there must have been some reason for it. Let me read it:

This section shall not be interpreted to preempt the field of liability without regard to fault or to preclude any State from imposing any additional requirements.

That is in the House version of the bill. This is the very language of the pending amendment and, for the life of me, I cannot see why, if the Senators are in agreement as to the principle of this standard of liability, this language cannot be accepted.

My staff is of the opinion that it does not have the consequences, as does this one, of the Senator's language.

Mr. HOLLINGS. If the Senator will yield, the difference is that both the Senate and the House bills have faultless liability, but the House bill has an upward limitation, and we have no such limit. They have a cutoff of $100 million. We eliminated that cutoff when we said all damages. That was the reason why we put in the pre-emption provision so this would be absolutely clear and there would be no confusion.

Mr. JOHNSTON. Mr. President, I hesitate even to question this amendment because I certainly agree with the sentiment behind it. We want to give as much protection to these coastal States as we can.

But I have a few questions that I think will illustrate the difficulty I am having with this, so I would ask the distinguished Senator from Maine this question. Suppose a State such as Louisiana has no laws that impose strict liability on a ship.

Under this language which states that this section shall not be interpreted to preempt the field of liability without regard to fault, is it not possible that that would mean we would have a dual jurisdiction in both State and Federal courts with two different sets of standards of liability?

Mr. MUSKIE. I do not believe so because we have not run into this problem with the Clean Air Act or the Federal Water Pollution Control Act. This language is in those pieces of legislation and the courts have ruled on them and have supported or sustained that language.

Mr. JOHNSTON. Is it precisely this language?

Mr. MUSKIE. Well, here is the language in the Water Pollution Act. Let me read it. I have not read it recently:

Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substances within any water within such State.

It is the same thought, the same thrust. We just feel that States which have special situations requiring special treatment ought to be able to set higher limits of liability for the port and vessel owner in order to protect themselves. We have not found that in 10 years of writing environmental legislation that this is an unreasonable requirement. We have not found the States ready to abuse this privilege. All we are asking is to give them the right.

I have been writing legislation designed to establish national-environmental standards. I am not for undermining national standards. But I think we need some flexibility for those States which want to move in with a tougher policy, and we should permit them to do so.

I have not had a chance personally to study the Committee language, and it may be that I can be reassured on it. But, at the moment, on the basis of careful staff analysis, I think that the language I have offered fills this need.

If it does not, I am sure we can modify it.

I apologize for bringing it in at the last moment of consideration of this bill, but I have been tied up elsewhere, and I just got to the floor.

Mr. JOHNSTON. Well, I am strongly endorsing the sentiment that the Senator states. I can see differences not only in the language in the Federal Water Pollution Control Act and in the situation that controls mainly one State with a stationary thing as opposed to ships coming and going into the superport. We have limited liability of $14 million under the Federal Water Pollution Control Act.

Nevertheless, for my own part, and this reflects the Interior Committee, we are willing to accept the amendment provided the Senator will, as I am sure he will, work on the language to it, and we do not derogate it, so that we do not reach this situation that I first described where there may be no liability under State law and a higher under Federal law and a rush to the courthouse, so that we can adequately and fully protect the States; to that end, we will accept the amendment.

Mr. HOLLINGS. Mr. President, I do not think we are afforded that liberty. If we accept the amendment, and it is in the House provision, and now we accept it in the Senate provision, it is locked in.

If the Senator, in the very spirit I was discussing just a few minutes ago in which he has presented it, would receive and accept our assurance we will work it out with him, and if he and his staff and the staff of our several committees can find how to improve both, without confusion, without limitation, but actually add to it, then I think we ought to forego presenting this amendment at this time because if we accept it, the House has got it in, and we accept it here, then it is not subject to conference and we are locked in and cannot negotiate around what we are all trying to do.

Mr. MUSKIE. Let me suggest this. As I understand it, this $100 million is a recovery limit in the House bill, and there is no ceiling on the Senate bill. It seems to me that this difference gives the flexibility to also debate the standards of liability.

Mr. HOLLINGS. Not on the question of the language, we can use the House language.

Mr. MUSKIE. I understand the language is not on all fours. I do not agree with the House, there are differences in the language.

Mr. STEVENS. Would the Senator from Maine accept our complete assurances that if there is any problem at all with regard to what he seeks, we would include it? If we put it in now, we will not have any flexibility.

Mr. MUSKIE. Let me make a suggestion. This is wholly editorial, for the purpose of leaving the issue in conference. This is not to be interpreted as any commitment to this modification.

If we leave out the phrase "without regard to fault" which is in the House language, then the thrust of my purpose is still clear, and, that is we do not want preemption but we have given some bargaining room with respect to the standards of liability.

I am still for the House language, but I think that this may give enough flexibility. With that modification, I would certainly be willing to rely on the good faith of the Senate conferees to work this out, because I think it is a good bill. I do not want to hurt this bill.

Mr. HOLLINGS. Now, by eliminating "without regard to fault," I am reading from page 59 of the House bill, and that is exactly what that did, this section shall not be interpreted to preempt the field of liability, that is exactly the way we would read it; they do not have "without regard to fault."

Mr. MUSKIE. Yes, they do.

Mr. HOLLINGS. To preempt the field of liability without regard to fault, they have on the House side, so this would make the difference. I see. Without regard to fault or to preclude any State from imposing additional requirements.

I think we can accept something to create a difference, to bring about debate, to give us flexibility, and to allow us to go to conference.

Mr. MUSKIE. Mr. President, may I modify my amendment by deleting the phrase "without regard to fault" with the understanding on the part of all that this is for the purpose of directing the issues into conference?

The PRESIDING OFFICER. The Senator from Maine may modify his amendment. It is so modified.

The amendment, as modified, is as follows:

On page 47, strike lines 8 through 12 and insert in lieu thereof the following:

"(k) Preemption—(1) This section shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil or natural gas from a deepwater port or a vessel within any safety zone.

"(2) Any person who receives compensation for damages pursuant to this section shall be precluded from recovering compensation for the same damages pursuant to any other State or Federal law. Any person who receives compensation for damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same damages as provided in this section."

Mr. HOLLINGS. Let us make it crystal clear, we are not varying from the very substantial liability, and liability for all damages, contained in the Senate provision. We do not see how the States can improve on that, if they can we will look at it in conference.

The PRESIDING OFFICER. Do the Senators yield back their time?

Mr. MUSKIE. I yield back my time.

Mr. HOLLINGS. I yield back the remainder of my time.

Mr. FANNIN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. HOLLINGS. The Senator from Michigan.

Mr. HART. If the Senator could yield me a few minutes, rather than my offering an amendment for discussion, I hope

the discussion will avoid the need for an amendment.

There are two places in here, first on page 9 in subsection 7; the second on page 24 in section 7a, where there is a direction prior to issuance of a license, there shall be received an opinion from the Attorney General with respect to the effect under antitrust laws that might be involved in the proposed grant.

In both instances, the safeguard desired, I hope our intention is understood as not to be so narrow as to require an opinion, a finding, by the Attorney General or the Federal Trade Commission that there is an actual violation of the antitrust laws, but, rather, when we speak of its otherwise creating a situation in contravention of the antitrust laws we mean not inconsistent with the antitrust laws, is that a thorough understanding of our purpose?

Mr. HOLLINGS. It is.

As I understand it, obviously, the opinion would not have to say that this or that is in violation, because if it was a violation they would move to enforce the law. It would not be an opinion, it would be an indictment.

But what we are looking for is to evaluate anything in contravention or inconsistent with the antitrust provision.

Mr. HART. With that understanding, Mr. President.

Mr. HATHAWAY. I have a few questions regarding the liability provisions of this bill. The licensee of any deepwater port will be held strictly liable for any discharges of oil or natural gas into the ocean. The definition of deepwater port includes pipelines, equipment, and components to the extent they are seaward of the high water mark. I take it, then, that liability for any discharge into the ocean or along the beaches will be governed by this act so long as the discharge originated from a pipeline component or equipment of the deepwater port.

Mr. HOLLINGS. Yes.

Mr. HATHAWAY. And this includes discharges originating both within and outside the territorial seas.

Mr. HOLLINGS. Yes.

Mr. HATHAWAY. As to the liability for discharges from vessels, the vessel owner or operator is strictly liable while within the safety zone. I understand that this is a navigational safety zone around the deepwater port which will be defined by the Coast Guard. Now once the vessel, say a large supertanker, is outside the perimeter of this safety zone, will it still be subject to some form of liability under other laws and conventions?

Mr. HOLLINGS. Yes. Other laws would be operative, for example, the Oil Pollution Amendments of 1973.

Mr. HATHAWAY. But these other relevant laws do not impose strict liability or establish an unlimited liability fund as this bill does.

Mr. HOLLINGS. That is correct.

Mr. HATHAWAY. Section 18(n) of this bill provides for an oil spill liability study, as did a similar section in the Outer Continental Shelf bill which recently passed the Senate. Is it your intent that this liability study incorporate strict liability and the idea of an unlimited fund to cover damages from all oil spills?

Mr. HOLLINGS. Yes. We intend the study to develop a comprehensive oil spill liability plan which incorporates the principles provided in this bill.

Mr. ROTH. Mr. President, the Deepwater Ports Act of 1974 represents the culmination of many years of work, the ideas of many interested citizens, and the efforts of many distinguished members.

One provision of the legislation that is particularly important to me, and to my constituents, is section 4(c)(9), providing adjacent or potentially affected States a virtual veto power over any deepwater port development. This is a concept that my friend and former Senator Cale Boggs had introduced, and that I cosponsored as early as 1972. It is also a concept that I reintroduced during this session of Congress in my bill, S. 1558. Although my legislation would have expanded the veto authority to State legislatures, I am, nevertheless, pleased that veto authority has been vested in the States.

The veto provision is especially important to the several States that do not view the construction or subsequent landside development of a deepwater port as a means of enhancing that State's economy. It is reassuring that Congress is acting in such an affirmative manner to protect the integrity of the States and to guarantee an active voice in any such proposed development.

Mr. McCLURE. Mr. President, I wish to express my concern with section 5(i)(2) of this bill. This is the provision that creates for units of government a priority in the consideration of any deepwater port licenses.

I see no advantage to be gained when we give a governmental agency an automatic priority over tax-paying industry. Our economic system is based on private industry using risk capital to go forward, supporting the Government with taxes on its profits. Government should move into an area only when industry cannot do the job. If we allow Government, with all its advantages, to compete, I believe they should do so as an equal, not a priority, competitor.

This bill as reported gives local government an advantage beyond the many it already has. A governmental agency with a deepwater port plan has access to tax-free bonding. It can divert tax moneys into port development. It can even veto a proposal in competition, without justifying it. In its views on this issue, the Commerce Committee states on page 26:

> It has been shown by studies done by the Texas Offshore Terminal Commission that, if a public entity owns and operates a deepwater port, its ability to obtain tax-exempt bond financing and its willingness to forego the 7 percent profit margin allowed common carrier pipelines will reduce the cost savings expected if oil companies controlled the port.

Obviously, the Secretary will give weight to such factors as these in the economic comparison he will make of two or more applications for a single license. But do we need to place still another hurdle before private development in the form of this priority scheme? That final hurdle may discourage any participation at all by industry in the development of deepwater ports.

But if there exists, as some may argue, a danger that industry will conspire to monopolize oil imports through a deepwater port, I believe the antitrust danger is guarded against effectively in the section 7 antitrust reports, the section 8 common carrier provisions, and existing antitrust laws.

Any limitation on license competition, either by excluding one segment or by a priority system, may well hamper or even prevent development of the best possible deepwater ports at the lowest possible cost to the consumer.

Mr. WILLIAMS. Mr. President, the Deepwater Port Act of 1974 is the product of a unique cooperative arrangement among the committees on Commerce, Public Works, and Interior. The creation of the Special Joint Subcommittee on Deepwater Ports is most fitting in light of the significance of this piece of legislation.

The potential impact of a deepwater port is enormous not only upon the efficiency of oil transportations, but also upon the landside and marine environments. Indeed, it was largely a result of these environmental considerations that I introduced S. 180, the Coastal Environmental Protection Act, on the first day of the 93d Congress.

My principal concern was that the Governor of each coastal State adjacent to or affected by a deepwater terminal be provided an opportunity to approve or disapprove the project. I am most pleased that the special joint committee has included a provision in S. 4076 which is very similar to the one I originally proposed.

Section 9 of S. 4076 would require the Secretary of Transportation to forward a copy of a deepwater port application to the Governor of any State which: First, is connected by pipeline to the port; second, located within 15 miles of any component of the port; or third, would in the opinion of the Administrator of the National Oceanic and Atmospheric Administration experience substantial environmental risk as the result of an oil spill. The Governor would then have 45 days in which to approve or disapprove the project. If the Governor fails to notify the Secretary of his decision within that period, his approval is presumed. The Secretary must also incorporate as conditions of the license any reasonable terms that an adjacent coastal State requests in order to make deepwater port development compatible with the environmental programs of the State.

The people of New Jersey and many other States have shown they are determined to participate in the preservation of their natural resources. It is these same people who would be forced to live with the industrialization and environmental degradation attendant to construction of a deepwater terminal. In my judgment, those most directly affected ought to have a direct role in determining the location of a facility which would so significantly affect their lives. I feel that S. 4076 would afford them such a role.

Mr. President, I would like to commend the members of the joint subcommittee and of the three full committees for their work on this bill. I think that the Deepwater Port Act of 1974 represents a viable approach to the complex problems involved in the location, construction and operation of deepwater ports.

Mr. HUGH SCOTT. Third reading.

Mr. HOLLINGS. Mr. President, I ask for the yeas and nays on final passage.

Mr. HUGH SCOTT. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

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

The PRESIDING OFFICER. The bill having been read the third time the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Indiana (Mr. HARTKE) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) and the Senator from Indiana (Mr. BAYH) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) would vote "yea."

The result was announced—yeas 78, nays 2, as follows:

[No. 470 Leg.]

YEAS—78

Aiken	Cannon	Fulbright
Allen	Case	Griffin
Bartlett	Chiles	Gurney
Beall	Clark	Hansen
Bennett	Cotton	Hart
Bentsen	Cranston	Haskell
Brock	Curtis	Hatfield
Brooke	Domenici	Hathaway
Burdick	Eagleton	Helms
Byrd, Harry F., Jr.	Eastland	Hollings
Byrd, Robert C.	Ervin	Huddleston
	Fannin	Hughes
Humphrey	Metzenbaum	Schweiker
Inouye	Mondale	Scott, Hugh
Jackson	Montoya	Stennis
Javits	Moss	Stevens
Johnston	Muskie	Stevenson
Long	Nelson	Symington
Magnuson	Nunn	Taft
Mansfield	Pastore	Talmadge
Mathias	Pearson	Thurmond
McClellan	Pell	Tower
McClure	Percy	Tunney
McGee	Proxmire	Weicker
McGovern	Randolph	Williams
McIntyre	Ribicoff	
Metcalf	Roth	

NAYS—2

Abourezk	Biden

NOT VOTING—20

Baker	Dole	Kennedy
Bayh	Dominick	Packwood
Bellmon	Fong	Scott, William L.
Bible	Goldwater	Sparkman
Buckley	Gravel	Stafford
Church	Hartke	Young
Cook	Hruska	

So the bill (S. 4076) was passed.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Committee on Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works be discharged from further consideration of H.R. 10701 and that the Senate proceed to its immediate consideration.

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

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 10701) to amend the Act of October 27, 1965, relating to public works on rivers and harbors, to provide for construction and operation of certain port facilities.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the bill.

Mr. HOLLINGS. Mr. President, I move to strike all after the enacting clause of H.R. 10701 and to substitute the text of S. 4076, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from South Carolina.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 10701) was passed.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the title be changed to read:

"An act to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes."

The PRESIDING OFFICER. Without objection, the title will be so amended.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the passage of S. 4076 be vitiated and that the bill be indefinitely postponed.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized, in the engrossment of H.R. 10701, to make any technical and clerical amendments.

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

Mr. HOLLINGS. Mr. President, I ask unanimous consent that H.R. 10701 be printed in the RECORD as passed by the Senate, and that it be printed for the use of the Senate.

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

H.R. 10701

That this Act may be cited as the "Deepwater Port Act of 1974".

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DECLARATION OF POLICY

SEC. 2. (a) PURPOSES.—It is declared to be the purposes of the Congress in this Act to—

(1) authorize and regulate the location, ownership, construction, and operation of deepwater ports in waters beyond the territorial limits of the United States;

(2) provide for the protection of the marine and coastal environment to prevent or minimize any adverse impact which occur as a consequence of the development of such ports;

(3) protect the interests of the United States and those of adjacent coastal States in the location, construction, and operation of deepwater ports; and

(4) protect the rights and responsibilities of States and communities to regulate growth, determine land use, and otherwise protect the environment in accordance with law.

(b) DISCLAIMER.—The Congress declares that nothing in this Act shall be construed to affect the legal status of the high seas, the superjacent airspace, or the seabed and subsoil, including the Continental Shelf.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "adjacent coastal State" means any coastal State which (A) would be directly connected by pipeline to a deepwater port as proposed in an application; (B) would be located within 15 miles of any such proposed deepwater port; or (C) is designated by the Administrator of the National Oceanic and Atmospheric Administration pursuant

to section 9(a)(2) of this Act as a State to which there is a substantial risk of serious damage to its coastal environment because of such factors as prevailing winds and currents as a result of oil spill incidents which originate from any proposed deepwater port or from any vessel located within a safety zone around such deepwater port;

(2) "affiliate" means any entity owned or controlled by, any person who owns or controls, or any entity which is under common ownership or control with an applicant, licensee, or any person required to be disclosed pursuant to section 5(c)(2) (A) or (B);

(3) "antitrust laws" includes, the Act of July 2, 1890, as amended; the Act of October 15, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1894, as amended;

(4) "application" means any application submitted under this Act (A) for a license for the ownership, construction, and operation of a deepwater port; (B) for transfer of any such license; or (C) for any substantial change in any of the conditions and provisions of any such license;

(5) "citizen of the United States" means any person who is a United States citizen by law, birth, or naturalization, any State, any agency of a State or a group of States, or any corporation, partnership, or association organized under the laws of any State;

(6) "coastal environment" means the navigable waters (including the lands therein and thereunder) and the adjacent shorelines (including waters therein and thereunder). The term includes transitional and intertidal areas, bays, lagoons, salt marshes, estuaries, and beaches; the fish, wildlife and other living resources thereof; and the recreational and scenic values of such lands, waters and resources;

(7) "coastal State" means any State of the United States in or bordering on the Atlantic, Pacific, or Arctic Oceans, or the Gulf of Mexico;

(8) "construction" means the supervising, inspection, actual building, and all other activities incidental to the building, repairing, or expanding of a deepwater port or any of its components, including, but not limited to, pile driving and bulkheading, and alterations, modifications, or additions to the deepwater port;

(9) "control" means the power, directly or indirectly, to determine the policy, business practices, or decisionmaking process of another person, whether by stock or other ownership interest, by representation on a board of directors or similar body, by contract or other agreement with stockholders or others, or otherwise;

(10) "deepwater port" means any fixed or floating manmade structures other than a vessel, or any group of such structures, located beyond the territorial sea and off the coast of the United States and which are used or intended for use as a port or terminal for the loading or unloading and further handling of oil or natural gas for transportation to any State. The term includes all associated components and equipment, including pipelines, pumping stations, service platforms, mooring buoys, and similar appurtenances to the extent they are located seaward of the high water mark. A deepwater port shall be considered a "new source" for purposes of the Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended;

(11) "Governor" means the Governor of a State or the person designated by State law to exercise the powers granted to the Governor pursuant to this Act;

(12) "licensee" means a citizen of the United States holding a valid license for the ownership, construction, and operation of a deepwater port that was issued, transferred, or renewed pursuant to this Act;

(13) "marine environment" includes the coastal environment, waters of the contiguous zone, and waters of the high seas; the fish, wildlife, and other living resources of such waters; and the recreational and scenic values of such waters and resources;

(14) "natural gas" means natural gas, liquefied natural gas, artificial or synthetic gas, or any mixture thereof or derivative therefrom;

(15) "oil" means petroleum, crude oil, and any substance refined from petroleum or crude oil;

(16) "person" includes an individual, a public or private corporation, a partnership or other association, or a government entity;

(17) "safety zone" means the safety zone established around a deepwater port as determined by the Secretary in accordance with section 10(d) of this Act;

(18) "Secretary" means, except as otherwise specifically provided, the Secretary of the department in which the Coast Guard is operating;

(19) "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(20) "vessel" means every description of watercraft or other artificial contrivance used as a means of transportation on or through the water.

LICENSE FOR THE OWNERSHIP, CONSTRUCTION, AND OPERATION OF A DEEPWATER PORT

SEC. 4. (a) GENERAL.—No person may engage in the ownership, construction, or operation of a deepwater port except in accordance with a license issued pursuant to this Act. No person may transport or otherwise transfer any oil or natural gas between a deepwater port and the United States unless such port has been so licensed and the license is in force.

(b) AUTHORITY.—The Secretary is authorized, upon application and in accordance with the provisions of this Act, to issue, transfer, amend, or renew a license for the ownership, construction, and operation of a deepwater port.

(c) PREREQUISITES TO ISSUANCE OF LICENSES.—The Secretary may issue a license in accordance with the provisions of this Act if—

(1) he determines that the applicant is financially responsible and will meet the requirements of section 18(l) of this Act;

(2) he determines that the applicant can and will comply with applicable laws, regulations, and license conditions;

(3) he determines that the construction and operation of the deepwater port will be in the national interest and consistent with national security and other national policy goals and objectives, including energy sufficiency and environmental quality;

(4) he determines that the deepwater port will not unreasonably interfere with international navigation or other reasonable uses of the high seas, as defined by treaty, convention, or customary international law;

(5) he determines, in accordance with the environmental review criteria established pursuant to section 6 of this Act, that the applicant has demonstrated that the deepwater port will be constructed and operated using best available technology, so as to prevent or minimize adverse impact on the marine environment;

(6) he has not been informed, within 45 days of the last public hearing on a proposed license for a designated application area, by the Administrator of the Environmental Protection Agency that the deepwater port will not conform with all applicable provisions of the Clean Air Act, as amended, the Federal Water Pollution Control Act, as amended, or the Marine Protection, Research and Sanctuaries Act, as amended;

(7) he has received the opinions of the Federal Trade Commission and the Attorney General, pursuant to section 7 of this Act, as to whether issuance of the license would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situation in contravention of the antitrust laws;

(8) he has consulted with the Secretary of the Army, the Secretary of State, and the Secretary of Defense, to determine their views on the adequacy of the application, and its effect on programs within their respective jurisdictions;

(9) the Governor of the adjacent coastal State or States, pursuant to section 9 of this Act, approves, or is presumed to approve, issuance of the license; and

(10) the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress, as determined in accordance with section 9(c) of this Act, toward developing, an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972.

(d) PORT EVALUATION.—If an application is made under this Act for a license to construct a deepwater port facility off the coast of a State, and a port of such State which on the date of such application—

(1) has existing plans for construction of a deep draft channel and harbor;

(2) has either (A) an active study by the Secretary of the Army relating to the construction of a deep draft channel and harbor, or (B) a pending application for a permit under section 10 of the Act of March 3, 1899 (30 Stat. 1121), for such construction; and

(3) applies to the Secretary for a determination under this section within 30 days of the date of the license application;

the Secretary shall not issue a license under this Act until he has examined and compared the economic, social, and environmental effects of the construction and operation of the deepwater port with the economic, social, and environmental effects of the construction, expansion, deepening, and operation of such State port, and has determined which project best serves the national interest or that both developments are warranted. The Secretary's determination shall be discretionary and nonreviewable.

(e) CONDITIONS OF LICENSES.—(1) In issuing a license for the ownership, construction, and operation of a deepwater port, the Secretary shall prescribe any conditions which he deems necessary to carry out the provisions of this Act, or which are otherwise required by any Federal department or agency pursuant to the terms of this Act.

(2) No license shall be issued, transferred, or renewed under this Act unless the licensee or transferee first agrees in writing that (A) there will be no substantial change from the plans, operational systems, and methods, procedures, and safeguards set forth in his application, as approved, without prior approval in writing from the Secretary; and (B) he will comply with any condition the Secretary may prescribe in accordance with the provisions of this Act.

(3) The Secretary shall establish such bonding requirements or other assurances as he deems necessary to assure that, upon the revocation or termination of a license, the licensee will remove all components of the deepwater port: *Provided*, That in the case of components lying in the subsoil below the seabed, the Secretary is authorized to waive the removal requirements if he finds that such removal is not otherwise necessary and that the remaining components do not constitute any threat to navigation or to the environment.

(f) TRANSFER OF LICENSES.—Upon application, licenses issued under this Act may be transferred if the Secretary determines that such transfer is in the public interest and that the transferee meets the requirements

of this Act and the prerequisites to issuance under subsection (c) of this section.

(g) ELIGIBILITY FOR A LICENSE.—Any person who is a citizen of the United States and who otherwise qualifies under the terms of this Act shall be eligible to be issued a license for the ownership, construction, and operation of a deepwater port.

(h) TERM AND RENEWAL OF LICENSES.—Licenses issued under this Act shall be for a term of not to exceed 20 years. Each licensee shall have a preferential right to renew his license subject to the requirements of subsection (c) of this section, upon such conditions and for such term, not to exceed an additional 10 years upon each renewal, as the Secretary determines to be reasonable and appropriate.

PROCEDURE

SEC. 5. (a) REGULATIONS.—The Secretary shall, as soon as practicable after the date of enactment of this Act, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this Act, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, application, issuance, transfer, renewal, suspension, and termination of licenses. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any potentially affected coastal State, and for consideration of the views of any interested members of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this Act to amend or rescind any such regulation.

(b) SITE EVALUATION.—The Secretary, in consultation with the Secretary of the Interior and the Administrator of the National Oceanic and Atmospheric Administration, shall, as soon as practicable after the date of enactment of this Act, prescribe regulations relating to those activities involved in site evaluation and preconstruction testing at potential deepwater port locations that may (1) adversely affect the environment; (2) interfere with authorized uses of the Outer Continental Shelf; or (3) pose a threat to human health and welfare. Such activity may thenceforth not be undertaken except with the approval of the Secretary and in accordance with regulations prescribed pursuant to this subsection. Such regulations shall be consistent with the purpose of this Act and shall include conditions, terms, and the manner in which such approval may be obtained.

(c) SUBMISSION OF PLANS.—(1) Any person making an application under this Act shall submit detailed plans to the Secretary. Within 21 days after the receipt of an application, the Secretary shall determine whether the application appears to contain all of the information required by paragraph (2) hereof. If the Secretary determines that such information appears to be contained in the application, the Secretary shall no later than 5 days after making such a determination, publish notice of the application and a summary of the plans in the Federal Register. If the Secretary determines that all of the required information does not appear to be contained in the application, the Secretary shall notify the applicant and take no further action with respect to the application until such deficiencies have been remedied.

(2) Each application shall include such financial, technical, and other information as the Secretary deems necesary or appropriate. Such information shall include, but need not be limited to—

(A) the name, address, citizenship, telephone number, and the ownership interest in the applicant, of each person having any ownership interest in the applicant of greater than 3 per centum;

(B) to the extent feasible, the name, address, citizenship, and telephone number of any person with whom the applicant has made, or proposes to make, a significant contract for the construction or operation of the deepwater port, and a copy of any such contract;

(C) the name, address, citizenship, and telephone number of each affiliate of the applicant and of any person required to be disclosed pursuant to subparagraphs (A) or (B) of this paragraph, together with a description of the manner in which such affiliate is associated with the applicant or any person required to be disclosed under subparagraph (A) or (B) of this paragraph;

(D) the proposed location and capacity of the deepwater port, including all components thereof;

(E) the type and design of all components of the deepwater port and any storage facilities associated with the deepwater port;

(F) with respect to construction in phases, a detailed description of each phase, including anticipated dates of completion for each of the specific components thereof;

(G) the location and capacity of existing and proposed storage facilities and pipelines which will store or transport oil or natural gas transported through the deepwater port, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

(H) with respect to any existing and proposed refineries which will receive oil transported through the deepwater port, the location and capacity of each such refinery and the anticipated volume of such oil to be refined by each such refinery, to the extent known by the applicant or any person required to be disclosed pursuant to subparagraphs (A), (B), or (C) of this paragraph;

(I) the financial and technical capabilities of the applicant to construct or operate the deepwater port;

(J) other qualifications of the applicant to hold a license under this Act;

(K) a description of procedures to be used in constructing, operating, and maintaining the deepwater port, including systems of oil spill prevention, containment, and cleanup; and

(L) such other information as may be required by the Secretary to determine the environmental impact of the proposed deepwater port.

(d) APPLICATION AREA.—(1) At the time notice of an application is published pursuant to subsection (c) of this section, the Secretary shall publish a description in the Federal Register of an application area encompassing the deepwater port site proposed by such application and within which construction of the proposed deepwater port would eliminate, at the time such application was submitted, the need for any other deepwater port within that application area.

(2) As used in this section, "application area" means any reasonable geographical area within which a deepwater port may be constructed and operated: *Provided*, That such application area shall not exceed a circular zone, the center of which is the port, and the radius of which is the distance from such port to the high water mark of the nearest adjacent coastal State.

(3) The Secretary shall accompany such publication with a call for submission of any other applications for licenses for the ownership, construction, and operation of a deepwater port within the designated application area. Persons intending to file applications for such license shall submit a notice of intent to file an application with the Secretary not later than 60 days after the publication of notice pursuant to subsection (c) of this section and shall submit the completed application no later than 90 days after publication of such notice. The Secretary shall publish notice of any such application received in accordance with subsection (c) of this section. No application for a license for the ownership, construction, and operation of a deepwater port within the designated application area for which a notice of intent to file was received after such 60-day period, or which is received after such 90-day period has elapsed, shall be considered until the applications pending with respect to such application area have been either denied or approved pursuant to this Act.

(e) AGENCY COORDINATION.—(1) Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Chief of the Corps of Engineers, the Administrator of the National Oceanic and Atmospheric Administration, and the heads of any other Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports shall transmit to the Secretary written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal law.

(2) An application filed with the Secretary shall constitute an application for all Federal authorizations required for ownership, construction, and operation of a deepwater port. At the time notice of my application is published pursuant to subsection (c) of this section, the Secretary shall forward a copy of such application to those Federal agencies and departments with jurisdiction over any aspect of such ownership, construction, or operation for comment, review, or recommendation as to conditions and for such other action as may be required by law. Each agency or department involved shall review the application and, based upon legal considerations within its area of responsibility, recommend to the Secretary the approval or disapproval of the application not later than 45 days after the last public hearing on a proposed license for a designated application area. In any case in which the agency or department recommends disapproval, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall notify the Secretary how the application may be amended so as to bring it into compliance with the law or regulation involved.

(f) ENVIRONMENTAL IMPACT STATEMENT.—For all applications covering a single application area, the Secretary, in cooperation with other involved Federal agencies and departments, shall, pursuant to section 102(2)(C) of the National Environmental Policy Act, prepare a single, detailed environmental impact statement, which shall fulfill the requirement of all Federal agencies in carrying out their responsibilities pursuant to this Act to prepare an environmental impact statement. In preparing such statement the Secretary shall consider the criteria established under section 6 of this Act.

(g) HEARING REQUIREMENT.—A license may be issued, transferred, or renewed only after public notice and public hearings in accordance with this subsection. At least one such public hearing shall be held in each adjacent coastal State. Any interested person may present relevant material at any hearing. After hearings in each adjacent coastal State are concluded, if the Secretary determines that there exists one or more specific and material factual issues which may be resolved by a formal evidentiary hearing, at least one adjudicatory hearing shall be held in accordance with the provisions of section 554 of title 5, United States Code, in the District of Columbia. The record developed in any such adjudicatory hearing shall be basis of the Secretary's decision to approve or deny a license. Hearings held pursuant to this subsection shall be consolidated insofar as practicable with hearings held by other agencies. All public hearings on all applica-

tions for any designated application area shall be consolidated and shall be concluded not later than 240 days after notice of the initial application has been published pursuant to section 5(c) of this Act.

(h) REIMBURSEMENT OF COSTS.—(1) Each person applying for a license pursuant to this Act shall remit to the Secretary at the time the application is filed a nonrefundable application fee established by regulation by the Secretary. In addition, an applicant shall also reimburse the United States and the appropriate adjacent coastal State for any additional costs incurred in processing an application.

(2) A licensee shall annually reimburse the United States and each appropriate adjacent coastal State for all reasonable administrative and other costs in excess of the application fee, including environmental evaluations, incurred in monitoring the construction, operation, maintenance, and termination of any deepwater port or way component thereof.

(3) A licensee shall pay annually in advance the fair market rental value (as determined by the Secretary of the Interior) of the subsoil and seabed of the Outer Continental Shelf of the United States to be utilized by the deepwater port, including the fair market rental value of the right-of-way necessary for the pipeline segment of the port located on such subsoil and seabed.

(i) SECRETARY'S DECISION.—(1) The Secretary shall approve or deny any application for a designated application area submitted pursuant to this Act not later than 90 days after the last public hearing on a proposed license for that area.

(2) In the event more than one application is submitted for an application area, the Secretary, unless one of the proposed deepwater ports clearly best serves the national interest, shall issue a license according to the following order of priorities:

(A) to an adjacent coastal State (or combination of States), any political subdivision thereof, or agency or instrumentality, including a wholly owned corporation of any such government;

(B) to a person who is neither (i) engaged in producing, refining, or marketing oil or natural gas, nor (ii) an affiliate of any person who is engaged in producing, refining, or marketing oil or natural gas or an affiliate of any such affiliate;

(C) to any other person.

(3) In determining whether any one proposed deepwater port clearly best serves the national interest, the Secretary shall consider the following factors:

(A) the degree to which the proposed deepwater ports affect the environment, as determined under criteria established pursuant to section 6 of this Act;

(B) the reliability of the proposed deepwater ports as a source of oil or natural gas;

(C) any significant differences between anticipated completion dates for the proposed deepwater ports; and

(D) any differences in costs of construction and operation of the proposed deepwater ports, to the extent that such differential may significantly affect the ultimate cost of oil or natural gas to the consumer.

ENVIRONMENTAL REVIEW CRITERIA

SEC. 6. (a) GENERAL.—The Secretary, in accordance with the recommendations of the Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration and after consultation with any other Federal departments and agencies having jurisdiction over any aspect of the construction or operation of a deepwater port, shall establish, as soon as practicable after the date of enactment of this Act, environmental review criteria consistent with the National Environmental Policy Act. Such criteria shall be used to evaluate a deepwater port as proposed in an application, including—

(1) the effect on the marine environment;

(2) the effect on oceanographic currents and wave patterns;

(3) the effect on alternate uses of the oceans and navigable waters, such as scientific study, fishing, and exploitation of other living and nonliving resources;

(4) the potential dangers to a deepwater port from waves, winds, weather, and geological conditions, and the steps which can be taken to protect against or minimize such dangers;

(5) effects of land-based developments related to deepwater port development;

(6) the effect on human health and welfare; and

(7) such other considerations as the Secretary deems necessary or appropriate.

(b) REVIEW.—The Secretary shall periodically review and, whenever necessary, revise in the same manner as originally developed, criteria established pursuant to subsection (a) of this section.

(c) PROCEDURE.—Criteria established pursuant to this section shall be developed concurrently with the regulations in section 5 (a) of this Act and in accordance with the provisions of that subsection.

ANTITRUST REVIEW

SEC. 7. (a) GENERAL.—The Secretary shall not issue, transfer, or renew any license pursuant to section 4 of this Act unless he has received the opinions of the Attorney General of the United States and the Federal Trade Commission as to whether such action would adversely affect competition, restrain trade, promote monopolization, or otherwise create a situation in contravention of the antitrust laws. The issuance of a license under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(b) PROCEDURE.—(1) Whenever any application for issuance, transfer, substantial change in, or renewal of any license is received, the Secretary shall transmit promptly to the Attorney General and the Federal Trade Commission a complete copy of such application. Within 45 days following the last public hearing, the Attorney General and the Federal Trade Commission shall each prepare and submit to the Secretary a report assessing the competitive effects which may result from issuance of the proposed license and the opinions described in subsection (a) of this section. If either the Attorney General or the Federal Trade Commission, or both, fails to file such views within such period, the Secretary shall proceed as if he had received such views.

(2) Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the ownership, construction or operation of a deepwater port.

(3) Nothing contained in this section shall impair, amend, broaden, or modify any of the antitrust laws.

COMMON CARRIER STATUS

SEC. 8. (a) GENERAL.—(1) For the purpose of chapter 39 of title 18, United States Code (18 U.S.C. 831–837), and part I of the Interstate Commerce Act (49 U.S.C. 1–27), a deepwater port and storage facilities serviced directly by such deepwater port shall be subject to regulation as a common carrier in accordance with the Interstate Commerce Act, as amended.

(2) For the purpose of the Natural Gas Act (15 U.S.C. 717 et seq.), a deepwater port and storage facilities serviced directly by such deepwater port shall be subject to regulation in accordance with the Natural Gas Act, as amended.

(b) DISCRIMINATION BARRED.—A licensee under this Act shall accept, transport, or convey without discrimination all oil and natural gas delivered to the deepwater port with respect to which its license is issued. Whenever the Secretary has reason to believe that a licensee is not operating a deepwater port, any storage facility or component thereof, in compliance with its obligations as a common carrier, the Secretary shall commence an appropriate proceeding before the Interstate Commerce Commission or the Federal Power Commission, or he shall request the Attorney General to take appropriate steps to enforce such obligation and, where appropriate, to secure the imposition of appropriate sanctions. The Secretary may, in addition, proceed as provided in section 12 of this Act to suspend or terminate the license of any person so involved.

ADJACENT COASTAL STATES

SEC. 9. (a) DESIGNATION.—(1) The Secretary, in issuing notice of application pursuant to section 5(c) of this Act, shall designate as an "adjacent coastal State" any coastal State which, (A) would be directly connected by pipeline to a deepwater port as proposed in an application, or (B) would be located within 15 miles of any such proposed deepwater port.

(2) The Administrator of the National Oceanic and Atmospheric Administration shall, no later than 60 days after publication of notice pursuant to section 5(c) of this Act, (A) designate as an "adjacent coastal State" any coastal State as to which there is substantial risk of serious damage, because of such factors as prevailing winds and currents, to its coastal environment as a result of oil spill incidents that originate from the proposed deepwater port or from any vessel located within a safety zone around such deepwater port, and (B) notify the Secretary and publish notice of such designation.

(b) COORDINATION.—(1) Not later than 10 days after the designation of adjacent coastal States pursuant to this Act, the Secretary shall transmit a complete copy of the application to the Governor of each adjacent coastal State. The Secretary shall not issue a license without the approval of the Governor of each adjacent coastal State. If the Governor fails to transmit his approval or disapproval to the Secretary not later than 45 days after the last public hearing on applications for a particular application area, such approval shall be conclusively presumed. If the Governor notifies the Secretary that an application, which would otherwise be approved pursuant to this paragraph, is inconsistent with State programs relating to environmental protection, land and water use, and coastal zone management, the Secretary shall condition the license granted so as to make it consistent with such State programs.

(2) Any other interested State shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary regarding the location, construction, and operation of a deepwater port.

(c) COASTAL ZONE MANAGEMENT.—The Secretary shall not issue a license unless the adjacent coastal State to which the deepwater port is to be directly connected by pipeline has developed, or is making, at the time the application is submitted, reasonable progress toward developing an approved coastal zone management program pursuant to the Coastal Zone Management Act of 1972 in the area to be directly and primarily impacted by land and water development in the coastal zone resulting from such deepwater port. For the purposes of this Act, a State shall be considered to be making reasonable progress if it is receiving a planning grant pursuant to section 305 of the Coastal Zone Management Act.

(d) INTERSTATE COMPACTS.—The consent of Congress is given to two or more coastal States to negotiate and enter into agreements or compacts, not in conflict with any law or treaty of the United States, (1) to

apply for a license for the ownership, construction, and operation of a deepwater port or for the transfer of such license; and (2) to establish such agencies, joint or otherwise, as are deemed necessary or appropriate for implementing and carrying out the provisions of any such agreement or compact. Such agreement or compact shall be binding and obligatory upon any State or party thereto without further approval by Congress.

MARINE ENVIRONMENTAL PROTECTION AND NAVIGATIONAL SAFETY

SEC. 10. (a) GENERAL.—(1) Subject to recognized principles of international law, the Secretary shall prescribe by regulation and enforce procedures with respect to any deepwater port, including, but not limited to, rules governing vessel movement, loading and unloading procedures, designation and marking of anchorage areas, maintenance, law enforcement, and the equipment, training, and maintenance required (A) to prevent pollution of the marine environment, (B) to clean up any pollutants which may be discharged, and (C) to otherwise prevent or minimize any adverse impact from the construction and operation of such deepwater port.

(2) Regulations promulgated pursuant to this subsection shall require all oil carrying vessels using a deepwater port licensed under this Act to comply with any regulations established under section 4417a of the Revised Statutes, as amended.

(b) LIGHTS AND OTHER WARNING DEVICES AND SAFETY EQUIPMENT.—The Secretary shall issue and enforce regulations with respect to lights and other warning devices, safety equipment, and other matters relating to the promotion of safety of life and property in any deepwater port and the waters adjacent thereto.

(c) PROTECTION OF NAVIGATION.—The Secretary shall mark, for the protection of navigation, any component of a deepwater port whenever the licensee fails to mark such component in accordance with applicable regulations. The licensee shall pay the cost of such marking.

(d) SAFETY ZONES.—(1) Subject to recognized principles of international law and after consultation with the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, and the Secretary of Defense, the Secretary shall designate a zone of appropriate size around any deepwater port for the purpose of navigational safety. In such zone, no installations, structures, or uses will be permitted that are incompatible with the operation of the deepwater port. The Secretary shall by regulation define permitted activities within such zone. The Secretary shall, not later than 30 days after publication of notice pursuant to section 5(c) of this Act, designate such safety zone with respect to any proposed deepwater port.

(2) In addition to any other regulations, the Secretary is authorized, in accordance with this subsection, to establish a safety zone to be effective during the period of construction of a deepwater port and to issue rules and regulations relating thereto.

INTERNATIONAL AGREEMENTS

SEC. 11. The Secretary of State, in consultation with the Secretary, shall seek effective international action and cooperation in support of the policy and purposes of this Act and may formulate, present, or support specific proposals in the United Nations and other competent international organizations for the development of appropriate international rules and regulations relative to the construction, ownership, and operation of deepwater ports, with particular regard for measures that assure protection of such facilities as well as the promotion of navigational safety in the vicinity thereof.

SUSPENSION OR TERMINATION OF LICENSES

SEC. 12. (a) GENERAL.—Failure of a licensee to comply with any applicable provision of this Act, or any applicable rule, regulation, or condition issued or imposed by the Secretary under authority of this Act, shall be grounds for suspension or termination of the license. If, after (1) due notice to the licensee; (2) a reasonable opportunity for the licensee to correct any such failure to comply; and (3) an appropriate administrative proceeding in accordance with the provisions of section 554 of title 5, United States Code, the Secretary determines that any such grounds exist and that such sanction is, in his discretion, justified, he may suspend or terminate the license. No administrative proceeding is necessary if the license, by its terms, provides for automatic suspension or termination upon the occurrence of a fixed or agreed upon condition, event, or time.

(b) IMMEDIATE SUSPENSION.—If the Secretary determines that immediate suspension of the construction or operation of a deepwater port or any component thereof is necessary to protect public health or safety or to eliminate imminent and substantial danger to the environment, he shall order the licensee to cease or alter such construction or operation pending the completion of an administrative proceeding.

(c) ABANDONMENT.—Deliberate failure of the licensee for any continuous 2-year period to use the license for the purpose for which it was granted or renewed shall create a rebuttable presumption of abandonment which, if not rebutted, shall result in the revocation or termination of such license.

(d) PROCEDURE.—The Secretary or his delegate shall have the authority to issue and enforce orders during proceedings brought under this Act. Such authority shall include the authority to issue subpoenas, administer oaths, compel the attendance and testimony of witnesses or the production of books, papers, documents, and other evidence, to take depositions before any designated individual competent to administer oaths, and to examine witnesses.

RECORDKEEPING AND INSPECTION

SEC. 13. (a) RECORDS.—Each licensee shall establish and maintain such records, make such reports, and provide such information as the Secretary, after consultation with other interested Federal departments and agencies, shall by regulation prescribe to carry out the provision of this Act: *Provided* That such regulations shall not amend, contradict or duplicate regulations established pursuant to part I of the Interstate Commerce Act or any other law. Each licensee shall submit such reports and shall make such records and information available as the Secretary may request.

(b) INSPECTION.—Any officer or employee duly designated by the Secretary, upon presenting appropriate credentials to any licensee, shall be allowed access to a deepwater port, or any property associated with such facility, to determine whether such licensee has acted, or is acting, in compliance with the provisions of the license and of this Act. Such officer or employee may inspect, at reasonable times, records, files, papers, processes, controls, and facilities and may test any feature of a deepwater port. Each inspection shall be conducted with reasonable promptness, and such licensee shall be notified of the results of such inspection.

PUBLIC ACCESS TO INFORMATION

SEC. 14. (a) GENERAL.—Copies of any communication, document, report, or information transmitted between any official of the Federal Government and any person concerning a deepwater port shall be made available to the public for inspection, and shall be available for the purpose of reproduction at a reasonable cost, to the public upon identifiable request, unless such information may not be publicly released under the terms of subsection (b) of this section. Except as provided in subsection (b) of this section, nothing contained in this section shall be construed to require the release of any information of the kind described in subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) EXCEPTION.—The Secretary shall not disclose information obtained by him under this Act that concerns or relates to a trade secret, referred to in section 1905 of title 18, United States Code, except that such information may be disclosed, in a manner which is designed to maintain confidentiality—

(1) to other Federal and adjacent coastal State government departments and agencies for official use, upon request;

(2) to any committee of Congress having jurisdiction over the subject matter to which the information relates, upon request;

(3) to any person in any judicial proceeding, under a court order formulated to preserve such confidentiality without impairing the proceedings; and

(4) to the public in order to protect health and safety, after notice and opportunity for comment in writing or for discussion in closed session within fifteen days by the party to which the information pertains (if the delay resulting from such notice and opportunity for comment would not be detrimental to the public health and safety).

REMEDIES

SEC. 15. (a) CRIMINAL VIOLATIONS.—Any person who willfully violates any provision of this Act or any rule, order, or regulation issued pursuant thereto shall on conviction be fined not more than $25,000 for each day of violation or imprisoned for not more than 1 year, or both.

(b) CIVIL PENALTIES.—(1) Whenever on the basis of any information available to him the Secretary finds that any person is in violation of any provision of this Act or any rule, regulation, order, license, or condition thereof, or other requirements under this Act, he shall issue an order requiring such person to comply with such provision or requirement, or he shall bring a civil action in accordance with paragraph (3) of this subsection.

(2) Any order issued under this subsection shall state with reasonable specificity the nature of the violation and a time for compliance, not to exceed thirty days, which the Secretary determines is reasonable, taking into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

(3) The Secretary is authorized to commence a civil action for appropriate relief, including a permanent or temporary injunction or a civil penalty not to exceed $25,000 per day of such violation, for any violation for which he is authorized to issue a compliance order under paragraph (1) of this subsection. Any action under this subsection may be brought in the district court of the United States for the district in which the defendant is located or resides or is doing business, and such court shall have jurisdiction to restrain such violation, require compliance, or impose such penalty.

(c) SPECIFIC RELIEF.—The Attorney General or the Secretary may bring an action in an appropriate district court of the United States for equitable relief to redress a violation by any person of any provision of this Act, any regulation under this Act, or any license condition. The district courts of the United States shall have jurisdiction to grant such relief as is necessary or appropriate, including mandatory or prohibitive injunctive relief, interim equitable relief, compensatory damages, and punitive damages.

CITIZEN CIVIL ACTION

SEC. 16. (a) ACTION AUTHORIZED.—Except as provided in subsection (b) of this section, any person may commence a civil action for equitable relief on his own behalf, whenever such action constitutes a case or controversy—

(1) against any person (including (A) the United States, and (B) any other governmental instrumentality or agency to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any provision of this Act or any condition of a license issued pursuant to this Act; or

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary. Any action brought against the Secretary under this paragraph shall be brought in the district court for the District of Columbia or the district of the appropriate adjacent coastal State.

In suits brought under this Act, the district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce any provision of this Act or any condition of a license issued pursuant to this Act, or to order the Secretary to perform such act or duty, as the case may be.

(b) ACTION BARRED.—No civil action may be commenced—

(1) under subsection (a)(1) of this section—

(A) prior to 60 days after the plaintiff has given notice of the violation (i) to the Secretary and (ii) to any alleged violator, or

(B) if the Secretary or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States, but in any such action any person may intervene as a matter of right,

(2) under subsection (a)(2) of this section prior to 60 days after the plaintiff has given notice of such action to the Secretary. Notice under this subsection shall be given in such a manner as the Secretary shall prescribe by regulation.

(c) GOVERNMENT INTERVENTION.—In any action under this section, the Secretary or the Attorney General, if not a party, may intervene as a matter of right.

(d) COSTS.—The Court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines that such an award is appropriate.

(e) OTHER ACTIONS.—Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement or to seek any other relief.

JUDICIAL REVIEW

SEC. 17. Any person suffering legal wrong, or who is adversely affected or aggrieved by the Secretary's decision to issue, transfer, modify, renew, suspend, or revoke a license may, not later than 60 days after any such decision is made, seek judicial review of such decision in the United States Court of Appeals for the circuit within which the nearest adjacent coastal State is located.

LIABILITY

SEC. 18. (a) PROHIBITION.—(1) The discharge of oil or natural gas into the marine environment from a vessel within any safety zone, from a vessel which has received oil or natural gas from another vessel at a deepwater port, or from a deepwater port is prohibited.

(2) The owner or operator of a vessel or the licensee of a deepwater port from which oil or natural gas is discharged in violation of this subsection shall be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. No penalty shall be assessed unless the owner or operator or the licensee has been given notice and opportunity for a hearing on such charge. Each violation is a separate offense. The Secretary of thhe Treasury shall withhold, at the request of the Secretary, the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel the owner or operator of which is subject to the foregoing penalty. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

(b) REPORTING.—Any individual in charge of a vessel or a deepwater port shall notify the Secretary as soon as he has knowledge of a discharge of oil or natural gas. Any such individual who fails to notify the Secretary immediately of such discharge shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than 1 year, or both. Notification received pursuant to this subsection, or information obtained by the use of such notification, shall not be used against any such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

(c) CLEAN-UP.—(1) Whenever any oil or natural gas is discharged from a vessel within any safety zone, from a vessel which has received oil or natural gas from another vessel at a deepwater port, or from a deepwater port, the Secretary shall remove or arrange for the removal of such oil or natural gas as soon as possible, unless he determines such removal will be done properly and expeditiously by the licensee of the deepwater port or the owner or operator of the vessel from which the discharge occurs.

(2) removal of oil and natural gas and actions to minimize damage from oil and natural gas discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan for removal of oil and hazardous substances established pursuant to section 311(c)(2) of the Federal Water Pollution Control Act, as amended.

(3) Whenever the Secretary acts to remove a discharge of oil or natural gas pursuant to this subsection, he is authorized to draw upon money available in the Deepwater Port Liability Fund established pursuant to subsection (f) of this section. Such money shall be used to pay promptly for all cleanup costs incurred by the Secretary in removing or in minimizing damage caused by such oil or natural gas discharge.

(d) VESSEL OWNER OR OPERATOR.—Notwithstanding any other provision of law, except as provided in subsection (g) of this section, the owner and operator of a vessel shall be jointly and severally liable, without regard to fault, for cleanup costs and for damages that result from a discharge of oil or natural gas from such vessel within any safety zone, or from a vessel which has received oil or natural gas from another vessel at a deepwater port, except when such vessel is moored at a deepwater port. Such liability shall not exceed $150 per gross ton or $20,000,000, whichever is lesser: *Provided*, That if it can be shown that such discharge was the result of gross negligence or willful misconduct within the privity and knowledge of the owner or operator, such owner and operator shall be jointly and severally liable for the full amount of all cleanup costs and damages.

(e) LICENSEE.—Notwithstanding any other provision of law, except as provided in subsection (g) of this section, the licensee of a deepwater port shall be liable, without regard to fault, for cleanup costs and damages that result from a discharge of oil or natural gas from such deepwater port or from a vessel moored at such deepwater port. Such liability shall not exceed $100,000,000: *Provided*, That if it can be shown that such damage was the result of gross negligence or willful misconduct within the privity and knowledge of the licensee, such licensee shall be liable for the full amount of all cleanup costs and damages.

(f) DEEPWATER PORT LIABILITY FUND.—(1) There is established a Deepwater Port Liability Fund (hereinafter referred to as the "Fund") as a nonprofit corporate entity which may sue or be sued in its own name. The Fund shall be administered by the Secretary.

(2) The Fund shall be liable, without regard to fault, for all cleanup costs and all damages in excess of those actually compensated pursuant to subsections (d) and (e) of this section.

(3) Each licensee shall collect from the owner of any oil or natural gas loaded or unloaded at the deepwater port operated by such licensee, at the time of loading or unloading, a fee of 2 cents per barrel, or in the case of liquefied natural gas, its metric volume equivalent: *Provided*, That (A) bunker or fuel oil for the use of any vessel, and (B) oil which was transported through the trans-Alaska pipeline shall not be subject to such collection. Such collections shall be delivered to the Fund at such times and in such manner as shall be prescribed by the Secretary: *Provided further*, That such collections shall cease after the amount of money in the Fund has reached $100,000,000, unless there are adjudicated claims against the Fund yet to be satisfied. Collection shall be resumed when the Fund is reduced below $100,000,000. Whenever the money in the Fund is less than the claims for cleanup costs and damages for which it is liable under this section, the Fund shall borrow the balance required to pay such claims from the United States Treasury at an interest rate determined by the Secretary of the Treasury. Costs of administration shall be paid from the Fund only after appropriation in an appropriation bill. All sums not needed for administration and the satisfaction of claims shall be prudently invested in income-producing securities issued by the United States and approved by the Secretary of the Treasury. Income from such securities shall be applied to the principal of the Fund.

(g) DEFENSES.—Liability shall not be imposed under subsection (d) or (e) of this section if the owner or operator of a vessel or the licensee can show that the discharge was caused solely by (1) an act of war, or (2) negligence on the part of the Federal Government in establishing and maintaining aids to navigation. In addition, liability with respect to damages claimed by a damaged party shall not be imposed under subsection (d), (e), or (f) of this section if the owner or operator of a vessel, the licensee, or the Fund can show that such damage was caused solely by the negligence of such party.

(h) SUBROGATION AND OTHER RIGHTS.—(1) In any case where liability is imposed pursuant to subsection (d) of this section, if the discharge was the result of the negligence of the licensee, the owner or operator of a vessel held liable shall be subrogated to the rights of any person entitled to recovery against such licensee.

(2) In any case where liability is imposed pursuant to subsection (e) of this section, if the discharge was the result of the unseaworthiness of a vessal or the negligence of the owner or operator of such vessel, the licensee shall be subrogated to the rights of any person entitled to recovery against such owner or operator.

(3) Payment of compensation for any damages pursuant to subsection (f)(2) of this section shall be subject to the Fund acquiring by subrogation all rights of the claimant to recover from such damages from any other person.

(4) The liabilities established in this section shall in no way affect or limit any

rights which the licensee, the owner, or operator of a vessel, or the Fund may have against any third party whose act may in any way have caused or contributed to a discharge of oil or natural gas.

(5) In any case where the owner or operator of a vessel or the licensee of a deepwater port from which oil or natural gas is discharged acts to remove such oil or natural gas accordance with subsection (c) (1) of this section, such owner or operator or such licensee shall be entitled to recover from the Fund the raesonable cleanup cost incurred in such removal if he can show that such discharge was caused solely by (A) an act of war or (B) negligence on p.rt of the Federal Government in establishing and maintaining aids to navigation.

(i) CLASS AND TRUSTEE ACTION.—(1) The Attorney General may act on behalf of any group of damaged citizens he determines would be more adequtely represented as a class in recovery of claims under this section. Sums recovered shall be distributed to the members of such group. If, within 90 days after a discharge of oil or natural gas in violation of this section has occurred, the Attorney General fails to act in accordance with this paragraph, to sue on behalf of a group of persons who may be entitled to compensation pursuant to this section for damages caused by such discharge, any member of such group may maintain a class action to recover such damages on behalf of such group. Failure of the Attorney General to act in accordance with this subsection shall have no bearing on any class action maintained in accordance with this paragraph.

(2) In any case where the number of members in the class exceeds 1,000, publishing notice of the action in the Federal Register and in local newspapesr serving the areas in which the damaged parties reside shall be deemed to fulfill the requirement for public notice established by rule 23(c)(2) of the Federal Rules of Civil Procedure.

(3) The Secretary may act on behalf of the public as trustee of the natural resources of the marine environment to recover for damages to such resources in accordance with this section. Sums recovered shall be applied to the restoration and rehabilitation of such natural resources by the appropriate agencies of Federal or State government.

(j) AWARD PROCESS.—(1) The Secretary shall establish by regulation procedures for the filing and payment of claims for clean-up costs and damages pursuant to this Act.

(2) No claims for payment of clean-up costs or damages which are filed with the Secretary more than 3 years after the date of the discharge giving rise to such claims shall be considered.

(3) Appeals from any final determination of the Secretary pursuant to this section shall be filed not later than 30 days after such determination in the United States Court of Appeals of the circuit within which the nearest adjacent coastal State is located.

(k) PREEMPTION.—(1) This section shall not be interpreted to preempt the field of liability or to preclude any State from imposing additional requirements or liability for any discharge of oil or natural gas from a deepwater port or a vessel with any safety zone.

(2) Any person who receives compensation for damages pursuant to this section shall be precluded from recovering compensation for the same damages pursuant to any other State or Federal law. Any person who receives compensation for damages pursuant to any other Federal or State law shall be precluded from receiving compensation for the same damages as provided in this section.

(l) FINANCIAL RESPONSIBILITY.—The Secretary shall require that any owner or operator of a vessel using any deepwater port, or any licensee of a deepwater port, shall carry insurance or give evidence of other financial responsibility in an amount sufficient to meet the liabilities imposed by this section.

(m) DEFINITIONS.—As used in this section the term—

(1) "clean-up costs" means all actual costs, including but not limited to costs of the Federal Government, of any State or local government, of other nations or of their contractors or subcontractors incurred in the (A) removing or attempting to remove, or (B) taking other measures to reduce or mitigate damages from, any oil or natural gas discharged into the marine environment in violation of subsection (a)(1) of this section;

(2) "damages" means all damages (except clean-up costs) suffered by any person, or involving real or personal property, the natural resources of the marine environment, or the coastal environment of any nation, including damages claimed without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or natural resources;

(3) "discharge" includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into the marine environment of quantities of oil or natural gas determined to be harmful pursuant to regulations issued by the Administrator of the Environmental Protection Agency; and

(4) "owner or operator" means any person owning, operating, or chartering by demise, a vessel.

(n) OIL SPILL LIABILITY STUDY.—(1) The Attorney General, in cooperation with the Secretary, the Secretary of State, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Administrative Conference of the United States, is authorized and directed to study methods and procedures for implementing a uniform law providing liability for clean-up costs and damages from oil spills from Outer Continental Shelf operations, deepwater ports, vessels, and other ocean-related sources. The study shall give particular attention to methods of adjudicating and settling claims as rapidly, economically, and equitably as possible.

(2) The Attorney General shall report the results of his study together with any legislative recommendations to the Congress within 6 months after the date of enactment of this Act.

RELATIONSHIP TO OTHER LAWS

SEC. 19. (a) GENERAL.—(1) The Constitution, laws, and treaties of the United States shall apply to a deepwater port licensed under this Act and to activities connected, associated, or potentially interfering with the use or operation of any such port, in the same manner as if such port were located in the navigable waters of the United States. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirement imposed by Federal law, regulation, or treaty.

(2) Except as otherwise provided by this Act, nothing in this Act shall in any way alter the responsibilities and authorities of a State or the United States within the territorial seas of the United States.

(b) STATE LAWS.—The laws of the nearest adjacent coastal State, now in effect or hereafter adopted, amended, or repealed, shall apply to any deepwater port licensed pursuant to this Act, to the extent applicable and not inconsistent with any provision or regulation under this Act or other Federal laws and regulations now in effect or hereafter adopted, amended, or repealed. All such applicable laws shall be administered and enforced by the appropriate officers and courts of the United States. For purposes of this subsection, the nearest adjacent coastal State shall be that State whose seaward boundaries, if extended beyond 3 miles, would encompass the site of the deepwater port. Nothing in this Act shall be construed to relieve, exempt, or immunize any person from any other requirements imposed by State or local law or regulation, or to preclude a State from imposing more stringent environmental or safety regulations (except as provided in section 18(k) of this Act).

(c) FOREIGN CITIZENS AND VESSELS.—Except in a situation involving force majeure, a licensee of a deepwater port shall not permit a vessel, registered in or flying the flag of a foreign state, to call at, or otherwise utilize a deepwater port licensed under this Act unless (1) the foreign state involved, by specific agreement with the United States, has agreed to recognize the jurisdiction of the United States over the vessel and its personnel, in accordance with the provisions of this Act, while the vessel is located within the safety zone, and (2) the vessel owner or operator has designated an agent in the United States for receipt of service of process in the event of any claim or legal proceeding resulting from activities of the vessel or its personnel while located within such a safety zone.

(d) CUSTOMS LAWS.—The customs laws administered by the Secretary of the Treasury shall not apply to any deepwater port licensed under this Act, but all foreign articles to be used in the construction of any such deepwater port, including any component thereof, shall first be made subject to all applicable duties and taxes which would be imposed upon or by reason of their importation if they were imported for consumption in the United States. Duties and taxes shall be paid thereon in accordance with laws applicable to merchandise imported into the customs territory of the United States.

(e) JURISDICTION.—The United States district courts shall have original jurisdiction of cases and controversies arising out of or in connection with the construction and operation of deepwater ports, and proceedings with respect to any such case or controversy may be instituted in the judicial district in which any defendant resides or may be found, or in the judicial district of the adjacent coastal State nearest the place where the cause of action arose.

(f) CONFORMING AMENDMENT.—Section 4(a)(2) of the Act of August 7, 1953 (67 Stat. 462) is amended by deleting the words "as of the effective date of this Act" in the first sentence thereof and inserting in lieu thereof the words ", now in effect or hereafter adopted, amended, or repealed".

ANNUAL REPORT BY SECRETARY TO CONGRESS

SEC. 20. Within 6 months after the end of each fiscal year, the Secretary shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the administration of the Deepwater Port Act during such fiscal year, including a detailing of all moneys received and expended, and of all deepwater port development activities; a summary of management, supervision, and enforcement activities; and recommendations to the Congress for such additional legislative authority as may be necessary to improve the management and safety of deepwater port development and for resolution of jurisdictional conflicts or ambiguities.

PIPELINE SAFETY AND OPERATION

SEC. 21. (a) The Secretary of Transportation, in cooperation with the Secretary of the Interior, shall establish and enforce such standards and regulations as may be necessary to assure the safe construction and operation of oil pipelines on the Outer Continental Shelf.

(b) The Secretary of Transportation, in cooperation with the Secretary of the Interior, is authorized and directed to report to the Congress within 60 days after the date

of enactment of this Act on appropriations and staffing needed to monitor pipelines on Federal lands and the Outer Continental Shelf so as to assure that they meet all applicable standards for construction, operation, and maintenance.

(c) The Secretary of Transportation, in cooperation with the Secretary of the Interior, is authorized and directed to review all laws and regulations relating to the construction, operation, and maintenance of pipelines on Federal lands and the Outer Continental Shelf and to report to Congress thereon within 6 months after the date of enactment of this Act on administrative changes needed and recommendations for new legislation.

NEGOTIATIONS WITH CANADA AND MEXICO

SEC. 22. The President of the United States is authorized and requested to enter into negotiations with the Governments of Canada and Mexico to determine:

(a) the need for intergovernmental understandings, agreements, or treaties to protect the interests of the people of Canada, Mexico, and the United States and of any party or parties involved with the construction or operation of deepwater ports; and

(b) the desirability of undertaking joint studies and investigations designed to insure protection of the environment and to eliminate any legal and regulatory uncertainty, to assure that the interests of the people of Canada, Mexico, and the United States are adequately met.

The President shall report to the Congress the actions taken, the progress achieved, the areas of disagreement, and the matters about which more information is needed, together with his recommendations for further action.

SEVERABILITY

SEC. 23. If any provision of this Act or the applicability thereof to any person or circumstances is held invalid, the remainder of this Act and application of such provision to other persons or circumstances shall not be affected thereby.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 24. There is authorized to be appropriated for administration of this Act not to exceed $1,000,000 for the fiscal year ending June 30, 1975, not to exceed $1,000,000 for the fiscal year ending June 30, 1976, and not to exceed $1,000,000 for the fiscal year ending June 30, 1977.

Amend the title so as to read: "Any Act to regulate commerce, promote efficiency in transportation, and protect the environment, by establishing procedures for the location, construction, and operation of deepwater ports off the coasts of the United States, and for other purposes."

CHANGE OF REFERENCE OF S. 1547

Mr. HUMPHREY. Mr. President, I ask unanimous consent that S. 1547, presently in the Armed Services Committee, be referred to the Committee on Government Operations. It is a bill dealing with the operations of the Central Intelligency Agency.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Minnesota? Without objection, it is so ordered.

SUSPENSION OF AID TO TURKEY

Mr. MANSFIELD. Mr. President, I send to the desk a Senate joint resolution and ask that it be made the pending business, under the time arrangement previously agreed to.

The PRESIDING OFFICER. The joint resolution will be stated by title.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

The assistant legislative clerk read as follows:

S.J. RES. 247

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to suspend the provisions of section 505(d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act and the prohibition of House Joint Resolution 1131 in the case of Turkey during the period beginning on the date of the enactment of this joint resolution and ending on December 15, 1974, if he determines that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. On this matter there is a limitation of 1 hour, the time to be equally divided between the Senator from Montana (Mr. MANSFIELD) and the Senator from Missouri (Mr. EAGLETON).

Mr. MANSFIELD. Mr. President, I yield one-half minute to the Senator from New Mexico, 1 minute to the Senator from Nevada, 5 minutes to the Senator from Arkansas, and 5 minutes to the Senator from Ohio. I understand that the Senator from Arkansas is going to discuss the Metzenbaum resolution.

Mr. FULBRIGHT. That is correct.

Mr. EAGLETON. Mr. President, does the majority leader want to request the yeas and nays at this time?

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

CUMBRES AND TOLTEC SCENIC RAILROAD COMPACT

Mr. MONTOYA. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Chair lay before the Senate a message from the House of Representatives on S. 2362.

The PRESIDING OFFICER (Mr. TUNNEY) laid before the Senate the amendment of the House of Representatives to S. 2362 granting the consent and approval of Congress to the Cumbres and Toltec Scenic Railroad Co., which was as follows:

Page 1, line 3, strike out [and approval].

Amend the title so as to read: "An Act granting the consent of Congress to the Cumbres and Toltec Scenic Railroad Compact."

Mr. MONTOYA. Mr. President, I move that the Senate concur in the House amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from New Mexico.

The motion was agreed to.

SENATE RESOLUTION 423—TO AUTHORIZE BENJAMIN R. FERN TO APPEAR AS A WITNESS

Mr. CANNON. Mr. President, I ask unanimous consent that the pending business be temporarily laid aside and that the Senate proceed to the consideration of a resolution which I send to the desk.

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

The resolution will be stated.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the resolution be waived and that I be permitted to explain it.

Mr. GRIFFIN. Mr. President, reserving the right to object, I am sorry, but I do not know what this is.

Mr. CANNON. I am going to explain it.

Mr. GRIFFIN. I withdraw my objection.

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

The resolution is as follows:

Resolution to authorize Benjamin R. Fern, Chief Counsel of the Select Committee on Standards and Conduct to appear as a witness in the case of Common Cause, et al. against E. T. Klassen, et al.

Whereas in the case Common Cause, et al. v. E. T. Klassen, et al. Civil Action No. 1887–73, United States District Court for the District of Columbia, a subpoena duces tecum was issued on September 6, 1974, upon the application of Kenneth J. Guido, Jr., attorney for the plaintiffs, and addressed to Benjamin R. Fern, Chief Counsel, Select Committee on Standards and Conduct, directing him to appear as a witness before the said court on the 23rd of October 1974 and to bring with him certain papers in the possession and under the control of the Senate of the United States: Therefore, be it

Resolved, That by the Privileges of the Senate no evidence of a documentary character under the control and in the possession of the Senate can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession but by its permission; be it further

Resolved, That Benjamin R. Fern, Chief Counsel, Select Committee on Standards and Conduct, be authorized to appear at the place and before the court named in the subpoena duces tecum before mentioned, but shall not take with him any papers or documents on file in his office or under his control or in his possession as Chief Counsel of the Select Committee on Standards and Conduct; be it further

Resolved, That when said court determines that any of the documents, papers, communications, and memoranda called for in the subpoena duces tecum have become part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the Rules of the Senate, and, further, that such documents, papers, communications, and memoranda are material and relevant to the issues pending before said court, then the said court, through any of its officers or agents, have full permission to attend with all proper parties to the proceeding, and then always at any place under the orders and control of the Senate, and take copies of such documents, papers, communications, and memoranda in possession or control of said Benjamin R. Fern which the court has found to be part of the official transcripts of public proceedings of the Senate by virtue of their inclusion in the official minutes and official transcripts of such proceedings for dissemination to the public upon order of the Senate or pursuant to the Rules of the Senate, and, further, that such documents, papers, communications, and memoranda are material and relevant to the issues pending before said court, excepting

any other documents, papers, communications, and memoranda including, but not limited to, minutes and transcripts of executive sessions and any evidence of witnesses in respect thereto which the court or other proper office thereof shall desire as such matters are within the privileges of the Senate; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court as a respectful answer to the subpoena aforementioned.

Mr. CANNON. Mr. President, this involves the case of Common Cause against E. T. Klassen.

A subpena has been issued for Mr. Benjamin R. Fern, Chief Counsel of the Select Committee on Standards and Conduct of the Senate, for him to appear and produce certain records. This resolution is in the usual form, claiming senatorial privileges to the appearance of witnesses, authorizing Mr. Fern to appear but not to produce records until such time as they may become part of the public record.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consideration of the resolution.

Without objection, the resolution is agreed to.

Mr. CANNON. I thank the distinguished majority leader.

TIME LIMITATION AGREEMENT—S. 3481

Mr. CANNON. Mr. President, I ask the majority leader, I have filed a committee report on S. 3481, an amendment to the Federal Aviation Act to deal with discrimination and unfair competitive practices in international air transportation. I understand that the majority leader requests that we have a time limit tomorrow of 1 hour, to be divided equally, with not to exceed 15 minutes on each amendment, and that no nongermane amendments will be in order.

Mr. MANSFIELD. Mr. President, I ask unanimous consent, in response to the question raised by the distinguished Senator from Nevada, that there be a 1-hour allocation of time on the bill, S. 3481, 15 minutes on each amendment, the time to be equally divided between the manager of the bill and the sponsor of the amendment; that all amendments be germane; and that rule XII be waived.

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

Mr. MANSFIELD. We shall try to take up that bill tomorrow.

Mr. CANNON. I thank the Senator.

Mr. MANSFIELD. It is my understanding that there is nothing in this bill about a guaranteed loan.

Mr. CANNON. The Senator is correct. There is no provision.

Mr. PROXMIRE. Is it possible, in the unanimous-consent agreement—I understand that it is—to provide an amendment that provides for hearings?

Mr. MANSFIELD. I make that request.

THE PRESIDING OFFICER. An amendment by the Senator from Wisconsin will be in order.

Mr. MANSFIELD. No, I ask that there be no guaranteed loan amendment.

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

OIL AND THE ARAB-ISRAEL CONFLICT

Mr. FULBRIGHT. Mr. President, on yesterday the President presented a program to combat and defeat inflation. Today the Secretary of State is on his way to the Middle East, the area in which the war of last year occurred and from which much relief from inflation might be derived if the Secretary can succeed in his efforts to bring about a firm settlement of that unfortunate conflict.

I should like to address a few remarks intended to be of assistance to the Secretary of State.

The Senator from Ohio (Mr. METZENBAUM) has proposed a resolution expressing the sense of the Senate "that the well-being of the world and all of its people is gravely threatened by exorbitant or rigged foreign oil prices," and also calling on the OPEC nations to lower the price of petroleum.

Although I endorse the Senator's resolution as far as it goes, I do not believe it goes far enough. The resolution would be more complete, more equitable, and more promising of effect if it were expanded to take cognizance of the unresolved Arab-Israel conflict. I therefore propose an additional clause reading as follows:

And be it further resolved that the Senate reaffirms the justice and validity of United Nations Security Council Resolution 242, especially its emphasis on "the inadmissibility of the acquisition of territory by war," and further reaffirms the justice and validity of that part of United Nations General Assembly Resolution 181 of November 29, 1947, which states that the city of Jerusalem is to be "a corpus separatum under a special international regime."

Mr. President, although the unresolved Arab-Israeli problem is not the single or direct cause of high and rising oil prices, the two problems are and always have been related.

The oil producers, united in OPEC, appear to be on a kind of power "trip." Accustomed in the past to poverty and foreign exploitation, the oil producers seem not yet to have fully appreciated the radical change in their circumstances. Their sense of international responsibility has not kept pace with the rapid growth of their economic power. Whatever justification there may be for higher petroleum prices in the long run—oil being a finite resource—there can be no justification for the profoundly destabilizing haste with which prices have been quadrupled in the last year.

The largest producer—Saudi Arabia—has shown awareness of the dangerous disruptions threatened by the fourfold increase in the price of oil in the last year, and Saudi officials have made known their strong desire to lower prices. But it is exceedingly difficult, if not impossible, for Saudi Arabia to act alone, especially when other, non-Arab producers, notably Iran, have adopted a position of strident intransigence. It is well to remember too, in this connection, that not all of the oil producers are "Arab"— the terms indeed are being used almost interchangeably. Two of the largest producers, who are also most insistent on the price increases, are non-Arab states—Venezuela and Iran. And smaller producers such as Canada, Nigeria and Indonesia accept the higher prices with alacrity.

The lack of restraint on the part of many of the oil producers is widely—and properly—condemned. President Ford and Secretary Kissinger took note of it in firm but measured terms in their respective speeches of September 23.

The press is full of castigating editorials. Attention has been drawn to the threat of recession—or depression—in the industrialized world, and to the imminent threat of famine in poor countries as a result of nitrogen fertilizer shortages caused by soaring petroleum costs. Unintended though they may be, these prospective calamities, if they come, will be the result largely of the policies of the oil-producing nations.

Recognizing all this as we must, we are bound too to recognize the aggravating effects of the Arab-Israel problem on the Arab oil-producers' policies, and particularly on that of the largest and most moderate of the producers, Saudi Arabia. Long before the war of October 1973 King Faisal was warning the United States that its one-sided support of Israeli policy might lead to disaster in an increasingly radicalized Arab world. It is well-known, too, that the Saudis are especially sensitive regarding the status of Jerusalem because of its sacredness to Muslims as well as Christians and Jews.

In a world without effective international law, sovereign nations are often required to choose between justice and self-interest. A fair solution for Jerusalem, however, as indeed of the Arab-Israel conflict as a whole, requires no such choice, although uncritical supporters of Israeli policy have insisted that it does. The choice for the United States, they say, is one between Israeli democracy and Arab oil, between high morality, as they would have it, and the crassest greed. In fact, the withdrawal of Israel to her approximate borders of 1967 and the internationalization of Jerusalem—coupled with solid international guarantees of Israel—would be wholly consistent with an international principle to which we have always professed to subscribe, one which is also central to the United Nations Charter: the principle of the self-determination of peoples.

Security Council Resolution 242 of November 1967 emphasizes the "inadmissibility of the acquisition of territory by war" and calls specifically for Israeli withdrawal from occupied Arab territories. And it should be recalled that under the U.N.'s original partition plan of 1947—to which the United States subscribed, and which, to my knowledge, it has never repudiated—Jerusalem was to be a "corpus separatum under a special international regime." After Israel annexed Jerusalem in 1967, the United Nations General Assembly condemned the action, on July 4, 1967, by a vote of 99 to 0, and then condemned it again on two subsequent occasions.

An Arab-Israeli settlement will not put an end to the energy crisis. Nor could

it be counted upon to bring about an immediate substantial reduction of oil prices. It would, however, reduce the major irritant in relations between the United States and the Arab States—especially Saudi Arabia—and in so doing create a much improved environment for negotiations on oil supply and prices. The oil consuming nations need time in which to adjust to the new world energy situation—time to adapt to new terms of trade in raw materials and commodities, time to develop alternate sources of fuel such as coal and shale oil. A settlement making fair provision for the old city of Jerusalem and for the other occupied territories would greatly increase the political influence of Saudi Arabia, and therefore its weight as a force for moderation within OPEC.

Such an approach would not constitute a "sellout" of Israel. Quite the contrary, it calls upon Israel to do nothing more than she ought to do anyway, even if there were not a drop of oil in the Middle East.

Indeed it would be to Israel's advantage, because there can be no lasting security for that small, beleaguered community without a settlement, and there can be no settlement without withdrawal. For the United States the occasion—if we rise to it—is one of those rare and happy ones in which justice and self-interest coincide.

The oil producers for their part also have obligations to the international community—obligations of which many of them currently seem insufficiently aware. Their grievances against Israel and the West, however legitimate, do not justify an oil policy which threatens the world with economic turmoil, and much of it with actual starvation. The matter, it cannot be emphasized too strongly, is not one of mere preference or convenience for the oil-consuming nations. Unlike Vietnam and other instances in which pride of power was mistaken for legitimate interest, the energy problem is one for us of central, vital interest. In such an instance, as President Ford pointed out in Detroit:

> Sovereign nations cannot allow their policies to be dictated, or their fate decided, by artificial rigging and distortion of world commodity markets.

In a Senate speech on May 21, 1973, I took liberty as a friend of the Arab governments and peoples to counsel a policy of restraint. It seems appropriate to repeat those words today, addressing them not only to the Arab States but to all the oil-exporting nations.

> The oil exporters, I said, would be well-advised not to press too hard and to treat their oil wealth as a kind of global trust, if for no other reason than for their own protection. The meat of the gazelle may be succulent indeed, but the wise gazelle does not boast of it to lions.

These words most assuredly are not meant as a threat, but simply as a warning that if the problem becomes a major crisis, feelings—and events—may go beyond the control of prudent leaders.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. Mr. President.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 5 minutes.

Mr. METZENBAUM. I have listened intently to the distinguished Senator from Arkansas, the chairman of the Committee on Foreign Relations, who proposes an amendment to Senate Resolution 410, the resolution which I introduced, with 60 cosponsors, in this body.

The thrust of that resolution was very simple. It indicated that the Members of the Senate stood side by side with the President of the United States in calling for a rollback in the price of crude oil exported by the OPEC nations.

The distinguished Senator from Arkansas would add an amendment to Senate Resolution 410—an amendment which would take us far afield from the object of the resolution. It would in fact carry us into much broader questions regarding the Middle East conflict.

That conflict is not the reason the OPEC nations have raised the prices of petroleum products. Those nations made this clear when they initiated their new oil policy. As the Senator from Arkansas himself so pertinently observed, Iran and Venezuela, two of the major nations in OPEC, are not Arab nations at all, and have no real involvement in the Middle East conflict.

To introduce the United Nations resolution in this debate, to raise that specter as the reason oil prices have increased and thus threatened the economy of the United States, is to suggest a cause which is not supported by the facts. That matter is not the reason the OPEC nations have raised their oil prices and are sustaining them.

Mr. FULBRIGHT. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. FULBRIGHT. I did not say that is the only reason. I said the only practical way in which progress can be made toward reducing the larger prices is to settle that war. That is quite different from saying that is the only reason for their being high.

Mr. METZENBAUM. On that score I would also disagree with the Senator from Arkansas.

Mr. FULBRIGHT. I regret that the Senator disagrees. But I simply wanted to correct the RECORD to show that what I said was that the only practical way that I could see to bring about a movement in this area, in support of the President and the Secretary, is to support a settlement.

Mr. METZENBAUM. I had a conversation the other day with Mr. Yamani, the Saudi Oil Minister—who I think is in a position to speak with more authority than either the distinguished Senator from Arkansas or myself. Mr. Yamani indicated that the Saudis did indeed want to bring down the price of oil—and I am aware that the Saudis disagree with some of the other OPEC nations on this matter—and that it is in the interest of Saudi Arabia to do so.

I think my resolution addresses only one real question, and that is: Can the economy of this Nation continue to pay the exorbitant price the OPEC nations demand for their oil? The outflow of billions of U.S. dollars is staggering, and it would lead to catastrophe if continued indefinitely. To use the words of the President, the Secretary of State, and Mr. David Rockefeller of the Chase Manhattan Bank, "Our economy just cannot stand it."

If the resolution of the problem of oil prices and the outflow of billions of U.S. dollars to the OPEC nations must await a solution of the Middle East conflict, I fear the American economy will no longer be viable, and our ability to solve any sort of foreign policy problem deeply impaired.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. METZENBAUM. I am sorry that the Senator saw fit to suggest the addition of his amendment to Senate Resolution 410.

The PRESIDING OFFICER. The Senator's time has expired.

SUSPENSION OF AID TO TURKEY

The Senate continued with the consideration of the joint resolution—Senate Joint Resolution 247—authorizing the President to suspend, in the case of Turkey, the application of the provisions of section 505(d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act.

Mr. MANSFIELD. Mr. President, I yield myself 5 minutes; and as of now, I do not intend to use all the time allocated to me.

The continuing resolution on appropriations adopted earlier today will in effect eliminate all assistance to Turkey under the Foreign Military Sales Act and the Foreign Assistance Act of 1961, as amended. The position of the distinguished Senator from Missouri (Mr. EAGLETON) which has won the overwhelming approval of Congress, is clear: These laws as applied to the hostilities on Cyprus require a cutoff of aid to Turkey. The foundation of this judgment is incontrovertible: This is a Nation of laws and not of men and when the law is clear, it must be followed whether it seems expedient or not at the time.

During the past several weeks while these matters have been under careful congressional scrutiny, it has been emphasized by members of the administration, including Secretary Kissinger, that the next several weeks could be critical in getting both sides off dead center on the Cyprus question; that the United States might be helpful in this regard, and that the cutoff of funds for Turkey under the law at this time would undermine these desired efforts. The Congress has adjudged, however, that the clarity of the law demands a cutoff regardless of its consequences to this Government's role in any negotiations. The only remedy is for the law to be changed and only Congress can constitutionally accomplish such a change. The executive branch cannot, for reasons of expediency, replace its wisdom for the collective wisdom of the Congress in making the laws of the Nation.

This, may I say, was a point brought out several times, again, by the distinguished Senator from Missouri (Mr.

EAGLETON). It may be that the Congress has for far too long shifted its responsibilities to the executive, but the vote today has demonstrated again that Congress wishes to reassert its authority and its power granted by the Constitution.

The joint resolution now before the Senate is in full accord with that philosophy of reassertion of congressional authority. The joint resolution suspends until December 15 the application of the cutoff of funds prescribed in the Foreign Military Sales Act and the Foreign Assistance Act of 1961 as amended as well as the Continuing Resolution on Appropriations adopted this morning. But in doing so, it acknowledges that these laws clearly prescribe a cutoff. It acknowledges as well the representations of the President and the Secretary of State that this Government may play a critical role during the next several weeks in getting the parties together on the Cyprus question.

Again, the resolution explicitly accepts the premise that the present law requires a cutoff of aid to Turkey. But in deference to the request for a suspension of this cutoff, the Congress in its wisdom will suspend the law's application.

I wish to state to the Senate that I prepared this resolution without consultation with the White House or the executive branch or the other side of the aisle, and only this morning at the specific request of Senator EAGLETON did I contact members of the executive branch with respect to this resolution, and I did so reluctantly, because I felt, in view of what the distinguished Senator from Missouri had said, that this was purely a congressional initiative, and therefore I was loath to approach the executive branch in this respect.

They, the executive branch, realize the full impact of this resolution, that it acknowledges the primacy and exclusivity of the Congress in changing the law, that it prescribes a short period for them to play a role in getting the parties together after which there must be a precipitous cutoff of aid to Turkey. Although they are unhappy—and they are unhappy—about any policy of cutting off aid to Turkey, they acquiesced in this time frame, knowing full well that this may well be their last clear chance.

The Congress clearly has demonstrated it has the authority to cut off money for Turkey. It has demonstrated that it has the last word in defining the parameters of a law.

The joint resolution before us affords us the opportunity to orchestrate that constitutional authority with the wisdom envisioned by the Constitution.

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

Mr. MANSFIELD. Yes, indeed.

Mr. PASTORE. I voted for the Eagleton amendment, I believe, on two occasions and, I think, it is quite clear to all of us that the Senate of the United States has manifested its displeasure with the fact that aid was being given to Turkey while in violation of the law. I do not think there is any question about it.

But I think that we have reached a moment of pragmatism, and I would like to propound a question to my distinguished majority leader.

We have been told—as a predicate I might say we have been told—that the President will veto the continuing resolution tomorrow which, of course, means that the resolution will come back and we will have to start all over again in the event that the veto is sustained.

I am saying to my distinguished majority leader, does he have any assurance at all, either from the White House or the President himself, that in the event this resolution he is suggesting and proposing today should pass that the President of the United States will, in fact, sign the continuing resolution which has the amendment in there which is acceptable to the Senator from Missouri?

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished senior Senator from Rhode Island, I did, at the request of Senators, reluctantly approach the President on this matter because, again, I was trying to keep the line of demarcation clear between the executive and the legislative branches.

I talked with the President personally. He said that he would sign the continuing resolution if the resolution which I am proposing, in cooperation with the distinguished Republican leader, and which is now the pending business, is passed by both the House and the Senate.

Mr. PASTORE. I would hope that we have some way of bringing the information to the entire membership of the Senate when we vote.

Mr. MANSFIELD. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. EAGLETON. Mr. President, I yield myself such time as I may consume.

Mr. President, at the outset let me pay tribute to the distinguished majority leader, not in an idle or perfunctory way. He is a man of his word. He is a man of great credibility. He is a man of enormous honor and integrity.

The views which he espouses with respect to the situation on Cyprus are sincerely held by him. He does not mince words. It is to his credit that he speaks his mind, and we understand his position.

It is true also, Mr. President, that there are those in this body who feel differently with respect to American policy on Cyprus.

To underscore what the majority leader has said, this resolution, S.J. Res. 247, was conceived by him without consultation with any outside party. He was kind enough late yesterday afternoon to show me a rough draft of it as a courtesy, which I much appreciate.

He did somewhat later consult with the Republican leadership, which was certainly proper. And, at my request, he did approach the White House as to what their position would be on S.J. Res. 247, as it would relate to the continuing resolution and as it would relate to Cyprus.

I underscore he did that at my request. I felt that whatever the White House had to say about the resolution should be known to this body.

The distinguished majority leader said he wanted this to be a purely Congressional matter, and he would only approach the White House with reluctance. So what he says is completely accurate.

What he said earlier in his remarks is accurate, too. The earlier debate with respect to Cyprus, at least that part of the debate in which I participated, focused, in the main—not exclusively, but in the main—on the questions of law, on questions relating to the applicability of section 505(d) of the Foreign Assistance Act of 1961, Section 3(c) of the Foreign Military Sales Act, and also two bilateral agreements executed between the United States and the Government of Turkey, one in 1947 and one in 1960.

The majority leader is correct in saying that the principal thrust of my argument was that the law was the law. The law had to be obeyed, had to be enforced, had to be implemented; that no discretion was reposed in either the President or his Secretary of State to ignore the law. The law applies in all situations.

Finally, the majority leader is correct in stating that the Congress of the United States, through overwhelming votes of both the House of Representatives and the Senate of the United States, has gone on record in support of the rule of law.

Having said that in agreement with my majority leader, we now get to the remaining area of disagreement. We get to a new plateau, as it were, in the Cyprus debate. We move from the area of legality because, perforce, that is now abundantly clear to all, that the continuation of aid to Turkey is illegal, it has been illegal, and every minute that it continues it is illegal.

We move from that plateau because that matter has been resolved, at least in mind, by the votes of both Houses of Congress. We move to the new plateau of policy. What should be the policy with respect to Cyprus?

First, why are we involved in this at all, we in Congress? We are involved in it, Mr. President, because in 1963 we passed a law calling for the strict control of American military assistance. Now the majority leader, quite properly, seeks to pursue a remedy, if one is to be pursued, by changing that law.

I do not think the law should be changed, Mr. President. I think the law was sound when it was enacted a decade ago. It was as sound when enacted as it is today. I think the strictures of the Foreign Assistance Act of 1961 and the Foreign Military Sales Act to prohibit the utilization of American military equipment in the invasion or subjugation of neutral nations were sound legislative pronouncements then and they are sound legislative pronouncements today. It was a sound law in 1964 when then President Lyndon Johnson, through the good offices of his Under Secretary of State George Ball, informed Turkey that if Turkey, then contemplating an invasion of Cyprus, were to execute such an invasion and use American military equipment, that aid would be forthwith terminated. It was, in the words of Under Secretary Ball—

One of the bluntest letters, one of the bluntest official exchanges between two countries, the United States and Turkey. We very bluntly and tersely told them, "If you move one inch into Cyprus, no aid."

That letter forestalled an invasion of Cyprus in 1964.

I think the Foreign Assistance Act of 1961 and the Foreign Military Sales Act were sound laws, again, in 1967, when once again there was a contemplated invasion by Turkey of Cyprus.

Then Cyrus Vance from the administration informed the Turkish Government that:

If you invade Cyprus and use military equipment, I will do as George Ball said he would do 3 years before, I will recommend to the President that he terminate all military aid to Turkey.

In 1967, again with a firm policy implementing these statutes, Turkey resisted the temptation to invade Cyprus.

That brings us now to 1974.

Had we in July of this year taken the same position with respect to the sanctity of the law and had we this summer done what George Ball did in 1964 and Cy Vance did in 1967, it is my guess—and no one will be able to prove me right or wrong, but it is my guess—that Turkey would not have invaded Cyprus.

But on July 20, they did invade Cyprus because we did not stand behind our laws and because our policy with respect to Cyprus was either nonexistent or so ambivalent that the Turkish Government saw an opportunity to do that which they had been anxious to do for years, but had been forestalled in doing by a firm American policy.

They invaded, using our equipment, and there they have been, Mr. President, from July 20 to date, almost 3 calendar months.

Early on, Dr. Kissinger stated he strongly opposed Turkey's move, he urged them on an occasion or two to leave Cyprus. But he refused to use the only leverage we had, military assistance. He refused to implement the law.

On August 19 of this year at a press conference, Dr. Kissinger was asked whether under the provisions of the Foreign Assistance Act we were not required to cut off aid to Turkey, and he said at that time that he would ask for a legal opinion on the subject. Parenthetically, that legal opinion is floating around somewhere in the State Department, perhaps it will never see the light of day.

Then on September 18, almost a month ago, the Senate of the United States went on record by a 64-to-27 vote in a sense-of-the-Congress resolution urging President Ford to follow the law and cut off aid to Turkey.

The reason I recite this chronology is that we have been with this matter now for almost 3 months, since July 20, when Turkey invaded Cyprus. It is not as if something had happened just yesterday, or the day before yesterday, or a week ago, and we were fresh on the event and the situation was in a tremendously fluid state, an unknown, uncertain state. During that period we have heard the usual from the State Department, which we have heard for a decade now: "things are delicate, things are sensitive, negotiations are just at the right point, do not intrude into this, leave things alone."

If it just occurred a week ago or a few days ago, an argument of that type perhaps would have some cogency, but this matter has been with us now for almost 3 long months, Mr. President.

Just as Vietnam was with us for almost 10 long years. During that decade we heard time and again, whenever Congress was to take some action with respect to Vietnam, now is not the time, there are lights at the end of the tunnels, there are delicate things going on in foreign capitals, there are secret negotiations, do not rock the boat, keep your nose out of this, for 10 years we heard that standoffishness.

So I say, Mr. President, now that we are debating policy, what is the situation in Cyprus today? Cyprus is occupied, 40 percent or better, by Turkey. The most productive and financially remunerative sections are occupied by Turkey. In the opinion of some, Turkey is there to stay unless they can be induced either subtly or not so subtly to leave.

The situation at the present time is that the Turkish forces on Cyprus are predominantly supplied with American weaponry—uniforms, munitions, armament and the like.

The record also shows that the Turkish troops are running out of ammunition, they are at the point that if aid were terminated, they may have to withdraw from Cyprus because they do not have the requisite ammunition.

So I say, Mr. President, this is the wrong time to give an extension of military aid to December 15, 2 months, at just the time the Turkish forces need resupplying militarily. It is wrong to give a 60-day period of grace. If we resupply the Turks at this crucial time we will perforce insure that they stay in Cyprus even longer.

Right now, according to the Defense Department's own figures, there are $6 million in ammunition in the pipeline ready to go to Turkey.

If this ammunition arrives, as it most certainly would during the next 60 days, if other armaments arrive, as they most certainly would during the next 60 days, how does this heighten the opportunity for a negotiated settlement? Obviously such an agreement would have to include the withdrawal of Turkish forces from Cyprus if there is to be any settlement at all. What incentive would they have to leave if we send them more arms?

The point I make, Mr. President, is that we are intensifying the possibility, indeed the probability, that there can be no negotiated settlement by continuing our obvious tilt toward Turkey and by enhancing their presence on the Island of Cyprus rather than compromising that presence.

There is no way rationality can support the opinion that we are doing a favor for the Karamanlis government by strengthening his adversary. Greece, Mr. President, is very much in this picture. Greece, Mr. President, hangs by a thin thread.

Mr. TOWER. Will the Senator yield for a question?

Mr. EAGLETON. Not at this point, I will be happy to yield in a few minutes.

Greece, Mr. President, hangs by a thin thread insofar as its viability as a democratic system. In the words of George Ball who testified on this subject before Congressman ROSENTHAL's committee, the Karamanlis government is the best government to rule in Greece since the last Karamanlis government. And it may be the last good government, because Greece may go violently left or violently right and if we cut the legs out from under the Karamanlis government by continuing this Turkish tilt and by buttressing that tilt with additional armaments for another 60 days, we are putting the Karamanlis government in grave jeopardy at the time of its national elections.

Mr. President, we are doing no favor to Mr. Karamanlis by saying to him, "Mr. Prime Minister, we are trying to help you by fortifying the armaments of your adversary."

There is no logic to that argument, Mr. President. It just does not withstand the scrutiny of commonsense.

Make no mistake about it, what we are doing is tilting towards Turkey, not simply in a passive way, but in an active way.

The Turkey tilt will come home to haunt us, Mr. President, because the price we will pay is the continued fortification of the Turkish legions on Cyprus, it is the price of the possible downfall of the Karamanlis regime. And if that regime falls, no one can be certain what the consequences will be. Thus, our policy should be one not of a tilt toward Turkey, not of a tilt toward Greece. Our policy should be the very policy that is inherent in the two laws that we have been debating for these weeks.

Those laws say that we will keep out of this kind of situation; that we will not permit our equipment to be used against a neutral country. To try to amend that law now, even for a 60-day period, would put this Congress and the United States on record as being pro-Turk, pro-occupation of Cyprus, and we may well spell the ultimate doom of the Karamanlis government. We will not be encouraging negotiations by sending more arms, we will instead encourage more war.

I am pleased to yield to the Senator from Texas.

Mr. TOWER. I would like to ask a question of the Senator from Missouri. He apparently has in his possession, I suppose, some sort of documentation or evidence that the Karamanlis government favors the Eagleton amendment. I have heard quite to the contrary. I have heard that the Karamanlis government does not want the amendment of the Senator from Missouri to prevail because they feel that our maintaining our ties with Turkey provides the last hope for negotiating them out of Cyprus and preventing the partitioning of Cyprus. So I have heard it another way.

We could rationalize that the resolution offered by the Senator from Montana is a Greek tilt and is pro-Greek because it enables us to continue the

kind of relationship with Turkey that enables us to negotiate with them.

Does the Senator have a definite position paper from the Karamanlis government on the Eagleton amendment? Does he have it?

Mr. EAGLETON. I have no position paper. As the Senator from Texas well knows, it is a violation of American law for a foreign government to try to intrude into the policy decisions of the United States Congress. Neither the prime minister, the foreign minister, nor the Ambassador from Greece—and the same would apply to those respective officials from Turkey—would write to the Senator from Texas, the Senator from Montana, or the Senator from Missouri and intrude upon our decisionmaking process. That does not occur.

Mr. TOWER. The Senator has admitted, then, that he has made an assumption that cannot be supported by the evidence?

Mr. EAGLETON. What I do have in the way of evidence, and I wish I could speak freely, is this evidence: The editorials and newspapers from the leading periodicals in Athens. Those leading periodicals are the equivalent of the Dallas Daily News, the Houston Express, and other such periodicals.

Mr. TOWER. There are no such periodicals.

Mr. EAGLETON. These leading journalists and theoreticians do support the Eagleton amendment. I do not know how my name is pronounced in Athens, but they have probably given it a Greek derivative.

Mr. PASTORE. Will the Senator yield?

Mr. EAGLETON. I yield.

Mr. PASTORE. I do not think we accomplish anything by jabbing at each other's throats. I think the Senator from Missouri is correct, there is a violation of the law. There is no question about that. We have spelled out the law. But I think we have gone beyond the point of discussing legalities here. I do not think the Senator from Missouri can be disputed in any way.

The point that I am making is that we have reached a very pragmatic point. There is no question that the President has said, and he means it, that if this continuing resolution reaches his desk in its present form, he will veto it tomorrow. Therefore, it will come back to us on Thursday or Friday. We will need a two-thirds vote to override the veto, which I doubt very much we will get.

But then there is another element, another dimension in this debate that I think ought to be talked about.

There is no question at all that our majority leader is just as much interested and just as much concerned and disturbed over the situation as any one of us. There is no question about that. We all know MIKE MANSFIELD's integrity.

But as a man who is wise, as a man who is the leader of the majority in the Senate and who has agonized over this situation like the rest of us, he has come forth with this resolution which does not disclaim in any way the position of the Senator from Missouri.

I doubt very much that our Defense Department in the next 60 days is going to begin to send tanks, guns, and bullets there. The argument of the majority leader is that if for some reason we can soften up the strong position that was taken by both the Senate and the House for a period of 60 days so as to allow the President and Mr. Kissinger to work out a negotiated settlement which will be to the advantage of Greece as well as to the advantage of Turkey, we ought to give it a try.

That is the question that is before us this afternoon. That is the thing that I think ought to be emphasized.

I am the one who came on the floor and said to Mr. MANSFIELD, "There is no need of passing your resolution if tomorrow the President of the United States is going to veto this continuing resolution anyway. Do you not think we ought to find out what the position of the White House is?"

The majority leader did find out that position. He talked directly to the President, as he has already stated. The President has said that, "If your resolution is passed by the House and by the Senate, I will not veto the bill tomorrow."

The fact remains that the Eagleton amendment, or the amendment the Senator approves, is still in the bill.

All we are asking for is a respite of 60 days in order to accommodate the men who have to negotiate a settlement in Cyprus.

They are the President and Mr. Kissinger. That is all we are asking at this point.

I do not think anybody can criticize Mr. EAGLETON. No one criticizes the Senator. He is absolutely right. The law has been violated. But the point is he could be wrong. He could be wrong in his summation. His being wrong could be disastrous.

On the other hand, we could be wrong. All we are saying here is let us give the President the benefit of the doubt at this particular moment. I do not think it takes anything away from the Senator's argument. I do not think it takes anything away from his cogency. I do not think it takes anything away from his prestige. It only makes him a bigger American.

Mr. EAGLETON. Mr. President, I thank the distinguished Senator from Rhode Island for his accolades and his tribute. I hope when I meet the Grim Reaper he will be available at the graveside to repeat some of those on my behalf.

Mr. PASTORE. That is if you go before I do.

Mr. EAGLETON. I enjoyed what he said. He is correct on this point. We are now debating policy, but we are also debating the fundamental wisdom of the laws we seek to change.

Mr. President, all in this body are humans, susceptible to human errors; susceptible to all the frailties of being mortal. The people who work in the State Department are mortal, too, Mr. President, susceptible to all the frailties and all the risks of making mistakes.

As the Senator from Rhode Island said to me, "Tom, you might be wrong." Indeed, I might be, Mr. President. And Dr. Kissinger might be wrong. Indeed, he was wrong in Pakistan versus Bangladesh. That was wrong.

He was wrong as Chairman of the Committee of 40 in giving a go-ahead signal to the destabilization of the Allende regime. He was wrong there, Mr. President.

Mr. PASTORE. But he was right in the Middle East.

Mr. EAGLETON. He was right in the Middle East. And he was wrong for 4 long years in Vietnam.

It is a mixed-bag record, right one time and wrong one time. This might be his right time, and it might be his wrong time. But we need not take that chance if we refuse to change the law.

I say to the Senator from Rhode Island if he is wrong, the price is not paid on the floor of the Senate. Rhode Island will be safe; Missouri will be safe. But if Dr. Kissinger is wrong in sending $6 million worth of pipeline ammunition—and that is in the pipeline and $53 million of surplus military arms in Western Europe that is available for deployment—if he is wrong in doing that and it brings down the Karamanlis government and Greece goes far left or far right, the price of that will be paid in Athens. And the price will be paid in Cyprus by the victims of American bullets.

Mr. PASTORE. Absolutely. If he is wrong, everything the Senator says will happen. But let us pray to God that he might be right, and he might bring peace to that part of the world. All we are asking for here is a 60-day test.

In view of the fact that the violation has been over a period of months, I think if we do make a further sacrifice of 60 days, God willing we might get the answer to Cyprus. If we do not have the answer to Cyprus, then, of course, we will have to take another course.

Mr. EAGLETON. Mr. President, with all due respect to my beloved colleague, he refers to prayer. I prefer foreign policy based on pragmatics and on practicalities. I am not here to pray that Dr. Kissinger is right. I am here to debate as to the wisdom of the foreign policy decision he has made in tilting toward Turkey. I think that tilt was inopportune when he began it in July, I think it is inopportune as he continues it in October, and I think it will be inopportune if the Mansfield resolution is passed. He would continue that tilt and exacerbate and intensify that tilt with further armaments up to and including December 15.

A final word, and then I will be prepared to yield back the remainder of my time, unless someone else wishes to speak.

The Senator from Rhode Island points out, as if it were almost an inevitability, that the forthcoming veto of President Ford would not be overridden. I am not willing to accept that. I am not a crystal-ball gazer as to veto overrides. I know that they do not happen often, but I do know that the vote on this subject matter in the House was 291 to 69, a 4 to 1 ratio, a comfortable margin. The vote today in the Senate was 62 to 16, a ratio of roughly 4 to 1.

There will be some slippage on votes. Some colleagues will be brought back from the campaign hustings; and for

those of us who support the override, we have to try to bring back two for every one Dr. Kissinger brings back.

But I do not think it is preordained or predestined that the prospective veto will be sustained willy-nilly by either the House or the Senate.

Let us see what happens. This is identical to the situation Congress faced in 1973 on the bombing halt in Cambodia. I introduced an amendment to stop bombing forthwith in Cambodia. It went to then President Nixon, and he vetoed it. It came back to Congress, and we precipitately caved in and authorized a 45-day bombing run over Cambodia, when we should have terminated on June 30.

I am pleased that at that time the Senator from Montana and I agreed that to give a 45-day license to continue to bomb was unwise. We were in the minority. The majority prevailed, and the 45-day bombing continued—not much, I might add, to the credit of the United States.

Now we are asked to give 60 more days of military aid to Turkey, so that they can fortify, rearm, and remain on Cyprus.

I say that the policy was unwise in letting them go to Cyprus in the first place. It could have been forestalled. I say that if we terminate aid today, forthwith, and if they run out of ammunition, as the public reports suggest, they will move out of Cyprus, and that is the desired result that humanity seeks.

Mr. President, I am prepared to yield back the remainder of my time. Before doing so, I ask unanimous consent to have printed in the RECORD, in opposition to the Mansfield resolution, a statement by the distinguished Senator from Washington (Mr. JACKSON) and a statement by the distinguished Senator from Minnesota (Mr. MONDALE).

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

STATEMENT BY MR. JACKSON

Both Houses of Congress have now expressed the view that the Administration has acted improperly, unwisely, and even illegally in continuing to supply military assistance to a Turkish government whose troops occupy the territory of an independent country—Cyprus. In the Senate, we have had extended edbates and overwhelming votes—and we have acted despite the threat of veto by the President and despite the dire predictions of the Department of State.

Now, at the eleventh hour, a joint resolution has been introduced and placed before the Senate, a joint resolution which would have the effect of undoing all previous Congressional action on this subject. I hope that the Senate will reject this attempt to overturn Senator Eagleton's initiative and sustain the decision that our military assistance to Turkey must conform to the law, and must serve the interests of peace and defense.

Congress has reaffirmed its support of the provisions of the Foreign Military Sales Act and other relevant statutes. With regard to Turkey, the Congress has specifically and unambiguously stated that these laws should not be waived. The Senate, in particular, has been of the view that a specific exception for Turkey ought not to be made. It seems hard to imagine that the Senate would now decide to specifically authorize a waiver of the law as far as Turkey is concerned.

It is time for the Administration, Mr. President, to cease its attempts to evade the letter of the law, the intent of the Congress, and the deep beliefs of the American people. The Administration should now begin to implement the diplomatic initiatives which can secure Cypriot independence, rather than looking for ways to perpetuate a policy which amounts to acquiescence in the Turkish occupation of Cypriot territory.

I urge my colleagues to reject this proposed joint resolution and to stand firm in support of the independence and integrity of Cyprus.

STATEMENT BY MR. MONDALE

I recognize the fact that the amendment offered by Senator Mansfield is put forward in a spirit of compromise but I cannot support the amendment.

Compromise is needed on Cyprus not here in Washington. Compromise is required from the Turkish negotiators not compromise by the Senate in respect for laws of the United States.

In supporting the amendment to the Continuing Resolution for Foreign Aid, both the House and Senate have voted overwhelmingly to restore the balance in America's policy towards Cyprus. I believe it is important to recognize that we are also restoring the balance in our policy towards Greek democracy. Just as the Administration seems to be tilting in favor of Turkish military force in the Cyprus issue, it also bowed down before the military junta which, for too long, deprived the Greek people of their human rights and political liberties. That is why it is even more important that our policies today help sustain and foster the new growth of democracy on Greek soil.

We cannot hope to support the democratic government in Athens, and at the same time expect it to accept the humiliation of a dictated peace on Cyprus. There must be a negotiated solution, one that respects the rights and responsibilities of all sides, and one that is free from military coercion. There is no way that there can be such a negotiated solution on Cyprus if the U.S. continues with aid which supports the Turkish military occupation of that island.

Senator Mansfield's amendment would delay for 60 days the implementation of the wishes of both House and Senate. Many might find that quite reasonable. But the Turkish Government has had more than 60 days to negotiate seriously and to begin withdrawing troops from Cyprus. Unfortunately, they have used that time to consolidate their grip.

And we must recognize if we cut off aid today, this will not have an immediate impact on Turkish military capabilities. It will take 60 days and more before the Turkish military feels the pinch.

What the Senate is asking and what the House is asking is that the Turkish Government show good faith. It did not take the Turks 60 days to invade Cyprus. It only took them a few days. It could take even less time than that to comply with conditions—in fact, the legal requirements—of American aid.

I hope the Turkish Government recognizes that I and others who have supported Senator Eagleton's amendment and who will oppose the amendment of Senator Mansfield, have no malice towards Turkey. What we want is for the U.S. Government to obey the law, for our foreign policy to be even handed and for peace on Cyprus to be established through negotiation, not military force.

Mr. STEVENSON. Mr. President, the Foreign Assistance Act and the Foreign Military Sales Act state categorically that a nation which violates the conditions upon which the United States provides military assistance "shall be immediately ineligible for further assistance." Those conditions have been violated by Turkey's armed intervention in Cyprus.

The Senate today expressed emphatically its will, and for the fourth time, that it intends these laws to be obeyed. The amendment adopted today by the Senate and on Monday by the House requires the President to comply with the law and suspend military aid to Turkey. The President can lift this suspension when he certifies to the Congress "that the Government of Turkey is in compliance with the Foreign Assistance Act and the Foreign Military Sales Act."

Even though the Congress has expressed its will, another attempt is being made to permit the executive to evade the law. Senate Joint Resolution 247 says that "the President is authorized to suspend the provisions of the Foreign Assistance Act and the Foreign Military Sales Act in the case of Turkey" through December 15, 1974, "if he determines that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict." In other words, the Congress is being asked to sanction its own defiance by the President and Turkey.

It has now been almost 3 months since Turkey invaded Cyprus with impunity. The Turks are in Cyprus. Greece is out of NATO. Relations between the United States and Greece are strained. The legitimate Government of Cyprus is deposed. And the Congress is asked to have confidence in the architects of this tragedy and sanction their disobedience to the law. I will not do so.

The executive has been warned time and again that the Congress would reaffirm the law if the President did not comply with the law by cutting off aid to Turkey. This is not a unilateral, vindictive act. It is triggered not by the Congress—but by Turkey. Turkey violated the terms upon which it accepted U.S. assistance. The result should be automatic. Yet, instead of automatically terminating assistance to Turkey, the executive branch has concentrated its efforts on evading the law. To sanction such defiance of the law the United States would simply encourage other aid recipients to defy the United States and breach the terms upon which its aid is accepted.

It appears that Turkish military forces are running out of ammunition and the Defense Department has in the pipeline $6 million in ammunition for them. Turkey could be in a precarious position shortly if it does not negotiate in good faith and withdraw its troops from Cyprus. If, on the other hand, the Senate passes Senate Joint Resolution 247, the President will probably permit this new shipment of ammunition to Turkey, and once again the Turkish Government will be in a position to reject a negotiated settlement and strengthen further its hold on some 40 percent of Cyprus' territory.

I call upon my colleagues in the Senate to express again their support for the law and their abhorrence for

armed aggression by voting against Senate Joint Resolution 247.

Mr. MANSFIELD. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Montana has 5 minutes.

Mr. MANSFIELD. How much time does the Senator from Missouri have?

The PRESIDING OFFICER. The Senator from Missouri has yielded back the remainder of his time.

Mr. MANSFIELD. Mr. President, I cannot agree with my friend, the Senator from Missouri, that a Presidential veto of the continuing resolution with his amendment, on which this body has voted twice, could be overridden. Quite the contrary. It could not be overridden and I think the Senator is aware of that fact, at this particular season of the year.

We are talking about Greece and we are talking about Turkey. I do not hear anyone mention Cyprus except incidentally. The Turks do occupy 40 percent of Cyprus, an independent republic in 1960 and guaranteed by Great Britain, which still has armed cantonments on the island, and Turkey and Greece.

Does anyone in this body think that what we have done, regardless of our personal feelings about the situation—and I know of no one in this Chamber who does not have a good feeling toward the Greeks—is going to force the Turks to retreat from the 40 percent of the island of Cyprus which they now hold? Of course not. What we have done has been to solidify the position which Turkey—unfairly, in my opinion—has assumed on the island of Cyprus. What we have done so far is to make certain that the Turks will stay there and Cypriot majority will suffer.

What I am attempting to do, with no help from the White House, with no contact with the State Department, is to try to give some substance to the government of Karamanlis. The Senator is correct when he states that the present Karamanlis government is the best government Greece has had since the last Karamanlis government.

But the Senator goes back too far—10 years, another age, another era—to indicate how we could shake our fist at Turkey and force them to do what we want them to do, through cutting off our aid.

Who do we think we are? What kind of nation do we think we are, that we can tell other people what to do? We have told too many. We have lost too much treasure in the telling, and we have lost far too many lives as well. We have not interfered or intervened in Cyprus, as we did in Vietnam and Cambodia, Laos, and Southeast Asia, as some would want us to interfere and intervene in the Middle East.

So far as I am concerned, when I say that one Vietnam is too many, I mean it; and I do not care what other part of the world one conjures up and asks my opinion on. I am acting as a Senator, within the responsibilities laid down by the distinguished Senator from Missouri. He said that if you want to change the law, it is not the executive branch which does it, in the White House or the State Department; it is Congress. This is a congressional initiative.

I repeat that I have had no contact with the State Department, with the White House, with the Defense Department, with the USAID, or any other outfit.

I approve of Dr. Kissinger's policy of noninterference and nonintervention in the Aegean. I hope that we will recognize what I think is the fact, that if we pass this resolution—and I am not at all sure we can—we will perhaps be giving the Greeks a chance to recoup, a chance to restore their prestige, a chance to take the pressures off Karamanlis, and a chance to get the Turks off the island of Cyprus. It is a simple matter. We can either make sure that the Turks will stay there and the Greeks and the Cypriots will suffer, or we can give our own Government, our own emissaries, a chance to see if they can work out some sort of solution.

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

Mr. MANSFIELD. May I say that the President said that if this resolution is agreed to, he will not veto the continuing resolution.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. MANSFIELD. If we have the matter back with us once again, and what in hell will we have accomplished?

The PRESIDING OFFICER. All time of the Senator from Montana has expired.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed for a third reading and was read the third time.

Mr. MANSFIELD. Mr. President, will the distinguished Senator from Missouri allow me to ask unanimous consent that I may proceed for 1 minute?

Mr. EAGLETON. Absolutely.

Mr. MANSFIELD. Mr. President, I have made some inquiries based on the statement by the distinguished Senator from Missouri (Mr. EAGLETON). In response to my request, I state the following:

Frankly, we have not made any new commitments in this fiscal year.

that is, to Turkey——

In fact, since the July crisis, we have made no new commitments to Turkey.

I thank the Senator.

The PRESIDING OFFICER. The question is, Shall the joint resolution offered by the Senator from Montana, as modified by unanimous consent, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. BIBLE), the Senator from Idaho (Mr. CHURCH), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. SPARKMAN), the Senator from New Jersey (Mr. WILLIAMS), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Montana (Mr. METCALF) are necessarily absent.

I further announce that the Senator from Indiana (Mr. HARTKE) is absent on official business.

I further announce that, if present and voting, the Senator from Indiana (Mr. BAYH) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from New York (Mr. BUCKLEY), the Senator from Kentucky (Mr. COOK), the Senator from Kansas (Mr. DOLE), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. PACKWOOD), the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Pennsylania (Mr. HUGH SCOTT), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Hawaii (Mr. FONG), the Senator from Nebraska (Mr. HRUSKA), the Senator from Virginia (Mr. WILLIAM L. SCOTT), and the Senator from Vermont (Mr. STAFFORD) are absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. PACKWOOD) would vote "nay."

On this vote, the Senator from Pennsylvania (Mr. HUGH SCOTT) is paired with the Senator from Arizona (Mr. GOLDWATER).

If present and voting, the Senator from Pennsylvania would vote "yea" and the Senator from Arizona would vote "nay."

The result was announced—yeas 40, nays 35, as follows:

[No. 471 Leg.]

YEAS—40

Aiken	Fannin	McGee
Bartlett	Griffin	Metzenbaum
Beall	Gurney	Nunn
Bennett	Hansen	Pastore
Brock	Haskell	Pearson
Brooke	Helms	Randolph
Byrd, Robert C.	Huddleston	Stennis
Cannon	Hughes	Stevens
Case	Inouye	Taft
Cotton	Johnston	Talmadge
Curtis	Long	Thurmond
Domenici	Mansfield	Tower
Eastland	McClellan	
Ervin	McClure	

NAYS—35

Abourezk	Hatfield	Moss
Allen	Hathaway	Muskie
Bentsen	Hollings	Nelson
Biden	Humphrey	Pell
Burdick	Jackson	Percy
Byrd, Harry F., Jr.	Javits	Proxmire
Chiles	Magnuson	Ribicoff
Clark	Mathias	Roth
Cranston	McGovern	Stevenson
Eagleton	McIntyre	Symington
Hart	Mondale	Tunney
	Montoya	Weicker

NOT VOTING—25

Baker	Fong	Schweiker
Bayh	Fulbright	Scott, Hugh
Bellmon	Goldwater	Scott, William L.
Bible	Gravel	Sparkman
Buckley	Hartke	Stafford
Church	Hruska	Williams
Cook	Kennedy	Young
Dole	Metcalf	
Dominick	Packwood	

So the joint resolution (S.J. Res. 247) was passed, as follows:

S.J. RES. 247

Joint resolution authorizing the President to suspend, in the case of Turkey, the application of the provisions of section 505 (d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to suspend the provisions of section 505(d) of the Foreign Assistance Act of 1961 and section 3(c) of the Foreign Military Sales Act and the prohibition of House Joint Resolution 1131 in the case of Turkey during the period beginning on the date of the enactment of this joint resolution and ending on December 15, 1974, if he determintes that such suspension will further negotiations for a peaceful resolution of the Cyprus conflict.

Mr. TOWER. I move to reconsider the vote by which the joint resolution was passed.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON. Mr. President——

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). The Senate is not in order. The Senator will not proceed until order is restored. The Senate will be in order. Senators will please take their seats.

The work of the Senate is being delayed until we can get better order in the Chamber.

The Senator from Washington may proceed.

SENATE RESOLUTION 425—SUBMISSION OF A RESOLUTION PROPOSING THE ESTABLISHMENT OF A NATIONAL ENERGY PROGRAM

Mr. JACKSON. Mr. President, yesterday, with the cosponsorship of the distinguished Majority Leader (Mr. MANSFIELD), the chairman of the Commerce Committee (Mr. MAGNUSON), the chairman of the Public Works Committee (Mr. RANDOLPH) and the chairman of the Subcommittee on International Finance, of the Banking Committee (Mr. STEVENSON). I had printed in the RECORD a sense of the Senate resolution which proposes a national energy program.

The program I propose: consists of six major elements:

First. A fair pricing policy for domestic oil which sets a price standard for U.S. oil which is substantially below the OPEC cartel price;

Second. Immediate adoption of standby energy emergency authority to deal with energy shortages induced by OPEC price increases or politically inspired supply interruptions;

Third. A national energy conservation policy which, includes an immediate reduction of 1 million barrels per day in the importation of high-priced OPEC oil;

Fourth. A domestic energy production policy which will increase existing conventional sources of supply and accelerate exploration and development of new sources without eroding public health or environmental standards; and

Fifth. A massive commitment of financial, intellectual, and technological resources to an energy research and development program; and

Sixth. A commitment to work with State and local governments in meeting energy needs.

Mr. President, I send to the desk a resolution and I ask unanimous consent that it be placed on the calendar.

Mr. FANNIN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JACKSON. Mr. President, I ask for its immediate consideration.

Mr. FANNIN. Mr. President, I object.

The PRESIDING OFFICER. The objection having been noted, the resolution will go over.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. JACKSON. As I understand, it will go over until tomorrow, and it will be——

The PRESIDING OFFICER. At the end of morning business.

Mr. JACKSON. At the end of morning business.

The PRESIDING OFFICER. The resolution will be laid before the Senate.

Mr. JACKSON. It will then be laid before the Senate and it can be placed on the calendar at that time.

The PRESIDING OFFICER. If not disposed of before the 2 hours elapse, it will be placed on the calendar.

Mr. FANNIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FANNIN. If I could have permission to state my objection, is that in order?

Mr. JACKSON. Well, I yield for that purpose, I still have the floor.

Mr. FANNIN. I do not feel that the Members of the Senate have had an opportunity to investigate or to determine what is in this particular resolution. I realize what it is from the standpoint of its meaning, but I do not think we should just arbitrarily pass a resolution like this or consider it at this time and, as I understand it, tomorrow if it is brought up, that objection can be heard and it would have to be carried over; is that correct?

Mr. JACKSON. No.

The PRESIDING OFFICER. It could be discussed during the 2-hour period and, at the end of the 2-hour period it would then go to the calendar, assuming it had not otherwise been disposed of.

Mr. FANNIN. It could not be voted on tomorrow if there is objection; is that correct?

The PRESIDING OFFICER. Well, if no one is available to object to it, the Chair will state it is subject to debate under the 2-hour period.

Mr. FANNIN. The question I addressed to the Chair is if there is objection could it be voted on tomorrow? If objection is stated on tomorrow?

The PRESIDING OFFICER. A single objection, the Chair would say, would not block consideration. But the resolution would be debatable and, if a Senator obtained the floor and discussed the proposal during the 2-hour period, after the expiration of the 2-hour period it had not been disposed of, it would go to the calendar.

Mr. HANSEN. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HANSEN. What if it were a double objection instead of a single objection?

The PRESIDING OFFICER. The same reply.

Mr. JACKSON. Mr. President, may I just make this comment. May I suggest, because we have so many matters up tomorrow, that I want to be fair about this matter, as I have tried to be on all important issues. What I would suggest, in view of the fact that the leaders are here on the floor, the assistant leader and the minority member of the Interior Committee has raised this question, that I would be certainly willing to work out a time when this matter could be debated, discussed, so that we could get a vote. It would not have to be tomorrow, I would say to the Senator, because there is other business that will be pending in the Senate I know that is urgent, and I am not suggesting, if there is going to be a lot of debate, that we try to bring it to an early vote.

Mr. FANNIN. Mr. President, if I could answer the distinguished Senator from Washington, the reason that the Senator from Arizona has objected is because he is not familiar with what is in the resolution other than just in a cursory way because the resolution, although the Senator says it was in the CONGRESSIONAL RECORD, that was not, to my knowledge, available. So I——

Mr. JACKSON. It was placed in the RECORD of yesterday, and it was in the RECORD which is available today.

Mr. FANNIN. I do not think very many Senators have had an opportunity to look at the wording of the amendment. My position is that until it can be carefully analyzed I do not think it should be considered.

Mr. JACKSON. Well, I understand the Senator's position.

Mr. President, may I just state that I would be very pleased, in conjunction with the leadership, as well as the distinguished Senator from Arizona, to discuss this matter tomorrow to try to work out a more specific time when the matter could be debated and voted upon because, as I understand the agenda, there are a number of bills that will be up tomorrow that are very urgent, and I will not detain the Senate in the closing hours before we recess insofar as this particular resolution is concerned.

I would suggest that the Senator from Arizona have an opportunity—and my colleagues, too—to review the resolution which is in today's RECORD, and which I have introduced today. After that we can then discuss an appropriate time when the matter will be debated and when it will be voted upon.

Mr. FANNIN. Well, Mr. President, I

would just say to the distinguished Senator from Washington I would welcome that opportunity to discuss it tomorrow and to make a determination at that time.

Mr. JACKSON. That is right. I am suggesting that we get together and discuss it, not on the floor necessarily, but that we get together and discuss a time later when this matter would be in order.

Mr. FANNIN. I would be very pleased to do so.

The resolution is as follows:

S. RES. 425

Whereas, the arbitrary quadrupling of oil prices by the Organization of Petroleum Exporting Countries (OPEC) cartel has imposed severe strains on the international financial system, and is a primary cause of worldwide inflation, draining over $50 billion annually from consumers, threatening many industrial nations with economic collapse, and confronting third world nations with mass starvation; and

Whereas, oil prices established by this international cartel have been the largest single factor in the Nation's current economic recession, in pushing domestic unemployment to a twelve-year high, in depressing the stock market, and in driving inflation and interest rates to unprecedented levels; and

Whereas, the United States has the ability to control energy induced inflation through policies governing the 85 percent of its energy supply which is produced within the United States, by increasing domestic energy production, and by undertaking stringent efforts to eliminate energy waste and promote conservation; and

Whereas, dependence by the United States on a substantial volume of imported petroleum has created a grave domestic economic crisis, seriously inhibited our freedom of action in developing and implementing foreign policy, and could cause a severe shortage in the event of another embargo; and

Whereas, the Nation has yet to mount a serious and sustained program to eliminate the wasteful use of energy in the United States and despite unprecedented price increases the production of domestic energy supplies continues to lag behind demand; and

Whereas, it is imperative that the United States immediately undertake a massive peace-time effort to combat economic aggression abroad and to deal with energy shortages and energy induced inflation at home; and

Whereas, the American people and the leaders of other nations should be fully apprised of the commitment of the Legislative Branch of the United States Government to initiate and implement—in a united, bipartisan and cooperative manner—a national energy program designed to (1) give credibility to United States initiatives to deal with the economic and political challenge of the OPEC cartel; (2) promptly reduce dependence on cartel priced foreign oil; (3) dampen world and domestic inflation; and (4) secure a stable world economy in which the legitimate aspirations of all nations may be achieved.

Now, therefore, be it

Resolved, that it is hereby declared to be the sense of the Senate that—

1. The United States is committed to an energy pricing, import and tax policy which will:

(a) Limit the price of all new domestic crude oil to a level that reflects its long-term supply price (no more than $7–$8 per barrel) rather than the dictates of the OPEC cartel as a major element in a concerted effort to control exorbitant prices, reduce domestic inflation, and prevent unreasonable profits by exporter governments and United States companies alike;

(b) Reduce imports of high-cost foreign oil by 1 million barrels per day, and thereby combat inflation, and cut over $4 billion from our balance of payments deficit;

(c) Eliminate, through taxes or otherwise, the windfall oil and gas profits enjoyed by multinational oil companies; and

(d) Reform natural gas pricing to eliminate uncertainty, maintain strict controls over old gas contracts, and provide adequate incentives for development of newly discovered gas through measured price increases which keep natural gas prices well below the equivalent of OPEC's arbitrary oil price.

2. The United States should adopt legislation which will:

(a) Extend the Emergency Petroleum Allocation Act, the only Federal legislation which provides authority to control oil prices and equitably allocate scarce fuels among regions of the country and classes of consumers;

(b) Mandate a program of international and domestic contingency planning to deal with energy shortages at home and abroad;

(c) Establish standby energy emergency authority adequate to cope with a total interruption of OPEC imports, through gasoline rationing, conservation plans, allocation of essential materials, and appropriate export restrictions;

(d) Require the immediate development of a system of strategic petroleum reserves composed of salt dome and tank storage by industry and the Federal government equal to at least ninety days of imports; and

(e) Assure that the United States has an opportunity to participate in any negotiations in the purchase of foreign oil and provide the President with authority to curtail and increase the price of U.S. exports to nations which unreasonably restrict U.S. access to their commodities by adoption of pending amendments to the Export Administration Act.

3. The United States should adopt a national energy conservation policy which will include mandatory provisions designed to:

(a) result in a thirty percent improvement in automobile mileage in the 1976 model year and a 100 percent improvement by 1980;

(b) commit the nation to greater investment in a broadened mass transit program;

(c) redefine Federal and State regulatory policies which encourage or permit energy waste;

(d) impose new Federal procurement policies based upon energy efficiency and conservation;

(e) prohibit the use of new natural gas supplies for boiler fuel and phase out entirely over a reasonable period of time all use of gas as a boiler fuel;

(f) mandate the redesign of electric and gas utility rate structures to encourage conservation within twelve months;

(g) require labeling of energy-consuming appliances, homes, and automobiles to enable consumers to save energy and money through consumer charts;

(h) provide appropriate support for a program to insulate homes and small businesses with repayment of loans tied to savings in fuel and air-conditioning bills; and

(i) assist State and local government in the development of energy conservation programs designed to achieve short and long-term savings with a minimum disruption of State and local economies, including specifically the establishment of standards to reduce energy requirements for new homes and commercial establishments.

4. The United States is committed to an energy production policy which will:

(a) Expand Federal authority to increase petroleum production and productive efficiency, including mandatory unitization where state law does not provide for it, incentives and requirements for secondary and tertiary recovery of oil and gas, establishment of maximum efficient rates of production, and prohibition of market demand prorationing;

(b) Develop and produce the Naval Petroleum Reserves in California and Wyoming to fill the Federal component of the strategic reserve system, and undertake on a priority basis prompt exploration of Naval Petroleum Reserve No. 4 on the North Slope of Alaska;

(c) Improve geological and environmental assessment and inventorying of energy resources in the public domain;

(d) On the many existing Federal leases where production is lagging, require production or forfeiture of the leases;

(e) Adopt an updated Federal coal-leasing policy and a surface mine control and reclamation bill, and establish a program to convert all industrial boiler fuel uses of oil and gas to coal over the next 10 years to assure adequate domestic energy supplies while decreasing oil imports; and

(f) Implement the foregoing policies and measures without repeal or erosion of regulatory or statutory measures which preserve and protect the public health, safety, welfare and the quality of the nation's land, air and water resources.

5. The United States is committed to an energy research and development program which has as its immediate goals:

(a) Establishment of a $20 billion energy research and development program with specific timetables to demonstrate on commercial scale the technological capability of coal gasification, coal liquefaction, oil shale production, geothermal steam, and solar energy, as well as new technology to use energy more efficiently; and

(b) Creation of an Energy Research and Development Administration to administer the national energy research and development effort.

6. The United States is committed to a program of Federal, State and local cooperation to deal with the critical economic and energy problems facing the Nation, and the Federal government will:

(a) Provide financial aid and technical support to States and local government to assist in ameliorating and managing the primary and secondary environmental and socio-economic impacts caused by the siting of energy-related facilities and the use of land, air and water for energy production; and

(b) Recognize that the States share with the Federal government an equal responsibility for meeting the nation's energy requirements.

And be it further resolved that it is hereby declared to be the sense of the Senate—

That by taking the aforesaid actions, many of which can be implemented forthwith by the Administration under existing legislative authority and the pending amendments to the Export Administration Act, the President and the Nation can combat inflation at home, and with export control authority, and strategic reserves bargain, in cooperation with other oil consuming nations for concessions to alleviate a grave international crisis.

ORDER OF BUSINESS

Several Senators addressed the Chair.

Mr. CRANSTON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. TUNNEY. Yes.

PRIVILEGE OF THE FLOOR—S. 3979

Mr. CRANSTON. Mr. President, I ask unanimous consent that the following

staff members have the privileges of the floor during consideration of S. 3979, the Housing bill: Thomas Brooks, Carl Coan, Pat Abshire, Caroline Jordan, Randy Higgins, Tony Cluff, Ken McLean, Jerry Buckley, and Murray Flanders.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Howard Segermark of my staff be granted privilege of the floor during consideration of the housing bill, S. 3979.

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

SENATE RESOLUTION 426—SUBMISSION OF A RESOLUTION WITH RESPECT TO THE GRANTING OF CERTAIN OIL AND GAS LEASES PURSUANT TO THE OUTER CONTINENTAL SHELF LANDS ACT

Mr. TUNNEY. Mr. President, I present at the desk a resolution which is cosponsored by 23 of my colleagues. This resolution expresses the sense of the Senate that greater care must be taken in the program to lease our offshore areas for oil and gas development.

Our offshore areas possess considerable mineral resources. These resources must be tapped to assist in meeting our energy needs. But these marine and coastal areas which will be affected by offshore drilling also have other uses, and need to be protected from uncontrolled and rapacious development.

The Congress passed the Coastal Zone Management Act just 2 years ago, providing Federal assistance to States to develop mandatory coastal management plans. These plans are a vital step to allow coastal. States to protect ecologically fragile areas, like tidelands and marshes, and to rationalize the industrial and other impacts of offshore drilling, if it occurs, upon the coastal zone.

Therefore, my colleagues and I are very concerned with present plans to make a vast increase in offshore leasing in the next year. The coastal States are not prepared for the impacts of this leasing—particularly the States where no drilling has yet occurred.

There are serious questions about the feasibility and wisdom of the 10-million-acre leasing program, which have been raised in hearings just this week.

Mr. President, when the Interior Department's plans for setting up a "firm" leasing schedule of 10 million acres in 1975 were revealed, 20 Senators wrote a letter to President Ford asking that the administration exercise restraint in offshore leasing until more progress is made in completing environmental baseline studies, and developing State coastal management plans.

This resolution would express the sense of the Senate on these same points that were contained in the letter to the President.

The resolution will say that the Interior Department should follow certain criteria before leasing new areas in the Outer Continental Shelf:

First, all environmental studies required by the Council on Environmental Quality should be completed and reviewed;

Second, States should complete or make reasonable progress toward completing their coastal management plans, with the Secretary of Commerce to certify that progress is being made; and

Third, the Secretary of the Interior should justify the 10-million-acre leasing plan before the appropriate committees of Congress, and answer the questions which have been raised. This should include, in my opinion, the Interior, Commerce, and Appropriations Committees in the Senate, and the equivalent committees in the House.

Mr. President, I repeat that this is not a question of cutting off all drilling activities. We know that this is not good policy, despite the calls of some people to do so. But we are concerned that no single policy objective, as important as it is, should overwhelm all other competing policies which our Nation is committed to. Offshore development must be deliberate, and consistent with coastal management objectives of the States.

It must be safe, and every effort must be taken to assure that environmental dangers are foreseen and protected against. Only the most extraordinary efforts in this context will give reassurance to the millions of people in the coastal States that offshore drilling is in their interest.

Finally, we must get far better assurance than we now have that the Government will get fair value for its leases. The vast lack of information about the specifics of the resource potential in the Outer Continental Shelf means that oil companies stand a good chance to rip off the Treasury.

Mr. President, and my colleagues, the purpose of this resolution is to urge caution. I think this expression on the part of the Senate will help insure that as our energy policies are made, they take adequate account of the other concerns of our Nation. I am confident that such a deliberate approach will both achieve our energy goals, and prevent disruption of our coastal zones and the attendant acrimonious reaction of millions of people who live in them.

Mr. President, we held hearings in the Commerce Committee in California recently with respect to the leasing of offshore acreage, and we learned from the Department of the Interior that they were not planning to undertake a leasing program until the environmental baseline studies were completed, until the environmental impact statements were completed. But they did not give, of course, any indication that they were going to wait until such time as coastal management plans had been completed by the State.

However, subsequent to those hearings we learned from a newspaper story which, in fact, was accurate, that an internal memorandum had been initialed by Mr. Whitaker, the Under Secretary of the Interior, indicating that the Under Secretary wanted 10 million acres to be leased in 1975.

Now, this was quite different from the testimony that had been given by the Department of the Interior to the Commerce Committee at our hearings in California. The interesting thing is that the man who gave the testimony in California indicated that he was speaking in a policy position for the Department, and this internal memorandum from Secretary Whitaker had been published approximately a week before the hearings. So that led some of us to believe that either the high department witness before our hearings did not know what he was talking about, had not been informed about these high policy issues or, being so informed, purposefully misled our committee.

I do not think it is important at this point to get into the factual question of whether he was misinformed or purposely misled the committee, but the fact simply is that there are many Senators—as a matter of fact, a quarter of the entire body—who were very deeply concerned that the Department of the Interior is moving ahead rapidly on a leasing program having already made the decision to lease 10 million acres without taking into consideration the environmental impact on the coastal areas, and what is going to happen insofar as the infrastructure development on shore adjacent to these development zones.

We feel very strongly that there has got to be full consideration not only of the quality of life of citizens living onshore, but also the environmental impact on the coastal regions.

So it is for this reason that the 24 of us have introduced at the desk this resolution and I would ask unanimous consent, Mr. President, to insert in the RECORD the text of the resolution and the text of the letter sent Monday by a group of several Senators to President Ford relating to the same matter.

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

S. RES. 426

Resolution expressing the sense of the Senate with respect to the granting of certain oil and gas leases pursuant to the Outer Continental Shelf Lands Act

Whereas, the energy potential of the United States Outer Continental Shelf resources is potentially of great value and their proper development is a matter of high priority to the nation, and

Whereas, the development of Outer Continental Shelf resources may pose conflicting pressures on coastal and marine regions currently being used for other important purposes, including recreation and fishing; and

Whereas, improperly located pipelines, refineries, and other growth attendant to development of the Outer Continental Shelf could have a severe and adverse impact on the fragile and valuable Coastal Zones and marine habitats of the coastal states, and

Whereas, the Congress, through the Coastal Zone Management Act of 1972, declared it is the responsibility of all Federal agencies engaged in programs affecting the Coastal Zone to cooperate and participate with State and local governments and regional agencies in assisting in the establishment of coastal zone management programs, and

Whereas, the key to effective development and use of the resources of the coastal zone, including the Outer Continental Shelf, is a balanced approach to national needs, taking

into consideration the views and concerns of the coastal States,

Whereas, the Congress has not completed action on the Energy Supply Act of 1974 (S. 3221) which modernizes procedures for the Department of the Interior to follow in leasing offshore areas, and which provides for greater consultation with State and local governments in preparing the leasing program; and

Whereas, serious questions have been raised about the necessity and feasibility of leasing programs of 10 million acres in 1975, including leasing in frontier areas, and

Now, therefore, be it

Resolved, That it is the sense of the Senate that the Secretary of the Interior shall offer oil and gas leases pursuant to the Outer Continental Shelf Lands Act only in accordance with the following criteria:

(1) The Council on Environmental Quality, with the concurrence of the Review Panel of the National Academy of Sciences, has specified and evaluated all necessary environmental research for any areas to be leased;

(2) The adjacent coastal State or States have established Coastal Zone Management Programs or have been deemed by the Secretary of Commerce to be making reasonable progress toward completion of such programs to prevent or ameliorate environmental and socio-economic impacts from activities resulting from leasing; and

(3) the Secretary has provided justification to the appropriate Committees of Congress that any lease sales aimed at a target of 10 million acres per year will not interfere with necessary protection of the environment or with state coastal management planning, will be feasible from the standpoint of capital, materials and manpower, and will result in fair return to the United States Government.

U.S. SENATE,
Washington, D.C., October 7, 1974.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We wish to express our surprise and dismay on learning that the Department of Interior is proceeding toward the 1975 leasing of 10 million acres for offshore oil and gas development—including acreage in the Atlantic, the Pacific and the Gulf of Alaska—at a time when environmental baseline studies and state coastal zone management efforts are at a very early stage.

We recognize and support the need to expedite development of the nation's domestic energy resources, including outer continental shelf oil and gas, but we have not been informed of any factual basis for Interior's judgment that 10 million acres in 1975 is the magic number needed by the nation. Moreover, we do not believe it wise to lease in hitherto undeveloped areas before environmental and coastal planning needs are met.

We are particularly concerned that the Interior leasing program is moving ahead with apparent disregard for the inter-agency effort to gather environmental baseline data on the proposed new areas, and similar disregard for state efforts to develop coastal zone management programs in accordance with the Coastal Zone Management Act of 1972.

We have serious doubts about the oil and gas industries' financial and technical capability to develop such a large number of acres in a single year, and about the rational basis for selecting this level of leasing as appropriate or necessary for the nation's energy needs. We understand that the Department of Interior is in the early preparatory stages of an environmental impact statement on the 10-million acre program, as required by the National Environmental Policy Act of 1969. Hopefully, the Interior Department EIS will set forth the rationale behind the program. It seems most untimely, therefore, for lease sales to be planned before the completion of environmental impact studies or the determination of whether 10 million acres is a realistic or reasonable level for 1975 leasing.

The Senate recently passed S. 3221, the Energy Supply Act of 1974, which provides for several notable improvements in OCS leasing policies and practices. However, the House of Representatives has not yet acted on OCS legislation, and the deliberations of both Houses are expected to continue into the next Congress. We believe that OCS leasing in new areas should await the outcome of that legislative process.

The National Ocean Policy Study of the Senate is currently analyzing OCS issues. Preliminary analysis by the Study supports our belief that offshore leasing programs should proceed only as rapidly as the state and federal programs for coastal planning and environmental data gathering can proceed.

You will recall that the Council on Environmental Quality, in reporting to former President Nixon on its environmental assessment of OCS oil and gas in the Atlantic and the Gulf of Alaska, stated several principles which should guide federal leasing programs. These principles included:

A policy of "very high priority on environmental protection" in regard to OCS exploration and development;

A leasing program in which the location and phases of lease sales are "designed to achieve the energy supply objectives . . . at a minimum environmental risk";

Use of the "best commercially available technology . . . to minimize environmental risk";

Federal regulations for environmental protection that are "fully implemented and requirements strictly enforced";

Federal consultation with state and local authorities to provide affected areas with "complete information as early as possible so that planning can precede and channel the inevitable development pressures";

A "major advisory role" for the interested public in OCS management and regulation.

We suggest, Mr. President, that unless given higher federal priority, environmental and coastal planning measures cannot possibly be fully implemented in time for 1975 leasing in all new areas of the Atlantic and the Gulf of Alaska, and premature leasing in these new areas cannot possibly adhere to the principle of expanding energy supplies with minimum environmental risk.

We urge you to revise the federal leasing program to ensure the concurrent progress of environmental baseline studies, impact assessment, and federal assistance to state coastal zone management programs. The 1975 program should, in our view, also await a factual justification for leasing 10 million acres, some in new areas, including a determination that the oil and gas industries can cope with this high level of development.

When leasing does take place in new areas, we believe the areas chosen should reflect the results of environmental studies, and should begin with those areas found to hold the lowest level of risk to the marine and coastal environments. If we are to avoid undue delay in developing the outer continental shelf, we must step up federal funding of environmental baseline studies and federal assistance to coastal states as they develop their coastal zone management programs. This way, the OCS leasing program will clearly conform to the findings of the CEQ study, the views of the coastal states many of us represent, and the spirit of the Coastal Zone Management Act of 1972, which requires federal programs affecting the coastal zones to be consistent with state coastal zone management programs.

We were most heartened by your inaugural address to the Congress, in which you expressed your desire to build a good marriage with Congress and work together to solve the critical problems before us. We applaud your sincerity and we certainly share your goal. For this reason, we urge you to make it possible for us to work together toward a rational policy for development of the outer continental shelf. The Interior Department's unilateral decision to go ahead with a hasty and ill-conceived 1975 leasing schedule at this time represents a serious impediment to our cooperative efforts. We hope you will heed and share our views on this vital matter.

Sincerely yours,

Ernest F. Hollings, Edward M. Kennedy, Edward W. Brooke, Alan Cranston, Mark O. Hatfield, Charles McC. Mathias, Jr., Claiborne Pell.

Clifford P. Case, Harrison A. Williams, Jr., Lawton Chiles, William D. Hathaway, Edmund S. Muskie, Jacob K. Javits.

John V. Tunney, Joseph R. Biden, Jr., Thomas J. McIntyre, John O. Pastore, Bob Packwood, Hubert H. Humphrey.

Mr. TUNNEY. Mr. President, I ask immediate consideration of the resolution.

Mr. HANSEN. Mr. President, I object.

The PRESIDING OFFICER. The objection having been heard, the resolution will go over under the rule.

SENATE RESOLUTION 424—SUBMISSION OF A RESOLUTION RELATING TO PROPOSED INCREASES IN THE PRICE OF PROPANE GAS

Mr. EAGLETON. Mr. President, I send a resolution to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution relating to proposed increases in the price of propane gas.

Mr. FANNIN. Mr. President, I object to the immediate consideration of the resolution.

The PRESIDING OFFICER. Objection having been heard, the resolution will go over under the rule.

The resolution is as follows:

S. RES. 424

Whereas the Federal Energy Administration has proposed a change in its price regulations (Federal Register, Sept. 10, 1974) to permit an immediate 3 to 5 cent-per-gallon increase in the price of propane gas and other natural gas liquids; and

Whereas the proposed increase is not related to any specific production cost increase but is intended rather as an incentive for greater production and to discourage new industrial and commercial users from entering the market; and

Whereas the proposed increase is unlikely to achieve the intended production effect because 70% of all propane produced is a side product of natural gas drillings and the production of propane cannot be significantly influenced independent of natural gas; and

Whereas the price of propane gas received by producers increased by 35% in 1973 over the previous year while production increased by less than one percent; and

Whereas there is no justification at all for allowing the increase to apply to propane already produced and in inventory; and

Whereas an increase at this time would seriously burden millions of American families who depend upon propane gas for home heating and cooking; and

Whereas an increase in the price of propane gas is more likely to penalize traditional home and farm users than to discourage new industrial and commercial users; and

Whereas the Federal Energy Administration could more effectively restrict new uses of propane through its allocation authority than through an inflationary price increase; and

Whereas propane gas is widely used in drying of grains and an increase in the price of propane gas would reflect itself in even higher grain and food prices: Now therefore be it

Resolved, That it is the sense of the Senate that the Federal Energy Administration should withdraw its proposed price regulation change and maintain propane gas prices at or below the level established by existing regulation.

FOREIGN INVESTMENT STUDY ACT OF 1974

Mr. INOUYE. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 2840.

The PRESIDING OFFICER (Mr. LONG) laid before the Senate the amendment of the House of Representatives to the bill (S. 2840) to authorize the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States, and for other purposes, as follows:

Strike out all after the enacting clause, and insert: That this Act may be cited as the "Foreign Investment Study Act of 1974".

SEC. 2. The Secretary of the Treasury and the Secretary of Commerce are hereby authorized and directed to conduct a comprehensive, overall study of foreign direct and portfolio investments in the United States.

SEC. 3. The Departments of Commence and Treasury, in consultation with appropriate agencies, shall determine the definitions and limitations of direct and portfolio investments for the purposes of the study authorized in section 2 of this Act.

SEC. 4. In carrying out the study described in section 2 of this Act, the Secretary of Commerce and the Secretary of the Treasury shall, respectively and jointly as may be appropriate—

(1) identify and collect such information as may be required to carry out the study authorized in section 2 of this Act;

(2) consult with and secure information from (and where appropriate the views of) representatives of industry, the financial community, labor, agriculture, science and technology, academic institutions, public interest organizations, and such other groups as the Secretaries deem suitable; and

(3) consult and cooperate with other government agencies, Federal, State, and local, and, to the extent appropriate, with foreign governments and international organizations.

SEC. 5. The Secretary of Commerce shall carry out that part of the study authorized in section 2 of this Act relating to foreign direct investment, and shall, among other things, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, magnitude, and rate of foreign direct investment activities in the United States;

(2) survey the reasons foreign firms are undertaking direct investment in the United States;

(3) identify the processes and mechanisms through which foreign direct investment flows into the United States, the financing methods used by foreign direct investors, and the effects of such financing on American financial markets;

(4) analyze the scope and significance of foreign direct investment in acquisitions and takeovers of existing American enterprises, the significance of such investments in the form of new facilities or joint ventures with American firms, and the effects thereof on domestic business competition;

(5) analyze the concentration and distribution of foreign direct investment in specific geographic areas and economic sectors;

(6) analyze the effects of foreign direct investment on United States national security, energy, natural resources, agriculture, environment, real property holdings, balance of payments, balance of trade, the United States international economic position, and various significant American product markets;

(7) analyze the effect of foreign direct investment in terms of employment opportunities and practices and the activities and influence of foreign and American management executives employed by foreign firms;

(8) analyze the effect of Federal, regional, State, and local laws, rules, regulations, controls, and policies on foreign direct investment activities in the United States;

(9) compare the purpose and effect of United States, State, and local laws, rules, regulations, programs, and policies on foreign direct investment in the United States with laws, rules, regulations, programs, and policies of selected nations and areas where such comparison may be informative;

(10) compare and contrast the foreign direct investment activities in the United States with the investment activities of American investors abroad and appraise the impact of such American activities abroad on the investment activities and policies of foreign firms in the United States;

(11) study the adequacy of information, disclosure, and reporting requirements and procedures;

(12) determine the effects of variations between accounting, financial reporting, and other business practices of American and foreign investors on foreign investment activities in the United States; and

(13) study and recommend means whereby information and statistics on foreign direct investment activities can be kept current.

SEC. 6. The Secretary of the Treasury shall carry out that part of the study authorized in section 2 of this Act relating to foreign portfolio investment, and shall, to the extent he determines feasible, specifically—

(1) investigate and review the nature, scope, and magnitude of foreign portfolio investment activities in the United States;

(2) survey the reasons for foreign portfolio investment in the United States;

(3) identify the processes and mechanisms through which foreign portfolio investment is made in the United States, the financing methods used, and the effects of foreign portfolio investment on American financial markets;

(4) analyze the effects of foreign portfolio investment on the United States balance of payments and the United States international investment position;

(5) study and analyze the concentration and distribution of foreign portfolio investment in specific United States economic sectors;

(6) study the effect of Federal securities laws, rules, regulations, and policies on foreign portfolio investment activities in the United States;

(7) compare the purpose and effect of United States, State, and local laws, rules, regulations, programs, and policies on foreign portfolio investment in the United States with laws, rules, regulations, programs, and policies of selected nations and areas where such comparison may be informative;

(8) compare the foreign portfolio investment activities in the United States with information available on the portfolio investment activities of American investors abroad;

(9) study adequacy of information, disclosures, and reporting requirements and procedures; and

(10) study and recommend means whereby information and statistics on foreign portfolio investment activities can be kept current.

POWERS

SEC. 7. (a) The Secretary of Commerce and the Secretary of the Treasury may each by regulation establish whatever rules each deems necessary to carry out each of his functions under this Act.

(b) Each such Secretary may require any person subject to the jurisdiction of the United States—

(1) to maintain a complete record of any information (including journals or other books of original entry, minute books, stock transfer records, lists of shareholders, or financial statements) which such Secretary determines is germane to his functions in the foreign direct investment and foreign portfolio investment studies to be conducted pursuant to this Act; and

(2) to furnish under oath any report containing whatever information such Secretary determines is necessary to carry out his functions in such studies.

The authority of each Secretary under this subsection shall expire on the date provided under section 10 of this Act for the Secretary of Commerce and the Secretary of the Treasury to submit a full and complete report to the Congress.

(c) In addition to the Secretary of Commerce and the Secretary of the Treasury, the only individuals who may have access to information furnished under subsection (b) (2) are those sworn employees, including consultants, of the Department of Commerce or Department of the Treasury designated by the Secretary of either such Department. Neither such Secretary nor any such employee may—

(1) use any information furnished under subsection (b) (2) except for analytical or statistical purposes within the United States Government; or

(2) publish, or make available to any other person in any manner, any such information in a manner that the information furnished under subsection (b) (2) by any person can be specifically identified.

Such Secretaries may exchange any such information furnished under subsection (b) (2) in order to prevent any duplication or omission in the studies conducted by each such Secretary pursuant to this Act.

(d) Except for the requirement under subsection (b) (2), no agency of the United States or employee thereof may compel (1) the Secretary of Commerce or the Secretary of the Treasury, (2) any individual designated by either such Secretary under the first sentence of subsection (c), or (3) any person which maintained or furnished any report under subsection (b), to submit any such report or constituent part thereof to that agency or any other agency of the United States. Without the prior written consent of the person which maintained or furnished any report under subsection (b), such report or any such constituent part may not be produced for any Federal judicial or administrative proceeding, except for a proceeding under section 8(b) of this Act.

ENFORCEMENT

SEC. 8. (a) Whoever fails to furnish any information required pursuant to the authority of this Act, whether required to be furnished in the form of a report or otherwise, or to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to either the Secretary of the Treasury or the Secretary of Commerce that any person has failed to furnish any information required pursuant to

the provisions of this Act, whether required to be furnished in the form of a report or otherwise, or has failed to comply with any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act, such Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule, regulation, order, or instruction, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond, and such person shall also be subject to the civil penalty provided in subsection (a) of this section.

(c) Whoever willfully fails to submit any information required pursuant to this Act, whether required to be furnished in the form of a report or otherwise, or willfully violates any rule, regulation, order, or instruction promulgated pursuant to the authority of this Act shall, upon conviction, be fined not more than $10,000 or, if a natural person, may be imprisoned for not more than one year or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

SEC. 9. (a) The Secretary of Commerce and the Secretary of the Treasury may procure the temporary or intermittent services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code. Persons so employed shall receive compensation at a rate to be fixed by the Secretaries concerned but not in excess of the maximum amount payable under such section. While away from his home or regular place of business and engaged in the performance of services for the Department of Commerce or the Department of the Treasury in conjunction with the provisions of this Act, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

(b) The Secretary of Commerce and the Secretary of the Treasury are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of any agency or instrumentality of the Federal Government in conjunction with the study authorized in this Act.

SEC. 10. The Secretary of Commerce and the Secretary of the Treasury shall submit to the Congress an interim report twelve months after the date of enactment of this Act, and not later than one and one-half years after enactment of this Act, a full and complete report of the findings made under the study authorized by this Act, together with such recommendations as they consider appropriate.

SEC. 11. There is authorized to be appropriated a sum not to exceed $3,000,000 to carry out the purposes of this Act. Any funds so appropriated shall remain available until expended.

Mr. INOUYE. Mr. President, this bill authorizes the Secretary of Commerce and the Secretary of the Treasury to conduct a study of foreign direct and portfolio investment in the United States. Under the Senate bill the $3 million study was to have been completed within 30 months, with an interim report due after 18 months. This reporting date was reduced in the House to 18 months with the interim report due after 12 months. The Senate passed S. 2840 on June 13, 1974. On August 21, 1974, the House passed a similar bill, H.R. 15487, with amendments, and then substituted that text with the Senate designation S. 2840.

As passed by the House, S. 2840 contains several amendments in addition to the change in the reporting dates. First, it grants specific authority to the two Secretaries to collect information to be used in the study. Second, it provides enforcement powers to be used against those who refuse to supply the required information.

The amendments which I am proposing in behalf of the Senate are of a clarifying nature and do not in any way substantively change the thrust of the amendments made by the House. I would like to discuss them individually and to explain the reasons for them.

The first amendment is designed to allow notice to be given to customers of banks, brokerage houses, real estate companies, or other institutions that information identifiable with such customers is going to be provided to the Government under this act. Since the customer would be the party liable to any improper application of the reporting requirements of the act, this amendment will provide that such customers would receive notice of the impending reporting action by the person holding his records, so as to provide an opportunity for the customer to seek a restraining order if he feels entitled to one.

It is our expectation that the regulations to be issued under this act will specify a reasonable time period for the holders of records to provide a list of the names and addresses of affected customers to the Secretaries and a reasonable period during which time the customer may lodge an objection. The reasonableness of these time periods will, of course, be in large part determined by the limitation established by this act. Rather than set a specific length of time, it was our decision to leave this up to the two Secretaries.

The notice requirement is strictly limited to situations where the customer and the holder of records act in an arm's length, normal business relationship, and where the holder of record has no interest or role in the activity of the foreign customer. In situations where the holder of the records maintains an active relationship in behalf of a foreign customer so as to further this ownership or management of American assets, the holder of records itself is properly a subject of interest to the survey. This latter class would include cases where the record holder acts as a nominee, partner, agent, fiduciary, trustee or in a similar relationship for the foreign investor. In such an active role, the holder of the records can assume the responsibility for notifying his customers of the survey which is being undertaken.

The second amendment, which amends subsection 7(c)(2), clarifies the intention of the Congress that the information gathered under subsection 7(b) may be furnished in an enforcement proceeding under section 8 even though a person can be specifically identified through the data. Ordinarily, data under this act can be released only in aggregate form.

Amendments 3 and 4 to subsection 7(d) protect a customer of any person which maintains and furnishes reports based on his records from having information based on those records from being used in legal proceedings unless both the customer and the holder of the records consent. This protection applies to any customer regardless of whether such customer is entitled to notice under subsection 7(b). Deletion of the word "Federal" protects such records from being used in any local, State, or Federal judicial or administrative proceedings without proper consent. This would preclude State or local officials from obtaining use of copies of the reports kept by the reporting person. It is our expectation that these amendments will increase compliance with the survey by increasing the assurance of confidentiality of the information provided.

The fifth amendment, which amends subsection 8(b), also is of a clarifying nature and specifically explains that to obtain a mandatory injunction requiring compliance with an order, rule, regulation, or instruction issued pursuant to this act the Secretary must show in the court proceeding that the rule, regulation, order or instruction in question is relevant to the purposes of this act. Although I believe that this requirement is implicit in the subsection, the amendment clarifies the congressional intention.

The sixth amendment amends subsection 8(b) by giving a judge discretion in levying a civil penalty for failure to furnish information required by this act or to comply with any rule, regulation, order, or instruction issued pursuant to the authority of this act. Most persons with objections to the reporting requirement will probably comply with the order following a hearing on the merits in Federal court, and it is expected that the civil fine will have to be invoked only in those cases where the Government shows bad faith by the person who contested the order. Under the House-passed bill, a civil fine not exceeding $10,000 is mandatory.

Certain Senators have expressed their concern about the need to protect the confidentiality of information about individual investors. Revelations about the abuses by regulatory and law enforcement agencies in suing supposedly confidential information has reinforced this fear. This act makes it clear that specific individual information obtained by the Secretaries of Commerce and Treasury will be used only by designated employees for the purpose of preparing this study and follow-up studies on foreign investments. All information released for public dissemination and to other governmental agencies will be aggregate statistical data.

The information gathered under this act may be used only for preparing analyses and statistical data within the sections responsible for studying foreign investment. Subsection 7(c)(2) prohibits the release of identifiable information to anyone outside the Government except in a court proceeding under section 8 of this act. Subsection 7(d) protects the information from in-

voluntary disclosure under court order or administrative subpena other than a section 8 proceeding.

As noted earlier, the original Senate bill authorized a 30-month period for this study with an interim report due within 18 months. However, this was reduced in the House to a reporting date of 18 months, with an interim report due in 12 months.

There have been some expressions of concern from the Departments which are charged with the responsibility of conducting the study that the time provided in the House-passed bill is inadequate. I can understand and sympathize with the apprehension of Members of the House about the need to expedite the study, and therefore it is my belief that we should accept the decrease in the reporting period.

However, I am fully cognizant of the legitimate fear by the executive agencies that this period will not give them adequate time in which to complete the study in as comprehensive a manner as they would wish. I have received a letter from Secretary Dent of the Commerce Department which explains the difficulties which his Department may encounter to meet this deadline. This apprehension may be totally justified because of the breadth of the study requested. Therefore, I wish to make it clear that if the Commerce or Treasury Departments find this new restriction unreasonable I am prepared to introduce legislation to give them additional time.

Mr. President, the Commerce and Treasury Departments are beginning to gear up for this study. Passage of S. 2840 at this time is imperative in order to develop the information in which the Congress is interested. I believe that the amendments being proposed today are reasonable and will improve the bill. I trust that my colleagues will join me in securing expeditious passage of S. 2840.

Mr. President, I move that the Senate concur with the amendment of the House with amendments which I send to the desk.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

1. At the end of Subsection 7(b)(2), add the following new sentence:

"Whenever an order under clause (2) of this subsection requires a person to produce information which can be specifically identified as being part of the records of its customers, the Secretary shall, upon being provided the names and addresses of such customers, send a notice to such customers that information from their records will be disclosed pursuant to this Act; *Provided*, That this requirement shall not apply when such person is directly involved in the ownership or management of assets for the customer as nominee, agent, partner, fiduciary, trustee, or in a similar relationship."

2. At the end of Subsection 7(c)(2), strike the period and add the following: ", except for the purposes of a proceeding under Section 8."

3. In Subsection 7(d), in the last sentence, after "subsection (b)", strike the comma and insert the following: "and without the prior written consent of the customer, where the person maintained or furnished any such report which included information identifiable as being derived from the records of such customer,"

4. In Subsection 7(d), delete the word "Federal".

5. In Subsection 8(b) after "proper showing", insert the following: "by such Secretary of the relevance to the purposes of the Act of such rule, regulation, order, or instruction,".

6. In Subsection 8(b) after "bond, and", strike the rest of the sentence and insert in lieu thereof the following; "such person may also be subject to the civil penalty provided in subsection (a) of this section if the judge finds that such penalty is necessary to obtain compliance with such injunction or restraining order."

Mr. TUNNEY. It is my understanding, if my distinguished colleague will yield, that the provisions of this act require strict protection of the confidentiality of information about individual investors.

Will such individual information gathered by the Secretaries of the Treasury and Commerce be used only by designated employees for the purpose of preparing the study?

Mr. INOUYE. The Senator is correct.

The amendments submitted by the Senator's office have been incorporated with the amendments now being submitted.

Mr. TUNNEY. I thank my distinguished colleague for the assurance.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

FOREIGN AID SPENDING

Mr. HARRY F. BYRD, JR. Mr. President, since a week ago today I have been delivering a daily report to the Senate on wasteful or inappropriate Federal spending. I shall continue this series of speeches until the adjournment on Friday.

Today I want to turn to one of the most extravagant parts of the Federal budget: The foreign aid program.

The Senate recently voted to recommit the Foreign Assistance Act of 1974. I voted to recommit the bill, and I hope it will be substantially cut before it reaches the Senate floor again.

As approved by the Senate Foreign Relations Committee, the proposed new authorizations for foreign aid for this year represented an increase of more than $1 billion over last year's appropriations.

Yes, an increase of over a billion dollars in just 1 year—and this at a time when the country is experiencing double-digit inflation, and the prospect of yet even higher taxes.

What is the major cause of inflation? It is the deficit spending of the Federal Government, and the huge debt the Government has built up in recent years.

For the 6 years ending next June, the Federal Government will have accumulated deficits of $133 billion, bringing our total debt to $500 billion.

The Federal debt and the continuing deficits of our Government force the Government to borrow money from the private sector of our economy, driving interest rates upward and making it more difficult for the average American to get a loan.

Sixty-two percent of all lendable funds in this country are now being borrowed by the Federal Government.

Given the predicament we are in, I believe it is absolutely essential to restore some fiscal sanity to the Nation.

Federal spending must be brought under control.

It was with this in mind that I voted to recommit the Foreign Assistance Act.

There are many areas of our foreign aid program that have been increasingly criticized.

This legislation includes a contribution of $194 million to United Nation's programs, as compared to $157 million last year—an increase of $37 million, or 24 percent.

How can Congress justify a 24-percent increase in such funds?

Some $60 million goes to the regular budget of the United Nations. A recent editorial in U.S. News & World Report asked if our contribution is worth its price. Quoting from the editorial:

> There must be millions of people who have forgotten—if they ever knew—that the first duty assigned the United Nations by its founding Charter is to "maintain international peace and security."
>
> The record shows it can do neither. It also shows nobody really expects it to do so.

Of the $11.8 billion spent since the inception of the U.N., the United States contributed some $4.7 billion—nearly 40 percent of the regular budget.

And although our share has dropped to 25 percent, we still pay twice as much as any other nation.

There are presently 135 members in the United Nations, and 92 of these members have an outstanding debt of $204 million in back dues. The Soviet Union and its two member Republics of Byelorussia and the Ukraine owe $110 million.

France, which owes the United States $500 million for the military installations we left behind in that country in 1968, when France evicted us upon her withdrawal from NATO, has the largest default of the non-Communist nations; it owes $22.4 million.

But the story does not end here. At a time when many nations are defaulting on their payments, and some nations, including the Soviet Union, are selective in their choice of contributions, the United States has become the gravy train for this international organization.

Although no nation is supposed to contribute more than 60 percent to any one U.N. function, the United States pays 70 percent of the U.N. emergency forces' costs, and we pay the entire costs for most of the U.N.'s special research projects.

There are also outstanding debts which the U.N. owes the United States, hidden away in a glass menagerie, out of sight of the public and the Congress.

One such debt was recently brought to light by William Fulton of the Chicago Tribune.

After the Arab-Israeli conflict of 1965, the United States—which was not involved in the war—dredged the Suez Canal on behalf of the U.N. to clear it for shipping.

The cost to the United States was $5

million, and the debt to date has not been repaid by the United Nations.

This debt is not listed in any official U.N. report; instead it is just lumped into an amorphous $17 million owed various governments—I suspect much of which is owed the United States.

Egypt now wants the canal reopened and I think Mr. Fulton, of the Chicago Tribune, puts this event in its proper perspective:

> Who stands to reap the greatest benefit from a reopened Suez? The Soviet Union, of course—and at no cost to Moscow. The Russians, who have not paid a dime toward any peacekeeping efforts anywhere, can be expected to let Uncle Sugar pick up the U.N. tab. . . .

Seventy-one of the members in the United Nations today have populations smaller than that of New York City, and a two-thirds voting majority now exists in the U.N. by nations with combined populations of less than 10 percent of the world's population. These nations collectively pay less than 5 percent of the U.N. budget. Yet each of these countries has one vote—just like the United States.

The U.S. contributions to the United Nations, while substantial, are only a part of our total foreign aid program. The total will exceed $8 billion this year.

Total economic assistance to foreign countries amounts to $4,872,226,000.

Our contributions to the Agency for International Development will be $2,842,415.

The Peace Corps will receive $82,256,000.

Under Public Law 480, we will give away $995,928,000 and our contribution to the international narcotics control program will be $42,500,000.

This year the United States will also contribute its first $375 million installment to the International Development Association's fourth replenishment fund, which begins in fiscal year 1975. I emphasize fourth.

This is only the first installment on a program that will ultimately cost American taxpayers $1.5 billion over a 4-year period.

This fourth replenishment follows an initial subscription contribution of $320 million followed by a replenishment of $312 million in 1963, followed by a second replenishment of $480 million in 1968, which again was followed by a third replenishment of $960 million in 1970.

Thus, this fourth replenishment of $1.5 billion beginning with the $375 million in fiscal year 1975 is but a continuation of yet another never ending foreign aid program.

Yes, the United States borrows money at 8 or 9 percent interest and gives that to the World Bank to loan to other countries at 1 percent—which countries then lend to its own citizens at 12 to 20 percent interest.

In total, the United States is paying nearly $4 billion into the International Development Association, for which it gets not one dollar in return.

Under the various military assistance and sales programs, now under consideration, the United States is giving away some $3,496,500,000 distributed as follows:

Military assistance grants	$1,024,000,000
Foreign military credit sales	827,500,000
Excess defense articles	150,000,000
Military assistance service funded	1,450,000,000

Again, our total economic, military assistance, and credit sales to foreign nations will exceed $8 billion.

Under the pending legislation, the United States will supply aid to 100 different countries scattered throughout the world—37 countries in Africa, 32 countries in Asia, 23 countries in Latin America, 3 countries in the Middle East, and 5 countries in Europe.

Since the end of World War II, the United States has given away $153 billion in foreign aid. Furthermore, we have made very little effort to collect a total of $58 million owed to us by foreign countries on outstanding debts.

The United States has indeed been a generous friend and a gracious ally. But that is not now the issue before us.

The issue is whether we can restore some financial sanity to these United States.

Given the present financial condition of the United States—and the devastating inflation—it just is not fiscally responsible to continue to scatter such vast amounts of tax funds to 100 different countries throughout the world.

EXPORT-IMPORT BANK CONFERENCE REPORT

Mr. HARRY F. BYRD, JR. Mr. President, the conferees on the Export-Import Bank legislation have concluded their deliberations. The conference report, I understand, will be brought before the Senate tomorrow. The conference agreement eliminated a very important part of the Senate proposal.

Under the legislation as it passed the Senate, authority for new commitments to the Soviet Union is limited to $300 million. Now, the conferees have added a proviso to that, the proviso being that such a limit may be exceeded if the President determines that it is in the national interest to do so.

Well, Mr. President, that is no ceiling at all.

The Export-Import Bank already has granted credits of $469 million to Communist Russia.

The legislation which passed the Senate would permit an additional $300 million in credits and guarantees. It would put a ceiling of another $300 million in credits and guarantees. The conferees eliminate that ceiling by granting the President the right to exceed it whenever he feels it is desirable to do so.

I understand that the State Department has been lobbying night and day to have the Senate ceiling of $300 million in additional credits to Russia eliminated.

Why is it that we are not satisfied with already giving Soviet Russia $469 million in credits and not satisfied with making it possible to extend another $300 million in credits, but the State Department and the conferees want a blank check?

Well, Mr. President, I plan to oppose that conference report tomorrow and I may even oppose a continuing resolution. I think the time has come to call a halt to the giving away of tax funds.

I do not quite understand this love affair with the Soviet Union. The American taxpayers have granted the Soviet Union $469 million in subsidized credit and the Senate has approved an additional $300 million in credits and guarantees.

I was willing to go along with that additional $300 million in order to get a firm ceiling on the amount of money that can be channeled into loans to Communist Russia. I am not willing to go along with legislation that would give a blank check. I wish I could understand just why it is that there is such a keen interest in making available to Russia unlimited credit.

Now, that gets back to the Jackson amendment to the trade bill which put restrictions on additional loans to Russia.

I support that proposal. But tremendous pressure is being used to eliminate that. Then it ties in with this legislation where the conferees have agreed to eliminate the ceiling on the amount of additional loans. I do not know what our Government is up to. There is something fishy. There is something fishy about this, when the State Department spends most of its time, day and night, lobbying Congress to take the ceiling off the amount of money that the Export-Import Bank may make available to the Soviet Union.

Bear in mind, this is a loan directly to the Central Bank of Russia, namely, the Government of Russia. I am persuaded to the view that I am talking also because of the shellacking that the American negotiators—they are drawn from the State Department—got when they settled the amount of money which the Soviet Union owes the United States.

That debt was settled at 3 cents on the dollar, plus another 24 cents, provided the United States grants Russia most-favored-nation treatment and provided we extend Export-Import Bank credits to her.

I think that is no deal at all. It is a disgraceful deal.

We all know what that great grain deal was, the $300 million grain deal, where the United States came out second best—$300 million is a low figure because the consumers were badly hurt by it also.

I am not persuaded that we did not come out second best on the SALT agreements.

Those other measures that I mentioned are water under the bridge, but this conference report is not water under the bridge. I contend there must be a ceiling on the amount of credit that the Export-Import Bank will be permitted to extend to Russia. I shall oppose the conference report.

I would ask that the leadership advise the Senator from Virginia when any

legislation affecting the Export-Import Bank is brought before the Senate.

SENATE RESOLUTION 427—SUBMISSION OF A RESOLUTION WITH RESPECT TO PARTICIPATION BY STATE AND LOCAL GOVERNMENTS IN THE FORMULATION OF FEDERAL POLICIES AND PROGRAMS

Mr. DOMENICI. Mr. President, I had the honor and the pleasure to participate in several phases of the recent economic summit conference. I was well pleased that President Ford took such a personal and direct interest in the conduct of the conference and I was tremendously impressed with the cooperative, business like attitude that prevailed during all the proceedings in which I participated.

My purpose in rising today, Mr. President, is to follow up on my involvement in the mini-summit devoted to State and local government problems.

From that experience I am happy to say that the representatives of States and local governments came prepared to not only present their particular and peculiar problems, but to contribute toward resolution of our Nation's economic dilemma.

One of the points which most impressed me is that we who are responsible for development of national programs, policies, and legislation must have the benefit of State and local government input if we are to truly represent the citizens of this country. We must insure that State and local governments are given an opportunity for meaningful involvement, particularly regarding matters which impact on State and local governments.

Therefore, Mr. President, to facilitate that involvement, I have developed a resolution which I now send to the desk. This resolution expresses the sense of the Senate that States, counties, and cities be kept involved in Federal policy decisions in both the executive and legislative branch.

I wish to commend my distinguished colleague from Minnesota (Mr. HUMPHREY) for his assistance and encouragement in this initiative. I also want to point out that the resolution has the bipartisan support of several of my colleagues: the Senators from Maine (Mr. MUSKIE), Wisconsin (Mr. PROXMIRE), Georgia (Mr. NUNN), Florida (Mr. CHILES), and Oklahoma (Mr. BARTLETT).

I ask unanimous consent that the text of the resolution be printed in the RECORD.

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

S. RES. 427

Resolution expressing the sense of the Senate with respect to participation by State and local governments in the formulation of Federal policies and programs

Resolved, That it is the sense of the Senate that—

(1) the President should utilize every available means and opportunity to insure the meaningful participation of State and local governments in the development of all major programs and policies of the Federal Government, and in particular those programs and policies designed to combat inflation; and

(2) the President should insure that in every major Federal department and agency there is a focal point for State and local government involvement at a high level.

SEC. 2. It is further the sense of the Senate that Congress, particularly in the consideration of proposed legislation having direct or indirect impact on units of State and local government, establish and promote mechanisms to afford said State and local government the opportunity to participate in the Federal legislative process.

SEC. 3. The Secretary of the Senate shall transmit a copy of this resolution to the President and to the chairman of each committee of the Senate and the House of Representatives and of each joint committee of the Congress.

Mr. DOMENICI. Mr. President, at that particular conference, Governors, mayors, and county leaders were unanimous in their request that the U.S. Government involve them on a continuing basis as we develop plans to fight inflation and stabilize the economy. It seemed that they were rather pleased for once to be involved early in the game before we decided what we were going to do.

They asked of us on that occasion that we do what we could to see that they were involved on a regular basis.

I ask unanimous consent that the resolution be immediately considered.

The PRESIDING OFFICER. Is there objection to its immediate consideration?

Mr. McCLURE. Reserving the right to object, Mr. President, this matter is, I think, too important to be considered in this manner, and should be debated at some length.

I ask unanimous consent that my name be added as a cosponsor.

I object to its immediate consideration.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. It is my understanding that because of the objection it will be put on the calendar tomorrow as part of the regular daily business.

The PRESIDING OFFICER. It will go over, under the rule. If it is not disposed of tomorrow morning in the morning hour, it will then go to the calendar.

Mr. DOMENICI. I thank the Chair.

ORDER FOR ADJOURNMENT UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until 9 a.m. tomorrow.

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

ORDER FOR RECOGNITION OF SENATORS HANSEN, ALLEN, HARRY F. BYRD, JR., CLARK, McGOVERN, EAGLETON, SYMINGTON, AND DESIGNATING A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on tomorrow, the following Senators be recognized in the order stated, and each for 15 minutes: Mr. HANSEN, Mr. ALLEN, Mr. HARRY F. BYRD, JR., Mr. CLARK, Mr. McGOVERN, Mr. EAGLETON, and Mr. SYMINGTON; and that at the conclusion of the order for the recognition of the Senators on tomorrow, there be a brief period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 5 minutes.

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

ORDER FOR CONSIDERATION OF THE HOUSING BILL, S. 3979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on tomorrow, the Senate proceed to the consideration of the housing bill, S. 3979, and that there be a time agreement on that bill as follows, which has been cleared with the other side: That there be one-half hour on the bill, to be equally divided between Mr. CRANSTON and Mr. TOWER; that there be 1 hour on the Cranston-Brooke amendment in the nature of a substitute; that there be one-half hour on any other amendment, 20 minutes on any debatable motion or appeal, and that the agreement be in the usual form.

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

ORDER TO HOLD BILLS AT DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that two bills introduced today on the reduction of Federal expenses, one by Mr. HUGH SCOTT, S. 4113, and one by Mr. ROTH, S. 4114, be held at the desk until further action thereon.

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

TIME LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 1148, H.R. 15736, an act to authorize, enlarge, and repair various Federal reclamation projects, is called up and made the pending business, there be 2 hours on the bill, to be equally divided between Mr. JACKSON and Mr. FANNIN; that there be 1 hour on each amendment thereto; that there be a time limitation on debatable motions and appeals of 20 minutes; and that the agreement be in the usual form. I am advised that this request has been cleared.

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

ORDER FOR EXTENSION OF TIME TO FILE CONFERENCE REPORT ON H.R. 14225 UNTIL MIDNIGHT TONIGHT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conferees may have until midnight tonight to file a conference report on H.R. 14225.

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

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. 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.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 9 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 not to exceed 15 minutes, and in the order stated: Mr. HANSEN, Mr. ALLEN, Mr. HARRY F. BYRD, JR., Mr. CLARK, Mr. MCGOVERN, Mr. EAGLETON, and Mr. SYMINGTON.

After these Senators have been recognized under the orders previously entered, there will be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 5 minutes each.

At the conclusion of routine morning business, the Senate will proceed to the consideration of S. 3979, a bill to increase the availability of reasonably priced mortgage credit for home purchases. There is a time agreement on that bill. Rollcall votes are expected in relation thereto.

At some point during the day tomorrow, the Senate is expected to proceed to the consideration of the supplemental appropriation bill.

Also, the so-called Pan Am bill is expected to be called up tomorrow. Various conference reports, of course, being privileged matters, can be called up. It appears that the Senate will have a full day tomorrow, with a number of rollcall votes occurring.

ADJOURNMENT TO 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 9 a.m. tomorrow.

The motion was agreed to; and at 7:01 p.m., the Senate adjourned until tomorrow, Thursday, October 10, 1974, at 9 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 9, 1974:

FEDERAL RESERVE SYSTEM

Philip Edward Coldwell, of Texas, to be a member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1966.

(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.)

HOUSE OF REPRESENTATIVES—*Wednesday, October 9, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He leadeth me in the paths of righteousness for His name's sake.—Psalms 23: 3.

Almighty God, our Father, whose love never lets us go, whose strength never lets us down, and whose judgment never lets us off, in spirit and in truth we lift our hearts unto Thee. Always art Thou with us and now we pray that Thou wilt make us conscious of Thy presence through the hours of this day that we may have light upon our way, love for our way, and life in our way.

By Thy Spirit may we live by faith and not by fear, with justice and not injustice, for high principles and not low prejudices, that we may lead our Nation into a better and a brighter life for all.

Remind us again of the strength of character which makes our Nation great and of the faith in Thee which alone can keep her great. Lead us in the paths of righteousness for Thy name's sake. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill and joint resolution of the House of the following titles:

H.R. 3903. An act to direct the Secretary of the Interior to convey certain public land in the State of Michigan to the Wisconsin Michigan Power Co.; and

H.J. Res. 898. A joint resolution authorizing the President to proclaim the second full week in October 1974 as "National Legal Secretaries' Court Observance Week."

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3044) entitled "An act to provide for public financing of Federal primary and general election campaigns."

The message also announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 605. An act to amend the act of June 30, 1944, "To provide for the establishment of the Harpers Ferry National Monument," and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 14225) entitled "An act to amend and extend the Rehabilitation Act of 1973 for 1 additional year," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. RANDOLPH, Mr. CRANSTON, Mr. WILLIAMS, Mr. PELL, Mr. KENNEDY, Mr. MONDALE, Mr. HATHAWAY, Mr. TAFT, Mr. SCHWEIKER, and Mr. BEALL to be the conferees on the part of the Senate.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the joint resolution (H.J. Res. 1131) entitled "A joint resolution making further continuing appropriations for the fiscal year 1975, and for other purposes."

The message also announced that the Senate agrees to the House amendment to the Senate amendment No. 3.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3473) entitled "An act to authorize appropriations for the Department of State and the U.S. Information Agency, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 7730. An act to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip;

H.R. 12993. An act to amend the Communications Act of 1934 to provide that licenses for the operation of broadcasting stations may be issued and renewed for terms of 4 years, and for other purposes;

H.R. 13157. An act to provide for the establishment of the Clara Barton National Historic Site, Md.; John Day Fossil Beds National Monument, Oreg.; Knife River Indian Villages National Historic Site, N. Dak.; Springfield Armory National Historic Site, Mass.; Tuskegee Institute National Historic Site, Ala.; and Martin Van Buren National Historic Site, N.Y.; and for other purposes;

H.R. 14217. An act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System, to authorize appropriations for additional costs of land acquisition for the National Park System, and for other purposes; and

H.R. 15223. An act to amend the Federal Railroad Safety Act of 1970 and the Hazardous Materials Transportation Control Act of