production or distribution of petroleum or natural gas; to the Committee on Ways and Means.

By Mr. HICKS (for himself, Mr. ADDABBO, Mr. BADILLO, Mr. BURGENER, Mrs. CHISHOLM, Mr. CLAY, Mrs. COLLINS of Illinois, Mr. CRONIN, Mr. DOMINICK V. DANIELS, Mr. DENHOLM, Mr. DERWINSKI, Mr. EILBERG, Mr. HARRINGTON, Mr. HAWKINS, Mr. HELSTOSKI, Mr. LEHMAN, Mr. LITTON, Mr. LONG of Maryland, Mr. MAZZOLI, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MURPHY of Illinois, Mr. PODELL, Mr. ROBISON of New York, and Mr. RONCALLO of New York):

H.R. 13199. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically disabled because of such disability; to the Committee on Education and Labor.

By Mr. HICKS (for himself, Mr. RONCALLO of New York, Mr. ROSENTHAL, Mr. SARBANES, Mrs. SCHROEDER, Mr. STARK, Mr. THONE, Mr. VANIK, Mr. WINN, Mr. WON PAT, Mr. YATRON, Mr. BIESTER, Mr. FORD, Mr. MATSUNAGA, Mr. CONYERS, Mr. BINGHAM, Mrs. HECKLER of Massachusetts, Miss HOLTZMAN, and Mr. RIEGLE):

H.R. 13200. A bill to amend the Civil Rights Act of 1964 to make it an unlawful employment practice to discriminate against individuals who are physically disabled because of such disability; to the Committee on Education and Labor.

By Mr. KING:

H.R. 13201. A bill to amend section 1951, title 18, United States Code, act of July 3, 1946; to the Committee on the Judiciary.

By Mr. MADIGAN:

H.R. 13202. A bill to establish the National Commission on the Prevention of Raw Material Shortages; to the Committee on Armed Services.

By Mr. McCLORY:

H.R. 13203. A bill to amend the Internal Revenue Code of 1954, to permit a taxpayer to take an income tax deduction with respect to the purchase and installation of solar heating and cooling equipment; to the Committee on Ways and Means.

By Mr. McCORMACK (for himself, Mr. PRICE of Illinois, Mr. HOLIFIELD, Mr. HOSMER, Mr. YOUNG of Texas, Mr. RONCALIO of Wyoming, Mr. ANDERSON of Illinois, Mr. HANSEN of Idaho, and Mr. LUJAN):

H.R. 13204. A bill to amend the Atomic Energy Act of 1954 to provide for improved procedures for planning and environmental review of proposed nuclear powerplants, and for other purposes; to the Joint Committee on Atomic Energy.

By Mr. PARRIS (for himself and Mr. SARASIN):

H.R. 13205. A bill to amend the Internal Revenue Code of 1954 to temporarily reduce the excise tax on gasoline by 2 cents per gallon; to the Committee on Ways and Means.

By Mr. PATMAN:

H.R. 13206. A bill to amend the Economic Stabilization Act of 1970 to extend its expiration date for 1 year; to the Committee on Banking and Currency.

By Mr. PRICE of Texas (for himself, Mr. COLLINS of Texas, Mr. HOSMER, Mr. SEBELIUS, Mr. TREEN, Mr. DAN DANIEL, Mr. DEVINE, Mr. HUBER, Mr. BEVILL, Mr. BAFALIS, Mr. CLANCY, Mr. BRAY, Mr. PODELL, Mr. WHITEHURST, Mr. RONCALLO of New York, and Mr. CLEVELAND):

H.R. 13207. A bill to amend title 18 of the United States Code to provide in certain circumstances the death penalty for kidnaping, and to establish rebuttable presumption with respect to certain unexplained disappearances; to the Committee on the Judiciary.

By Mr. PRICE of Texas (for himself, Mr. YOUNG of Florida, Mr. VEYSEY, Mr. DERWINSKI, Mr. HUNT, Mr. KETCHUM, Mr. REGULA, Mr. EILBERG, Mr. CHAPPELL, Mr. BUTLER, Mr. GUNTER, and Mr. GAYDOS):

H.R. 13208. A bill to amend title 18 United States Code to provide in certain circumstances the death penalty for kidnaping, and to establish a rebuttable presumption with respect to certain unexplained disappearances; to the Committee on the Judiciary.

By Mr. ROBINSON of Virginia (for himself, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. ROBERT W. DANIEL, JR., Mr. EILBERG, Mr. KYROS, Mr. SATTERFIELD, and Mr. WINN):

H.R. 13209. A bill to provide further for uniform annual observances of certain legal public holidays on Monday, and for other purposes; to the Committee on the Judiciary.

By Mr. TALCOTT:

H.R. 13210. A bill to prohibit the exportation of fertilizer from the United States until the Secretary of Agriculture determines that an adequate domestic supply of fertilizer exists; to the Committee on Banking and Currency.

By Mr. WAMPLER:

H.R. 13211. A bill to amend title 38 of the United States Code to provide for cost-of-living increases in compensation, dependency, and indemnity compensation, and pension payments; to the Committee on Veterans' Affairs.

By Mr. YOUNG of Alaska:

H.R. 13212. A bill to make available to the city of Ketchikan, Alaska, certain lands necessary to the replacement of the Carlanna Creek Dam; to the Committee on Interior and Insular Affairs.

By Mr. ROBINSON of Virgina (for himself, Mr. BUTLER, Mr. CHAPPELL, Mr. COLLINS of Texas, Mr. DAN DANIEL, Mr. ROBERT W. DANIEL, JR., Mr. DERWINSKI, Mr. EILBERG, Mr. GUNTER, Mr. KYROS, Mr. SATTERFIELD, Mr. TALCOTT, Mr. WHITEHURST, and Mr. WINN):

H.J. Res. 926. Joint resolution to authorize and request the President to issue a proclamation designating May 13 of each year as "American Business Day"; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

By the SPEAKER: A memorial of the Legislature of the State of California, relative to fuel rationing; to the Committee on Interstate and Foreign Commerce.

362. Also, memorial of the Legislature of the State of Oklahoma, relative to the increase in price of liquefied petroleum gas; to the Committee on Interstate and Foreign Commerce.

363. Also, memorial of the senate of the State of Oklahoma, relative to the energy crisis; to the Commitee on Interstate and Foreign Commerce.

364. Also, memorial of the Commonwealth of Massachusetts, relative to Alexander I. Solzhenitsyn; to the Committee on the Judiciary.

365. Memorial of the Legislature of the State of Wisconsin, relative to veterans' benefits; to the Committee on Veterans' Affairs.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

396. By the SPEAKER: Petition of the National Conference of Lieutenant Governors, Atlanta, Ga., relative to power and energy; to the Committee on Interstate and Foreign Commerce.

397. Also, petition of Hon. Ben C. Duniway, Associate Judge, U.S. Court of Appeals, Ninth Judicial Circuit, San Francisco, Calif., relative to the report of the Commission on the Revision of the Federal Court Appellate System; to the Committee on the Judiciary.

398. Also, petition of Lawrence Timbers, Seattle, Wash., and others, relative to financial disclosure by Members of Congress; to the Committee on Standards of Official Conduct.

SENATE—*Monday, March 4, 1974*

The Senate met at 11 a.m. and was called to order by Hon. WALTER D. HUDDLESTON, a Senator from the State of Kentucky.

PRAYER

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

O God, the Light of all that is true, the Strength of all that is good, the Glory of all that is beautiful, we thank Thee for this moment in the day's occupation when we put aside all other thoughts and declare with our fathers that in God we trust, now and always. In this place of duty where the well-being of so many depends upon the wise judgment of so few, grant that we may think as the apostle on "whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things." Then in our private lives and our public service, help us every day to live more nearly as we pray. In the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 4, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WALTER D. HUDDLESTON, a Senator from the State of

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Kentucky, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed a bill (H.R. 2) to provide for pension reform, in which it requested the concurrence of the Senate.

EMPLOYEE BENEFIT SECURITY ACT OF 1974

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 2.

The ACTING PRESIDENT pro tempore (Mr. HUDDLESTON) laid before the Senate H.R. 2, to provide for pension reform.

Mr. WILLIAMS. Mr. President, I ask unanimous consent that H.R. 2 be considered as having been read twice and that the Senate proceed to its immediate consideration.

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

Mr. WILLIAMS. Mr. President, I move to strike out all language after the enacting clause and to insert in lieu thereof the amendment which I now send to the desk, and ask that it be stated.

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

The legislative clerk proceeded to read the amendment.

The full text of the amendment is as follows:

That (a) section 122(a) of the Internal Revenue Code of 1954 (relating to certain reduced uniform services retirement pay) is amended to read as follows:

"(a) GENERAL RULE.—In the case of a member or former member of the uniformed services of the United States, gross income does not include the amount of any reduction in his retired or retainer pay pursuant to the provisions of chapter 73 of title 10 of the United States Code."

(b) Section 122(b)(2) of such Code is amended by striking out "section 1438" in subparagraph (B) and inserting in lieu thereof "section 1438 or 1452(d)".

(c) Section 72(o) of such Code is amended by inserting after "PLAN" in the heading of such section "OR SURVIVOR BENEFIT PLAN".

(d) Section 101(b)(2)(D) of such Code is amended by striking out "if the individual who made the election under such chapter" and inserting in lieu thereof "if the member or former member of the uniformed services by reason of whose death such annuity is payable".

(e) Section 2039(c) of such Code is amended by striking out "section 1438" in the last sentence and inserting in lieu thereof "section 1438 or 1452(d)".

(f) The amendments made by subsections (a), (b), and (c) shall apply to taxable years ending on or after September 21, 1972. The amendments made by subsections (d) and (e) shall apply with respect to individuals dying on or after such date.

SEC. 2. (a) This Act, other than the first section, may be cited as the "Retirement Income Security for Employees Act".

(b) TABLE OF CONTENTS.—

TITLE I—ADMINISTRATION

PART A—INTERNAL REVENUE SERVICE

Sec. 101. Establishment of office.
Sec. 102. Authorization of appropriations.

PART B—REGISTRATION

Sec. 151. Duties of plans.
Sec. 152. Duties of Secretary of Health, Education, and Welfare.
Sec. 153. Effective date.
Sec. 154. Authorization of appropriations for Department of Labor.

TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

PART A—PARTICIPATION

Sec. 201. Minimum standards relating to participation.

PART B—VESTING

Sec. 221. Minimum standards relating to vesting.
Sec. 222. Certain nonqualified plans.

PART C—FUNDING

Sec. 241. Minimum standards relating to funding.

PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES

Sec. 261. Amendment of section 401.
Sec. 262. Prohibition against maintaining nonqualified plans.

PART E—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT PLANS AND CONTRACTS

Sec. 281. Duties of the Secretary of the Treasury.
Sec. 282. Duties of Secretary of Labor.

TITLE III—PORTABILITY

Sec. 301. Definitions.
Sec. 302. Program established.
Sec. 303. Establishment of fund.
Sec. 304. Registration.
Sec. 305. Acceptance of deposits.
Sec. 306. Individual accounts.
Sec. 307. Payments from individual accounts.
Sec. 308. Assistance to plan administrators.
Sec. 309. Amendment of Internal Revenue Code of 1954.
Sec. 310. Authorization of appropriations.

TITLE IV—PLAN TERMINATION INSURANCE

PART A—PENSION BENEFIT GUARANTY CORPORATION

Sec. 401. Definitions: Special rules.
Sec. 402. Pension Benefit Guaranty Corporation.
Sec. 403. Establishment of Pension Benefit Guaranty Fund.

PART B—COVERAGE

Sec. 421. Plans covered.
Sec. 422. Benefits covered.
Sec. 423. Contingent liability coverage.
Sec. 424. Other risks.

PART C—TERMINATIONS

Sec. 441. Termination by plan administrator.
Sec. 442. Termination by Pension Benefit Guaranty Corporation.
Sec. 443. Reportable events.
Sec. 444. Allocation of assets.
Sec. 445. Recapture of certain payments.
Sec. 446. Report by corporation.

PART D—LIABILITY

Sec. 461. Corporation liability.
Sec. 462. Liability of employer.
Sec. 463. Liability of substantial employer for withdrawal.
Sec. 464. Liability of employers on termination of multiemployer plan.
Sec. 465. Annual report of plan administrator.
Sec. 466. Annual notification to substantial employers.
Sec. 467. Recovery of employer liability for plan termination.

PART E—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954; EFFECTIVE DATES

Sec. 481. Amendments to Internal Revenue Code of 1954.
Sec. 482. Effective dates.

PART F—ALLOCATION OF ASSETS WHERE SECTION 444 DOES NOT APPLY

Sec. 491. Allocation of assets for plan terminations not covered.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

PART A—DISCLOSURE

Sec. 501. Authority to issue regulations.
Sec. 502. Amendment to Welfare and Pension Plans Disclosure Act.
Sec. 503. Annual reports.
Sec. 504. Investigations.
Sec. 505. Public information.
Sec. 506. Establishment of Advisory Council.
Sec. 507. Administration.

PART B—FIDUCIARY STANDARDS

SUBPART I—FIDUCIARY STANDARDS UNDER THE WELFARE AND PENSION PLANS DISCLOSURE ACT

Sec. 511. Amendment to the Welfare and Pension Plans Disclosure Act.
Sec. 512. Effective dates.

SUBPART II—FIDUCIARY STANDARDS UNDER THE INTERNAL REVENUE CODE OF 1954

Sec. 521. Fiduciary standards.
Sec. 522. Prohibited transactions.

TITLE VI—ENFORCEMENT

PART A—DISPUTES RELATING TO THE QUALIFICATION OF CERTAIN EMPLOYEE PLANS

Sec. 601. Tax Court procedure.

PART B—AUDITING, ETC.

Sec. 641. Exercise tax for auditing; etc.

PART C—ACTUARIES

Sec. 671. Enrollment and reports of actuaries.

PART D—ENFORCEMENT; RESOLUTION OF DISPUTES GENERALLY

Sec. 691. Arbitration; civil actions by participants and beneficiaries.
Sec. 692. Civil actions by Secretary of Labor.
Sec. 693. Actions to redress or restrain violations of fiduciary duty.
Sec. 694. Jurisdiction of courts.
Sec. 695. Procedure.
Sec. 696. Application of Act of March 23, 1932.
Sec. 697. Actions brought by administrator or fiduciary against Secretary.
Sec. 698. Statute of limitations.
Sec. 699. Relationship to State laws.
Sec. 699A. Recrimination against employees and other persons.
Sec. 699B. Interference with rights.

TITLE VII—RETIREMENT SAVINGS; LIMITATION ON PROPRIETARY EMPLOYEE CONTRIBUTIONS; TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS

Sec. 701. Deduction for retirement savings.
Sec. 702. Certain plans.
Sec. 703. Taxation of certain lump-sum distributions.
Sec. 704. Contributions on behalf of self-employed individuals and proprietary employees.
Sec. 705. Collectively bargained plans.
Sec. 706. Miscellaneous provisions.

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

TITLE I—ADMINISTRATION

PART A—INTERNAL REVENUE SERVICE

SEC. 101. ESTABLISHMENT OF OFFICE.

(a) IN GENERAL.—Section 7802 (relating to Commissioner of Internal Revenue) is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONER.

"(a) COMMISSIONER OF INTERNAL REVENUE.—There shall be in the Department of the Treasury a Commissioner of Internal Revenue, who shall be appointed by the President by and with the advice and consent of the Senate. The Commissioner of Internal Revenue shall have such duties and powers as may be prescribed by the Secretary.

(b) ASSISTANT COMMISSIONER FOR EMPLOYEE PLANS AND EXEMPT ORGANIZATIONS.—There is established within the Internal Revenue Service an office to be known as the 'Office of Employee Plans and Exempt Organizations'. The Office shall be under the supervision and direction of an Assistant Commissioner of Internal Revenue. As head of the Office, the Assistant Commissioner shall be responsible for carrying out such functions as the Secretary or his delegate may prescribe with respect to organizations exempt from tax under section 501(a) and with respect to plans to which part I of subchapter D of chapter 1 applies (and with respect to organizations designed to be exempt under such section and plans designed to be plans to which such part applies).".

(b) SALARIES.—

(1) ASSISTANT COMMISSIONER.—Section 5109 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified at GS–18, and is in addition to the number of positions authorized by section 5108(a) of this title.".

(2) CLASSIFICATION OF POSITIONS AT GS–16 AND 17.—Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(e) In addition to the number of positions authorized by subsection (a), the Commissioner of Internal Revenue is authorized, without regard to any other provision of this section, to place a total of 20 positions in the Internal Revenue Service in GS–16 and 17."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 is amended by striking out the item relating to section 7802 and inserting in lieu thereof the following:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioner.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) INITIAL AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, an amount equal to the sum of $35,000,000 and one-half of the collections from the taxes imposed under section 4940 of the Internal Revenue Code of 1954 (relating to excise tax based on investment income) during the second preceding fiscal year.

(b) PERMANENT AUTHORIZATION.—There is authorized to be appropriated to the Department of the Treasury for the purpose of carrying out all functions of the Office of Employee Plans and Exempt Organizations for each fiscal year beginning after June 30, 1976, an amount equal to the sum of—

(1) the amount of the collection from the taxes imposed under section 4975 of the Internal Revenue Code of 1954 (relating to annual tax on plan participation) during the second preceding fiscal year, and

(2) one-half of the collections from the taxes imposed under section 4940 of each Code (relating to excise tax based on investment income) during the second preceding fiscal year.

PART B—REGISTRATION

SEC. 151. DUTIES OF PLANS.

(a) ANNUAL REGISTRATION.—Within such period after the end of a plan year as the Secretary of the Treasury may prescribe, the administrator of each plan to which part I of subchapter D of chapter 1 of the Internal Revenue Code of 1954 applied at any time during such plan year, and each pension plan operated by the Government of the United States, or by the government of any State (including the District of Columbia) or political subdivision thereof, or by an agency or instrumentality thereof, shall file a registration statement with the Secretary of the Treasury. The registration statement shall set forth—

(1) the name and address of the plan,

(2) the name and taxpayer identification number of each individual who has a right to a deferred vested benefit in that plan as of the end of such plan year (other than those individuals who were paid retirement benefits under that plan during such plan year) and who has terminated his employment with the employer, who established and maintain that plan, within that year.

(3) the nature, amount, and form of any such deferred vested benefit, and

(4) such additional or other information as the Secretary may require.

(b) CHANGES IN STATUS.—The administrator of any plan required to be registered under section (a) shall also notify the Secretary, at such time as the Secretary may prescribe, of—

(1) any change of address of the plan,

(2) any change of name of the plan,

(3) the termination of the plan, or

(4) the merger or consolidation of the plan with any other plan.

(c) VOLUNTARY REPORTS.—The Secretary is authorized and directed to receive such additional reports relating to plan years ending before January 1, 1974, as the administrator of any such plan may wish to file with him relating to the deferred vested benefit rights of any person terminating his employment during any such plan year with the employer who established and maintained the plan.

(d) TRANSMISSION OF INFORMATION TO SECRETARY OF HEALTH, EDUCATION, AND WELFARE; REGULATIONS.—The Secretary of the Treasury shall transmit any statements, reports, or other information obtained by him under this section to the Secretary of Health, Education, and Welfare at such times and in such form as the Secretary of Health, Education, and Welfare may require in order to carry out his responsibilities under section 1131 of the Social Security Act. The Secretary of the Treasury, after consultation with the Secretary of Health, Education, and Welfare, is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

(e) DEFINITION OF ADMINISTRATOR.—For purposes of this section, the term "administrator" means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act.

(f) CERTIFICATE OF RIGHTS.—Each plan administrator filing a registration statement under subsection (a) shall also furnish to each individual described in paragraph (2) of that subsection, within the time prescribed for the filing of the registration statement, a statement setting forth the information with respect to that individual required in the registration statement. At the time he files the registration statement with the Secreary, the administrator of a plan shall furnish evidence satisfactory to the Secretary that he has complied with the requirements of this subsection.

SEC. 152. DUTIES OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Title XI of the Social Security Act (relating to general provisions) is amended by adding at the end of part A thereof the following new section:

"NOTIFICATION OF SOCIAL SECURITY CLAIMANT WITH RESPECT TO VESTED PENSION BENEFITS

"SEC. 1131. (a) Whenever the Secretary makes a finding of fact and a decision as to—

"(1) the entitlement of any individual to monthly insurance benefits under section 202, 223, or 228,

"(2) the entitlement of any individual to a lump-sum death payment payable under section 202(i) on account of the death of any person to whom such individual is related by blood, marriage, or adoption, or

"(3) the entitlement under section 226 of any individual to hospital insurance benefits under part A of title XVIII,

or upon request made by any individual with respect to whom the Secretary holds information obtained under section 151 of the Retirement Income Security for Employees Act, he shall furnish to such individual any information regarding any vested right to a pension benefit acquired by the Secretary pursuant to such section with respect to the person on whose wages and self-employment income entitlement (or claim of entitlement) is based.

"(b)(1) For purposes of section 201(g)(1), expenses incurred in the administration of subsection (a) shall be deemed to be expenses incurred for the administration of the Federal old-age and survivors insurance program.

"(2) There are hereby authorized to be appropriated to the Federal Old-Age and Survivors Insurance Trust Fund for each fiscal year (commencing with the fiscal year ending June 30, 1974) such sums as the Secretary deems necessary on account of additional administrative expenses resulting from the enactment of the provisions of subsection (a).".

SEC. 153. EFFECTIVE DATE.

This part shall take effect upon the date of enactment of this Act, but the requirements of section 151 (a) and (b) shall apply only with respect to plan years ending after December 31, 1973.

SEC. 154. AUTHORIZATION OF APPROPRIATIONS FOR DEPARTMENT OF LABOR.

There are authorized to be appropriated such sums as may be necessary to enable the Secretary of Labor to carry out his functions and duties under this Act.

TITLE II—PARTICIPATION; VESTING; FUNDING; CERTAIN BENEFITS

PART A—PARTICIPATION

SEC. 201. MINIMUM STANDARDS RELATING TO PARTICIPATION.

(a) IN GENERAL.—Part I of subchapter D of chapter 1 (relating to pensions, etc., plans) is amended by inserting at the end thereof the following new subpart:

"Subpart B—Special Rules

"Sec. 410. Minimum Standards Relating to Participation.

"SEC. 410. MINIMUM STANDARDS RELATING TO PARTICIPATION.

"(a) PARTICIPATION.—

"(1) MAXIMUM CONDITION. A trust shall not constitute a qualified trust under section 401(a) if the plan of which it is a part requires, as a condition of participation in the plan, that an employee have a period of service with the employer (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer) extending beyond the later of—

"(A) one year of service, or

"(B) the date on which the employee attains the age of 30 years.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) YEAR OF SERVICE.—The term 'year of service' means a calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) during which the employee is employed by the employer for more than 5 months.

"(B) MONTH.—The term 'month' means any calendar month during which the employee is employed for at least 80 hours of employment.

"(b) ELIGIBILITY.—

"(1) IN GENERAL.—A trust shall not constitute a qualified trust under section 401(a) unless the trust, or two or more trusts, or the trust or trusts and annuity plan or plans are designated by the employer as constituting parts of a plan intended to qualify under section 401(a) which benefits either—

"(A) 70 percent or more of all the employees, or 80 percent or more of all the employees who are eligible to benefit under the plan if 70 percent or more of all the employees are eligible to benefit under the plan, excluding in each case employees who have not satisfied the minimum age and service requirements, if any, prescribed by the plan as a condition of participation, employees whose customary employment is for not more than 80 hours in any one month, and employees whose customary employment is for not more than 5 months in any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan), or

"(B) such employees as qualify under a classification set up by the employer and found by the Secretary or his delegate not to be discriminatory in favor of employees who are officers, shareholders, or highly compensated employees.

"(2) EXCLUSION OF CERTAIN EMPLOYEES.—For the purpose of determining whether a trust constitutes a qualified trust under paragraph (1), there shall be excluded from consideration—

"(A) employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employees, if such agreement does not provide that such employees are to be included in the plan, and if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers, and

"(B) employees who are nonresident aliens who have no earned income (within the meaning of section 911(b)) from sources within the United States (within the meaning of section 861(a)(3)).

"(3) AFFILIATED GROUPS OF EMPLOYERS.—For purposes of this subsection, section 401(a)(4), and section 411, all employees of all corporations (within the meaning of section 1563(a)) shall be deemed to be employed by a single employer."

(b) CONFORMING AMENDMENTS.—

(1) Section 401(a) (relating to requirements for qualification) is amended by—

(A) striking out paragraph (3) and inserting in lieu thereof:

"(3) if the plan of which such trust is a part meets the requirements of section 410 (relating to minimum standards relating to participation); and", and

(B) striking out "paragraph (3)(B) or (4)" in paragraph (5) and inserting in lieu thereof "paragraph (4) or section 410(b) (without regard to paragraph (1)(A) thereof)".

(2) Section 406(b)(1) (relating to certain employees of foreign subsidiaries) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(3) Section 407(b)(1) (relating to certain employees of domestic subsidiaries engaged in business outside the United States) is amended by striking out "paragraphs (3)(B) and (4) of section 401(a)" and inserting in lieu thereof "paragraph (4) of section 401(a) and subsection (b) of section 410 (without regard to paragraph (1)(A) thereof)".

(c) CLERICAL AMENDMENT.—Part I of subchapter D of chapter 1 is amended by inserting after the heading and before the table of sections the following:

"Subpart A. General Rule.
"Subpart B. Special Rules.

"Subpart A—General Rule".

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or

(B) if later (in the case of a plan maintained pursuant to an agreement which the Secretary of the Treasury finds to be a collective-bargaining agreement between employee representatives and one or more employers), to plan years beginning after the earlier of—

(i) the date on which the agreement terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) December 31, 1980.

PART B—VESTING

SEC. 221. MINIMUM STANDARDS RELATING TO VESTING.

(a) IN GENERAL.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 of this Act, is amended by inserting after section 410 the following new section:

"SEC. 411. MINIMUM STANDARDS RELATING TO VESTING.

"(a) GENERAL RULE.—Except as provided in subsection (c), a trust shall not constitute a qualified trust under section 401(a) unless a plan of which such trust is a part satisfies the requirements of paragraphs (1) and (2).

"(1) EMPLOYEE CONTRIBUTIONS.—A plan satisfies the requirements of this paragraph if, under the plan, an employee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) NONFORFEITABLE PERCENTAGE.—A plan satisfies the requirement of this paragraph if, under the plan, after 5 years of service (3 of which are consecutive) with an employer, an employee has a right to a percentage of his accrued benefit derived from employer contributions which is nonforfeitable other than by reason of death. The percentage shall not be less than the percentage determined under the following table:

"Years of service	*Nonforfeitable percentage*
5	25
6	30
7	35
8	40
9	45
10	50
11	60
12	70
13	80
14	90
15 or more	100

"(B) YEAR OF SERVICE.—For purposes of this paragraph, the term 'year of service with the employer' means—

"(i) with respect to plan years ending before January 1, 1982, a year in which an employee is employed more than a number of months (for not less than a number of hours in each such month) prescribed in regulations promulgated by the Secretary or his delegate after consultation with the Secretary of Labor, and shall include service with a predecessor of the employer to the extent provided in regulations prescribed by the Secretary or his delegate; and

"(ii) with respect to plan years ending after December 31, 1981, any calendar, plan, or fiscal year (whichever is applied on a consistent basis under the plan) in which an employee is employed for more than 5 months (if he is employed at least 80 hours in each of such 5 months) in such year with the employer who adopted the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor of the employer).

"(C) TENTH YEAR VESTING FOR CERTAIN PLANS.—Paragraph (A) shall not apply to a trust which meets the requirements of section 401(a) and is exempt from tax under section 501(a) or a plan which meets the requirements of section 404(b)(2), if such trust or plan was in existence and met such requirements on the date of enactment of the Retirement Income Security for Employees Act and if the plan of which such trust is a part, or such plan, provides on and after such date that each employee's rights to or derived from employer contributions become completely nonforfeitable (other than by reason of death) no later than the end of the tenth year of service of the employee with the employer who maintains the plan. A plan described in this subparagraph meets the requirements of this paragraph.

"(D) SPECIAL RULES.—For purposes of determining the nonforfeitable percentage—

"(i) no year of service which begins more than 5 years prior to the beginning of the year in which an employee is first eligible to participate in the plan shall be considered, unless with respect to such year, the employee makes contributions under the plan or the employer makes contributions under the plan on behalf of such employee,

"(ii) years of service shall include any years beginning on or after the date the plan was first effective, and

"(iii) years of service beginning prior to the enactment of the Retirement Income Security for Employees Act and on or after the date on which the plan was first effective (or any amendment thereto was first effective) shall be considered.

"(b) DEFINITIONS AND RULES RELATING TO ACCRUED BENEFITS.—

"(1) EMPLOYEE'S ACCRUED BENEFIT.—

"(A) IN GENERAL.—For purposes of this section, an employee's accrued benefit as of any applicable date is—

"(i) in the case of a defined benefit plan, except as provided under paragraph (3), the annual benefit commencing at normal retirement age to which he would be entitled under the plan as in effect on such date if he continued to earn annually until normal retirement age the same rate of compensation upon which his benefits would be computed under the plan, determined as if he had attained normal retirement age on the applicable date, multiplied by a fraction, the numerator of which is the total number of his years of active participation in the plan (including, to the extent provided in regulations prescribed by the Secretary or his delegate, a predecessor plan) as of such date, and the denominator of which is the total number of years he would have actively participated in such plan as of normal retirement age if he had continued to be an active participant in the plan until attaining such age, or

"(ii) in the case of plan other than a defined benefit plan, the balance of the account or accounts for such employee as of that date.

"(B) LIMITATION.—The numerator of the fraction referred to in subparagraph (A)(1) shall not exceed the denominator.

"(C) DEFINED BENEFIT PLANS GENERALLY.—In the case of a defined benefit plan which permits voluntary employee contributions, the portion of an employee's accrued benefit derived from such contributions shall be treated as an accrued benefit derived from employee contributions under a plan other than a defined benefit plan.

"(D) CERTAIN INSURED DEFINED BENEFIT PLANS.—In the case of a defined benefit plan which is funded exclusively by the purchase of individual insurance contracts, an employee's accrued benefit at any date shall be equal to the benefit which might be purchased by the cash surrender value of the policy on the applicable date. An employee's accrued benefit under such a plan shall not be determined under this subparagraph unless the plan satisfies the requirements of paragraphs (1) through (6) of section 4971(e) (relating to certain insured plans).

"(E) VARIABLE ANNUITY PLANS.—In the case of a variable annuity plan, an employee's accrued benefits at any date shall be determined in accordance with regulations prescribed by the Secretary or his delegate.

"(2) ALLOCATION OF ACCRUED BENEFIT BETWEEN EMPLOYER AND EMPLOYEE CONTRIBUTIONS.— For purposes of this section, an employee's accrued benefit derived from employer contributions as of any applicable date is the excess of the accrued benefit determined under paragraph (1) for such employee as of such applicable date over the amount of the accrued benefit derived from contributions made by such employee as of such date. In the case of a plan other than a defined benefit plan, the amount of accrued benefit derived from contributions made by an employee is the balance of the employee's separate account consisting only of his contributions and the income, expenses, gains, and losses attributable thereto or, if a separate account is not maintained with respect to an employee's contributions under such a plan, is an amount which bears the same ratio to his total accrued benefits as the total amount of the employee's contributions (less withdrawals) bears to the sum of such contributions (less withdrawals) and the contributions made on his behalf by the employer (less withdrawals). In the case of a defined benefit plan providing an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the amount of the accrued benefit derived from contributions made by an employee as of any applicable date is the annual benefit equal to the employee's accumulated contributions multiplied by the appropriate conversion factor. For purposes of the preceding sentence, the term 'appropriate conversion factor' means the factor necessary to convert an amount equal to the accumulated contributions to a single life annuity commencing at normal retirement age and shall be 10 percent for a normal retirement age of 65 years. For other normal retirement ages the conversion factor shall be determined in accordance with regulations prescribed by the Secretary or his delegate. For purposes of this paragraph, the term 'accumulated contributions' means the total of—

"(A) all mandatory contributions made by the employee,

"(B) interest (if any) under the plan to the end of the last plan year to which subsection (a)(2) does not apply (by reason of the applicable effective date), and

"(C) interest on the sum of the amounts determined under subparagraphs (A) and (B) compounded annually at the rate of 5 percent per annum from the beginning of the first plan year to which subsection (a)(2) applies (by reason of the applicable effective date) to the date upon which the employee would attain normal retirement age.

The accrued benefits derived from contributions made by an employee shall not exceed the accrued benefits determined under paragraph (1). The Secretary or his delegate is authorized to adjust by regulation the conversion factor, the rate of interest described in subparagraph (C), or both, from time to time as he may deem necessary. The rate of interest shall bear the relationship to 5 percent which the Secretary or his delegate determines to be comparable to the relationship which the long-term money rates and investment yields for the last 10 calendar year period ending at least 12 months prior to the beginning of the plan year bear to the long-term money rates and investment yields for the 10 calendar year period 1964 through 1973. No such adjustment shall be effective for a plan year beginning before the expiration of 1 year after such adjustment is determined and published. For purposes of this paragraph, the term 'mandatory contributions' means amounts actually contributed to the plan by the employee which are required as a condition of employment, as a condition of participation in such plan, or as a condition of obtaining benefits under the plan attributable to employer contributions.

"(3) For purposes of this section, in the case of any defined benefit plan, if an employee's accrued benefit is to be determined as an amount other than an annual benefit commencing at normal retirement age, or if the amount of accrued benefit derived from contributions made by an employee is to be determined with respect to a benefit other than an annual benefit in the form of a single life annuity commencing at normal retirement age without ancillary benefits, the employee's accrued benefit, or the amount of accrued benefit derived from contributions made by an employee, as the case may be, shall be the actuarial equivalent of such benefit or amount determined under paragraph (1) or (2).

"(c) SPECIAL RULES.—

"(1) PROHIBITED DISCRIMINATION.—Subsection (a) shall not apply to benefits which may not be provided for designated employees in the event of early termination of the plan under provisions adopted to preclude discrimination prohibited by section 401(a)(4).

"(2) CLASS YEAR PLANS.—The requirements of subsection (a)(2) shall be deemed to be satisfied in the case of a class year plan if such plan provides that 100 percent of each employee's rights to or derived from the contributions of the employer on his behalf with respect to any plan year are nonforfeitable not later than the end of the fifth plan year following the plan year for which such contributions were made (within the meaning of section 404(a)(6)). For purposes of this section, the term 'class year plan' means a profit-sharing or stock bonus plan which provides for the separate nonforfeitability of employees rights to or derived from the contributions of each plan year.

"(3) VOLUNTARY WITHDRAWALS FROM CERTAIN PLANS.—A trust which is a part of a plan to which employees make mandatory contributions (within the meaning of subsection (b)(2) shall not be disqualified under this section merely because an employee's rights to his accrued benefit derived from employer contributions under the plan (or employer contributions for a particular plan year, in the case of a class year plan) are forfeitable if, by reason of his separation from the service or termination of his active participation in the plan, he voluntarily withdraws all or part of the mandatory contributions made by him (or all or a part of the mandatory contributions made by him for that particular plan year, in the case of a class year plan).

"(4) TERMINATION OR PARTIAL TERMINATION.—Notwithstanding the provisions of subsection (a); a trust shall not constitute a qualified trust under section 401(a) unless the plan of which such trust is a part provides that, upon its termination or partial termination, the rights of all employees to benefits accrued to the date of such termination or partial termination, to the extent then funded, or the amounts credited to the employees' accounts, are nonforfeitable. This paragraph shall not apply to benefits or contributions which, under provisions of the plan adopted to preclude the discrimination prohibited by section 401(a)(4), may not be used for designated employees in the event of early termination of the plan.

"(5) DISCRIMINATION.—A plan shall not be deemed to have satisfied the requirements of section 401(a)(4) merely because it satisfies the requirements of this section.

"(d) RECORDKEEPING REQUIREMENTS.—

"(1) SINGLE EMPLOYER PLAN.—Except as provided by paragraph (2), every employer shall, in accordance with regulations prescribed by the Secretary or his delegate, maintain records with respect to each of his employees sufficient to determine the benefits due or which may become due to such employees.

"(2) MORE THAN ONE EMPLOYER.—If more than one employer adopts a plan, each such employer shall, in accordance with regulations prescribed by the Secretary or his delegate, furnish to the plan administrator (within the meaning of section 3(15) of the Welfare and Pension Plans Disclosure Act) the information necessary for the administrator to maintain the records required by paragraph (1). Such administrator shall maintain the records required by paragraph (1).

"(e) CROSS REFERENCES.—

"For penalty for failure to meet requirements of subsection (a)(2)(A), see section 4973.

"For penalty for failure to furnish the information or maintain the records required under this section, see section 6690.".

(b) PENALTY FOR FAILURE TO FURNISH INFORMATION.—Subchapter B of chapter 68 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6690. FAILURE TO FURNISH INFORMATION OR MAINTAIN RECORDS.

"(a) CIVIL PENALTY.—If any person who is required, under section 411, to furnish information or maintain records for an employee fails to comply with such requirement he shall pay a penalty of $10 for each employee with respect to whom such failure occurs, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply to the assessment or collection of any penalty imposed by subsection (a).".

(c) COMPARABILITY OF PLANS.—Section 401(a) (relating to qualified pension, etc., plans) is amended by adding at the end of paragraph (5) the following: "For purposes of determining whether two or more plans of an employer satisfy the requirements of paragraph (4) when considered as a single plan, if the amount of contributions on behalf of the employees allowed as a deduction under section 404 for the taxable year with respect to such plans, taken together, bears a uniform relationship to the total compensation, or the basic or regular rate of compensation, of such employees, the plans shall not be considered discriminatory merely because the rights of employees to, or deprived from, the employer contributions under the separate plans do not become nonforfeitable at the same rate. For purposes of determining whether two or more plans of an employer satisfy the requirements of para-

graph (4) when considered as a single plan, if the employees' rights to benefits under the separate plans do not become nonforfeitable at the same rate, but the levels of benefits provided by the separate plans satisfy the requirements of regulations prescribed by the Secretary or his delegate to take account of the differences in such rates, the plans shall not be considered not to satisfy the requirements of paragraph (4) merely because of the differences in such rates.".

(d) CONFORMING AMENDMENT.—Paragraph (7) of section 401(a) (relating to requirements for qualification) is amended to read as follows:

"(7) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part meets the requirements of section 411 (relating to vesting).".

(e) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart B of part I of subchapter D of chapter 1, as added by section 201, is amended by inserting at the end thereof the following new item:

"Sec. 411. Minimum standards relating to vesting.".

(2) The table of sections for subchapter B of chapter 68 is amended—

(A) by striking out the item relating to the section captioned "Assessable penalties with respect to information required to be furnished under section 7654" and inserting in lieu thereof:

"Sec. 6688. Assessable penalties with respect to information required to be furnished under section 7654.",

and

(B) by inserting at the end thereof the following new item:

"Sec. 6690. Failure to furnish information or maintain records.".

(3) Subchapter B of chapter 68 is amended by striking out the heading of the section immediately preceding section 6689 and inserting in lieu thereof:

"Sec. 6688. ASSESSABLE PENALTIES WITH RESPECT TO INFORMATION REQUIRED TO BE FURNISHED UNDER SECTION 7654.".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraphs (2), (3), and (4), the amendments made by the section shall apply to plan years beginning after the date of enactment of this Act.

(2) In the case of a plan (other than a plan described in paragraph (3)) in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administration of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

(3) The amendments made by this section shall apply to plan years beginning after December 31, 1980, in the case of a plan established and maintained by the United States or a State or political subdivision thereof, the District of Columbia, or an agency or instrumentality of the United States or of a State or a political subdivision thereof, or of the District of Columbia.

SEC. 222. CERTAIN NONQUALIFIED PLANS.

(a) GENEREAL RULE.—Section 404 (relating to deduction for contributions to an employee's trust, etc.) is amended—

(1) by inserting in subsection (a)(5) "or subsection (g)," after "or 3,", and

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

"(g) CERTAIN PLANS.—No deduction shall be allowed under this section for a contribution by an employer to a trust created or organized in the United States which is not a trust described in section 401(a) (or a contribution to or under a plan which does not satisfy the requirements of subsection (a)(2)) if the plan of which such trust is a part (or such plan)—

"(1) is established under a written governing instrument,

"(2) provides a determinable retirement benefit for an employee or his beneficiaries which is not required, under the plan, to be paid in full to the employee or his beneficiaries within 5 years after such benefit accrues, and

"(3) in the case of a plan of an employer which is a corporation, provides for the deferral of compensation of any employee who—

"(A) is not an officer of such corporation, and

(B) owns (or is considered as owning (within the meaning of section 1563(e))) stock possessing less than 5 percent of the total combined voting power.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply for taxable years beginning after December 31, 1975.

PART C—FUNDING

SEC. 241. MINIMUM STANDARDS RELATING TO FUNDING.

(a) EXCISE TAX ON FAILURE TO MEET MINIMUM FUNDING STANDARD.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 44—QUALIFIED PENSION, ETC., PLANS

"Sec. 4971. Minimum standards relating to funding.

"Sec. 4972. Taxes on failure to meet minimum funding standard.

"Sec. 4973. Taxes on failure to meet minimum vesting standard.

"SEC. 4971. MINIMUM STANDARDS RELATING TO FUNDING.

"(a) GENERAL RULE.—This section applies to a plan to which part I of subchapter D of chapter 1 applies, which—

"(1) has satisfied (or has been determined by the Secretary or his delegate to have satisfied) the requirements of section 404(a)(2), or

"(2) includes a trust which has qualified (or has been determined by the Secretary or his delegate to have qualified) under section 401(a).

A plan to which this section applies shall have satisfied the minimum funding standard provided by this subsection for a plan year at the end of which the plan does not have an accumulated funding deficiency. For purposes of this section and section 4972, the term 'accumulated funding deficiency' means (except in the case of a plan described in subsection (g)) the excess of the total charges to the funding standard account for all plan years over the total credits to such account for such years.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each plan to which this section applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the amount described in subsection (e) (if applicable), or the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in not less than equal annual installments (computed on the basis of plan years)—

"(i) the initial unfunded past service liability under the plan, over a period of 30 plan years (or the period determined under subsection (d)(2) until fully amortized,

"(ii) separately, wtih respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (if as a result of such plan amendments the net unfunded past service liability under the plan for such year increases by 5 percent or more), over a period of 30 plan years, until fully amortized.

"(iii) the net experience loss (if any) for each plan year, over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(iv) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net increases required to be amortized under clause (ii)) over the lesser of a period of 15 plan years or of a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized, and

"(C) the amount necessary to amortize in equal payments each waived funding deficiency (within the meaning of subsection (d)) for each prior plan year over a period of 10 plan years, until fully amortized.

For purposes of subparagraph (B), in the case of a plan in existence on the effective date of this section, the initial unfunded past service liability under the plan shall be an amount equal to the unfunded past service liability on such date.

"(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account of a plan shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan (within the meaning of section 404(a)(6)) for the plan year,

"(B) the amount necessary to amortize in equal payments—

"(i) the net experience gain (if any) for each plan year over the lesser of a period of 15 plan years or a number of years equal to the average remaining service life of participants in the plan at the end of such plan year, until fully amortized,

"(ii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year (other than net decreases required to be amortized under clause (iii)) over the lesser of a period of 15 plan years or a number of years equal to the average remaining service

life of participants in the plan at the end of such plan year, until fully amortized,

"(iii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in each plan year (if as a result of such plan amendments the net unfunded liability under the plan for such year decreases by more than 5 percent) over a period of 30 plan years, until fully amortized, and

"(C) the amount of the waived funding deficiency (within the meaning of subsection (d)) for the plan year.

"(4) INTEREST.—The funding standard account shall be charged or credited with interest (at the rate of interest used under the plan to determine costs) with respect to the balance of such account.

For purposes of this section, normal costs, past service liabilities, and experience gains and losses, shall be determined under the funding method used to determine costs under the plan, and the actuarial assumptions used to determine costs and liabilities under the plan must in the aggregate be reasonable.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) FULL FUNDING.—If, as of the end of a plan year, a plan would have an accumulated funding deficiency (but for the application of this paragraph) in excess of the full funding limitation—

"(A) the funding standard account shall credited with the amount of such excess, and

"(B) all amounts described in paragraphs (2) (B) and (C) and (3) (A) and (B) of subsection (b) which are required to be amortized shall be considered fully amortized for purposes of such paragraphs.

For purposes of this paragraph, a plan shall be considered fully funded if the accrued liability (including normal cost) under the plan (determined under the funding method used by the plan to determine normal cost for such year if such liability can be directly calculated under such funding method, or determined under the entry age normal funding method if such liability cannot be so calculated under the funding method so used by the plan) is not greater than the value of the assets of the plan (determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of average value for 5 or fewer years) on the valuation date of the plan for such year.

"(2) COMPUTATION OF NET EXPERIENCE GAINS AND LOSSES.—In computing net experience gains and losses for a plan year, the value of the assets held under a plan shall be determined (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years.

"'(3) CHANGE IN ACTUAL ASSUMPTIONS, SOCIAL SECURITY, ETC., BENEFITS.—For purposes of this section, all costs liabilities, interest rates, valuations of assets, and other factors under the plan shall be determined on the basis of actuarial assumptions which in the aggregate, are reasonable, and, if a change in the funding method or actuarial assumptions used under the plan, a change in benefits under the Social Security Act or other retirement benefits created under State or Federal law, or a change in the definition of the term 'wages' under section 3121, results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain. If a plan changes its funding method, the new funding method shall become the funding method used to determine costs and liabilities under the plan only if the change is approved by the Secretary or his delegate. The plan year of a plan may be changed only if the change is approved by the Secretary or his delegate.

"(d) WAIVER OF MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—If an employer is unable to satisfy the minimum funding standard for a plan year without substantial business hardship, the Secretary or his delegate is authorized to waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard except the portion thereof determined under subsection (b) (2) (C). The Secretary or his delegate shall not waive the minimum funding standard with respect to a plan for more than 5 of any 10 consecutive plan years. For purposes of this section, the term 'waived funding deficiency' means the portion of the minimum funding standards (determined without regard to subsection (b) (3) (C)) for a plan year waived by the Secretary or his delegate and not satisfied by employer contributions.

"(2) MULTIEMPLOYER PLANS.—In the case of a multiemployer plan (as defined in section 401(a) (3)) of the Retirement Income Security for Employees Act—

"(A) the term '40 plan years' shall be substituted for the term '30 plan years' wherever it appears in subsection (b); and

"(B) if 10 percent or more of the number of employers contributing to or under the plan demonstrate to the satisfaction of the Secretary of Labor that they would experience substantial economic hardship if required to contribute the amount necessary to amortize in equal payments any unfunded liability (described in clause (i) or (ii) of subsection (b) (2) (B)) of such plan over a period of 40 years until fully amortized, then the 40-year period described in such clause shall be extended for the period of time (not in excess of 10 years) that is certified for this purpose by the Secretary of Labor to the Secretary of the Treasury.

"(3) LIMIT ON INCREASES IN BENEFITS WHILE WAIVER OR EXTENSION APPLIES.—Benefits under a plan may not be increased by amendment if a waiver under paragraph (1) or an extension under paragraph (2) is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of the provisions of this paragraph, any such waiver or extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

"(e) CERTAIN INSURED PLANS.—If—

"(1) a plan is funded exclusively by the purchase of individual insurance contracts,

"(2) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participation in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(3) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(4) premiums payable for the plan year, and all prior plan years under such contracts have been paid before lapse or there is reinstatement of the policy,

"(5) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(6) no policy loans are outstanding during the plan year,

the amount charged to the funding standard account shall be equal to the net premiums paid under the plan.

"(f) PLANS OTHER THAN DEFINED BENEFIT PLANS.—In the case of a profit-sharing, stock bonus, or money purchase plan—

"(1) 'normal cost' shall be the amount required under the plan to be contributed for a plan year to fund the current service liability, and

"(2) the amounts required to be charged under subsection (b) (2) (B) (i), (ii), and (iv) shall be the amount required under the plan to be contributed on account of past service liability.

"(g) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

"(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

"(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954,

"(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers of participants in such plan,

"(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

"(6) a plan described in section 404(a) (5).

"(h) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such regulations as are necessary to carry out the provisions of this section.

"SEC. 4972. TAXES ON FAILURE TO MEET MINIMUM FUNDING STANDARD.

"(a) INITIAL TAX.—For each taxable year of an employer who maintains a plan to which section 4971 applies, there is hereby imposed a tax of 5 percent on the amount of the accumulated funding deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer responsible for contributing to or under the plan the amount described in section 4971(b) (3) (A).

"(b) ADDITIONAL TAX.—In any case in which an initial tax is imposed by subsection (a) on an accumulated funding deficiency and such accumulated funding deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated funding deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) SPECIAL RULE.—In the case of a multiemployer plan, see section 413(b) (6).

"(d) DEFINITIONS.—For purposes of this section—

"(1) CORRECT.—The term 'correct' means, with respect to an accumulated funding deficiency, the contribution, to or under the plan, of the amount necessary to reduce such accumulated funding deficiency as of the end of a plan year in which such deficiency arose to zero.

"(2) CORRECTION PERIOD.—The term 'correction period' means, with respect to an accumulated funding deficiency, the period beginning with the end of a plan year in which there is an accumulated funding deficiency and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated funding deficiency to zero under this section.

"(e) REGULATIONS.—The Secretary or his

delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) CROSS REFERENCE.—

"For disallowance of deduction for taxes paid under this section, see section 275.".

(b) AMENDMENT OF SECTION 404.—Section 404 (relating to deductions for contributions to an employees' trust, etc.) is amended by—

(1) inserting immediately after subsection (a)(1)(D) the following new sentences: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971(a) for the taxable year. For purposes of determining the amount deductible under section 162 or 212 with respect to a contribution to a pension plan and for purposes of determining the limitations under subparagraphs (B) and (C), assets held under the plan shall be valued (in accordance with regulations prescribed by the Secretary or his delegate) on the basis of average values for 5 or fewer years."; and

(2) by striking out subsection (a)(7), and inserting in lieu thereof:

"(7) LIMIT OF DEDUCTIONS.—If amounts are deductible under paragraphs (1) and (3), or (2) and (3), or (1), (2), and (3), in connection with two or more trusts, or one or more trusts and an annuity plan, the total amount deductible in a taxable year under such trusts and plans shall not exceed the greater of 25 percent of the compensation otherwise paid or accrued during the taxable year to the persons who are the beneficiaries of the trusts or plans, or the amount of contributions made to or under the trusts or plans to the extent such contributions do not exceed the amount of employer contributions necessary to satisfy the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. In addition, any amount paid into such trust or under such annuity plans in any taxable year in excess of the amount allowable with respect to such year under the preceding provisions of this paragraph shall be deductible in the succeeding taxable years in order of time, but the amount so deductible under this sentence in any one such succeeding taxable year together with the amount allowable under the first sentence of this paragraph shall not exceed the greater of 30 percent of the compensation otherwise paid or accrued during such taxable year to the beneficiaries to or under the trusts or plans to the extent such contributions do not exceed the minimum funding standard provided by section 4971 for the plan year which ends with or within such taxable year. This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no employee is a beneficiary under more than one trust or a trust and an annuity plan.

"SEC. 4973. TAXES ON FAILURE TO MEET MINIMUM VESTING STANDARD.

"(a) INITIAL TAX.—For each taxable year of an employer who maintains a plan to which section 411 applies there is hereby imposed a tax of 5 percent on the amount of the accumulated vesting deficiency under the plan, determined as of the end of the plan year ending with or within such taxable year. The tax imposed by this subsection shall be paid by the employer who maintains the plan.

"(b) ADDITIONAL TAX.—In any case in which a tax is imposed by subsection (a) on an accumulated vesting deficiency and such accumulated vesting deficiency is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of such accumulated vesting deficiency. The tax imposed by this subsection shall be paid by the employer described in subsection (a).

"(c) DEFINITIONS.—For purposes of this section.—

"(1) ACCUMULATED VESTING DEFICIENCY.—The term 'accumulated vesting deficiency' means an amount equal to the actuarially equivalent value of all benefits under a plan derived from employer contributions which are required by section 411(a)(2)(A) to be nonforfeitable as of the end of a plan year, reduced by an amount equal to the actuarially equivalent value of all such benefits which are, in fact, nonforfeitable under that plan as of the close of that plan year.

"(2) CORRECT.—The term 'correct' means, with respect to an accumulated vesting deficiency, the crediting under the plan of the amount necessary to reduce such accumulated vesting deficiency to zero as of the end of a plan year in which such deficiency arose.

"(3) CORRECTION PERIOD.—The term 'correction period' means, with respect to an accumulated vesting deficiency, the period beginning with the end of a plan year in which there is an accumulated vesting deficiency and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to permit a reduction of the accumulated vesting deficiency to zero under this section.

"(d) REGULATIONS.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(e) CROSS REFERENCE.—

"For disallowance of deduction for taxes paid under this section, see section 275.".

(c) CONFORMING, CLERICAL, ETC., AMENDMENTS.—

(1) The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"CHAPTER 44. Qualified pension plans.".

(2) Section 6161 (relating to extensions of time for paying tax) is amended by striking out "or 42" each place it appears in subsection (b) and inserting in lieu thereof ", 42 or 44".

(3) Section 6201(d) (relating to assessment authority) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(4) Section 6211 (relating to definition of a deficiency) is amended by—

(A) striking out so much of subsection (a) as precedes "(1) the sum of" and inserting in lieu thereof the following:

"(a) IN GENERAL.—For purposes of this title in the case of income, estate, and gift taxes imposed by subtitles A and B and excise taxes imposed by chapters 42 and 44 the term 'deficiency' means the amount by which the tax imposed by subtitle A or B, or chapter 42 or 44, exceeds the excess of—"; and

(B) striking out "chapter 42" in subsection (b)(2) and inserting in lieu thereof "chapter 42 or 44".

(5) Section 6212 (relating to notice of deficiency) is amended—

(A) by striking out "or chapter 42" in subsections (a) and (b) and inserting in lieu thereof "chapter 42, or chapter 44",

(B) by striking out 'chapter 42, and this chapter" in subsection (b), and inserting in lieu thereof "chapter 42, chapter 44, and this chapter", and

(C) by striking out "chapter 42 tax" in subsection (c) and inserting in lieu thereof" "chapter 42 or 44 tax".

(6) Section 6213 (relating to restrictions applicable to deficiencies and petition to Tax Court) is amended—

(A) by striking out "or chapter 42" in subsection (a) and inserting in lieu thereof ", chapter 42 or chapter 44',

(B) by striking out the heading in subsection (e) and inserting in lieu thereof "SUSPENSION OF FILING PERIOD FOR CERTAIN CHAPTER 42 OR 44 TAXES.—"; by striking out "or 4945 (relating to taxes on taxable expenditures)" in subsection (e) and inserting in lieu thereof "4945 (relating to taxes on taxable expenditures), 4972 (relating to taxes on failure to meet maximum funding standard), section 4974 (relating to excise tax on prohibited transactions)"; and by striking out "or 4945(h)(2)" in subsection (e) and inserting in lieu thereof ", 4945(h)(2), 4972(d)(2), or 4974(f)(4)".

(7) Section 6214(c) (relating to determinations by Tax Court) is amended—

(A) by striking out the heading and inserting in lieu thereof "TAXES IMPOSED BY SECTION 507, CHAPTER 42, OR CHAPTER 44.—",

(B) by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44"; and

(C) by striking out "chapter 42" in subsection (d) and inserting in lieu thereof "chapter 42, chapter 44".

(8) Section 6344(a)(1) (relating to cross references is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(9) Section 6501(e)(3) (relating to limitations on assessment and collection) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(10) Section 6503 (relating to suspension of running of period of limitations) is amended—

(A) by striking out "and chapter 42 taxes)" in subsection (a)(1) and inserting in lieu thereof "chapter 42 or 44 taxes", and

(B) by striking out "or section 507" in subsection (h) and inserting in lieu thereof ", section 507, or chapter 44", and by striking out "or 4945(h)(2)" in subsection (h) and inserting in lieu thereof "4945(i)(2), 4972(d)(2), or 4974(f)(4)".

(11) Section 6512 (relating to limitations in case of petition to Tax Court is amended by striking out "chapter 42" each place it appears therein and inserting in lieu thereof "chapter 42 or 44".

(12) Section 6601(d) (relating to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended by—

(A) striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44", and

(B) striking out in the heading thereof "Chapter 42" and inserting in lieu thereof "Chapter 42 or 44".

(13) Section 6653(c)(1) (relating to income, estate, gift, and chapter 42 taxes) is amended by striking out "chapter 42" each place it appears therein (including the caption) and inserting in lieu thereof "chapter 42 or 44".

(14) Section 6659(b) (relating to applicable rules) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(15) Section 6676(b) (relating to failure to supply identifying numbers) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(16) Section 6677(b) (relating to failure to file information returns with respect to certain foreign trusts) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(17) Section 6679(b) (relating to failure to file returns as to organization or reorganization of foreign corporations and as to acquisitions of their stock) is amended by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44".

(18) Section 6682(b) (relating to false

information with respect to withholding allowances based on itemized deductions) is amended by striking out "and chapter 42" and inserting in lieu thereof "chapter 42, and chapter 44".

(19) Section 6861 (relating to jeopardy assessments of income, estate, and gift taxes) is amended by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT, AND CERTAIN EXCISE TAXES."

(20) Section 6862 (relating to jeopardy assessment of taxes other than income, estate, and gift taxes) is amended—

(A) by striking out "AND GIFT TAXES.", and inserting in lieu thereof "GIFT, AND CERTAIN EXCISE TAXES.",

(B) by striking out "and gift tax)" and inserting in lieu thereof "gift tax, chapter 42 tax, and chapter 44 tax)".

(21) Section 7422 (relating to civil actions for refund) is amended—

(A) by striking out "chapter 42" and inserting in lieu thereof "chapter 42 or 44" in subsection (e), and

(B) by striking out "chapter 42" in the heading of subsection (g) and inserting in lieu thereof "chapter 42 or 44", and

(C) by striking out "or 4945" in subsection (g)(1) and inserting in lieu thereof "4945, 4972, 4973, or 4974", and

(D) by striking out "section 4945(a) (relating to initial taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(a) (relating to initial taxes on taxable expenditures), 4972 (a) (relating to initial tax on failure to meet minimum funding standard), 4973(a) (relating to initial tax on failure to meet minimum vesting standard), 4974(a) (relating to initial tax on prohibited transactions)", and

(E) by striking out "or 4945" in paragraphs (2) and (3) and inserting in lieu thereof "4945, 4972, 4973, 4974, or 4975".

(F) by striking out "or section 4945(b) (relating to additional taxes on taxable expenditures)" in subsection (g)(1) and inserting in lieu thereof "section 4945(b) (relating to additional taxes on taxable expenditures), section 4972(b) (relating to additional tax on failure to meet minimum funding standard), section 4973(b) (relating to additional taxes on failure to meet minimum vesting standard), or section 4974(b) (relating to additional tax on prohibited transactions)", and

(G) by striking out "or 4945" in subsections (g) (2) and (3) and inserting in lieu thereof "4945, 4972, 4973, or 4974".

(22) Section 275(a) (relating to certain taxes) is amended by inserting immediately following paragraph (5) the following new paragraph:

"(6) Taxes imposed by chapter 42 and chapter 44 (except section 4975 thereof)."

(d) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beninning after the date of enactment of this Act.

(2) In the case of a plan in existence on the date of enactment of this Act, the amendments made by this section shall apply to plan years beginning after December 31, 1975; however, if the Secretary of Labor determines that the application of any or all of such amendments to a plan for those plan years would create substantial economic hardship for that plan and certifies his determination to the Secretary of the Treasury before that date, the amendments made by this section with respect to which the Secretary of Labor makes such determination shall apply only to plan years of that plan beginning after December 31 of a year not later than 1981 determined by the Secretary of Labor and certified to the administrator of the plan and to the Secretary of the Treasury. For purposes of this paragraph the term "substantial economic hardship" includes, but is not limited to, a finding by the Secretary that—

(A) there is a substantial risk that, if such amendment or amendments apply to the plan without any extension, the voluntary continuation of the plan will be unlikely;

(B) the plan will be unable to discharge its contractual obligations for the payment of benefits; or

(C) application of the amendments to the plan without an extension is likely to cause a substantial reduction in the number of plan participants or persons employed by the employer or employers contributing to or under the plan.

Benefits under a plan may not be increased by amendment if an extension under this paragraph is in effect with respect to the plan on the effective date of amendment. If a plan is amended in violation of provisions of this paragraph, any such extension shall not apply to plan years beginning after the plan year in which such amendment becomes effective.

PART D—OPTIONAL FORM OF BENEFIT; SPECIAL RULES

SEC. 261. AMENDMENT OF SECTION 401.

(a) IN GENERAL.—Section 401(a) (relating to requirements for qualification) is amended by—

(1) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) if the contributions or benefits provided under the plan do not discriminate in favor of employees who are—

"(A) officers,

"(B) shareholders, or

"(C) highly compensated,

excluding for this purpose employees who are nonresident aliens whose compensation from the employer (for the taxable year of the employer) does not include any earned income (within the meaning of section 911(b)) from sources within the United States (within the meaning of section 861(a)(3))."., and

(2) by inserting at the end thereof the following new paragraphs:

"(11) A trust shall not constitute a qualified trust under this section if the plan of which such trust is a part provides for the payment of benefits in the form of an annuity for the life of a participant unless such plan provides for the payment of such benefit in the form of a joint and survivor annuity (with a survivor annuity of not less than one half of the amount of the annuity payable to the participant during the joint lives of the participant and his spouse), unless the participant elects in writing, within 2 years of normal retirement age (or, if earlier, within 2 years of the first payment of regular retirement benefits), not to have the benefit paid in such form and that such election may be made only after such participant receives a written explanation of the terms and conditions of such joint and survivor annuity and the effect of such election.

"(12) A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that benefits provided under the plan may not be assigned or alienated unless the beneficiary thereof cannot be located or ascertained within such reasonable period of time as the Secretary or his delegate may prescribe by regulation.".

(b) PLANS BENEFITTING OWNER-EMPLOYEES.—Section 401(d)(3) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by striking out "calendar year." and inserting in lieu thereof: "calendar, fiscal, or plan year, or any employees who are included in a unit of employees covered by an agreement which the Secretary or his delegate finds to be a collective-bargaining agreement between employee representatives and one or more employers, if such agreement does not provide that such are to be included in the plan, and if there is evidence that retirement benefits were the subject of good faith bargaining between such employee representatives and such employer or employers during the most recently concluded contract negotiations which were the subject of bargaining between such representatives and the employer or employers.".

(c) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employees' annuity plan) is amended by striking out "and (8)," and inserting in lieu thereof "(8) (11), (12), (13), (14), and (15),".

(2) Section 805(d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12, (13), (14), and (15)".

(d) EFFECTIVE DATES.—

(1) GENERAL RULE.—Except as provided by paragraph (2), the amendments made by this section shall apply with respect to plan years and taxable years beginning after the date of enactment of this Act.

(2) EXCEPTION.—In the case of a trust which is part of a plan which was in existence on December 31, 1972, the amendments made by this section shall not apply with respect to plan years beginning before January 1, 1976.

SEC. 262. PROHIBITION AGAINST MAINTAINING NONQUALIFIED PLANS.

(a) IN GENERAL.—Except as otherwise provided in this section, no person engaged in a trade or business which is in or affects interstate commerce shall establish or maintain a retirement plan which does not meet the requirements of section 401 of the Internal Revenue Code of 1954 (other than a plan described in section 404(a)(5) of such Code to which section 404(g) of such Code does not apply).

(b) ENFORCEMENT.—The Secretary of the Treasury is authorized to bring an action in any district court of the United States having jurisdiction over a person who establishes or maintains a retirement plan in violation of the provisions of subsection (a) against such person for equitable relief to restrain that person from maintaining such a plan.

(c) EXCEPTIONS.—Subsection (a) shall not apply to—

(1) a plan established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States if the fund for such plan is maintained outside the United States,

(2) a plan established and maintained solely for the purpose of complying with applicable workmen's compensation or unemployment compensation or disability insurance laws,

(3) a plan established and maintained by a church or by a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954,

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of the Internal Revenue Code of 1954 if no part of the contributions to or under such plan are made by employers or participants in such plan,

(5) a plan established or maintained by the Government of the United States or the government of any State or political subdivision thereof, or by an agency or instrumentality thereof, or

(6) a plan described in section 404(a)(5) of such Code to which section 404(g) of such Code does not apply.

(d) DEFINITIONS.—For purposes of this section, the term—

(1) "retirement plan" means any plan, fund, or program other than a profit-sharing

plan, which is established under a written governing instrument and provides a determinable retirement benefit for a participant in the plan or his beneficiaries; and

(2) "profit-sharing plan" means a retirement plan established or maintained by an employer to provide for the participation by his employees in the current or accumulated profits of the employer in accordance with a formula for allocating contributions made to the plan by participants in the plan and for distributing benefits under the plan upon retirement or death of any participant.

(e) REGULATIONS.—The Secretary of the Treasury shall prescribe regulations as may be necessary to carry out the provisions of this section.

PART E—PROTECTION OF PENSION RIGHTS UNDER GOVERNMENT PLANS AND CONTRACTS

SEC. 281. DUTIES OF THE SECRETARY OF THE TREASURY.

The Secretary of the Treasury or his delegate shall study the extent to which pension plans established and maintained by the Government of the United States, or by any State (including the District of Columbia) or political subdivision thereof, are adequately funded. In determining whether any such plan is adequately funded, the Secretary or his delegate shall consider the minimum funding standards applicable to private pension plans under the Internal Revenue Code of 1954, the taxing power of the government maintaining the plan, and whether it would be advisable or appropriate to require such plans to comply with the same minimum funding standards applicable to private pension plans or with other minimum funding standards. The Secretary shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of such study not later than December 31, 1976, together with such recommendations, including recommendations for legislation, as he may deem appropriate.

SEC. 282. DUTIES OF SECRETARY OF LABOR.

(a) DEVELOPMENT OF REGULATIONS.—The Secretary of Labor shall develop, in consultation with appropriate professional societies, business organizations, and heads of interested Federal departments and procurement agencies, recommendations for modifications of Federal procurement regulations to insure that professional, scientific, and technical personnel and others working in associated occupations employed under Federal procurement, construction, or research contracts or grants shall, to the extent feasible, be protected against forfeitures of pension or retirement rights or benefits, otherwise provided, as a consequence of job transfers or loss of employment resulting from terminations or modifications of Federal contracts, grants, or procurement policies.

(b) PUBLICATION.—Recommended changes in regulations governing Federal contracts, grants, or procurement policies shall be developed by the Secretary, as required by subsection (a), within six months after enactment of this Act, and shall be published in the Federal Register within fifteen days thereafter as proposed regulations subject to comment by interested parties.

(c) RECOMMENDATIONS.—After publication under subsection (b), receipt of comments, and such modification of the published proposals as the Secretary deems appropriate, the recommended changes in procurement regulations developed under this title shall be adopted by each Federal department and procurement agency within sixty days thereafter unless the head of such department or agency determines that such changes would not be in the national interest or would not be consistent with the primary objectives of such department or agency.

TITLE III—PORTABILITY

SEC. 301. DEFINITIONS.

For purposes of this title—

(1) "fund" means the Pension Benefit Portability Fund established under section 303;

(2) "corporation" means the Pension Benefit Guaranty Corporation established under title IV of this Act;

(3) "qualified plan" means—

(A) a pension, profit-sharing, or stock bonus plan described in section 401(a) of the Internal Revenue Code of 1954,

(B) an annuity plan described in section 403 (a) or (b) of such Code, and

(C) a bond purchase plan described in section 405(a) of such Code;

(4) "qualified insurance carrier" means an insurance carrier subject to regulation and examination by the government of the State in which an annuitant resides, which is determined by the corporation to be suitable as the issuer of annuity contracts authorized to be purchased under section 307(b)(3);

(5) "participant" means an employee who is covered under a qualified plan other than an employee who, at any time, has been an employee within the meaning of section 401 (c)(1) of the Internal Revenue Code of 1954;

(6) "administrator" means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act; and

(7) "State" means any of the States of the United States or the District of Columbia.

SEC. 302. PROGRAM ESTABLISHED.

The corporation shall establish a voluntary pension benefit portability program in accordance with the provisions of this title.

SEC. 303. ESTABLISHMENT OF FUND.

(a) IN GENERAL.—The corporation shall establish a Pension Benefit Portability Fund. Any payments received by the corporation under this section or under section 305 shall be deposited in the fund, and all expenditures made by the corporation under, or in connection with, this title shal be made out of the fund.

(b) INVESTMENT OF FUND MONEYS.—The corporation is authorized to invest any amounts in the fund during any fiscal year which it determines not to be needed for use in the program for the payment of liabilities during that year, and any amounts in the fund not needed for the payment of current operating and administrative expenses, in obligations of the United States, and to deposit any such amounts in interest-bearing accounts in, or purchase certificates of deposit from, any bank the deposits of which are insured by the Federal Deposit Insurance Corporation, and to deposit any such amounts in interest-bearing accounts in any savings and loan association in which the accounts are insured by the Federal Savings and Loan Insurance Corporation or in any credit union insured under title II of the Federal Credit Union Act. In no case shall more than 10 percent of the amount invested under this subsection be invested in or with any particular bank, savings and loan acsociation, or credit union.

(c) REPORTS ON STATUS OF FUND.—The corporation shall report to the Congress not later than the first day of the fourth month beginning after the end of the fiscal year of the corporation on the operations and status of the fund during that fiscal year, and on its expected operations and status during the fiscal year of the corporation during which such report is made and the two succeeding fiscal years. The report shall also contain a review of the general policies followed by the corporation in managing the fund and may contain recommendations, including recommendations for additional legislation, with respect to the operations of the fund and of the portability program established by this title, which the corporation chooses to make.

SEC. 304. REGISTRATION.

(a) IN GENERAL.—If an employer who maintains a qualified plan wishes to be able to make payments from his qualified plan assets on behalf of former employees to the corporation for deposit in the fund, or to be able to receive payments from the corporation for the purchase of benefits under his qualified plan for his employees, he shall register the plan with the corporation. The registration shall be in such form and contain such information as the corporation may require. The corporation may not accept any registration application which does not contain the employer's agreement, the breach of which is subject to such charge as the corporation may by law impose, to pay to the corporation, within 180 days after the date on which it is requested, the amount payable under section 305 with respect to a participant in the registered qualified plan who is covered by such registration who requests such payment if that participant was employed by the employer at any time within a period of not less than 12 months preceding the date of the request.

(b) TERMINATION OF REGISTRATION; REREGISTRATION.—An employer may terminate the registration of his plan under this section and reregister from time to time; however, if the corporation determines that a requested termination of registration and a subsequent registration by an employer were for the purpose of discriminating against an employee or group of employees in an unlawful manner or in a manner prohibited to qualified plans under section 401(a)(3) or (4) of the Internal Revenue Code of 1954 or for the purpose of frustrating the purpose of this title, that termination of registration will be treated as not having been effective.

(c) LIMITED REGISTRATION.—An employer may register a qualified plan under this section with respect to less than all of his employees who are participants in that qualified plan if the group of employees with respect to whom he registers the plan is reasonably defined and the employer demonstrates to the satisfaction of the corporation that the group has a particular need for access to the voluntary pension benefit portability program which is not shared by his other employees who are excluded from the registration but who are participants in the same qualified plan.

SEC. 305. ACCEPTANCE OF DEPOSITS.

(a) PAYMENTS BY ADMINISTRATORS.—The corporation shall accept for deposit into the the fund any payment made from the assets of a registered qualified plan by the administrator of that plan at the request of a participant if the payment represents a full discharge of liability by that plan to the participant and is made upon his separation from the service of the employer or employers who maintain the plan.

(b) PAYMENTS BY PARTICIPANTS.—The corporation shall accept for deposit into the fund any payment made by a participant (or former participant) in a qualified plan if—

(1) the payment is all or not less than the taxable portion of a distribution made to the participant by the plan representing a full discharge of liability of the plan to the participant, or a partial discharge of liability which will become a full discharge after being adjusted to reflect the participant's interest in the plan at the close of the plan year, or an installment portion of such a full discharge of liability with any remainder to be paid within 12 months after the date on which the first portion of such distribution is made; and

(2) the payment is made to the corporation for deposit into the fund within 60 days after

the date on which the participant (or former participant) received the distribution to which the payment relates.

For purposes of this subsection, the term "taxable portion" means that part of any distribution to which this subsection applies which is attributable to amounts other than employee contributions made by the participant.

(c) OTHER CONDITIONS.—The corporation shall not accept any payment described in subsection (a) unless the payment is made directly to the corporation by the administrator of the plan, nor shall it accept any payment described in subsection (a) or (b) unless it is made in cash or its equivalent and it is accompanied by such information with respect to the plan and with respect to the payment and the participant on behalf of whom the payment is made, or who is making the payment, as the corporation may require for the efficient administration of the voluntary pension benefit portability program.

SEC. 306. INDIVIDUAL ACCOUNTS.

(a) ACCOUNT ESTABLISHED.—The corporation shall establish and maintain a separate account for each separate payment received by the corporation under section 305 of this title on behalf of each participant.

(b) ITEMS SHOWN IN ACCOUNT.—An account established under subsection (a) shall identify the participant for whom it is established and shall show—

(1) the name and address of each qualified plan which makes a payment under section 305 of this title on behalf of the participant in whose name such account is established;

(2) the portion of each such payment which constitutes the amount treated under sections 72, 402(a), and 403 of the Internal Revenue Code of 1954 as the net amount contributed by the participant;

(3) any remaining portion of each such payment; and

(4) the amount which constitutes the income attributable to such account while in the custody of the fund.

SEC. 307. PAYMENTS FROM INDIVIDUAL ACCOUNTS

(a) GENERAL RULE.—Except as provided in subsection (b), an amount credited to the account of any participant under this title may be paid by the corporation to—

(1) such participant,

(2) his beneficiary,

(3) a qualified insurance carrier selected by such participant, or

(4) a qualified plan.

(b) LIMITATIONS.—

(1) In the case of a payment by the corporation to a participant, such payment shall be made upon the written request of such participant and in an amount—

(A) of $100 or more, or

(B) which constitutes the total amount credited to the account of such participant.

The corporation shall, upon the date a participant attains the age of 70½ years, pay to such participant the amount which constitutes the total amount credited to the account of such participant. No payment may be made to a participant who has not attained the age of 59½ years unless that participant is disabled (within the meaning of section 72(m)(7) of the Internal Revenue Code of 1954).

(2) A payment shall be made by the corporation to the beneficiary of a participant only if—

(A) the participant dies before the total amount credited to his account has been paid or distributed in accordance with paragraphs (1), (3), and (4), and

(B) the payment is made to the beneficiary upon his written request and—

(i) is in an amount of $100 or more,

(ii) constitutes the total amount credited to the account of the participant (if less than $100), or

(iii) is used to purchase an immediate annuity for such beneficiary which is payable for his life or for a term certain not extending beyond the life expectancy of the beneficiary) and which is distributed immediately to the beneficiary.

For purposes of this paragraph, the total amount credited to the account of a participant must be paid or distributed to his beneficiary not later than 10 years after the death of the participant.

(3) In the case of a payment by the corporation to a qualified insurance carrier selected by a participant who has attained the age of 59½ years, such payment shall only be made if such payment is used for the purchase of—

(A) a single premium life annuity contract payable during the life of such participant commencing not earlier than the date on which such participant attains the age of 59½ years and not later than the date on which he attains the age of 70½ years, or

(B) a single premium joint and survivor annuity contract payable during the lifetimes of such participant and his spouse commencing not earlier than the date on which such participant attains (or would have attained) the age of 59½ years and not later than the date on which such participant attains (or would have attained) the age of 70½ years,

which will be distributed to such participant on the date on which payments are to commence.

(4) The corporation shall make a payment to a qualified plan only if—

(A) the plan is registered under section 304,

(B) the payment is made pursuant to a request made by the participant within 12 months after he becomes a participant in such plan, or, if later, within 12 months after the plan is registered under section 304, and

(C) the administrator of the plan agrees to accept the payment and to apply it to the purchase of benefits under the plan which have a value equivalent to the value of the payment if it were left in the fund.

(c) MANDATORY WITHDRAWALS.—The balance of any account of a participant shall be paid by the corporation to such participant within 30 days after notification to the corporation by the Secretary of the Treasury or his delegate that the trust or plan (which made a payment credited to such account) has been determined not to be a qualified trust under section 401(a) of the Internal Revenue Code of 1954 or not to be a plan which satisfied the requirements of section 404(a)(2) of such Code at the time such trust or plan made such payment.

SEC. 308. ASSISTANCE TO PLAN ADMINISTRATORS

The corporation shall provide assistance to employers, employee organizations, trustees, and administrators of pension plans in their efforts to provide greater retirement protection for individuals who are separated from employment covered under such plans. Such assistance may include, but is not limited to (1) the development of reciprocity arrangements between plans in the same industry or area, and (2) the development of special arrangements for portability of credits within a particular industry or area.

SEC. 309. AMENDMENT OF INTERNAL REVENUE CODE OF 1954.

(a) AMENDMENT OF SECTION 402.—Section 402 (relating to taxability of beneficiary of employees' trust) is amended by—

(1) striking out "and (4)" in the first sentence of paragraph (1) of subsection (a) and inserting in lieu thereof ", (4) and (6)",

(2) inserting after paragraph (5) of subsection (a) (as amended by section 703(b) of this Act) the following new pargaraph:

"(6) CERTAIN TRANSFERS.—For purposes of this section, a transfer of the full amount representing an employee's interest in an employee's trust described in section 401(a) which is exempt from tax under section 501(a) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404(a)(2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401(c)(1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b)(2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date.", and

(3) adding at the end thereof the following new subsections:

"(f) TAXABILITY OF PAYMENTS TO THE PENSION BENEFIT PORTABILITY FUND.—A payment to the Pension Benefit Portability Fund (established under section 303 of the Retirement Income Security for Employees Act) by a qualified plan of an amount described in section 305 of that Act on behalf of a participant shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made.

"(g) TAXABILITY OF PAYMENTS FROM THE PENSION BENEFIT PORTABILITY FUND.—Any amount paid on behalf of a participant from the Pension Benefit Portability Fund—

"(1) to a member plan, shall not be includible in the gross income of such participant for the taxable year of such participant in which such payment is made;

"(2) to or with respect to such participant, shall be includible in gross income to the extent that such amount (when added to amounts previously received) exceeds the aggregate amount of each payment to the Pension Benefit Portability Fund credited to the account of such participant which is treated as contributed by such participant under subsection (a), or section 72 or 403;

"(3) to a qualified insurance carrier (within the meaning of section 301(4) of the Retirement Income Security for Employees Act) for the purchase of an annuity contract described in section 307(b) (2) or (3) of that Act shall not be includible in the gross income of such participant for the taxable year in which such annuity contract is purchased.

"(h) TAXABILITY OF MANDATORY WITHDRAWALS FROM THE PENSION BENEFIT PORTABILITY FUND.—Any amount paid to a participant under the provisions of section 307(c) of the Retirement Income Security for Employees Act shall be includible in the gross income of such participant to the extent such amount constitutes the amount described in section 306(b)(4) of such Act."

(b) AMENDMENT OF SECTION 403.—Section 403(a) (relating to taxability of beneficiary under annuity plan) is amended by—

(1) striking out "paragraph (2)" in the first sentence of paragraph (1) and insert-

ing in lieu thereof "paragraphs (2) and (4)", and

(2) inserting after paragraph (3) (as added by section 703(b) of this Act) the following new paragraph:

"(4) CERTAIN TRANSFERS.—For purposes of this section, a transfer of the full amount representing an employee's interest in an annuity plan described in section 404(a)(2) shall not be considered a distribution under paragraph (1) if the transfer is made in connection with a change of employment by the employee and the transfer is made from a trust under his former employer not later than the 60th day after its receipt by the employee, and within 12 months after such change of employment, to—

"(A) a trust of his new employer which is described in section 401(a) and exempt from tax under section 501(a), or

"(B) an annuity plan of his new employer which meets the requirements of section 404(a)(2).

This paragraph shall not apply to a transfer made in connection with a change of employment by an individual who was, at any time, under the former employer's plan an employee within the meaning of section 401(c)(1). This paragraph shall also apply in the case of a transfer to such a trust or annuity plan of not less than that portion of an employee's interest in his former employer's plan which does not represent the employee's own contributions if the full amount of his interest in such plan was distributed to him. For purposes of this title, the contribution made to the new employer's plan by such a transfer shall be treated as an employer contribution made on the date contributed, except that for purposes of sections 219(b)(2), 404, 411, 414(a), and 1379(b) it shall be treated as an employee contribution made on such date."

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of enactment of this Act.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the corporation (which shall be treated solely for purposes of this section as an instrumentality of the United States) such sums as may be necessary to carry out the provisions of this title.

TITLE IV—PLAN TERMINATION INSURANCE

PART A—PENSION BENEFIT GUARANTY CORPORATION

SEC. 401. DEFINITIONS; SPECIAL RULES.

(a) DEFINITIONS.—For purposes of this title, the term—

(1) "administrator" means the person or persons described in section 501(g)(11) of this Act;

(2) "substantial employer" means any employer (treating employers which are members of the same affiliated group, within the meaning of section 1504(a) of the Internal Revenue Code of 1954, as one employer) who—

(A) has made contributions to or under a multiemployer plan for each of any 2 consecutive plan years equaling or exceeding 10 percent of all employer contributions paid to or under that plan for each such year, and

(B) who has received notice from the plan administrator under section 466 and has not withdrawn from the plan within 24 months after receiving such notice;

(3) "multiemployer plan" means a plan which the corporation determines is a plan to which more than one employer (treating employers who are members of the same affiliated group within the meaning of section 1504(a) of the Internal Revenue Code of 1954 as one employer) is required to contribute and which is a plan established or maintained pursuant to a collective bargaining agreement between employee representatives and one or more employers, but a plan shall not be considered to be a multiemployer plan within the meaning of this section unless the corporation determines that—

(A) under the plan benefits are payable with respect to each participant without regard to the cessation of contributions by the employer who employed that participant, and

(B) the amount of contributions made to or under the plan for a plan year by any employer making such contributions is less than 50 percent of the aggregate amount of contributions made to or under the plan for that plan year by all employers making such contributions;

(4) "corporation" means the Pension Benefit Guaranty Corporation established under section 402; and

(5) "fund" means the Pension Benefit Guaranty Fund established under section 403.

(b) SPECIAL RULES.—

(1) NON-MULTIEMPLOYER PLANS.—A plan which is not a multiemployer plan shall be treated as the separate plan of each employer (with predecessor and successor employers treated as one employer) who contributed to or under the plan.

(2) EMPLOYER.—An individual who owns the entire interest in an unincorporated trade or business shall be treated as his own employer, and a partnership shall be treated as the employer of each partner who is an employee within the meaning of section 401(c)(1) of the Internal Revenue Code of 1954.

SEC. 402. PENSION BENEFIT GUARANTY CORPORATION.

(a) ESTABLISHMENT.—There is established within the Department of Labor a body corporate to be known as the Pension Benefit Guaranty Corporation (hereinafter referred to as the "Corporation"). In carrying out its functions under this Act the Corporation shall be administered by a Board of Directors (as provided in subsection (c)), under the general supervision and direction of the Secretary of Labor.

(b) GENERAL POWERS.—In addition to any specific power granted to the Corporation elsewhere in this Act, the Corporation shall have the power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, in any court, State or Federal;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal, by its Board of Directors, bylaws and rules relating to the conduct of its business and the exercise of all other rights and powers granted to it by this Act;

(4) to conduct its business (including the carrying on of operations and the maintenance of offices) and to exercise all other rights and powers granted to it by this Act in any State or other jurisdiction without regard to qualification, licensing, or other statute in such State or other jurisdiction;

(5) to lease, purchase, accept gifts or donations of, or otherwise to acquire, to own, hold, improve, use, or otherwise deal in or with, and to sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of, any property, real, personal, or mixed, or any interest therein wherever situated;

(6) subject to the provisions of subsection (c), to elect or appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and, to the extent desired, require bonds for them and fix the penalty thereof;

(7) to enter into contracts, to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this Act.

(c) BOARD OF DIRECTORS.—The Board of Directors of the Corporation shall be composed of the Secretary of the Treasury, the Secretary of Labor, and the Secretary of Commerce. Members of the Board shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties of members of the Board of Directors.

(d) MEETINGS OF BOARD.—The Board of Directors shall meet at the call of its Chairman, or as otherwise provided by the bylaws of the Corporation.

(e) BYLAWS.—As soon as practicable but not later than 180 days after the date of enactment of this Act, the board of directors shall adopt initial bylaws and rules relating to the conduct of the business of the corporation. Thereafter, the board of directors may alter, supplement, or repeal any existing bylaw or rule, and may adopt additional bylaws and rules, from time to time as may be necessary. The Secretary of Labor shall cause a copy of the bylaws of the corporation to be published in the Federal Register not less than annually.

(f) EXEMPTION FROM TAX.—The Pension Benefit Guaranty Corporation, its property, its franchise, capital, reserves, surplus, and its income (including, but not limited to, any income of the Pension Benefit Guaranty Fund and the Pension Benefit Portability Fund), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to Federal Insurance Contributions Act, and chapter 23 of such Code, relating to Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

SEC. 403. ESTABLISHMENT OF PENSION BENEFIT GUARANTY FUND.

(a) TRUST FUND.—

(1) IN GENERAL.—There is established on the books of the Treasury of the United States a trust fund to be known as the "Pension Benefit Guaranty Fund" (hereinafter in this title referred to as the "fund"). The fund shall remain available without fiscal year limitation and shall consist of such amounts as may be appropriated to it and deposited in it as provided in subsection (b). Upon request made by the Corporation, the Secretary of the Treasury shall transfer such amounts from the fund to the Corporation as the Corporation deems necessary to pay benefits guaranteed under section 422 and to pay the operational and administrative expenses of the Corporation.

(2) TRUSTEE.—The Secretary of the Treasury is the trustee of the fund and shall report to the Congress not later than the first day of March of each year on the operation and status of the fund during the preceding fiscal year of the corporation.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the fund for each fiscal year an amount equal to the amount of the collections of tax under section 4972 of the Internal Revenue Code of 1954 (relating to taxes on failure to meet minimum funding standard) and chapter 45 of such Code.

(c) PREMIUM RATES; COVERAGE SCHEDULES.—

(1) IN GENERAL.—The corporation shall prescribe such insurance premium rates and such coverage schedules for the application of those rates as may be necessary to provide sufficient revenue to the fund for the corporation to carry out its functions under this title.

(2) COVERAGE SCHEDULES.—The corporation shall maintain separate coverage schedules for—

(A) plans which are multiemployer plans,
(B) plans which are not multiemployer plans, and
(C) employers who wish to be insured against liability under part D of this title. Except as provided in paragraph (3), the corporation may revise such schedules whenever it determines that revised rates are necessary, but a revised schedule described in subparagraph (A) or (B) shall apply only to taxable years beginning more than 30 days after the date on which the Congress approves such revised schedule by a concurrent resolution originating in the House of Representatives.

(3) INITIAL COVERAGE SCHEDULES FOR PLANS.—The rate of all plans with respect to plan years ending with or within taxable years ending before January 1, 1977, shall be—

(A) in the case of each employer who maintains one or more plans other than a multiemployer plan, with respect to each such plan, an amount equal to $1 for each individual employed by him at any time during each plan year who is a participant in such plan at any time during such plan year; or

(B) in the case of a multiemployer plan, an amount equal to $1 for each individual who is employed by any of the employers in such plan at any time during each plan year and who is a participant in such plan at any one time during such plan year.

(d) REVISED COVERAGE SCHEDULE PROCEDURE.—

(1) IN GENERAL.—In order to place a revised coverage schedule (other than a schedule described in subsection (c)(2)(C) of this section) in effect, the corporation shall transmit the proposed schedule, its proposed effective date, and the reasons for its proposal to the Committee on Ways and Means of the House of Representatives.

(2) EXERCISE OF RULEMAKING POWER OF THE SENATE AND THE HOUSE OF REPRESENTATIVES.—The succeeding paragraphs of this subsection are enacted by Congress as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described in paragraph (3); and they shall supersede other rules only to the extent that they are inconsistent therewith. They are enacted with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(3) RESOLUTION.—For the purpose of the succeeding paragraphs of this subsection, "resolution" means only a concurrent resolution originating in the House of Representatives, the matter after the resolving clause of which is as follows: "That the Congress favors the proposed revised coverage schedule transmitted to Congress by the Pension Benefit Guaranty Corporation on ———.", the blank space therein being filled with the date on which the corporation's message proposing the rate was delivered.

(4) REFERRAL OF RESOLUTION.—A resolution shall be referred to the Committee on Ways and Means and the Committee on Education and Labor of the House of Representatives or the Committee on Finance and the Committee on Labor and Public Welfare of the Senate.

(5) DISCHARGE OF COMMITTEE.—If the committee to which has been referred a resolution has not reported it before the expiration of 10 calendar days after its introduction, it shall then (but not before) be in order to move to discharge the committee from further consideration of that resolution, or to discharge the committee from further consideration of any other resolution with respect to the proposed adjustment which has been referred to the committee. The motion to discharge may be made only by a person favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same proposed rate), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same proposed rate.

(6) CONSIDERATION OF RESOLUTION.—When the committee has reported, or has been discharged from further consideration of a resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to. Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(7) DEBATABILITY OF MOTIONS.—Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution and motions to proceed to the consideration of other business shall be decided without debate. Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(e) BORROWING AUTHORITY.—The corporation is authorized to issue to the Secretary of the Treasury notes or other obligations in an aggregate amount of not to exceed $100,000,000, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be prescribed by the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations of the corporation. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations issued by the corporation under this subsection, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which securities may be issued under that Act, as amended, are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

PART B—COVERAGE

SEC. 421. PLANS COVERED.

(a) GENERAL RULE.—Except as provided by subsection (c), this section applies to any plan which, for a plan year, is, or has been determined by the Secretary of the Treasury to be, a plan described in section 401(a) of the Internal Revenue Code of 1954, or which meets the requirements of section 404(a)(2) of such Code. For purposes of this section, a successor plan is deemed to be a continuation of a predecessor plan. For this purpose, a successor plan is a plan which covers a group of employees which includes substantially the same employees as a previously established plan, and provides substantially the same benefits as that plan provided.

(b) CONSENT BY PLANS TO BE COVERED BY TITLE.—The filing of a return under section 6040 of the Internal Revenue Code of 1952 for a plan claiming treatment as a plan to which part I of subchapter D of chapter 1 of such Code applies shall constitute the consent of that plan and its administrator to be bound by the provisions of this title.

(c) LIMITATIONS.—This section shall not apply to any plan—

(1) which is a pension plan of the money purchase type, a profit-sharing plan, or a stock bonus plan,

(2) established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State or political subdivision thereof,

(3) established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless—

(A) such plan has notified the corporation, in accordance with procedures prescribed by the corporation, that it wishes to have the provisions of this title apply to it,

(B) the plan is established and maintained for the exclusive benefit of employees of such church or convention or association of churches who are employed exclusively in connection with one or more unrelated trades or businesses (within the meaning of section 513 of such Code), or

(C) the plan is a multiemployer plan, and one or more of the employers in the plan is not a church (or a convention or association of churches) which is exempt from tax under section 501(a) of such Code, or

(4) a plan established and maintained by a fraternal society, order, or association described in section 501(c) (8) or (9) of such Code under which no part of the contributions to or under the plan are made by employers of participants in the plan.

For purposes of paragraph (1) of this subsection, the term "money purchase type" does not include a plan under which a fixed benefit is promised if the employer or his representative participated in the determination of that benefit.

SEC. 422. BENEFITS COVERED

(a) GENERAL RULE.—Subject to the limitations contained in subsection (b), the corporation shall guarantee the payment of all nonforfeitable benefits and of all ancillary benefits under the terms of a plan which terminates at a time when section 421 applies to it. For purposes of this subsection, the term "ancillary benefit" means any nonforfeitable benefit other than a nonforfeitable retirement benefit which is determined by the corporation to be insurable as an ancillary benefit.

(b) LIMITATIONS.—

(1) New benefits.—No benefits provided by a plan in effect for less than 36 months at the time the plan terminates shall be guaranteed under this section. For purposes of this paragraph, the time a successor plan (within the meaning of section 421(a)) has been in effect includes the time a previously established plan (within the meaning of section 421(a)) was in effect.

(2) BENEFIT INCREASES.—The amount of benefits described in subsection (a) shall be determined without regard to any amend-

ment of the plan which increases the value of benefits payable with respect to a participant, if such amendment was made within the 36-month period preceding the date on which the plan terminates.

(3) MAXIMUM GUARANTEED BENEFIT UNDER SINGLE PLAN.—Except as provided in paragraphs (8) and (9), the amount of monthly benefits described in subsection (a) provided by a plan, which are guaranteed under this section with respect to a participant, shall not have an actuarial value which exceeds the actuarial value of a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the lesser of—

(A) 50 percent of his average monthly gross income from his employer during the 5 calendar year period (or, if less, during the number of calendar years in such period in which he actively participates in the plan) preceding the calendar year in which the plan terminates (or the calendar year in which he is no longer an active participant) determined by dividing 1/12th of the sum of all such gross income by the number of such calendar years in which he had such gross income, or

(B) $750 multiplied by a fraction, the numerator of which is the contribution and benefit base (determined under section 230 of the Social Security Act) in effect at the time the plan terminates and the denominator of which is such contribution and benefit base in effect in calendar year 1974. The actuarial value of a benefit (including ancillary benefits) shall be determined in accordance with bylaws of the corporation. For purposes of subparagraph (A), gross income within the meaning of section 911 (b) of the Internal Revenue Code of 1954 from the employer; and the 5 calendar year period taken into account shall be the 5 consecutive calendar years period which yields the largest average annual gross income from an employer

(4) MAXIMUM AMOUNT PAYABLE UNDER MORE THAN ONE PLAN.—Notwithstanding paragraph (3), no person shall receive from the corporation with respect to a participant an amount, or amounts, that has an actuarial value which exceeds a monthly benefit with no ancillary benefits in the form of a life annuity commencing at age 65 equal to the amount determined under paragraph (3)(B) at the time of the last plan termination.

(5) CERTAIN PARTICIPANTS—

(A) This paragraph shall apply only to a participant who is covered by a plan as an owner-employee (within the meaning of section 401(c)(3) of such Code) on any day during the plan year in which the plan terminates or any of the 3 consecutive plan years immediately preceding such year.

(B) The amount of monthly benefits otherwise payable from the corporation with respect to each participant described in subparagraph (A) shall be reduced to take account of such participant's individual pro rata share of the accumulated funding deficiency (as defined in section 4971(a) of the Internal Revenue Code of 1954) at the time the plan terminates. The individual pro rata share shall be equal to such accumulated unfunded deficiency multiplied by a fraction, the numerator of which is the amount of benefits otherwise payable from the corporation with respect to such participant and the denominator of which is the value of benefits payable from the corporation with respect to all such participants on the date of termination.

(6) DISQUALIFICATION.—

(A) DISQUALIFICATION BY SECRETARY.—No benefits accrued under a plan after the date on which the Secretary of the Treasury or his delegate issues notice that he has determined that any trust which is a part of a plan does not meet the requirements of section 401(a) of the Internal Revenue Code of 1954, or that the plan does not meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the Secretary or his delegate subsequently issues a notice that such trust meets the requirements of section 401(a) of such Code or that the plan meets the requirements of section 404(a)(2) of such Code.

(B) OTHER DISQUALIFICATIONS.—No benefits accrued under a plan after the date on which an amendment of the plan is adopted which causes the Secretary of the Treasury or his delegate to determine that any trust under the plan has ceased to meet the requirements of section 401(a) of the Internal Revenue Code of 1954 or that the plan has ceased to meet the requirements of section 404(a)(2) of such Code, are guaranteed under this section unless such determination is erroneous. This subparagraph shall not apply if the amendment is revoked as of the date it was first effective or amended to comply with such requirements.

SEC. 423. CONTINGENT LIABILITY COVERAGE.

(a) IN GENERAL.—The corporation is authorized to insure any employer who maintains or contributes to or under a plan to which section 421 applies against the payment of any liability which would be imposed on him under part D of this title in the event of a termination of that plan.

(b) PREMIUMS.—The corporation is authorized to prescribe and collect, in such manner as it deems to be appropriate, premiums for insurance offered under subsection (a). Such premiums shall be determined by the corporation and revised by it from time to time as may be necessary, without regard to the provisions of section 403 (d), and shall be chargeable at a rate sufficient to fund any payments by the corporation which become necessary under any such contract of insurance.

(c) CONTINGENT LIABILITY COVERAGE.—No payment shall be made by the corporation under any contract of insurance entered into under this section with an employer for contingent liability arising with respect to any benefit unless the premiums under such contract have been paid by the employer and such contract has been in effect (with respect to any such benefit) for more than 60 months.

(d) NO PAYMENT IF EMPLOYER REMAINS IN BUSINESS.—No payment shall be made by the corporaton under any contract of insurance entered into by it under this section with respect to the contingent liability of any employer who, within the meaning of section 462(f), remains in business after the termination of the plan with respect to which the contingent liability arose.

(e) OTHER INSURANCE.—Nothing in this section shall be considered to preclude the purchase by an employer of insurance from any other person, or to limit the circumstances under which that insurance is payable, or in any way to limit the terms and conditions of such insurance.

SEC 424. OTHER RISKS.

The corporation is authorized to insure (subject to the limitations of section 422(b)(4)) the payment of other classes of benefits under a plan wherever feasible, to prescribe the terms and conditions of such insurance, and to establish and collect such premiums as may be necessary.

PART C—TERMINATIONS

SEC. 441. TERMINATION BY PLAN ADMINISTRATOR.

(a) GENERAL RULE.—Before the effective date of the termination of a plan, the plan administrator shall file a notice with the corporation that the plan is to be terminated and for a period of 90 days thereafter the plan administrator shall pay no amount pursuant to the termination procedure of the plan unless, before the expiration of such period, he receives a notice of sufficiency under subsection (b). Thereafter, the plan administrator shall proceed with the termination of the plan in a manner consistent with section 444.

(b) NOTICE OF SUFFICIENCY.—If the corporation determines that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator of such determination as soon as practicable.

(c) NOTICE OF INSUFFICIENCY.—If, within a period of 90 days after a notice of termination is filed by a plan administrator pursuant to subsection (a), the corporation finds that it is unable to determine that, after application of section 444, the assets held under the plan are sufficient to discharge when due all obligations of the plan with respect to benefits guaranteed under section 422 (without regard to section 422(b)(5)), it shall notify the plan administrator within such 90-day period of such finding. Upon issuance of such notice, the plan shall be treated as if it had been terminated by the corporation under section 442 on the date such notice is issued.

(d) EXTENSION OF TIME.—The corporation and the plan administrator may agree to extend the 90-day period provided by this section by a written agreement signed by the corporation and the plan administrator before the expiration of the 90-day period. Such agreement shall extend the 90-day period in accordance with the agreement. The 90-day period may be further extended by subsequent written agreements signed by the corporation and the plan administrator made before the expiration of a previously agreed upon extension of the 90-day period. Any extension may be made upon such terms and conditions (including the payment of benefits) as are agreed upon by the corporation and the plan administrator.

(e) SUBSEQUENT INSUFFICIENCY.—If in terminating the plan as authorized by this section, the plan administrator finds that the plan is unable, or will be unable, to pay when due, benefits guaranteed under section 422 (without regard to section 422(b)(5)) the plan administrator shall notify the corporation of such finding as soon as practicable thereafter. If the corporation concurs with the finding of the plan administrator, it shall terminate the plan under section 442.

(f) CERTAIN AMENDMENTS OF PLAN.—For purposes of subsection (a), a plan with respect to which benefits are guaranteed under section 422 shall be treated as terminated upon the adoption of an amendment to such plan, if, after giving effect to such amendment, the plan is a plan described in section 421(c)(1).

SEC. 442. TERMINATION BY PENSION BENEFIT GUARANTY CORPORATION.

(a) PRELIMINARY DETERMINATION.—The corporation may institute proceedings under this section to terminate a plan whenever it determines that—

(1) the plan has not met the minimum funding standard required under section 4971 of the Internal Revenue Code of 1954, or has been notified by the Secretary of the Treasury that a notice of deficiency under section 6212 of such Code has been mailed with respect to the tax imposed under section 4972 (a) of such Code.

(2) the plan is unable to pay benefits when due to the extent guaranteed under section 422 (without regard to section 422(b)(5)),

(3) the reportable event described in section 443(b)(8) has occurred, or

(4) the liability of the corporation may reasonably be expected to increase substantially if the plan is not terminated.

(b) NOTICE TO PLAN.—Whenever the corporation makes a determination under subsection (a) with respect to a plan it may, upon notice to the plan, apply to the appropriate United States district court for the appointment of a trustee to administer the plan with respect to which the determination is made pending the issuance of a decree under subsection (c) ordering the termination of the plan. If within 3 business days after the filing of an application under this subsection, or such other period as the court may order, the administrator of the plan shall consent to the appointment of a trustee, or fail to show why a trustee should not be appointed, the court may grant the application and appoint a trustee to administer with plan in accordance with its terms until the corporation determines that the plan should be terminated or that termination is unnecessary.

(c) APPLICATION FOR DECREE.—If the corporation has issued a notice under this section to a plan administrator and (whether or not a trustee has been appointed under subsection (b)) has determined that the plan should be terminated, it may, upon notice to the plan administrator, apply to the appropriate United States district court for a decree adjudicating that the plan must be terminated in order to protect the interests of the participants and to avoid any further deterioration of the financial condition of the plan or any further increase in the liability of the fund. Upon granting a decree for which the corporation has applied under this subsection the court shall authorize the trustee appointed under subsection (b) (or appoint a trustee if one has not been appointed under such subsection and authorize him) to terminate the plan in accordance with the provisions of section 444.

(d) POWERS AND DUTIES OF THE TRUSTEE.—

(1) POWERS.—

(A) POWERS BEFORE ISSUANCE OF DECREE.—A trustee appointed under subsection (b) shall, until the issuance of a decree under subsection (c), have the power—

(i) to do any act authorized by the plan or this title to be done by the plan administrator or any trustee of the plan;

(ii) to require the transfer of all (or any part) of the assets and records of the plan to himself as trustee.

(iii) to invest any assets of the plan which he holds in accordance with the provisions of the plan and applicable rules of law;

(iv) to limit payment of benefits under the plan to amounts guaranteed by section 422 (without regard to section 422(b)(5)) or to continue payment of some or all of the benefits which were being paid prior to his appointment; and

(v) to do such other acts as he deems necessary to continue operation of the plan without increasing the political liability of the corporation, if such acts may be done under the provisions of the plan.

If the court which application is made under subsection (c) dismisses the application with prejudice, or if the corporation fails to apply for a decree under subsection (c) within 30 days after the date on which the trustee is appointed, the trustee shall transfer all assets and records of the plan held by him to the plan administrator within 3 business days after such dismissal or the expiration of such 30-day period, and shall not be liable to the plan or any other person for his acts as trustee except for willful misconduct.

(B) POWERS UPON ISSUANCE OF DECREE.—If the court to which an application is made under subsection (c) issues the decree requested in such application, the trustee shall have the power—

(i) to pay benefits under the plan in accordance with the provisions of section 444,

(ii) to collect for the plan any amounts due the plan,

(iii) to receive any payment made by the corporation to the plan under this title,

(iv) to commence, prosecute, or defend on behalf of the plan any suit or proceeding involving the plan, other than a suit or proceeding in which the corporation is an adverse party,

(v) to issue, publish, or file such notices, statements, and reports as may be required by the corporation or any order of the court,

(vi) to liquidate the plan assets, and

(vii) to do such other acts as may be necessary to comply with this title or any order of the court and to protect the interests of plan participants and beneficiaries.

(2) NOTICE TO INTERESTED PARTIES.—As soon as practicable after his appointment, the trustee shall give notice to interested parties of the institution of proceedings under this title to determine whether the plan should be terminated or to terminate the plan, whichever is applicable. For purposes of this paragraph, the term "interested party" means—

(A) the plan administrator,

(B) each participant in the plan and each beneficiary of a deceased participant, and

(C) each employer who may be subject to liability under section 462.

(3) DUTIES.—Except to the extent inconsistent with the provisions of this Act, or as may be otherwise ordered by the court, a trustee appointed under this section shall be subject to the same duties as a trustee appointed under section 47 of the Bankruptcy Act.

(e) EFFECT OF OTHER PENDING ACTIONS.—An application by the corporation under this section may be filed notwithstanding the pendency in the same or any other court of any bankruptcy, mortgage foreclosure, or equity receivership proceedings or any proceeding to reorganize, conserve, or liquidate such plan or its property, or any proceeding to enforce a lien against property of the plan.

(f) EXECUTIVE JURISDICTION OVER PLAN.—Upon the filing of an application for the appointment of a trustee or the issuance of a decree under this section, the court to which an application is made shall have exclusive jurisdiction of the plan involved and its property wherever located, with the powers, to the extent consistent with the purposes of this section, of a court of bankruptcy and of a court in a proceeding under chapter X of the Bankruptcy Act. Pending an adjudication under subsection (c) such court shall stay, and upon appointment by it of a trustee as provided in this section such court shall continue the stay of, any pending bankruptcy, mortgage foreclosure, equity receivership, or other proceeding to reorganize, conserve or liquidate the plan or its property any other suit against any receiver, conservator, or trustee of the plan or the property. Pending such adjudication and upon the appointment by it of such trustee, the court may stay any proceeding to enforce a lien against property of the plan or any other suit against the plan.

(g) APPROPRIATE COURT.—An action under this subsection may be brought in the judicial district where the plan administrator resides or is doing business or where any property of the trust forming a part of the plan is situated. A district court in which such action is brought may issue process with respect to such action in any other judicial district.

SEC. 443. REPORTABLE EVENTS.

(a) REPORT OF EVENT.—Within 30 days after the occurrence of a reportable event, the plan administrator shall notify the corporation that such event has occurred.

(b) OCCURRENCE OF REPORTABLE EVENT.—For purposes of this section a reportable event occurs—

(1) LOSS OF QUALIFIED OR EXEMPT STATUS BY TRUST.—At the time the Secretary of the Treasury issues notice that he has determined that any trust which is a part of the plan and which has previously qualified under section 401(a) of the Internal Revenue Code of 1954, or which the Secretary of the Treasury has previously determined has so qualified, has ceased to so qualify or ceased to be exempt from tax under section 501(a) of such Code;

(2) LOSS OF QUALIFIED STATUS BY PLAN.—At the time the Secretary of the Treasury issues notice that he has determined that a plan which has previously satisfied the requirements of section 404(a)(2) of the Internal Revenue Code of 1954 or which the Secretary of the Treasury has previously determined has satisfied such requirements, has ceased to satisfy such requirements;

(3) BENEFIT DECREASED.—At the time an amendment of the plan is adopted if, under the amendment, the benefit payable with respect to any participant may be decreased;

(4) DECREASE IN PARTICIPANTS.—At the time the number of active participants is less than 80 percent of the number of such participants at the beginning of the plan year or less than 75 percent of the number of such participants at the beginning of the previous plan year;

(5) TERMINATION UNDER INTERNAL REVENUE CODE.—At the time the Secretary of the Treasury determines that there has been a termination or partial termination of the plan or a complete discontinuance of contributions thereunder, within the meaning of section 401(a)(7) of the Internal Revenue Code of 1954;

(6) FAILURE TO MEET MINIMUM FUNDING STANDARD.—All the time the plan fails to meet the minimum funding standard under section 4971 of the Internal Revenue Code of 1954;

(7) PLAN UNABLE TO PAY BENEFITS.—At the time a plan is unable to pay benefits thereunder when due; or

(8) CERTAIN DISTRIBUTIONS.—At the time there is a distribution under a plan to a participant who is an owner-employee (within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954) if such distribution is made other than on account of death or disability, exceeds $10,000, and results in the creation of, or an increase in, unfunded vested liabilities under the plan.

(c) NOTIFICATION BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall notify the corporation whenever he makes a determination described in paragraph (1) or (5) of subsection (b), issues the notice described in paragraph (2) of such subsection, mails a notice of deficiency under section 6212 of the Internal Revenue Code of 1954 to a plan with respect to the tax imposed under section 4972(a) of such Code, or obtains any other information with respect to a plan which constitutes a reportable event.

SEC. 444. ALLOCATION OF ASSETS.

As soon as practicable after the termination of a plan to which section 421 applies, the plan administrator shall allocate the assets of the plan as follows:

(1) CERTAIN EMPLOYEE CONTRIBUTIONS.—In the case of a plan which provides for employee contributions other than mandatory contributions, the portion of an employee's accrued benefit derived from such employee contributions shall be treated as an accrued benefit derived from contributions under a plan other than a plan to which section 421 applies, and, before applying paragraph (2), assets shall first be allocated to such other plan in accordance with the account balances of the participants in such other plan.

(2) MANDATORY CONTRIBUTIONS.—Assets shall first be allocated to each participant to the extent of his total mandatory contributions. In the event that the assets are insufficient for this purpose, the assets shall be so allocated pro rata.

(3) BENEFITS IN PAY STATUS FOR AT LEAST 3 FULL YEARS.—If the assets of the plan exceed the total amount allocated under paragraphs (1) and (2), the remaining assets shall be allocated to each participant who began to receive payment of benefits not less than 3 years prior to the time the plan terminates to the extent not included in paragraphs (1) and (2) and to the extent of the excess of the present value (as of the date on which the plan terminated) of his benefits (at the level in effect 36 months prior to the date of termination) over his total mandatory contributions under the plan. If the assets of the plan are insufficient for this purpose, the assets remaining after the allocation described in paragraphs (1) and (2) shall be so allocated pro rata.

(4) OTHER GUARANTEED BENEFITS.—If the assets of the plan exceed the total amounts allocated under paragraphs (1), (2), and (3), the remaining assets shall be allocated to each participant to the extent of the present value of all other benefits guaranteed under section 422 (without regard to section 422(b)(5)). If the assets of the plan are insufficient for this purpose, the assets remaining after the allocations described in paragraphs (1) and (2) shall be so allocated pro rata with respect to all such other benefits of each participant.

For purposes of this section, "mandatory contributions" are amounts contributed to the plan by the participant which are required as a condition of employment, as a condition of participation in such plan, or in order to obtain benefits under the plan attributable to employer contributions. For this purpose the total amount of mandatory contributions of a participant is the amount of such contributions reduced (but not below zero) by the sum of the amounts paid or distributed to him under the plan prior to such termination.

SEC. 445. RECAPTURE OF CERTAIN PAYMENTS.

(a) AUTHORITY.—To the extent the Corporation would not otherwise have the power under this title to undertake the action described in this section with respect to a plan, the Corporation shall have such power with respect to any plan which affects interstate commerce. For purposes of this section, a plan affects commerce if a labor dispute concerning the plan would hinder or obstruct commerce or the free flow of commerce.

(b) RECAPTURE.—Except as provided in subsection (c), the Corporation is authorized to recover from a participant the recoverable amount of all payments from the plan to him which commenced within the 3-year period immediately preceding the time the plan is terminated. The recoverable amount is the sum of all payments actually received by the participant reduced by (1) the amounts such participant would have received during such 3-year period if he had elected at the time of the first such payment to receive his interest in the plan as a monthly benefit equivalent to a monthly benefit with no ancillary benefit in the form of a life annuity commencing at age 65 and (2) the present value at the time of termination of the benefits guaranteed under this title to the extent such benefits exceed his pro rata share of the corporation liability (determined under section 461). Such pro rata share shall be determined in accordance with bylaws or rules of the corporation.

(c) SPECIAL RULES.—

(1) CERTAIN DISTRIBUTIONS.—In the event of a distribution described in section 443(b)(8) the 3-year period referred to in subsection (b) shall not commence until the date on which the corporation is notified of the distribution.

(2) NO RECOVERY FOR DEATH OR DISABILITY DISTRIBUTIONS.—The corporation shall not recover any payment made from a plan after or on account of the death of a participant, or on account of his disability (if he is receiving disability benefits under the Social Security Act with respect to that disability).

(3) WAIVER.—The corporation is authorized to waive, in whole or in part, the recovery of any amount which it is authorized to recover under this part in any case in which it determines that substantial economic hardship would result to the participant or his beneficiaries from whom such amount is recoverable.

SEC. 446. REPORT BY CORPORATION.

The corporation shall furnish to the trustee and file with the court a report setting forth—

(1) the amount of benefits payable with respect to each participant under a plan to be terminated,

(2) the amount of benefits guaranteed under section 422 which are payable with respect to each participant in the plan.

(3) the present value, as of the time of termination, of the aggregate amount of benefits payable under section 422 (determined without regard to section 422(b)(5)),

(4) the fair market value of the assets of the plan at the time of termination,

(5) the computations under section 444, and all actuarial assumptions under which the items described in paragraphs (1) through (4) were computed, and

(6) such other information with respect to the plan as the trustee may require in order to terminate the plan.

PART D—LIABILITY

SEC. 461. CORPORATION LIABILITY.

The liability of the corporation with respect to a plan which is terminated under this title shall be equal to the present value, as of the time of termination, of the aggregate amount of benefits guaranteed under section 422 (determined without regard to section 422(b)(5)), to the extent not provided for by the fair market value of the assets of the plan, at such time, allocated in a manner consistent with the requirements of section 444. This amount shall be payable from the fund described in section 403.

SEC. 462. LIABILITY OF EMPLOYER.

(a) EMPLOYERS LIABLE.—This section applies to any employer who maintained a plan (other than a multiemployer plan) at the time it was terminated by the corporation, but does not apply—

(1) to an employer who maintained a plan with respect to which he paid the annual optional premium described in paragraphs (2)(C) and (3)(B) of section 403(b) for each of the 5 plan years immediately preceding the plan year during which the plan terminated unless the employer remains in business (as defined in subsection (f)), or

(2) to the extent of any liability arising out of the insolvency of a qualified insurance carrier (as defined in section 301(4) of this Act).

(b) AMOUNT OF LIABILITY.—Any employer to which this section applies shall be liable to the Corporation, in an amount equal to the lesser of—

(1) the amount finally determined under section 461, or

(2) 30 percent of the net worth of such employer determined as of the day 120 days prior to the date of termination, without regard to any liability under this section.

(c) NET WORTH.—For purposes of subsection (b)(2) the net worth of an employer means—

(1) in the case of a corporation whose stock is traded on a national exchange, the aggregate value of such corporation's stock, and

(2) in the case of any other employer, the fair market value of its assets less its liabilities determined in a manner consistent with section 2031 of the Internal Revenue Code of 1954.

(d) SUBORDINATION OF DEBT.—If any employer or employers liable to the corporation under this section or section 464 neglects or refuses to repay, after demand, the amount of such liability (including the interest) there shall be a lien in favor of the United States upon all property and rights of property, whether real or personal, belonging to such employer or employers, against the interest of any other creditor of such employer or employers, other than a lien under section 6321 or 6324 of the Internal Revenue Code of 1954 (relating to lien for taxes), or a lien or other security interest perfecting not later than 30 days after termination securing an obligation incurred by such employer or employers prior to termination. Notwithstanding the provisions of the preceding sentence, if the corporation determines, with the consent of the board of directors, that subordination of the lien to any other creditor of the employer or employers would not adversely affect the collection of such liability, or that the amount realizable by the corporation from the property to which the lien attaches will ultimately be increased by such subordination, and that the ultimate collection of the liability will be facilitated by such subordination, and the corporation issues a certificate of subordination of the lien with respect to such property, or any part thereof.

(e) SUCCESSOR LIABILITY.—For purposes of this section the following rules apply in the case of certain corporation reorganizations—

(1) CHANGE IN IDENTITY, ETC.—If an employer ceases to exist by reason of a reorganization which involves a mere change in identify, form, or place of organization, however effected, a successor corporation resulting from such reorganization shall be treated as the employer to whom this section applies.

(2) LIQUIDATION INTO PARENT.—If an employer ceases to exist by reason of a liquidation into a parent corporation, the parent corporation shall be treated as the employer to whom this section applies.

(3) REORGANIZATION.—If an employer ceases to exist by reason of a merger or consolidation, the successor corporation shall be treated as the employer to whom this section applies.

(f) REMAINING IN BUSINESS.—For purposes of subsection (a), an employer shall be considered to remain in business if, during the plan year within which the plan terminates or the 36-month period following the date of termination, the employer—

(1) is a party to a reorganization described in subsection (e), or

(2) continues to carry on the same business as, or a business similar to, the business in connection with which he maintained the plan which was terminated, without regard to whether he continues to carry on such business at the same location or at a different location.

For purposes of paragraph (2), in the case of a business in which sales are the primary income producing factors, if an employer's gross sales during the year of plan termination or during the 12-month period following the date of termination in such business are less than 25 percent of his average gross sales in such business for the 3 years immediately preceding that year, the employer shall not be considered to have remained in business.

(g) TERMINATION OF SUBSTANTIAL FACILITY.—If an employer ceases operations at a facility in any location and, as a result of such cessation of operations, more than 20 percent of the total number of his employees who are participants under a plan established and maintained by him are separated from employment the employer shall be treated with respect to that plan as if he were a substantial employer under a multiemployer plan and the provisions of sections 463 and 464 shall apply.

SEC. 463. LIABILITY OF SUBSTANTIAL EMPLOYER FOR WITHDRAWAL

(a) GENERAL RULE.—Except as provided in subsection (d), the plan administrator of a multiemployer plan—

(1) shall notify the corporation of the withdrawal of a substantial employer from the plan, within 60 days after such withdrawal, and

(2) request that the corporation determine the liability of such employer under this title with respect to such withdrawal.

The corporation shall, as soon as practical thereafter, determine whether such employer is liable for any amount under this title with respect to the withdrawal and notify such employer of such liability.

(b) LIABILITY OF EMPLOYER.—Except as provided in subsection (c) an employer who withdraws from a plan to which section 421 applies, during a plan year for which he was a substantial employer, and who is notified by the corporation as provided by subsection (a), shall be liable to the corporation in accordance with the provisions of section 461 (without regard to the provisions of paragraphs (1) and (2) of section 462(a)) and this section. The amount of such employer's liability shall be computed on the basis of an amount determined by the corporation to be the amount described in section 461 for the entire plan, as if the plan had been terminated by the corporation on the date of the employer's withdrawal, multiplied by a fraction—

(1) the numerator of which is the total amount contributed to the plan by such employer for the last 5 years ending prior to the withdrawal, and

(2) the denominator of which is the total amount contributed to the plan by all employers for such last 5 years.

Any amount collected by the corporation under this subsection shall be held in escrow subject to disposition in accordance with the provisions (2) and (3) of subsection (c).

(c) SPECIAL RULE.—

(1) FURNISHING OF BOND.—In lieu of payment of his liability under this section the employer may be required to furnish a bond to the corporation in an amount not exceeding 150 percent of his liability to insure payment of his liability under this section. Such bond shall be in such form and with such surety or sureties and upon such conditions as the corporation may require.

(2) NO TERMINATION WITHIN 5-YEAR PERIOD.—If the plan is not terminated within the 5-year period commencing on the day of withdrawal, the liability of such employer shall be abated and any payment held in escrow shall be refunded without interest to the employer (or his bond canceled) in accordance with bylaws or rules prescribed by the corporation.

(3) TERMINATION WITHIN 5-YEAR PERIOD.—If the plan terminates within the 5-year period commencing on the day of withdrawal, the corporation shall—

(A) demand payment or realize on the bond and hold such amount in escrow for the benefit of the plan;

(B) treat any escrowed payments under this section as if they were plan assets and apply them in a manner consistent with this title; and

(C) refund any amount to the employer which is not required to meet any obligation of the corporation with respect to the law.

(d) ALTERNATIVE PROCEDURE.—The provisions of this subsection shall apply in the case of a withdrawal described in subsection (a), and the provisions of subsections (b) and (c) shall not apply, if the corporation determines that the procedure provided for under this subsection is consistent with the purposes of this section and section 464 and is more appropriate in the particular case. Upon a showing by the plan administrator of a multiemployer plan that the withdrawal from the plan by any employer or employers has resulted, or will result, in a significant reduction in the amount of aggregate contributions to or under the plan by employers, the corporation may—

(1) require the plan fund to be equitably allocated between those participants no longer working in covered service under the plan as a result of their employer's withdrawal, and those participants who remain in covered service under the plan;

(2) treat that portion of the plan fund allocable under paragraph (1) to participants no longer in covered service as a termination; and

(3) treat that portion of the plan fund allocable to participants remaining in covered service as a new plan.

(e) NO WITHDRAWAL LIABILITY UNDER ALTERNATIVE PROCEDURE.—The corporation is authorized to waive the application of the provisions of subsections (b), (c), and (d) of this section to any employer or plan administrator whenever it determines that there is an indemnity agreement in effect among all other employers under the plan which is adequate to satisfy the purposes of this section and of section 464.

(f) RULES.—The corporation is authorized to prescribe rules as it deems necessary in order to implement the purposes of this section.

SEC. 464. LIABILITY OF EMPLOYERS ON TERMINATION OF MULTIEMPLOYER PLAN.

(a) APPLICATION OF SECTION.—This section shall apply to all employers who maintain a multiemployer plan at the time such plan is terminated.

(b) LIABILITY OF SUCH EMPLOYER.—The corporation shall determine the liability of each such employer in a manner consistent with section 462 except that the amount of the liability determined under section 462(b)(1) with respect to the entire plan shall be allocated to each employer by multiplying such amount by a fraction—

(1) the numerator of which is the amount contributed to the plan by each employer for the last 5 plan years ending prior to the termination, and

(2) the denominator of which is the total amount contributed to the plan by all such employers for such last 5 years.

and the limitation described in section 462(b)(2) shall be applied separately to each employer.

SEC. 465. ANNUAL REPORT OF PLAN ADMINISTRATOR.

For each plan year for which section 421 applies to a plan, the plan administrator shall file with the corporation, on a form prescribed by the corporation, an annual report which identifies the plan and plan administrator and which includes—

(1) a copy of each notification, required under section 463 with respect to such year, and

(2) a statement disclosing whether any reportable event (described in section 443(b)) occurred during the plan year.

The report shall be filed within 6 months after the close of the plan year to which it relates.

SEC. 466. ANNUAL NOTIFICATION TO SUBSTANTIAL EMPLOYERS.

The plan administrator of each multiemployer plan shall notify, within 6 months after the close of each plan year, any employer making contributions under that plan who is described in section 401(a)(2)(A) that he is a substantial employer for that year.

SEC. 467. RECOVERY OF EMPLOYER LIABILITY FOR PLAN TERMINATION.

(a) COLLECTION.—The corporation is authorized to make arrangements with employers, liable under section 462, 463, or 464 for payment of their liability, including arrangements for deferred payment on such terms and for such periods as the corporation deems equitable and appropriate.

(b) DISPOSITION OF EMPLOYER LIABILITY PAYMENTS.—Any amounts received by the corporation as payments of employer liability under this part may be retained by it and used to defray operating and administrative expenses.

PART E—AMENDMENTS TO INTERNAL REVENUE CODE OF 1954; EFFECTIVE DATES

SEC. 481. AMENDMENTS TO INTERNAL REVENUE CODE OF 1954.

(a) SECTION 401(a).—Section 401(a) (relating to requirements for qualification) is amended by inserting at the end thereof the following new paragraphs:

"(14) In the case of a plan which is required to register with the Secretary or his delegate under the provisions of section 151 of the Retirement Income Security for Employees Act, a trust forming part of such plan shall not constitute a qualified trust under this section unless the plan is so registered.

"(15) In the case of a plan which is required to provide for determination of disputes under the provisions of part A of title VI of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan so provides.

"(16) In the case of a plan to which section 421 of the Retirement Income Security for Employees Act, a trust forming a part of such plan shall not constitute a qualified trust under this section unless the plan provides for the maintenance of insurance under title IV of such Act.

"(17) A trust shall not constitute a qualified trust under this section unless the plan of which it is a part provides that, unless the participant and his employer agree otherwise in writing, the payment of benefits under the plan to which section 411 applies will commence not later than the later of the thirtieth day after—

"(A) the date on which the participant attains the age of 65 years, or

"(B) the date on which the participant completes 10 years of participation in the plan.".

(b) SECTION 162.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (h) as (i) and inserting after subsection (g) the following new subsection:

"(h) INSURED PENSION LOSSES.—No deductions shall be allowed under subsection (a) for any payment to the Pension Benefit Guaranty Corporation with respect to liability for a plan termination.".

(c) SECTION 4981.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 45—CERTAIN GUARANTEED BENEFIT PLANS

"Sec. 4981. Excise tax on privilege of maintaining insured plan.

"SEC. 4981 EXCISE TAX ON PRIVILEGE OF MAINTAINING INSURED PLAN.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the privilege of maintaining a plan insured under the provisions of title IV of the Retirement Income Security for Employees Act a tax determined under subsection (b) for any plan year during which section 421 of such Act applies at any time.

"(b) RATE OF TAX.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under subparagraph (A) (in the case of a plan which is not a multiemployer plan) or subparagraph (B) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security for Employees Act.

"(2) ALTERNATE TAX.—In the case of a taxpayer to which subparagraph (C) (in the case of a plan which is not a multiemployer plan) or subparagraph (D) (in the case of a multiemployer plan) of section 403(c)(2) of the Retirement Income Security for Employees Act applies, the rate of tax for a plan year shall be equal to the rate contained in the coverage schedule in effect for that plan year under such subparagraph.

"(c) BY WHOM PAYABLE.—The tax imposed under subsection (a) shall be paid by the administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) of a plan.

"(d) EXCEPTION.—This section shall not apply with respect to a plan year in which the plan terminates under section 441 or 442 of the Retirement Income Security for Employees Act.

"(e) DEFINITION OF MULTIEMPLOYER PLAN.—The term 'multiemployer plan' means a plan described in section 401(3) of the Retirement Income Security for Employees Act.

"(f) CROSS REFERENCE.—

"For penalties and other general and administrative provisions applicable to this section, see subtitle F.".

(d) AMENDMENT OF SECTION 6511.—Section 6511(d) (relating to special rules applicable to income taxes) is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO AMOUNTS INCLUDED IN INCOME SUBSEQUENTLY RECAPTURED UNDER QUALIFIED PLAN TERMINATION.—If the claim for credit or refund relates to an overpayment of tax imposed by subtitle A on account of the recapture, under section 445 of the Retirement Income Security for Employees Act, of amounts included in income for a prior taxable year, the 3-year period of limitation prescribed in subsection (a) shall be extended until the date which occurs one year after the date on which such recaptured amount is paid by the taxpayer.".

(e) CONFORMING AMENDMENTS.—

(1) Section 404(a)(2) (relating to deduction for contributions of an employer to employees' annuity plan) is amended by striking out "and (8), and if applicable, the requirements of section 401(a) (9) and (10) and of section 401(d) (other than paragraph (1))," and inserting in lieu thereof "(8), (11), (12), (13), (14), (15), and (16), and, if applicable, the requirements of section 401(a) (9) and (10), of section 401(c)(6), and of section 401(d) (other than paragraph (1)),".

(2) Section 805(d)(1)(C) (relating to definition of pension plan reserves) is amended by striking out "and (8)" and inserting in lieu thereof "(8), (11), (12), (13), (14), (15), and (16)".

(f) CLERICAL AMENDMENT.—The table of chapters for subtitle D is amended by adding at the end thereof the following new item:

"Chapter 45. Certain guaranteed benefit plans.".

SEC. 482. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title shall take effect on the date of enactment of this Act.

(b) PRIVILEGE TAX.—The amendments made by section 481 shall apply with respect to plan years and taxable years beginning after December 31, 1973.

(c) TERMINATIONS; LIABILITY.—Part C and part D shall apply with respect to plan years beginning after December 31, 1976, unless the corporation determines that moneys in the fund are sufficient to enable it to meet its liability under section 461 with respect to terminations occurring before that date.

PART F—ALLOCATION OF ASSETS WHERE SECTION 444 DOES NOT APPLY

SEC. 491. ALLOCATION OF ASSETS FOR PLAN TERMINATIONS NOT COVERED.

(a) IN GENERAL.—If a plan to which this title applies is terminated and the provisions of section 444 do not apply to that termination, the administrator of the plan shall allocate the assets of the plan in accordance with the provisions of that section (without regard to the 3-year pay status for benefits rule of paragraph (3)).

(b) APPLICATION OF SECTION.—The provisions of subsection (a) shall apply with respect to the termination of any plan other than a plan which is in existence on the date of enactment of this Act and with respect to which there is in effect on such date a written provision governing allocation of assets under the plan upon termination.

TITLE V—DISCLOSURE AND FIDUCIARY STANDARDS

PART A—DISCLOSURE

AUTHORITY TO ISSUE REGULATIONS

SEC. 501. (a) The Secretary of Labor shall have authority to issue such rules and regulations as are necessary to implement the provisions of this Act and the Welfare and Pension Plans Disclosure Act.

(b) In order to avoid unnecessary expenses and duplication of functions among government agencies the Secretary may make such arrangements or agreements for cooperation or mutual assistance in the performance of his functions under this Act and the Welfare and Pension Plans Disclosure Act and the functions of any agency, Federal or State, as he may find to be practicable and consistent with law. The Secretary may utilize on a reimbursable or other basis the facilities or services of any department, agency, or establishment of the United States or of any State including services of any of its employees with the lawful consent of such department, agency, or establishment; and each department, agency, or establishment of the United States is authorized and directed to cooperate with the Secretary and to the extent permitted by law to provide such information and facilities as the Secretary may request for his assistance in the performance of his functions under this Act.

AMENDMENT TO WELFARE AND PENSION PLANS DISCLOSURE ACT

SEC. 502. (a) Section 3 of the Welfare and Pension Plan Disclosure Act (72 Stat. 997) is amended by adding at the end thereof the following new paragraphs:

"(14) The term 'relative' means a spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(15) The term 'administrator' means—

"(A) the person specifically so designated by the terms of the plan, collective bargaining agreement, trust agreement, contract, or other instrument, under which the plan is operated; or

"(B) in the absence of such designation (i) the employer in the case of an employee benefit plan established or maintained by a single employer, (ii) the employee organization in the case of a plan established or maintained by an employee organization, or (iii) the association, committee, joint board of trustees, or other similar group of representatives of the parties who established or maintained the plan, in the case of a plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations.

"(16) The term 'employee benefit plan' or 'plan' means an employee welfare benefit plan or an employee pension benefit plan or a plan providing both welfare and pension benefits.

"(17) The term 'employee benefit fund' or 'fund' means a fund of money or other assets maintained pursuant to or in connection with an employee benefit plan and includes employee contributions withheld but not yet paid to the plan by the employer. The term does not include: (A) any assets of an investment company subject to regulation under the Investment Company Act of 1940; (B) premium, subscription charges, or deposits received and retained by an insurance carrier or service or other organization, except for any separate account established or maintained by an insurance carrier.

"(18) The term 'separate account' means an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company.

"(19) The term 'adequate consideration' when used in section 15 means either (A) at no more than the price of the security prevailing on a national securities exchange which is registered with the Securities and Exchange Commission, or (B) if the security is not traded on such a national securities exchange, at a price not less favorable to the fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer, or (C) if the price of the security is not quoted by persons independent of the issuer, a price determined to be the fair value of the security.

"(20) The term 'nonforfeitable pension benefit' means a legal claim obtained by a participant or his beneficiary to that part of an immediate or deferred pension benefit which, notwithstanding any conditions subsequent which would affect receipt of any benefit flowing from such right, arises from the participant's covered service under the plan and is no longer contingent on the participant remaining covered by the plan.

"(21) The term 'covered service' means that period of service performed by a participant for an employer or as a member of an employee organization which is recognized under the terms of the plan or the collective-bargaining agreement (subject to the requirements of the Retirement Income Security for Employees Act), for purposes of determining a participant's eligibility to receive pension benefits or for determining the amount of such benefits.

"(22) The term 'pension benefit' means the aggregate, annual, monthly, or other amounts to which a participant has or will become entitled upon retirement or to which any other person is entitled by virtue of such participant's death.

"(23) The term 'accrued portion of normal retirement benefit' means that amount of such benefit which, irrespective of whether the right to such benefit is nonforfeitable, is equal to—

"(A) in the case of a profit-sharing-retirement plan or money purchase plan, the total amount credited to the account of a participant;

"(B) in the case of a unit benefit-type pension plan, the benefit units credited to a participant; or

"(C) in the case of other types of pension plans, that portion of the prospective normal, retirement benefit of a participant that, pursuant to rule or regulation under the Retirement Income Security for Employees Act, is determined to constitute the participant's accrued portion of the normal retirement benefit under the terms of the appropriate plan.

"(24) the term 'security' means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in, or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guaran-

tee of, or warrant or right to subscribe to or purchase, any of the foregoing.

"(25) The term 'fiduciary' means any person who exercises any power of control, management, or disposition with respect to any moneys or other property of any employee benefit fund, or has authority or responsibility to do so.

"(26) The term 'market value' or 'value' when used in this Act means fair market value where available, and otherwise the fair value as determined pursuant to rule or regulation under this Act.".

(b) Paragraph (1) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established", by inserting a comma after the word "unemployment", and by adding the following: or benefits of the type described or permitted by section 302(c) of the Labor Management Relations Act".

(c) Paragraph (2) of section 3 of such Act is amended by inserting the words "or maintained" after the word "established".

(d) Paragraph (3) of section 3 of such Act is amended by inserting the words "or "plan" the first time it appears and inserting in lieu thereof the word "program".

(e) Paragraphs (3), (4), (6), and (7) of section 3 of such Act are amended by striking out the words "welfare or pension" wherever they appear.

(f) Paragraph (13) of section 3 of such Act is amended to read as follows:

"(13) The term 'party in interest' means as to an employee benefit plan or fund, any administrator, officer, fiduciary, trustee, custodian, counsel, or employee of any employee benefit plan, or a person providing benefit plan services to any such plan, or an employer, any of whose employees are covered by such a plan or any person controlling, controlled by, or under common control with, controlling, controlled by, or under common control with, such employer or officer or employee or agent of such employer or such person, or an employee organization having members covered by such plan, or an officer or employee or agent of such an employee organization, or a relative, partner, or joint venturer or any of the above-described persons. Whenever the term 'party in interest' is used in this Act, it shall mean a person known or should have been known to be a party in interest. If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, such investment shall not cause such investment company or such investment company's investment adviser or principal underwriter to be deemed to be a 'fiduciary' or a 'party in interest' as those terms are defined in this Act, except insofar as such investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, the investment adviser, or its principal underwriter. Nothing contained herein shall limit the duties imposed on such investment company, investment adviser, or principal underwriter by any other provision of law.".

(g) Section 4(a) of the Welfare and Pension Plans Disclosure Act is amended by striking out the words "welfare or pension", "or employers", and "or organizations" wherever they appear.

(h) Paragraph (3) of section 4(b) of such Act is amended to read as follows:

"(3) Such plan is administered by a religious organization described under section 501(c) of the Internal Revenue Code of 1954 which is exempt from taxation under the provisions of section 501(a) of such Code;"

(i) Section 4(b)(4) of such Act is repealed.

(j) Section 4(b) of such Act is further amended by adding at the end thereof the following new paragraph:

"(5) Such plan is established or maintained outside the United States primarily for the benefit of employees who are not citizens of the United States and the situs of the employee benefit plan fund established or maintained pursuant to such plan is maintained outside the United States."

(k) Section 5(b) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(b) The Secretary may require the filing of special terminal reports on behalf of an employee benefit plan which is winding up its affairs (whether or not the plan has terminated), including any period during which the plan has moneys or other assets remaining and for one hundred and fifty days thereafter. Such reports may be required to be filed regardless of the number of participants remaining in the plan and shall be in such form and filed in such manner as the Secretary may prescribe."

(l) Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(c) The Secretary may by regulation, as to any class or type of employee benefit plans—

"(1) grant an exemption from all or part of the reporting, disclosure, and publication requirements of this Act; or

"(2) provide a variance in the form or manner of reporting, disclosure and publication required by this Act; or both,

if he finds that the exemption or variance is necessary or appropriate and consistent with the purposes of this Act. Any such exemption or variance may be granted on such conditions as the Secretary may deem appropriate. The Secretary shall prescribe by general rule simplified reports for plans which cover less than 100 participants and which maintain an employee benefit fund with less than $100,000 in assets, except that nothing contained herein shall preclude the Secretary from requiring any information or data from such plans where he finds such data or information necessary to carry out the purposes of this Act nor shall the Secretary be precluded from revoking provisions for simplified forms for any such plan if he finds it necessary to do so in order to carry out the objectives of this Act.".

(m) Section 6 of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"SEC. 6. (a) A description of any employee benefit plan shall be published as required herein within ninety days after the establishment of such plan or when such plan becomes subject to this Act.

"(b) The description of the plan shall be comprehensive, written in a manner calculated to be understood by the average participant, and shall include the name and types of administration of the plan; the name and address of the administrator; the names and addresses of any person or persons responsible for the management or investment of plan funds; the schedule of benefits; a description of the provisions providing for vested benefits; the source of the financing of the plan and identity of any organization through which benefits are provided; whether records of the plan are kept on a calendar year basis, or on a policy or other fiscal year basis, and if on the latter basis, the date of the end of such policy or fiscal year; the procedures to be followed in presenting claims for benefits under the plan and the remedies available under the plan for the redress of claims which are denied in whole or in part. Amendments to the plan reflecting changes in the data and information included in the original plan, other than data and information also required to be included in annual reports under section 7, shall be included in the description on and after the effective date of such amendments. Any change in the information required by this subsection shall be reported in accordance with regulations prescribed by the Secretary.".

(n) Subsection (a) of section 7 of the Welfare and Pension Plans Disclosure Act is amended by adding the number "(1)" after the letter "(a)", and by striking out that part of the first sentence which precedes the word "if" the first time it appears and inserting in lieu thereof the words "An annual report shall be published with respect to any employee benefit plan if the plan provides for an employee benefit fund subject to section 15 of this Act or".

(o) Section 7(a)(1) of such Act is further amended by striking out the word "investigation" and inserting in lieu thereof the words "notice and opportunity to be heard", by striking out the words "year (or if" and inserting in lieu thereof the words "policy or fiscal year on which", adding a period after the word "kept", and striking out all the words following the word "kept".

(p) Section 7(a) of such Act is further amended by adding the following paragraphs:

"(2) If some or all of the benefits under the plan are provided by an insurance carrier or service or other organization, such carrier organization shall certify to the administrator of such plan, within one hundred and twenty days after the end of each calendar policy, or other fiscal year, as the case may be, such information as determined by the Secretary to be necessary to enable such administrator to comply with the requirements of this Act.

"(3) The administrator of an employee benefit plan shall cause an audit to be made annually of the employee benefit fund established in connection with or pursuant to the provisions of the plan. Such audit shall be conducted subject to regulations of the Secretary and in accordance with generally accepted standards of auditing by an independent certified or licensed public accountant, but nothing herein shall be construed to require such an audit of the books or records of any bank, insurance company, or other institution providing insurance, investment, or related function for the plan, if such books or records are subject to periodic examination by any agency of the Federal Government or the government of any State. The auditor's opinion and comments with respect to the financial information required to be furnished in the annual report by the plan administrator shall form a part of such report.".

(q) Sections 7 (b) and (c) of such Act are amended to read as follows:

"(b) A report under this section shall include—

"(1) the amount contributed by each employer; the amount contributed by the employees; the amount of benefits paid or otherwise furnished; the number of employees covered; a statement of assets, liabilities, receipts, and disbursements of the plan; a detailed statement of the salaries and fees and commissions charged to the plan, to whom paid, in what amount, and for what purposes; the name and address of each fiduciary, his official position with respect to the plan, his relationship to the employer of the employees covered by the plan, or the employee organization, and any other office, position, or employment he holds with any party in interest;

"(2) a schedule of all investments of the fund showing as of the end of the fiscal year:

"(A) the aggregate cost and aggregate value of each security, by issuer,

"(B) the aggregate cost and aggregate value, by type or category, of all other investments, and separately identifying (i) each investment, the value of which exceeds 3 per centum of the value of the fund and (ii) each investment in securities or properties of any person known to be a party in interest;

"(3) a schedule showing the aggregate amount, by type of security, of all purchases, sales, redemptions, and exchanges of securities made during the reporting period; a list of the issuers of such securities. and in addition, a schedule showing, as to each separate transaction with or without respect to securities issued by any person known to be a party in interest, the issuer, the type and class of security, the quantity involved in the transaction, the gross purchase price, and in the case of a sale, redemption, or exchange, the gross and net proceeds (including a description and the value of any consideration other than money) and the net gain or loss, except that such schedule shall not include distribution of stock or other distributions in kind from profit-sharing or similar plans to participants separated from the plan;

"(4) a schedule of purchases, sales, or exchanges during the year covered by the report of investment assets other than securities—

"(A) by type or category of asset the aggregate amount of purchases, sales, and exchanges; the aggregate expenses incurred in connection therewith; and the aggregate net gain (or loss) no sales, and

"(B) for each transaction involving a person known to be a party in interest and for each transaction involving over 3 per centum of the fund, an indication of each asset purchased, sold, or exchanged (and, in the case of fixed assets such as land, buildings, and leaseholds, the location of the asset); purchase or seling price; expenses incurred in connection with the purchase, sale, or exchange; the cost of the asset and the net gain (or loss) on each sale; the identity of the seller in the case of a purchase, or the identity of the purchaser in the case of a sale, and his relationship to the plan, the employer, or any employee organization;

"(5) a schedule of all loans made from the fund during the reporting year or outstanding at the end of the year, and a schedule of principal and interest payments received by the fund during the reporting year, aggregated in each case by type of loan, and in addition, a separate schedule showing as to each loan which—

"(A) was made to a party in interest, or

"(B) was in default, or

"(C) was written off during the year as uncollectable, or

"(D) exceeded 3 per centum of the value of the fund,

the original principal amount of the loan, the amount of principal and interest received during the reporting year, the unpaid balance, the identity and address of the loan obligor, a detailed description of the loan (including date of making and maturity, interest rate, the type and value of collateral, and the material terms), the amount of principal and interest overdue (if any) and as to loans written off as uncollectable an explanation thereof;

"(6) a list of all leases with—

"(A) persons other than parties in interest who are in default, and

"(B) any party in interest,

including information as to the type of property leased (and, in the case of fixed assets such as land, buildings, leaseholds, and so forth, the location of the property), the identify of the lessor or lessee from or to whom the plan is leasing, the relationship of such lessors and lesees, if any, to the plan, the employer, employee organization, or any other party in interest, the terms of the lease regarding rent, taxes, insurance, repairs, expenses, and renewal options; if property is leased from persons described in (B) the amount of rental and other expenses paid during the reporting year; and if property is leased to persons described in (A) or (B), the date the leased property was purchased and its cost, the date the property was leased and its approximate value at such date, the gross rental receipts during the reporting period, the expenses paid for the leased property during the reporting period, the net receipt from the lease, and with respect to any such leases in default, their identify, the amounts in arrears, and a statement as to what steps have been taken to collect amounts due or otherwise remedy the default;

"(7) a detailed list of purchases, sales, exchanges, or any other transactions with any party in interest made during the year, including information as to the asset involved, the price, any expenses connected with the transaction, the cost of the asset, the proceeds, the net gain or loss, the identity of the other party to the transaction and his relationship to the plan;

"(8) subject to rules of the Secretary designed to preclude the filing of duplicate or unnecessary statements, if some or all of the assets of a plan or plans are held in a common or collective trust maintained by a bank or similar institution or in a separate account maintained by an insurance carrier, the report shall include a statement of assets and liabilities and a statement of receipts and disbursements of such common or collective trust or separate account and such of the information required under paragraphs (2), (3), (4), (5), (6), and (7) of section 7(b) with respect to such common or collective trust or separate account as the Secretary may determine appropriate by regulation. In such case the bank or similar institution or insurance carrier shall certify to the administrator of such plan or plans, within one hundred and twenty days after the end of each calendar, policy, or other fiscal year, as the case may be, the information determined by the Secretary to be necessary to enable the plan administrator to comply with the requirements of this Act; and

"(9) in addition to reporting the information called for by this subsection, the administrator may elect to furnish other information as to investment or reinvestment of the fund as additional disclosures to the Secretary.

"(c) If the only assets from which claims against an employee benefit plan may be paid are the general assets of the employer or the employee organization, the report shall include (for each of the past five years) the benefits paid and the average number of employees eligible for participation."

(r) Section 7(d) of such Act is amended by striking out the capital "T" in the word "The" the first time it appears in paragraphs (1) and (2) and inserting in lieu thereof a lowercase "t".

(s) Section 7(e) of such Act is amended to read as follows:

"(e) Every employee pension benefit plan shall include with its annual report (to the extent applicable) the following information:

"(1) the type and basis of funding,

"(2) the number of participants, both retired and nonretired, covered by the plan,

"(3) the amount of all reserves or net assets accumulated under the plan,

"(4) the present value of all liabilities for all nonforfeitable pension benefits and the present value of all other accrued liabilities.

"(5) the ratios of the market value of the reserves and assets described in (3) above to the liabilities described in (4) above,

"(6) a copy of the most recent actuarial report, and

"(A) (i) the actuarial assumptions used in computing the contributions to a trust or payments under an insurance contract, (ii) the actuarial assumptions used in determining the level of benefits, and (iii) the actuarial assumptions used in connection with the other information required to be furnished under this subsection, insofar as any such actuarial assumptions are not included in the most recent actuarial report,

"(B) (i) if there is no such report, or (ii) if any of the actuarial assumptions employed in the annual report differ from those in the most recent actuarial report, or (iii) if different actuarial assumptions are used for computing contributions or payments than are used for any other purpose, a statement explaining same; and

"(7) such other reasonable information pertinent to disclosure under this subsection as the Secretary may by regulation prescribe.

(t) Section 7 of such Act is further amended by striking out in their entirety subsections (f), (g), and (h).

ANNUAL REPORTS

SEC. 503. (a) Section 8 of the Welfare and Pension Plans Disclosure Act is amended by striking out subsections (a) and (b) in their entirety and by redesignating subsection (c) as subsection (a). The subsection redesignated as subsection (a) is further amended by striking out the words "of plans" after the word "descriptions", striking out the word "the" before the word "annual" and adding the word "plan" before the word "descriptions".

(b) Such section is further amended by adding subsections (b), (c), (d), and (e), to read as follows:

"(b) The administrator of any employee benefit plan subject to this Act shall file with the Secretary a copy of the plan description and each annual report. The administrator shall also furnish to the Secretary, upon request, any documents relating to the employee benefit plan, including but not limited to the bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated, and any document so furnished shall be available for public inspection by the Secretary.

"(c) Publication of the plan descriptions and annual reports required by this Act shall be made to participants and beneficiaries of the particular plan as follows:

"(1) the administrator shall make copies of the plan description (including all amendments or modifications thereto) and the latest annual report and the bargaining agreement, trust agreement contract, or other instrument under which the plan was established or is operated available for examination by any plan participant or beneficiary in the principal office of the administrator;

"(2) the administrator shall furnish to any plan participant or beneficiary so requesting in writing a fair summary of the latest annual report;

"(3) the administrator shall furnish or make available, whichever is most practicable: (1) to every participant upon his enrollment in the plan and within one hundred and twenty days after each major amendment to the plan, a summary of the plan's important provisions, including the name and addresses of any person or persons responsible for the management or investment of plan funds, and requirements of the amendment, whichever is applicable, written in a manner calculated to be understood by the average participant; such explanation shall include a description of the benefits available to the participant under the plan and circumstances which may result in disqualification or ineligibility, and the requirements of the Welfare and Pension Plans Disclosure Act with respect to the availability of copies of the plan bargaining agreement, trust agreement, contract or other instrument under which the plan is established or operated; and (ii) to every participant every three years (commencing January 1, 1975), a revised up-to-date summary of the plan's important provisions and major amendments thereto, written in a manner calculated to be understood by the average participant; and (iii) to each plan participant or beneficiary so requesting in writing a complete

copy of the plan description (including all amendments or modifications thereto) or a complete copy of the latest annual report, or both. He shall in the same way furnish a complete copy of any bargaining agreement, trust agreement, contract, or other instrument under which the plan is established or operated. In accordance with regulations of the Secretary, an administrator may make a reasonable charge to cover the cost of furnishing such complete copies.

"(d) The Administrator of an employee pension benefit plan shall furnish to any plan participant or beneficiary so requesting in writing a statement indicating, on the basis of the latest information available, (1) whether or not such person has a nonforfeitable right to a pension benefit, (2) the nonforfeitable pension benefits, if any, which have accrued or the earliest date on which benefits will become nonforfeitable, and (3) the total pension benefits accrued.

"(e) In the event a plan is provided a variance with respect to standards of vesting, funding, or both, pursuant to title II of the Retirement Income Security for Employees Act, the administrator shall furnish or make available, whichever is most practicable, notice of such action to each participant in a manner calculated to be understood by the average participant, and in such form and detail and for such periods as may be prescribed by the Secretary.".

INVESTIGATIONS

SEC. 504. (a) Section 9(d) of the Welfare and Pension Plans Disclosure Act is amended to read as follows:

"(d) The Secretary may make appropriate investigations when he believes it necessary in order to determine whether any person has violated or is about to violate any provision of this Act or the Welfare and Pension Plans Disclosure Act and in connection therewith he may require the filing of (1) any instruments under which the plan is and has been operated, and (2) supporting schedules of the financial information required to be furnished under either Act and may enter such places, inspect such records and accounts, and question such persons as he may deem necessary to enable him to determine the facts relative to such investigation, except that no periodic examination of the books and records of any plan or fund shall be conducted more than once annually unless the Secretary has reasonable cause to believe there may exist a violation of this Act or any rule or regulation issued thereunder. The Secretary shall make such arrangements as are necessary with the Secretary of the Treasury to preclude a duplication of effort with regard to investigation of violations relating to fiduciaries. For the purposes of any investigation described in this subsection, the provisions of sections 9 and 10 (relating to the attendance of witnesses and the production of books, records, and documents), of the Federal Trade Commission Act of September 16, 1914 (15 U.S.C. 49, 50), are hereby made applicable to the jurisdiction, powers, and duties of the Secretary or any officer designated by him. To the extent he considers appropriate the Secretary shall delegate his auditing and investigative functions under this section with respect to insured banks acting as fiduciaries of employee benefit plans to the 'appropriate Federal banking agency' as that term is defined in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).".

(b) Subsection (h) of section 9 of such Act is repealed and subsection (i) of such section is designated as subsection (h).

PUBLIC INFORMATION

SEC. 505. Section 10 of the Welfare and Pension Plan Disclosure Act is amended to read as follows:

"REPORTS MADE PUBLIC INFORMATION: RESEARCH AND STATISTICS

"SEC. 10. (a) The contents of plan descriptions and annual reports filed with the Secretary pursuant to this Act shall be public information and the Secretary may publish any such information and data as he may deem appropriate.

"(b) The Secretary shall develop and maintain a comprehensive and effective program of collection, compilation, and analysis of employee benefit plan information and data. Such program shall relate to information and data whether or not required to be furnished by this Act or the Retirement Income Security for Employees Act and to employee benefit plans whether or not subject to these Acts. Moreover the Secretary is authorized and directed to undertake appropriate studies relating to employee benefit plans including, but not limited to, the effects of the Retirement Income Security for Employees Act upon the provisions and costs of pension and profit-sharing retirement plans, the role of private pensions in meeting requirement security needs of the Nation, as well as alternative methods of providing additional retirement security, the administration and operations of pension plans including types and levels of benefits, degree of reciprocity or portability, financial characteristics and practices, methods of encouraging the growth of private pension and profit-sharing retirement plans, and the adequacy of coverage under this Act and the Retirement Income Security for Employees Act. Without limiting the generality of the foregoing, the Secretary shall also undertake a special study of the sufficiency of the provisions of the Retirement Income Security for Employees Act as applied to high mobility employees and shall recommend such changes in existing law and regulations as may be appropriate to afford to such employees adequate protection against unreasonable forfeiture of pension credits as a result of frequent job changes inherent in the conduct of their occupations or professions, and such other changes as may be appropriate to provide more adequate protection to such employees. In developing such recommendations, the Secretary shall consult with appropriate Federal and State agencies, professional societies, industry and labor representatives, and other professionals societies, industry and labor representatives, and other interested groups with specialized knowledge of the problems of high mobility workers. This special study shall be completed and submitted to the Congress within three years after enactment of the amendments to this Act.

"(c) To carry out his duties under this subsection the Secretary may—

"(1) promote, encourage, or directly engage in programs studies, information, and communication concerning employee benefit plans;

"(2) compile and publish such studies, analyses, reports, and surveys as he may deem appropriate;

"(3) arrange, through grants or contracts for the conduct of such research and investigations as he may deem appropriate;

"(4) make such agreements as are necessary to maintain the confidentiality of the source of any information furnished pursuant to a request by the Secretary) for use in connection with the collection, compilation, and analysis of employee benefit plan information and data.".

ESTABLISHMENT OF ADVISORY COUNCIL

SEC. 506. Section 14 of such Act is amended to read as follows:

"ADVISORY COUNCIL

"SEC. 14. (a)(1) There is hereby established an Advisory Council on Employee Welfare and Pension Benefit Plans (hereinafter referred to as the 'Council') consisting of twenty-one members appointed by the Secretary. Not more than eleven members of the Council shall be members of the same political party.

"(2) Members shall be appointed from among persons recommended by groups or organizations which they shall represent and shall be persons qualified to appraise the programs instituted under this Act and the Retirement Income Security for Employees Act.

"(3) Of the members appointed, five shall be representatives of labor organizations; five shall be representatives of management; one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, and the accounting field; and six representatives shall be appointed from the general public, three of whom shall be persons representing those receiving benefits from a private pension plan.

"(4) Members shall serve for terms of three years, except that of those first appointed, six shall be appointed for terms of one year, seven shall be appointed for terms of two years, and eight shall be appointed for terms of three years. A member may be reappointed, and a member appointed to fill a vacancy shall be appointed only for the remainder of such term. A majority of members shall constitute a quorum and action shall be taken only by a majority vote of those present.

"(5) Members shall be paid compensation at the rate of $150 per day when engaged in the actual performance of their duties except that any such member who holds another office or position under the Federal Government shall serve without additional compensation. Any member shall receive travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(b) It shall be the duty of the Council to advise the Secretary with respect to the carrying out of his functions under this Act, and the Retirement Income Security for Employees Act and to submit to the Secretary recommendations with respect thereto. The Council shall meet at least four times each year and at such other times as the Secretary requests. At the beginning of each regular session of the Congress, the Secretary shall transmit to the Senate and House of Representatives each recommendation which he has received from the Council during the preceding calendar year and a report covering his activities under the Act and the Retirement Income Security for Employees Act for the preceding fiscal year, including full information as to the number of plans and their size, the results of any studies he may have made of such plans and the operation of this Act and the Retirement Income Security for Employees Act and such other information and data as he may deem desirable in connection with employee welfare and pension benefit plans.

"(c) The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary to conduct its business. The Secretary may call upon other agencies of the Government for statistical data, reports, and other information which will assist the Council in the performance of its duties."

ADMINISTRATION

SEC. 507. Section 5108 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) In addition to the number of positions authorized by subsection (a), the Secretary of Labor is authorized, without regard to any other provision of this subsection to place a total of 20 positions in the Department of Labor in GS–16 and 17.".

PART B—FIDUCIARY STANDARDS

Subpart I—Fiduciary Standards Under the Welfare and Pension Plans Disclosure Act

AMENDMENT TO THE WELFARE AND PENSION PLANS DISCLOSURE ACT

SEC. 511. The Welfare and Pension Plans Disclosure Act is amended by redesignating sections 15, 16, 17, and 18 as sections 17, 18, 19, and 20, respectively and by inserting immediately after section 14 the following new sections:

"FIDUCIARY STANDARDS

"SEC. 15. (a) Every employee benefit fund established to provide for the payment of benefits under an employee's benefit plan shall be established or maintained pursuant to a duly executed written document which shall set forth the purpose or purposes for which such fund is established and the detailed basis on which payments are to be made into and out of such fund. Such fund shall be deemed to be a trust and shall be held for the exclusive purpose of (1) providing benefits to participants in the plan and their beneficiaries and (2) defraying reasonable expenses of administering the plan.

"(b)(1) A fiduciary shall discharge his duties with respect to the fund—

"(A) with the care under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and

"(B) subject to the standards in subsection (a) and in accordance with the documents and instruments governing the fund insofar as is consistent with this Act, except that (i) any assets of the fund remaining upon dissolution or termination of the fund shall, after complete satisfaction of the rights of all beneficiaries to benefits accrued to the date of dissolution or termination, be distributed ratably to the beneficiaries thereof or, if the trust agreement so provides, to the contributors thereto; (ii) that in the case of a registered pension or profit-sharing-retirement plan, such distribution shall be subject to the requirements of the Retirement Income Security for Employees Act; and (iii) any assets of the fund, attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination shall be equitably distributed to the employee contributors according to their rate of contribution.

"(2) A fiduciary is prohibited from engaging in the following transactions:

"(A) holding or purchasing on behalf of the fund any security which has been issued by an employer or employer-group whose employees are participants in the plan, under which the fund was established or a corporation controlling, controlled by, or under common control with such employer, or employee-group, if such investment, which when added to such securities already held, exceeds 7 per centum of the fair market value of the assets of the fund. Notwithstanding the foregoing, such 7 per centum limitation shall not apply to profit sharing, stock bonus, thrift and savings or other similar plans which explicitly provide that some or all of the plan funds may be invested in securities of such employer or a corporation controlling, controlled by, or under common control with such employer, nor shall said plans be deemed to be limited by any diversification rule as to plan funds which may be invested in such securities. Profit sharing, stock bonus, thrift, or other similar plans, which are in existence on the date of enactment and which allow investment in such securities without explicit provision in the plan, shall remain exempt from the 7 per centum limitation until the expiration of one year from the date of enactment of this section. Nothing contained in this subparagraph shall be construed to relieve profit-sharing, stock bonus, thrift and savings or other similar plans from any other applicable requirements of this section. For the purposes of this subparagraph the leasing (or a purchase in connection with such lease) of real property and personal property related to such real property to an employer or employer-group by a plan shall be deemed to be a security of such employer or employer-group;

"(B) any fund other than a profit-sharing, stock bonus, thrift savings plan, etc., holding securities of an employer or employer group which employs participants in such plan, in excess of 7 per centum of the fair market value of such fund on the effective date of this section shall, within 5 years after the effective date of this section, divest not less than 50 per centum of such excess and shall, not later than 10 years after the effective date of this section divest not less than 100 per centum of such excess.

"(3) Except as provided in subsection (c), a fiduciary shall not engage in a transaction with respect to a trust which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a fiduciary where he deals in his own interest for his own account;

"(F) receipt by a party in interest from any party dealing with the trust in a transaction involving the trust; or

"(G) represent any other party with such fund or in any way act on behalf of a party adverse to the fund or adverse to the interests of its participants or beneficiaries.

"(4) The Secretary, in conjunction with the Secretary of the Treasury, shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (3) of this subsection.

An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph the Secretaries shall assure that such exemption is (A) administratively feasible, (B) in the interests of the fund, and (C) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan. Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice which shall include publication in the Federal Register, to interested persons, of the pendency of such exemptions.

"(c) The prohibitions provided in subsection (b)(3) shall not apply to—

"(1) any loan made by the trust to parties in interest who are participants for beneficiaries (other than an owner within the meaning of section 401(c)(3) of the Internal Revenue Code of 1954 or a proprietary employee within the meaning of section 412(c)(1) of such Code) of the plan if such loans are (i) available to all such participants on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured;

"(2) a fiduciary receiving any reasonable compensation for services rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transactions involving plan funds, except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed;

"(3) the receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the plan;

"(4) contracting or making reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and paying reasonable compensation therefor;

"(5) following the specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in subsection (b)(3);

"(6) taking action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the provisions of subsection (a) or (b).

"(d) Any fiduciary who breaches any of the responsibilities, obligations, or duties imposed upon fiduciaries by this Act shall be personally liable to such fund for any losses to the fund resulting from such breach, and to pay to such fund any profits which have inured to such fiduciary through use of assets of the fund.

"(e) When two or more fiduciaries undertake jointly the performance of a duty or the excise of a power, or where two or more fiduciaries are required by an instrument governing the fund to undertake jointly the performance of a duty or the exercise of power, but not otherwise, each of such fiduciaries shall have the duty to prevent any other such cofiduciary from committing a breach of responsibility, obligation, or duty of a fiduciary or to compel such other cofiduciary to redress such a breach, except that no fiduciary shall be liable for any consequence of any act or failure to act as a cofiduciary who is undertaking or is required to undertake jointly any duty or power if he shall object in writing to the specific action and promptly file a copy of his objection with the Secretary.

"(f) No fiduciary may be relieved from any responsibility, obligation, or duty imposed by law, by any agreement, or otherwise. Nothing herein shall preclude any agreement allocating specific duties or responsibilities among fiduciaries, or bar any agreement of insurance coverage or indemnification affecting fiduciaries subject to regulations promulgated by the Secretary.

"(g) A fiduciary shall not be liable for a violation of this Act committed before he became a fiduciary or after he ceased to be a fiduciary.

"(h) No fiduciary shall permit any assets of the fund to be held, deposited, or invested outside the United States unless the indicia of ownership remain within the jurisdiction of a United States District Court, except as authorized by the Secretary by rules or regulations.

"(i) Any party in interest who participates in a transaction prohibted by this Act knowingly, or with reason to know that the trans-

action was a transaction to which this Act applies, shall be personally liable to make good to the fund any losses sustained by the fund resulting from such transaction, and to pay to the fund any profits realized by him from such transaction.

"(j) For the purposes of this section a transfer of real or personal property by a party in interest to a trust to which the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of transfer.

"(k) For the purposes of this section the term 'employer-group' means any controlled group of corporations (as defined in section 1563(a) of the Internal Revenue Code of 1954) of which the employer who maintains the plan is a member.

"(l) This section shall not apply to—

"(1) funds held by an insurance carrier unless that carrier holds funds in a separate account,

"(2) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(3) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(4) a plan established or maintained by a church or a convention or association of churches which is exempt from tax under section 501(a) of the Internal Revenue Code of 1954, unless that plan is taxable under chapter 45 of such Code.

"PROHIBITION OF FIDUCIARY SERVICES

"SEC. 16. (a) No person who has been convicted of, or has been imprisoned as a result of his conviction of, robbery, bribery, extortion, embezzlement, grand larceny, burglary, arson, a felony violation of Federal or State law involving substances defined in section 102(6) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, murder, rape, kidnaping, perjury, assault with intent to kill, assault which inflicts grievous bodily injury, any crime described in section 9(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-9(a)(1)), a violation of any provision of this Act, a violation of section 302 of the Labor-Management Relations Act of 1947 (61 Stat. 157, as amended; 29 U.S.C. 186), a violation of chapter 63 of title 18, United States Code, a violation of section 874, 1027, 1503, 1505, 1506, 1510, 1951, or 1954 of title 18, United States Code, a violation of the Labor-Management Reporting and Disclosure Act of 1959 (73 Stat. 519, as amended; 29 U.S.C. 401), or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve—

"(1) as an administrator, officer, trustee, custodian, counsel, agent, employee (other than as an employee performing exclusively clerical or janitorial duties), or fiduciary of any employee benefit plan, or

"(2) as a consultant to any employee benefit plan,

during or for five years after a conviction or after the end of an imprisonment for any crime listed in this paragraph, unless prior to the end of such five-year period, in the case of a person so convicted or imprisoned, the Board of Parole of the United States Department of Justice determines that such person's service in any capacity referred to in subparagraph (A) or (B) would not be contrary to the purpose of this Act. Prior to making any such determination the Board shall hold an administrative hearing and shall give notice of such proceedings by certified mail to the State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Board's determination in any such proceeding shall be final.

"(b) Any person who willfully violates this section, or knowingly permits another person to violate this section, shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) For purposes of this section—

"(1) any person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court or the date of the final sustaining of such judgment on appeal, whichever is later, regardless of when such conviction occurred;

"(2) the term 'imprisonment' shall not include any period of parole; and

"(3) 'consultant' means any person who, for pecuniary benefit, direct or indirect, advises or represents an employer benefit plan, concerning the establishment or operation of such plan.".

EFFECTIVE DATES

SEC. 512. The amendments made by part A and subpart I of part B of this title shall be effective January 1, 1974, except for those amendments dealing with prohibited transactions which shall be effective January 1, 1975.

Subpart II—Fiduciary Standards Under the Internal Revenue Code of 1954

SEC. 521. FIDUCIARY STANDARDS.

(a) DUPLICATION OF EFFORT.—In order to avoid unnecessary expense and duplication of functions among Government agencies the Secretary of Labor and the Secretary of the Treasury shall make arrangements or agreements for cooperation and mutual assistance. Any information coming to the attention of the Secretary of the Treasury in the course of his administration of this section which may warrant consideration for criminal prosecution under the provisions of this section, or other criminal law shall be forwarded to the Secretary of Labor for immediate transmittal to the Attorney General.

(b) COOPERATION WITH REGARD TO INVESTIGATIONS.—The Secretary of the Treasury shall make such arrangements as are necessary with the Secretary of Labor to preclude a duplication of effort with regard to investigations of violations relating to fiduciaries.

(c) ADMINISTRATION.—

(1) The provisions of subchapter II of chapter 5 of title 5, United States Code, shall apply to this section.

(2) The Secretary of Labor, in conjunction with the Secretary of the Treasury, shall promulgate rules and regulations for the administration and enforcement of this section with regard to prohibited transactions under section 522(d)(1).

SEC. 522. PROHIBITED TRANSACTIONS.

(a) AMENDMENT OF SECTION 503.—Section 503 (relating to requirements for exemption) is amended—

(1) by striking out "or (18)" in subsection (a)(1)(A),

(2) by striking out subsection (a)(1)(B) and by redesignating subsection (a)(1)(C) as (a)(1)(B),

(3) by striking out "or section 401(a)" in subsections (a)(2) and (c),

(4) by striking out subsections (d), (f), and (g) and redesignating subsection (e) as (d).

(b) EXCISE TAX ON PROHIBITED TRANSACTIONS.—Chapter 44 of subtitle D (relating to miscellaneous excise taxes) (as added by section 241 of this Act) is amended by adding at the end thereof the following new section:

"SEC. 4974. EXCISE TAX ON PROHIBITED TRANSACTIONS.

"(a) INITIAL TAXES ON PARTY IN INTEREST.—There is hereby imposed a tax on each prohibited transaction at the rate of 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period. The tax imposed by this paragraph shall be paid by any party in interest who participates in the prohibited transaction.

"(b) ADDITIONAL TAXES ON PARTY IN INTEREST.—In any case in which an initial tax is imposed by subsection (a) on a prohibited transaction and the transaction is not corrected within the correction period, there is hereby imposed a tax equal to 100 percent of the amount involved. The tax imposed by this paragraph shall be paid by any party in interest who participated in the prohibited transaction.

"(c) SPECIAL RULE.—For purposes of subsections (a) and (b) if more than one person is liable under any paragraph of subsection (a) or (b) with respect to any one prohibited transaction, all such persons shall be jointly and severally liable under such paragraph with respect to such act.

"(d) PROHIBITED TRANSACTION.—

"(1) GENERAL RULE.—For purposes of this section, the term 'prohibited transaction' means a transaction between a party in interest and an employee's trust described in section 401(a), a plan described in section 404(a)(2), or a qualified individual retirement account described in section 408(a), which is exempt from tax under section 501(a) (or which, at any time, has been determined by the Secretary or his delegate to be such a trust, plan, or account) and which constitutes a direct or indirect—

"(A) sale or exchange, or leasing of any property between the trust and a party in interest;

"(B) lending of money or other extension of credit between the trust and a party in interest;

"(C) furnishing of goods, services, or facilities between the trust and a party in interest;

"(D) transfer to, or use by or for the benefit of a party in interest of any assets of the trust;

"(E) act by a party in interest whereby he deals with the assets of the trust in his own interest or for his own account;

"(F) receipt of consideration from any party in interest by any party dealing with the trust in a transaction involving the trust.

"(2) SPECIAL RULES.—For the purposes of paragraph (1)—

"(A) EXEMPTION.—The Secretary, in conjunction with the Secretary of Labor shall by rule or regulation provide for the conditional or unconditional exemption of any fiduciary or class of fiduciaries or transactions or class of transactions from all or part of the restrictions imposed by paragraph (1) of this subsection. An exemption granted under this section shall not relieve a fiduciary from any other applicable provisions of this Act. In granting an exemption under this paragraph, the Secretaries shall assure that such exemption is (i) administratively feasible, (ii) in the interests of the fund, and (iii) protective of the rights, both contingent and vested, of participants and beneficiaries of such plan. Prior to the granting of an exemption under this paragraph, the Secretaries shall give adequate notice to interested persons, which shall include publication in the Federal Register, of the pendency of such exemptions;

"(B) ENCUMBERED PROPERTY.—A transfer of real or personal property by a party in interest to a trust to which this section applies shall be treated as a sale or exchange if the property is subject to a mortgage or similar lien which the trust assumes or if it is subject to a mortgage or similar lien which a party in interest placed on the property within the 10-year period ending on the date of the transfer;

"(C) LOANS TO PARTICIPANTS.—Any loan

made by the trust to parties in interest who are participants or beneficiaries (other than an owner employee within the meaning of section 401(c)(3)) of the qualified plan is not a prohibited transaction if such loans are (i) available to all such participants or beneficiaries on a nondiscriminatory basis, (ii) are not made available to highly compensated employees in an amount greater than that amount made available to other employees, (iii) are made in accordance with specific provisions regarding such loans set forth in the plan, (iv) bear a reasonable rate of interest, and (v) are adequately secured.

"(D) COMPENSATION TO FIDUCIARY.—Receiving any reasonable compensation for service rendered, or for the reimbursement of expenses properly and actually incurred, in the performance of his duties with the fund, or receiving in a fiduciary capacity proceeds from any transaction involving plan funds is not a prohibited transaction except that no person so serving who is actually receiving full-time compensation from an employer or association of employers whose employees are participants in the plan under which the fund was established, or from an employee organization whose members are participants in such plan, shall receive compensation from such fund, except for reimbursement of expenses properly and actually incurred and not otherwise reimbursed.

"(E) LEASE ARRANGEMENTS BETWEEN PLANS AND EMPLOYERS OF PARTICIPANTS.—The leasing (or a purchase in connection with such lease) of real property and personal property related to such real property to an employer or employer-group by a pension plan shall not be a prohibited transaction if such agreements do not exceed the limitations imposed by section 15(c)(6)(A) of the Welfare and Pension Plans Disclosure Act. For the purposes of this paragraph the term 'employer-group' means any controlled group or corporation (as defined in section 1563(a)) of which the employer who maintains the plan is a member.

"(F) ACTIONS IN ACCORDANCE WITH GOVERNING DOCUMENT.—It is not a prohibited transaction to—

"(i) contract or make reasonable arrangements with a party in interest for office space and other services necessary for the operation of the plan and to pay reasonable compensation therefor;

"(ii) follow specific instructions in the trust instrument or other document governing the fund insofar as consistent with the specific prohibitions listed in this section; or

"(iii) take action pursuant to an authorization in the trust instrument or other document governing the fund, provided such action is consistent with the prohibitions of this section.

"(G) FIDUCIARY OR PARTY IN INTEREST AS PARTICIPANTS.—The receipt by a fiduciary or other party in interest of any benefit to which he may be entitled as a participant or beneficiary in the qualified plan is not a prohibited transaction.

"(H) OTHER OFFICES.—It is not a prohibited transaction for a fiduciary to serve as an officer, employee, agent, or other representative of a party in interest.

"(I) EXCLUSIONS.—A qualified plan or part thereof does not include—

"(i) funds held by an insurance carrier unless that carrier holds the funds in a separate account,

"(ii) funds held by an investment company subject to regulation under the Investment Company Act of 1940,

"(iii) a plan administered by the Government of the United States, or by the government of a State or political subdivision thereof, or by an agency or instrumentality of such a government, or

"(iv) a plan established and maintained by a church or a convention or association of churches which is exempt from tax under section 501(a), unless that plan is taxable under chapter 45 (relating to certain guaranteed benefit plans).

For purposes of this subparagraph, the term 'separate account' means an account established or maintained by an insurance company under which income expenses, gains, and losses (whether or not realized) from assets allocated to such account are credited or charged against the account in accordance with the applicable contract without regard to other income expenses, gains, or losses of the insurance company.

"(J) DISTRIBUTION TO EMPLOYER.—It is not a prohibited transaction for a fiduciary to make a distribution of the residual assets of the trust in accordance with the terms of the plan, and not in contravention of existing law, to the employer who maintains the plan after all liabilities of the plan with respect to participants and their beneficiaries have been satisfied, except that any assets of the fund attributable to employee contributions, remaining after complete satisfaction of the rights of all beneficiaries accrued to the date of dissolution or termination, shall be equitably distributed to the employee contributors according to their rate of contribution.

"(e) FIDUCIARY AND PARTY IN INTEREST.—

"(1) PARTY IN INTEREST.—For purposes of this section, the term 'party in interest' means, with respect to a qualified plan, a person who is—

"(A) with respect to a particular prohibited transaction, a fiduciary who benefits from the particular prohibited transaction;

"(B) an administrator, officer, trustee, custodian, counsel of, or person providing benefit plan services to, a qualified plan;

"(C) an employer any of whose employees are covered by such a plan;

"(D) an employee organization any of whose numbers are covered by such a plan;

"(E) an owner, direct or indirect, of 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of a corporation,

"(ii) the capital interest or the profits interest of a partnership, or

"(iii) the beneficial interest of a trust or unincorporated enterprise,

which is an employer or an employee organization described in subparagraph (C), (D);

"(F) a member of the family (as defined in paragraph (5)) of any individual described in subparagraph (A), (B), (C), or (E);

"(G) a corporation, partnership, or trust or estate of which (or in which) 50 percent or more of—

"(i) the combined voting power of all classes of stock entitled to vote or the total value of shares of all classes of stock of such corporation,

"(ii) the capital interest or profit-interest of such partnership, or

"(iii) the beneficial interest of such trust or estate,

is owned directly or indirectly, or held by persons described in subparagraph (A), (B), (C), (D), or (E);

"(H) a corporation which is owned in the manner described in subparagraph (G) by a person who is a person described in subparagraph (E);

"(I) an officer, director (or an individual having powers or responsibilities similar to those of officers or directors), a 10 percent or more shareholder, or a highly compensated employee (earning 10 percent or more of the yearly wages of an employer) of a person described in subparagraph (C), (D), (E), (G), or (H); or

"(J) a 10 percent or more (in capital or profits) partner of a person described in subparagraph (C), (D), (E), (G), or (H).

"(2) FIDUCIARY.—For purposes of this section, the term 'fiduciary' with respect to a qualified plan means—

"(A) any person who—

"(i) exercises any power of control, management or disposition with respect to any moneys or other property of a qualified plan, or

"(ii) has authority or responsibility to exercise such powers,

If any moneys or other property of an employee benefit fund are invested in shares of an investment company registered under the Investment Company Act of 1940, the investment shall not cause that investment company or that investment company's investment adviser or principal underwriter to be treated as a fiduciary or a party in interest for purposes of this section, except when an investment company or its investment adviser or principal underwriter acts in connection with an employee benefit fund established or maintained pursuant to an employee benefit plan covering employees of the investment company, its investment adviser, or its principal underwriter.

"(3) STOCKHOLDINGS.—For purposes of paragraphs (1)(E)(i), (G)(i), and (H), there shall be taken into account indirect stockholdings which would be taken into account under section 267(c), except that, for purposes of this paragraph, section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(4) PARTNERSHIPS; TRUSTS.—For purposes of paragraphs (1)(E)(ii) and (iii), (G), (ii) and (iii) and (J), the ownership of profits or beneficial interests shall be determined in accordance with the rules for constructive ownership of stock provided in section 267(c) (other than paragraph (3) thereof), except that section 267(c)(4) shall be treated as providing that the members of the family of an individual are the members within the meaning of paragraph (5).

"(5) MEMBER OF FAMILY.—For purposes of paragraph (1)(F), the family of any individual shall include his spouse, ancestor, descendant, brother, sister, son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.

"(f) OTHER DEFINITIONS.—For purposes of this section—

"(1) TAXABLE PERIOD.—The term 'taxable period' means, with respect to any prohibited transaction, the period beginning with the date on which the prohibited transaction occurs and ending on the earlier of—

"(A) the date of mailing of a notice of deficiency pursuant to section 6212, with respect to the tax imposed by subsection (a), or

"(B) the date on which correction of the prohibited transaction is completed.

"(2) AMOUNT INVOLVED.—The term 'amount involved' means, with respect to a prohibited transaction, the greater the amount of money and the fair market value of the other property given or the amount of money and the fair market value of the other property received; except that, in the case of services described in subparagraph (d)(2)(C) or (D) the amount involved shall be only the excess compensation. For purposes of the preceding sentence, the fair market value—

"(A) in the case of the tax imposed by subsection (a), shall be determined as of the date on which the prohibited transaction occurs; and

"(B) in the case of the tax imposed by subsection (b), shall be the highest fair market value during the correction period.

"(3) CORRECTION.—The terms 'correction' and 'correct' mean, with respect to a prohibited transaction, undoing the transaction to the extent possible, but in any case placing the plan in a financial position not worse

than that in which it would be if the prohibited transaction had not occurred.

"(4) CORRECTION PERIOD.—The term 'correction period' means, with respect to a prohibited transaction the period beginning with the date on which the prohibited transaction occurs and ending 90 days after the date of mailing of a notice of deficiency with respect to the tax imposed by subsection (a)(i) under section 6212, extended by—

"(A) any period in which a deficiency cannot be assessed under section 6213(a), and

"(B) any other period which the Secretary or his delegate determines is reasonable and necessary to bring about the correction of the prohibited transaction.".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections for chapter 44 (relating to qualified pension plans), which was added by section 241 of this Act, is amended by adding at the end thereof the following new item:

"Sec. 4974. Excise tax on prohibited transactions.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975.

(c) SAVINGS PROVISION.—Section 4974 of the Internal Revenue Code of 1954 (relating to excise tax on prohibited transactions) shall not apply to—

(1) a loan of money or other extension of credit between a trust and a party in interest under a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract) until August 22, 1983, if such loan or other extension of credit remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be, and if the execution of the contract, the making of the loan, or the extension of credit was not, at the time of such execution, making, or extension, a prohibited transaction (within the meaning of section 503(b) or the corresponding provisions of prior law);

(2) a lease or joint use of property involving the trust and a party in interest pursuant to a binding contract in effect on August 21, 1973 (or pursuant to renewals of such a contract), until August 22, 1983, if such lease or joint use remains at least as favorable to the trust as an arm's-length transaction with an unrelated party would be and if the execution of the contract was not, at the time of such execution, a prohibited transaction (within the meaning of section 503(b)) or the corresponding provisions of prior law;

(4) the sale, exchange, or other disposition of property described in paragraph (3) between a trust and a party in interest before August 22, 1983, if—

(A) in the case of a sale, exchange, or other disposition of the property by the trust to the party in interest, the trust receives an amount which equals or exceeds the fair market value of the property at the time of such disposition; and

(B) in the case of the acquisition of the property by the trust, the trust pays an amount which is not in excess of the fair market value of the property at the time of acquisition.

TITLE VI—ENFORCEMENT

PART A—DISPUTES RELATING TO THE QUALIFICATION OF CERTAIN EMPLOYEE PLANS

SEC. 601. TAX COURT PROCEDURE.

(a) IN GENERAL.—Subchapter C of chapter 76 of the Internal Revenue Code of 1954 (relating to the tax court) is amended by adding at the end thereof the following new part:

"PART IV—DECLARATORY JUDGMENTS RELATING TO QUALIFICATION OF CERTAIN EMPLOYEE PLANS

"Sec. 7476. Declaratory judgments.
"Sec. 7477. Procedure.

"SEC. 7476. DECLARATORY JUDGMENTS.

"(a) JURISDICTION.—The United States Tax Court shall have jurisdiction under this part to hear controversies and to enter judgments declaring whether a plan established by an employer for his employees is a qualified plan as defined in subsection (b). Any such judgment by the Court constitutes its decision in the proceeding and shall be reviewable in the same manner as any other decisions of the Court.

"(b) QUALIFIED PLAN DEFINED.—As used in this part, the term 'qualified plan' means—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(c) EXHAUSTION OF ADMINISTRATIVE REMEDIES, ETC.—The Tax Court shall not issue a declaratory judgment under this part in any proceeding unless it determines that the petitioner has exhausted administrative remedies available to him within the Internal Revenue Service and that the plan with respect to which the judgment is sought has been put into effect prior to the commencement of the proceeding before the Tax Court. A plan shall be treated as in effect even though it includes a provision that the funds contributed to it may be refunded in the event the plan is found by the Secretary or his delegate or by the Tax Court not to be a qualified plan.

"(d) COMMISSIONERS.—The chief judge of the Tax Court may assign proceedings under this part to be heard by the commissioners of the court, and the court may authorize a commissioner to enter the decision of the court with respect to such proceeding, subject to such conditions and review as the court may by rule provide.

"SEC. 7477. PROCEDURE.

"(a) RIGHT TO BRING ACTION.—

"(1) ACTIONS BROUGHT BY EMPLOYER OR TRUSTEE; INTERVENTION BY EMPLOYEE.—An action for a declaratory judgment under this part may be brought by an employer who has established a pension, profit sharing, stock bonus, annuity, or bond purchase plan and who has submitted to the Secretary or his delegate a request for a determination that the plan is a qualified plan, that, if amended in accordance with a proposed amendment, it will continue to be a qualified plan, or that termination of the plan in accordance with a proposed plan of termination will not result in the plan being treated as not a qualified plan for the plan year during which the termination occurs. If such a request was submitted by the trustee of the plan, the action for a declaratory judgment may be brought by the trustee. If the action is brought by the employer or the trustee, an employee of that employer may intervene in the proceeding if—

"(A) he intervened in the proceeding before the Internal Revenue Service relating to the requested determination, or

"(B) the employer or trustee failed to provide notice to employees of the submission of the request for a determination at, or prior to, the time at which the request was submitted to the Secretary or his delegate.

"(2) ACTIONS BROUGHT BY EMPLOYEES; INTERVENTION BY EMPLOYER.—An action for a declaratory judgment with respect to a determination obtained by an employer or by a trustee may also be brought by an individual who was an employee of the employer during the period with respect to which the judgment is sought. In any such action brought by an employee, the employer may intervene.

"(b) TIME FOR BRINGING ACTION.—

"(1) 90-DAY PERIOD.—Except as provided in paragraph (2), an action for declaratory judgment under this part must be commenced within 90 days after the date on which the Secretary or his delegate sends by certified or registered mail his determination with respect to the qualification of the plan to the person requesting such determination.

"(2) FAILURE TO ISSUE DETERMINATIONS; EXTENSIONS OF TIME.—If the Secretary or his delegate fails to issue a determination, an action for a declaratory judgment, a requested determination with respect to the qualification of a pension, profit sharing, stock bonus, annuity, or bond purchase plan, or with respect to a proposed amendment or termination of a qualified plan, within 270 days after the filing with him of the request for such determination, an action for a declaratory judgment under this part may be commenced within 90 days after the expiration of such 270-day period. If, prior to the expiration of such 270-day period, the Secretary or his delegate and the person requesting the determination consent in writing to an extension of such period, the 90-day period for commencing an action shall not begin to run until the expiration of the extended period agreed to by the parties.

"(c) BURDEN OF PROOF.—The person bringing an action for declaratory judgment under this part shall have the burden of proof with respect to any ground which was set forth in the determination by the Secretary or his delegate in such manner as to inform the person adequately of the reasons for the determination. The Secretary or his delegate shall have the burden of proof with respect to any ground on which he relies in the proceeding for a declaratory judgment and which was not set forth in his determination in such manner. If the Secretary or his delegate did not issue a determination, he shall have the burden of proof with respect to any ground on which he relies in a proceeding under this part.".

(b) TECHNICAL AMENDMENTS.—

(1) FEE FOR FILING PETITION.—Section 7451 (relating to fee for filing petition) is amended by striking out "deficiency" and inserting in lieu thereof "deficiency or for a declaratory judgment under part IV of this subchapter".

(2) DATE OF DECISION.—Section 7459(c) (relating to date of decision) is amended by inserting before the period at the end of the first sentence the following: "or, in the case of a declaratory judgment proceeding under part IV of this subchapter, the date specified by the Tax Court in its decision".

(3) VENUE FOR APPEAL OF DECISION.—Section 7482(b)(1) (relating to venue) is amended by adding at the end thereof the following new sentence: "In the case of a declaratory judgment of the Tax Court, the rules of this paragraph shall be applied with respect to the employer.".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Part IV. Declaratory judgments relating to qualification of certain employee plans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1975.

PART B—AUDITING; ETC.

SEC. 641. EXCISE TAX FOR AUDITING; ETC.

(a) ANNUAL TAX ON PLAN PARTICIPATION.—Chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new section:

SEC. 4975. ANNUAL TAX ON PLAN PARTICIPATION.

(a) GENERAL RULE.—For the calendar year beginning on January 1, 1974, and each calendar year thereafter, there is hereby imposed a tax equal to $1 per participant under a plan established by the employer which is—

"(1) a pension, profit sharing, or stock bonus plan described in section 401(a),

"(2) an annuity plan described in section 403(a), or

"(3) a bond purchase plan described in section 405(a).

"(b) BY WHOM PAID.—The tax imposed by this section shall be paid by the employer of such participant under such plan.

"(c) SPECIAL RULES.—

"(1) The tax imposed by subsection (a) shall not apply to participants under a plan established and maintained by the United States; a State or political subdivision thereof; or a corporation which is an instrumentality of the United States, a State or political subdivision thereof.

"(2) In the case of a plan which is established pursuant to an agreement which the Secretary or his delegate determines to be a collective-bargaining agreement, see section 413.

"(3) For purposes of this section, a plan established by the employer includes a plan established by a predecessor of the employer.

"(d) DEFINITION OF PARTICIPATION.—For purposes of this section, the term 'participant' means an individual who is—

"(1) actively employed by the employer at any time during the calendar year,

"(2) entitled to make contributions to or to have amounts contributed to or under the plan on his behalf by the employer, and

"(3) not currently receiving benefits under the plan.

"(e) REGULATIONS.—The Secretary or his delegate may prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) CROSS REFERENCE.—

"For disallowance of taxes paid under this section as a deduction, see section 275.".

(b) CLERICAL AMENDMENT.—The table of sections of chapter 44 (relating to qualified pension plans) which was added by section 241 of this Act is amended by adding at the end thereof the following new item:

"Sec. 4974. Annual tax on plan participation.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after December 31, 1973.

PART C—ACTUARIES

SEC. 671. ENROLLMENT AND REPORTS OF ACTUARIES.

(a) REPORTS, STATEMENTS, AND NOTICES BY ACTUARIES.—Part III of chapter 61 (relating to information and returns) is amended by inserting at the end thereof the following new subpart:

"Subpart E—Reports, Statements, and Notices by Actuaries

"Sec. 6058. Periodic report and statement of actuary.

"SEC. 6058. PERIODIC REPORT AND STATEMENT OF ACTUARY.

"(a) GENERAL RULE.—The actuarial report described in subsection (b) shall be filed by the plan administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) with respect to each defined benefit plan to which section 4971(e) does not apply, for the first plan year for which this section applies to the plan and each third plan year thereafter (or more frequently if the Secretary or his delegate determines that more frequent reports or statements are necessary).

"(b) ACTUARIAL REPORT.—The actuarial report of a plan required by subsection (a) shall be prepared by an enrolled actuary (within the meaning of section 7517) and shall contain—

"(1) a description of the plan,

"(2) a description of the funding method and actuarial assumptions used to determine costs under the plan,

"(3) a certification that the funding standard account required under section 4971(b) (1) has been maintained during the period to which the report relates,

"(4) such other information regarding the plan as the Secretary or his delegate may by regulations require, and

"(5) a statement—

"(A) that to the best of his knowledge the report is complete and accurate, and

"(B) of his opinion regarding the reasonableness of the funding method and actuarial assumptions used to determine the normal costs of the plan.

"(c) TIME AND MANNER OF FILING.—The actuarial report and statement required by subsection (a) shall be filed at the time and in the manner provided by regulations prescribed by the Secretary or his delegate."

(b) ASSESSABLE PENALTIES.—Subchapter B of chapter 69 (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6692. FAILURE TO FILE ACTUARIAL NOTICE, REPORT, OR STATEMENT

"The plan administrator (as defined in section 3(15) of the Welfare and Pension Plans Disclosure Act) of a defined benefit plan to which section 6058 applies who fails to file the report or statement required by what section at the time and in the manner required by that section, shall pay a penalty of not to exceed $1,000 for each such failure unless it is shown that such failure is due to reasonable cause.".

(c) ENROLLMENT OF ACTUARIES.—Chapter 77 (relating to miscellaneous provisions) is amended by inserting at the end thereof the following new section:

"SEC. 7517. ENROLLMENT OF ACTUARIES.

"The Secretary or his delegate shall, by regulations, establish reasonable standards and qualifications for persons performing actuarial services described in section 6058 and shall enroll persons found by the Secretary or his delegate to satisfy such standards and qualifications. The Secretary or his delegate may, after notice and an opportunity for a hearing, suspend or terminate the enrollment of an actuary under this section if the Secretary or his delegate finds that the actuary has not satisfied requirements for enrollment. For purposes of this title, the term 'enrolled actuary' means a person who is enrolled by the Secretary or his delegate pursuant to this section."

(d) CLERICAL AMENDMENTS.—

(1) The table of subparts for part III of chapter 61 is amended by inserting at the end thereof the following new item:

"Subpart E—Reports, statements, and notices by actuaries.".

(2) The table of sections for subchapter B of chapter 68 is amended by inserting at the end thereof the following new item:

"Sec. 6692. Failure to file actuarial notice, report, or statement.".

(3) The table of sections for chapter 77 is amended by inserting at the end thereof the following new item:

"Sec. 7517. Enrollment of actuaries.".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsections (a) and (b) shall apply for plan years beginning on or after January 1, 1976.

(2) The amendments made by subsections (c) and (d) shall take effect on the date of enactment of this Act.

PART D—ENFORCEMENT; RESOLUTION OF DISPUTES GENERALLY

SEC. 691. ARBITRATION; CIVIL ACTIONS BY PARTICIPANTS AND BENEFICIARIES

(a) ARBITRATION PROCEDURE.—Each employee pension benefit plan subject to this part shall provide—

(1) a procedure for the fair and just review under the plan of any dispute between the administrator of the plan and any participant or beneficiary of the plan, and

(2) an opportunity, after such review and a decision by the administrator (or a failure to make a decision within a reasonable period of time by the administrator), for the arbitration of such disputes.

(b) CIVIL ACTIONS.—A participant or beneficiary of such a plan may bring a civil action in accordance with the provisions of section 693 of this Act in lieu of submitting the dispute to arbitration under the plan.

(c) ALTERNATIVE PROCEDURES.—If a dispute under a plan is subject to procedures established by collective bargaining for the resolution of such dispute, the Secretary of Labor, upon written request by a plan administrator, may waive the application of subsections (a), (b), and (e) to such dispute if he determines that the procedures provided for are reasonably fair and effective.

(d) APPLICATION OF LAW RELATING TO SECTION 301 OF LABOR MANAGEMENT RELATIONS ACT, 1947.—The arbitration of disputes in accordance with the requirements of this section, and judicial proceedings relating thereto, shall be governed by the laws, decisions, and rules applicable to the arbitration of disputes under section 301 of the Labor Management Relations Act, 1947.

(e) PAYMENT OF ARBITRATION COSTS.—The cost of any arbitration proceedings required under this section (including arbitrators' fees) shall be paid by the plan under which the dispute arises, unless the arbitrator determines that a participant's or beneficiary's allegations are frivolous and assesses all or a portion of such cost to that party.

(f) INFORMATION AND ASSISTANCE.—The Secretary shall inform participants and their beneficiaries under plans to which this part applies of their rights under this part. The Secretary is authorized to furnish assistance to such participants and their beneficiaries in obtaining such rights.

(g) The Secretary shall prescribe rules and regulations necessary to carry out this section.

SEC. 692. CIVIL ACTIONS BY SECRETARY OF LABOR.

Whenever the Secretary believes that an employees' benefit fund is being or has been administered in violation of the requirements of the Welfare and Pension Plans Disclosure Act and the Retirement Income Security for Employees Act or the documents governing the establishment or operation of the fund, the Secretary may petition any district court of the United States having jurisdiction of the parties or the United States District Court for the District of Columbia for an order (1) requiring return to such fund of assets transferred from such fund in violation of the requirements of such Act, (2) requiring payment of benefits denied to any participant or beneficiary due to violation of the requirements of such Act, or of the requirements of this Act and the Retirement Income Security for Employees Act, and (3) restraining any conduct in violation of the fiduciary requirements of such Act, or of this Act, and granting such other relief as may be appropriate to effectuate the purposes of this Act, including but not limited to, removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 16(h) of the Welfare and Pension Plans Disclosure Act and the Retirement Income Security for Employees Act.

SEC. 693. ACTIONS TO REDRESS OR RESTRAIN VIOLATIONS OF FIDUCIARY DUTY.

Civil actions for appropriate relief, legal or equitable, to redress or restrain a breach of any responsibility, obligation, or duty of a fiduciary, including but not limited to, the removal of a fiduciary who has failed to carry out his duties and the removal of any person who is serving in violation of the requirements of section 15(h) of the Welfare and Pension Plans Disclosure Act or against

any person who has transferred or received any of the assets of a plan or fund in violation of the fiduciary requirements of the Welfare and Pension Plans Disclosure Act or in violation of the document or documents governing the establishment or operation of the fund, may be brought by any participant or beneficiary of any employee benefit plan or fund subject to the Welfare and Pension Plans Disclosure Act in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, where the breach took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated. In all civil actions authorized by this Act or the Welfare and Pension Plans Disclosure Act, attorneys appointed by the Secretary shall represent the Secretary except as provided in section 518(a) of title 28, United States Code (relating to litigation before the Supreme Court of the United States).

SEC. 694. JURISDICTION OF COURTS.

Suits by a participant or beneficiary for benefits from an employee benefit plan or fund, subject to the Welfare and Pension Plans Disclosure Act, may be brought in any court of competent jurisdiction, State or Federal, or the United States District Court for the District of Columbia, without respect to the amount in controversy and without regard to the citizenship of the parties, against any such plan or fund to recover benefits due him required to be paid from such plan or fund pursuant to the document or documents governing the establishment or operation of the plan or fund, or to clarify his rights to future benefits under the terms of the plan. Where such action is brought in a district court of the United States, it may be brought in the district where the plan is administered, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found. Such actions may also be brought by a participant or beneficiary as a representative party on behalf of all participants or beneficiaries similarly situated.

SEC. 695. PROCEDURE.

(a) SERVICE.—The jurisdiction of any court competent to hear an action brought by a participant or beneficiary under section 693 or 694 shall be conditioned upon the service of a copy of the complaint upon the Secretary by certified mail, who shall have the right in his discretion to intervene in the action.

(b) REMOVAL.—Notwithstanding any other law, the Secretary shall have the right to remove an action brought under section 693 or 694 from a State court to a district court of the United States, if the action is one seeking relief of the kind the Secretary is authorized to sue for under this Act. Any such removal shall be prior to the trial of the action and shall be to a district court where the Secretary could have initiated the action.

SEC. 696. APPLICATION OF ACT OF MARCH 23, 1932.

The provisions of the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932, shall not be applicable with respect to suits brought under this title.

SEC. 697. ACTIONS BROUGHT BY ADMINISTRATOR OR FIDUCIARY AGAINST SECRETARY

Suits by an administrator or fiduciary of an employee benefit plan subject to this Act or the Welfare and Pension Plans Disclosure Act, to review a final order of the Secretary, to restrain the Secretary from taking any action contrary to the provisions of such Acts, or to compel action required under this Act, may be brought in the name of the plan or fund in the district court of the United States for the district where the fund has its principal office, or in the United States District Court for the District of Columbia.

SEC. 698. STATUTE OF LIMITATIONS

Any action, suit, or proceeding based upon a violation of this Act or the Welfare and Pension Plans Disclosure Act shall be commenced within five years after the violation occurs. In the case of fraud or concealment, such action, suit, or proceeding shall be commenced within five years of the date of discovery of such violation.

SEC. 699. RELATIONSHIP TO STATE LAWS

(a) PRE-EMPTION OF STATE LAWS.—It is hereby declared to be the express intent of Congress that, except for actions authorized by section 694 of this title, the provisions of this Act or the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the States and of political subdivisions thereof insofar as they may now or hereafter relate to the subject matters regulated by this Act or the Welfare and Pension Plans Disclosure Act, except that nothing herein shall be construed—

(1) to exempt or relieve any employee benefit plan not subject to this Act or the Welfare and Pension Plans Disclosure Act from any law of any State;

(2) to exempt or relieve any person from any law of any State which regulates insurance, banking, or securities or to prohibit a State from requiring that there be filed with a State agency copies of reports required by this Act to be filed with the Secretary; or

(3) to alter, amend, modify, invalidate, impair, or supersede any law of the United States other than the Welfare and Pension Plans Disclosure Act or any rule or regulation issued under any law except as specifically provided in this Act.

(b) JURISDICTION OF STATE COURTS.—Subsection (a) of this section shall not be deemed to prevent any State court from asserting jurisdiction in any action requiring or permitting an accounting by a fiduciary during the operation of an employee benefit fund subject to the Welfare and Pension Plans Disclosure Act or upon the termination thereof or from asserting jurisdiction in any action by a fiduciary requesting instructions from the court or seeking an interpretation of the trust instrument or other document governing the fund. In any such action—

(1) the provisions of this Act and the Welfare and Pension Plans Disclosure Act shall supersede any and all laws of the State and of political subdivisions thereof, insofar as they may now or hereafter relate to the fiduciary, reporting, and disclosure responsibilities of persons acting for or on behalf of employee benefit plans or on behalf of employee benefit funds subject to the Welfare and Pension Plans Disclosure Act except insofar as they may relate to the amount of benefits due beneficiaries under the terms of the plan;

(2) notwithstanding any other law, the Secretary or, in the absence of action by the Secretary, a participant or beneficiary of the employee benefit plan or fund affected by this subsection, shall have the right to remove such action from a State court to a district court of the United States if the action involves an interpretation of the fiduciary, or reporting, and disclosure responsibilities of persons acting on behalf of employee benefit plans subject to the Welfare and Pension Plans Disclosure Act;

(3) the jurisdiction of the State court shall be conditioned upon—

(A) written notification, sent to the Secretary by certified mail at the time such action is filed, identifying the parties to the action, the nature of the action, and the plan involved; and satisfactory evidence presented to the court that the participants and beneficiaries have been adequately notified with respect to the action; and

(B) the right of the Secretary or of a participant or beneficiary to intervene in the action as an interested party.

SEC. 699A. RECRIMINATION AGAINST EMPLOYEES AND OTHER PERSONS.

It shall be unlawful for any person to discharge, fine, suspend, expel, discipline, or discriminate against a participant or beneficiary for exercising any right to which he is entitled under the provisions of the plan, this Act, or the Welfare and Pension Plans Disclosure Act, or for the purpose of interfering with the attainment of any right to which such participant may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. It shall be unlawful for any person to discharge, fine, suspend, expel, or discriminate against any person because he has given information or has testified or is about to testify in any inquiry or proceeding relating to this Act or the Welfare and Pension Plans Disclosure Act. The provisions of sections 692 and 693 shall be applicable in the enforcement of this section.

SEC. 699B. INTERFERENCE WITH RIGHTS.

It shall be unlawful for any person through the use of fraud, force, violence, or threat of the use of force or violence, to restrain, coerce, intimidate, or attempt to restrain, coerce, or intimidate any participant or beneficiary for the purpose of interfering with or preventing the exercise of any right to which he is or may become entitled under the plan, this Act, or the Welfare and Pension Plans Disclosure Act. Any person who willfully violates this section shall be fined $10,000 or imprisoned for not more than one year, or both.

TITLE VII—RETIREMENT SAVINGS; LIMITATION ON PROPRIETARY EMPLOYEE CONTRIBUTIONS; TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS

SEC. 701. DEDUCTION FOR RETIREMENT SAVINGS.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 219 as 220 and inserting after section 218 the following new section:

"SEC. 219. RETIREMENT SAVINGS.

"(a) DEDUCTION ALLOWED.—Subject to the limitations imposed by subsections (b) and (c), in the case of an individual, there shall be allowed as a deduction amounts paid in money during the taxable year by such individual for his benefit—

"(1) to or under a qualified individual retirement account described in section 408 (a) which is exempt from tax under section 501(a), or

"(2) for a qualified individual retirement bond purchase described in section 409, unless the bond is redeemed within 12 months after its issuance and no interest is payable on account of the application of section 409 (b)(1)(D)(iii).

"(b) LIMITATIONS.—

"(1) GENERAL RULE.—Except as provided in

paragraphs (2) and (3), the amount allowable as a deduction under subsection (a) to an individual for any taxable year shall not be less than the lesser of his earned income paid or accrued for such taxable year up to a deduction of $1,000, nor more than 15 per centum of his earned income paid or accrued for such taxable year, up to a deduction of $1,500.

"(2) PARTICIPATION IN CERTAIN OTHER PLANS.—No deduction shall be allowed under this section for the individual's taxable year if, at any time during such taxable year, he is an active participant in—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan which meets the requirements of section 404(a)(2),

"(C) a qualified bond purchase plan described in section 405(a),

"(D) an annuity plan described in section 403(b), or

"(E) a plan established and maintained by the United States, a State or political subdivision thereof, or a corporation which is an instrumentality of the United States, a State, or a political subdivision of a State.

"(3) REDUCTION FOR CERTAIN EMPLOYER ACCOUNTS.—If an individual is a participant in an account described in section 408(a)(8) for the taxable year, the amount of the limitation otherwise determined under paragraph (1) of this subsection for such year shall be reduced by an amount equal to the employer contributions to such account for such year. If an individual is a participant in such an account for less than his entire taxable year, the amount of the deduction allowable under this section to him for such year shall be reduced by the sum of any amounts allowed as a deduction to the individual for his contributions to such account, and the amount of the reduction determined under this paragraph.

"(4) CONTRIBUTIONS MADE AFTER AGE 70½ YEARS.—No deduction shall be allowed under this section with respect to any payment described in subsection (a) which is made by an individual who attains the age of 70½ years before the end of the taxable year of such payment.

"(c) RECONTRIBUTED AMOUNTS.—No deduction shall be allowed under this section with respect to a contribution to which section 72(p)(2)(C) applies.

"(d) MARRIED INDIVIDUALS.—In the case of a married individual (as defined in section 153), the amount determined under subsection (b)(1) shall be determined without regard to the earned income of his spouse. For purposes of this section, the earned income of, and payments by, a married individual shall be determined without regard to the community property laws of a State.

"(e) EARNED INCOME DEFINED.—For purposes of this section, the term 'earned income' means any income which is earned income within the meaning of section 401(c)(2) or 911(b)."

(b) INDIVIDUAL RETIREMENT ACCOUNTS.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"SEC. 408. INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) REQUIREMENTS FOR QUALIFICATION.—A trust created or organized in the United States shall constitute a qualified individual retirement account under this section provided that under a written governing instrument—

"(1) it is maintained for the purpose of distributing the contributions thereto and the income therefrom to a specific individual or his beneficiaries;

"(2) except in the case of a contribution to which section 72(p)(2)(C) applies, contributions thereto during any taxable year may not exceed the excess of—

"(A) the limitation provided by section 219(b) (plus any amounts contributed by an employer to an account described in paragraph (8) for such taxable year), over

"(B) the sum of the amounts paid by such individual during such year—

"(i) for a qualified individual retirement bond purchase described in section 409, for his benefit, or

"(ii) under another qualified individual retirement account,

and, except as provided in subsection (b)(3), may be made only by the individual for whose benefit the account is maintained;

"(3) the assets thereof may not be commingled with other property except in a common trust fund or in the case of accounts maintained by an employer for his employees;

"(4) the assets thereof are required to be held by a bank (as defined in section 401(d)(1)) or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which such other person will hold such assets will be consistent with the requirements of this section;

"(5) the entire interest of the individual for whose benefit the account is maintained will be distributed to him not later than his taxable year in which he attains the age 70½ years, or will be distributed, commencing not later than such taxable year, in accordance with regulations prescribed by the Secretary or his delegate, over—

"(A) the life of such individual or the lives of such individual and his spouse, or

"(B) a period not extending beyond the life expectancy of such individual or the life expectancy of such individual and his spouse;

"(6) if the individual for whose benefit the account is maintained dies before his entire interest has been distributed to him, or if distribution has been commenced in accordance with paragraph (5) to his surviving spouse and such surviving spouse dies before the entire interest has been distributed to such surviving spouse, the entire interest (or the remaining part of such interest if distribution thereof has commended) will, within 5 years after his death (or the death of his surviving spouse), be distributed, or applied to the purchase of an immediate annuity for his beneficiary or beneficiaries (or the beneficiary or beneficiaries of his surviving spouse which will be payable for the life of such beneficiary or beneficiaries (or for a term certain not extending beyond the life expectancy of such beneficiary or beneficiaries) and which will be immediately distribtued to such beneficiary or beneficiaries;

"(7) if contributions thereto may be used for the purchase of an annuity or similar contract issued by a life insurance company, any refunds of premiums are applied within the current taxable year or near succeeding taxable year toward the payment of future premiums or the purchase of additional benefits; and

"(8) in the case of an account to which an employer contributes the additional requirements of subsection (b)(3) are met.

For purposes of this title, a custodial account, annuity contract, or other similar arrangement shall be treated as a trust constituting a qualified individual retirement account of such arrangement would, except for the fact that it is not a trust, constitute a qualified individual retirement account under this subsection. Paragraph (6) shall not apply if distribution of the interest of such individuals have commenced and such distribution is for a term certain over a period permitted under paragraph (5).

"(b) SPECIAL RULES.—

"(1) EXCESS CONTRIBUTIONS.—If all or a portion of the contributions paid by an individual during any taxable year to a qualified individual retirement account are not deductible under section 219 (other than by reason of section 219(c)), such contributions or portions thereof shall be treated in the same manner as an excess contribution within the meaning of section 401(e)(1), and, for this purpose, section 401(e)(2) and (3) shall apply as if such individual were an owner-employee.

"(2) COMMUNITY PROPERTY LAWS.—This section shall be applied without regard to the community property laws of any State.

"(3) EMPLOYER CONTRIBUTIONS.—An employer may maintain and may contribute to qualified individual retirement accounts for his employees if, with respect to each employee's account for such employee's taxable year—

"(A) the employee is not an active participant in another trust or plan of such employer which is qualified under section 401(a), 404(a)(2), or 405(a),

"(B) the aggregate employer and employee contributions with respect to such account do not exceed $1,000,

"(C) the interest of such employee in such account is nonforfeitable, and

"(D) separate records are maintained for employer and employee contributions.

An account described in this paragraph shall satisfy the requirements of subsection (a) with respect to each individual who participates and shall be treated as such individual's separate account, except that the employer may pay reasonable administrative expenses. In determining the deductibility of employer contributions satisfying the requirements of this paragraph, the limitations under section 404 shall not apply; however, any amount contributed by an employer to such an account during the employee's taxable year for whom the account is maintained in excess of the limitation contained in subparagraph (C) shall not be deductible, but shall be withdrawn from the account by the employer before the end of the taxable year of the employer during which it was made, or carried over to the succeeding taxable year of the employer, during which year it shall be deductible to the extent that a contribution during that year of such excess amount is deductible. Contributions made by an employer to such an account shall be taxable to the participant only as provided by this section.

"(4) TRANSFER OF ACCOUNT INCIDENT TO DIVORCE.—The transfer of an individual's interest in a qualified individual retirement account to his former spouse under a divorce decree or under a written instrument incident to such divorce shall be deemed not to be a taxable transfer by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be deemed to be a qualified individual retirement account of such spouse, and not of such individual. The basis of such account to such spouse at such time shall be deemed to be the same as the individual's basis at such time. Thereafter such account for purposes of this subtitle shall be treated as maintained for the benefit of such spouse.

"(c) TREATMENT AS QUALIFIED TRUST BENEFITING OWNER-EMPLOYEE.—Solely for purposes of subchapter F, chapter 44, and subtitle F, a qualified individual retirement account shall be treated as a trust described in section 401(a) which is part of a plan providing contributions or benefits for employees some or all of whom are owner-employees (as defined in section 401(c)(3)), the individual for whose benefit such account is maintained shall be treated as an

owner-employee for whom such contributions or benefits are provided, and the person holding the assets of such qualified individual retirement account shall be treated as the trustee of such trust. If section 72(p)(2)(C) applies to a contribution to a qualified individual retirement account, chapter 44 shall not be applied to such contribution.

"(d) TAXABILITY OF BENEFICIARY OF QUALIFIED INDIVIDUAL RETIREMENT ACCOUNT.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amount actually paid, distributed, or made available to any payee or distributee by a qualified individual retirement account shall be taxable to him in the year in which actually paid or distributed under section 72 (relating to annuities).

"(2) RECONTRIBUTED AMOUNTS.—Amounts paid or distributed by a qualified individual retirement account (except amounts distributed pursuant to provisions of the governing instrument, and meeting the requirements of subsection (a)(5)) shall not be includible in gross income in the year paid or distributed to the extent that such amounts are not subject to the tax imposed by section 72(p)(3) by reason of the application of section 72(p)(2)(C).

"(3) APPLICABILITY OF SECTION 72(m).—Under regulations prescribed by the Secretary or his delegate, an individual who establishes a qualified individual retirement account shall be treated as an employee who is an owner-employee for purposes of applying paragraphs (2) and (4) of section 72(m) (relating to special rules applicable to employee annuities and distributions under employee plans).

"(e) TREATMENT OF NONQUALIFIED OR NONEXEMPT ACCOUNT.—If for the preceding taxable year of a trust it was described in subsection (a) and was exempt from tax under section 501(a) and if for the taxable year such trust is not exempt from tax under section 501(a), the fair market value of the account at the beginning of the taxable year, reduced by any contributions of the individual who established such account which were not deductible under section 219 (other than by reason of section 219(c)), shall be included in the gross income of the individual who established such account or his beneficiary as if the assets of the trust had been distributed to him on the first day of the taxable year.

"(f) SPECIAL RULE.—Solely for the purpose of determining whether section 72(p)(2)(C) applies to a contribution under subsection (a)(2) or to an amount paid or distributed under subsection (d)(2), the requirement of section 72(p)(1) that the amount paid or distributed be received before age 59½ shall not apply.

"(g) CROSS REFERENCES.—

"(1) For excise tax on a qualified individual retirement account, see section 4960.

"(2) For additional tax on certain distributions from a qualified individual retirement account, see section 72(p)."

(c) TREATMENT OF DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT ACCOUNTS.—Section 72 (relating to annuities) is amended—

(1) by striking out subsection (m)(1),

(2) by inserting after "section 401(c)(1)" in subsection (m)(2) ", or under section 219",

(3) by striking out at the end of subsection (m)(3)(A)(i) "or",

(4) by striking out at the end of subsection (m)(3)(A)(ii) "participant." and inserting in lieu thereof "participant, or",

(5) by inserting after subsection (m)(3)(A)(ii) the following new clause—

"(iii) purchased by a trust described in section 408(a) which is exempt from tax under section 501(a).",

(6) by striking out subsection (m)(3)(B) and inserting in lieu thereof:

(B) Any contribution to a plan described in subparagraph (A)(i) or a trust described in subparagraph (A)(ii) or (iii), which is allowed as a deduction under section 404 or section 219, and any income of a trust described in subparagraph (A)(ii) or (iii), which is determined in accordance with regulations prescribed by the Secretary or his delegate to have been applied to purchase the life insurance protection under a contract described in subparagraph (A), is includible in the gross income of the participant for the taxable year when so applied.",

(7) by inserting after "501(a)" in subsection (m)(4)(A) ", a trust described in section 408(a) which is exempt from tax under section 501(a),",

(8) by inserting after "501(a)" in subsection (m)(4)(B) ", a trust described in section 408(a) which is exempt from tax under section 501(a),", and

(9) by redesignating subsection (p) as (q) and inserting after subsection (o) the following new subsection:

"(p) TREATMENT OF CERTAIN PREMATURE DISTRIBUTIONS.—

"(1) APPLICATION OF SUBSECTION.—This subsection shall apply to amounts paid or distributed by a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a), which are includible in the gross income of the distributee or payee and which are received by him before the individual for whose benefit such account is maintained attains the age of 59½ years.

"(2) LIMITATIONS.—This subsection shall not apply to an amount described in paragraph (1)—

"(A) paid or distributed to such individual on account of his becoming disabled within the meaning of subsection (m)(7),

"(B) includible in gross income under section 72(m)(3)(B), or

"(C) paid or distributed by a qualified individual retirement account to the individual for whose benefit such account is maintained if, within 60 days after receipt, such amount is contributed in full to another qualified individual retirement account for such individual's benefit.

Subparagraph (C) shall not apply to an amount described in paragraph (1) which is paid or distributed to an individual with respect to whom such subparagraph applied at any time during the preceding 36-month period, nor shall it apply unless the same property (other than money) received in such payment or distribution is contributed to such other qualified individual retirement account for such individual's benefit.

"(3) AMOUNT OF PENALTY.—If an individual is required to include in gross income for the taxable year an amount to which this subsection applies, there shall be imposed, in addition to any other tax imposed by this chapter, a tax for such taxable year equal to 30 percent of such amount. The tax imposed under this paragraph shall not be reduced by any credit under part IV of subchapter A and shall not be treated as a tax imposed by this chapter for purposes of section 56.".

(d) EXCISE TAX ON EXCESSIVE ACCUMULATIONS.—Subtitle D (relating to miscellaneous excise taxes) is amended by adding at the end thereof the following new chapter:

"Chapter 43.—RETIREMENT PLANS

"Sec. 4960. Excise tax on individual retirement accounts.

"SEC. 4960. EXCISE TAX ON INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) IMPOSITION OF TAX.—There is hereby imposed for each taxable year on the assets of a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) a tax equal to 10 percent of an amount which bears the same ratio to the fair market value of the total assets in such account at the beginning of the taxable year as—

"(1) the minimum amount required to be distributed during such year under section 408(a)(5) or (6) (whichever applies), reduced (but not below zero) by the total amount actually distributed during such year by the account to the individual for whose benefit such account is maintained or his beneficiary, bears to—

"(2) the minimum amount required to be distributed during such year under section 408(a)(5) or (6) (whichever applies).

"(b) WHEN APPLICABLE.—The tax imposed by this section shall apply only for taxable years beginning after the taxable year in which the individual who established such account attains the age of 70½ years.

"(c) RULES.—For purposes of this section, the minimum amount required to be distributed during a year under section 408(a)(5) or (6) shall be determined under regulations prescribed by the Secretary or his delegate. In the case of an account described in section 408(a)(8) the tax shall be computed only with respect to each individual in such account. A bond described in section 409, with respect to which a deduction was claimed under section 219, shall be treated, for purposes of this section, as a qualified individual retirement account."

(e) LIMITATION ON APPLICATION OF SECTIONS 402(a) AND 403(a) IN THE CASE OF CERTAIN CONTRIBUTIONS.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) is amended as follows:

(1) AMENDMENT OF SECTION 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended—

(A) by striking out in the first sentence of paragraph (1) "and (4)" and inserting in lieu thereof ", (4), and (6)", and

(B) by inserting after paragraph (5) the following new paragraph—

"(6) INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of an employees' trust described in section 401(a), which is exempt from tax under section 501(a), if the total distributions payable with respect to any employee are paid to him within 1 taxable year of the employee (during which he is not at any time 59½ years of age or older) on account of his separation from the service other than by reason of his death, the amount of such distribution, to the extent such distribution would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amount was paid to him, such otherwise includible amount is contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in the total distribution is contributed.

(2) AMENDMENT OF SECTION 403.—Section 403(a) is amended—

(A) by striking out in the first sentence of paragraph (1) "paragraph (2)" and inserting in lieu thereof "paragraph (2), and (4)", and

(B) by inserting after paragraph (3) the following new paragraph—

"(4) INDIVIDUAL RETIREMENT ACCOUNTS.—If—

"(A) an annuity contract is purchased by an employer for an employee under a plan described in paragraph (1);

"(B) such plan requires that refunds of contributions with respect to annuity contracts purchased under such plan be used to

reduce subsequent premiums on the contracts under the plan; and

"(C) the total amounts payable by reason of an employee's separation from the service other than by reason of death are paid to the employee within one taxable year of the employee (during which he is not at any time 59½ years of age or older),

then the amount of such payments, to the extent such amounts would be includible in gross income but for the provisions of this paragraph, shall not be includible in gross income in the year paid if, no later than the 60th day after the close of the taxable year in which such amounts are paid to him, such otherwise includible amounts are contributed by him in full to one or more qualified individual retirement accounts described in section 408(a). This paragraph shall not apply unless the same property (other than money) received in such payments is contributed. The Secretary or his delegate shall prescribe such regulations as he may deem necessary to carry out the purposes of this paragraph."

(f) INDIVIDUAL RETIREMENT BOND PURCHASE.—Subpart A of Part I of subchapter D of chapter 1 (relating to general rules) is amended by adding at the end thereof the following new section:

"SEC. 409. INDIVIDUAL RETIREMENT BOND PURCHASES.

"(a) REQUIREMENT FOR QUALIFICATION.—An individual's purchase of United States bonds described in subsection (b) shall constitute a qualified individual retirement bond purchase under this section if contributions (not in excess of an amount determined under section 219) are used solely to purchase for the individual or his beneficiaries United States bonds described in subsection (b).

"(b) BONDS TO WHICH APPLICABLE.—

"(1) CHARACTERISTICS OF BONDS.—This section shall apply to a bond issued under the Second Liberty Bond Act, as amended, which by its terms, or by regulations prescribed by the Secretary under such Act—

"(A) provides for payment of interest, or investment yield, only upon redemption;

"(B) provides that no interest, or investment yield, is payable if the bond is redeemed within 12 months after its issuance;

"(C) provides that it ceases to bear interest, or provide investment yield, on the earlier of—

"(i) the date on which the individual in whose name it is purchased attains the age of 70½ years; or

"(ii) five years after the date on which such individual dies, but not later than the date on which he would have attained age 70½ had he lived;

"(D) may be purchased only in the name of an individual described in subsection (a);

"(E) may be redeemed before the death of the individual in whose name it is purchased only if such individual—

"(i) has attained the age of 59½ years,

"(ii) has become disabled (within the meaning of section 72(m)(7)), or

"(iii) redeems the bond within 12 months after its issuance; and

"(F) is not transferable.

"(d) TAXABILITY OF HOLDER OF QUALIFIED INDIVIDUAL RETIREMENT BONDS.—

"(1) GROSS INCOME NOT TO INCLUDE BONDS AT TIME OF DISTRIBUTION.—For purposes of this chapter, in the case of an individual purchasing a bond described in subsection (b), gross income does not include any amount attributable to the receipt of such bond. Upon redemption of such bond, the proceeds shall be subject to taxation under this chapter, but the provisions of section 72 (relating to annuities, etc.), section 402 (relating to taxability of beneficiary of employee's trust), and section 1232 (relating to bonds and other evidences of indebtedness) shall not apply.

"(2) BASIS.—The basis of any bond received by an individual under a qualified individual retirement bond purchase shall be zero.

"(3) BONDS DEEMED REDEEMED.—For purposes of paragraph (1), the proceeds of a bond described in subsection (b) shall be includible in gross income no later than the taxable year in which the individual attains the age of 70½ years.".

(g) CONFORMING AMENDMENTS.—

(1) RETIREMENT INCOME.—Section 37(c)(1) (defining retirement income) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) pensions and annuities including—

"(i) in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), a distribution by a trust described in section 401(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72(p)(3), and

"(ii) a distribution from a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a) to the extent such distribution was not subject to the tax imposed by section 72(p)(3),",

(B) by striking out subparagraph (E) and inserting in lieu thereof the following new subparagraphs:

"(E) bonds described in section 405(b) which are received—

"(i) under a qualified bond purchase plan described in section 405(a),

"(ii) in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a), or

"(iii) from a qualified individual retirement account described in section 408(a) which is exempt from tax under section 501(a), or

"(F) bonds described in section 409(a), or".

(2) ADJUSTED GROSS INCOME.—Section 62 (relating to definition of adjusted gross income) (as amended by section 702(d)(2) of this Act) is amended by inserting after paragraph (8) the following new paragraph:

"(9) INDIVIDUAL RETIREMENT SAVINGS.—The deduction allowed by section 219."

(3) BASIS FOR ASSETS HELD FOR QUALIFIED PENSION PLAN CONTRACTS.—Section 801(g)(7) (relating to basis of assets held for qualified pension plan contracts) is amended by striking out "or (D)" and inserting in lieu thereof "(D), or (E)".

(4) PENSION PLAN RESERVES.—Section 805(d)(1) (relating to definition of pension plan reserves) is amended by striking out "or" at the end of subparagraph (C), by striking out "foregoing." at the end of subparagraph (D) and inserting in lieu thereof "foregoing; or", and by adding at the end thereof the following new subparagraph:

"(E) purchased under contracts entered into with trusts which (as of the time the contracts were entered into) were deemed to be qualified individual retirement accounts described in section 408(a) which are exempt from tax under section 501(a)."

(5) AVERAGABLE INCOME.—Paragraph (2)(A) of section 1302(a) (relating to definition of averagable income) is amended by inserting "or 72(p)(3)" after section 72(m)(5)".

(6) EARNED INCOME.—Section 1348(b)(1) (relating to definition of earned income) is amended by inserting "72(p)(3)" after "72(n)".

(h) CLERICAL AMENDMENTS.—

(1) The table of sections for part VII of subchapter B of chapter 1 is amended by striking out the item relating to section 219 and inserting in lieu thereof the following:

"Sec. 219. Retirement savings.
"Sec. 220. Cross references."

(2) The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 408. Individual retirement accounts."

(3) The table of sections for subpart A (designated as such by section 201(c) of this Act) of part I of subchapter D is amended by adding at the end thereof the following new item:

"Sec. 409. Qualified individual bond purchases.".

(4) The table of chapters of subtitle D is amended by adding at the end thereof the following new item:

"Chapter 43. Retirement plans.".

(i) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

SEC. 702. CERTAIN PLANS.

(a) CERTAIN DEFINED BENEFIT PLANS.—Section 401 (relating to qualified pension, etc. plans) is amended—

(1) by inserting at the end of subsection (a) the following new paragraphs:

"(12) In the case of a trust which is a part of a defined benefit plan, the plan of which such trust is a part satisfies the requirements of subsections (j) and (k).

"(13) A trust forming part of a plan which provides contributions or benefits for employees, some or all of whom are proprietary employees, shall constitute a qualified trust under this section only if the requirements of section 412 are satisfied.",

(2) by striking out the first sentence of subsection (d)(1) and inserting in lieu thereof the following:

"In the case of a trust which is created on or after the date of the enactment of this subsection, or which was created before such date but is not exempt from tax under section 501(a) as an organization described in subsection (a) on the day before such date, the assets thereof are held by a bank or other person who demonstrates to the satisfaction of the Secretary or his delegate that the manner in which he will hold such assets will be consistent with the requirements of this section. Notwithstanding the requirements of the preceding sentence, a person (including the employer) other than the trustee or custodian so holding plan assets may be granted, under the trust instrument, the power to control the investment of the trust funds either by directing investments (including reinvestments, disposals, and exchanges) or by disapproving proposed investments (including reinvestments, disposals, or exchanges).", and

(3) by redesignating subsection (j) as (l) and inserting after subsection (i) the following new subsections:

"(j) CERTAIN DEFINED BENEFIT PLANS.—

"(1) GENERAL RULES.—A trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c)(1) or proprietary employees within the meaning of section 412(b)(1), shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that the basic benefit accruing for each separate plan year of participation by such an employee shall not exceed the product of the compensation of such employee under the plan for such year (not in excess of $50,000) and the percentage shown on the following table corresponding to his age at the time his current period of participation began:

"Age attained at participation—	
30 or less	6.5
35	5.4
40	4.4
45	3.6
50	3.0
55	2.5
60 or over	2.0

For purposes of this subsection, the term 'basic benefit' means a benefit in the form of a straight life annuity commencing at the later of age 65, or 5 years from the time the participant's current period of participation began, under a plan which provides no ancillary benefits and to which employees do not contribute. The Secretary or his delegate shall prescribe regulations under which the percentages shown on such table shall be adjusted for plans which do not meet the conditions described in the preceding sentence and under which percentage for ages between those shown on the table shall be determined. After December 31, 1977, the Secretary or his delegate may, by regulations, prescribe revised percentages to be used in lieu of the percentages shown in the table provided by this subsection. Such percentages shall be revised by the Secretary or his delegate on the basis of changes in prevailing interest and mortality rates occurring after 1973.

"(2) ALTERNATIVE LIMITATION FOR PROPRIETARY EMPLOYEES.—Notwithstanding the provisions of paragraph (1), a qualified plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) may provide for a basic benefit on behalf of an individual who is a proprietary employee (within the meaning of section 412(b)(1)) which does not exceed 75 percent of the participant's average high 3-year compensation from the employer. This amount shall be amortized in equal payments over the remaining future service of each such proprietary employee or over 10 years whichever is the longer. Average high 3-year compensation from the employer is the amount includible in the gross income of the participant (determined without regard to section 911) for the period of 3 actual consecutive taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the greatest but not in excess of the first $100,000 per year. Where contributions are made under a plan for a proprietary employee who was a participant for a period of less than 10 years, the basic benefit which may be provided under the plan (under this paragraph) shall be reduced ratably.

"(3) AGGREGATION OF PLANS.—For purposes of this subsection—

"(A) DEFINED BENEFIT PLANS.—If a defined benefit plan provides benefits for an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined benefit plan and all defined benefit plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) DEFINED CONTRIBUTION PLANS.—If a defined contribution plan provides for contributions from an owner-employee of a trade or business who controls, or for two or more owner-employees who together control, one or more other trades or businesses, that defined contribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered a single plan.

"(C) RULES.—For purposes of this paragraph, the term 'owner-employee' also includes an individual who is a proprietary employee (as defined in section 412(b)(1)), and the terms 'control' and 'controls' have the same meaning as they have in subsection (d)(9). An owner-employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(4) REDUCTION OF BENEFITS.—In the case of an owner-employee or proprietary employee who is covered by a defined benefit plan to which this subsection applies, as well as a defined contribution plan, if for a taxable year a deduction is allowable under section 404(a)(9) for a contribution with respect to such owner-employee, then for the plan year of a defined benefit plan ending with or within such taxable year, in applying this subsection the percentage determined under paragraph (1) shall be the percentage determined under such paragraph (without regard to this paragraph) multiplied by the excess of 1 over a fraction—

"(A) the numerator of which is the amount so allowable under section 404)(a)(9), and

"(B) the denominator of which is the limitation determined under section 404(a)(9) with respect to such individual.

"(5) SPECIAL RULES.—Section 404(e) (relating to special limitations for self-employed individuals) shall not apply to a trust to which this subsection applies.

"(k) LIMITATION ON BENEFITS UNDER DEFINED BENEFIT PLAN.—A trust which is a part of a defined benefit plan shall not constitute a qualified trust under this section if, under the plan of which such trust is a part, the benefit under the plan, together with the benefits under all other defined benefit plans (whether or not terminated) of the employer, exceeds 100 percent of the participant's average compensation from the employer which is includible in the gross income of the participant (determined without regard to section 911) for the period of 3 consecutive taxable years of the participant for which his compensation from the employer is the greatest. For purposes of this subsection, if the benefits provided under a pension plan are not in the form of a straight life annuity commencing at age 65 adjusted for fluctuations in the cost of living under a plan to which employees do not contribute, which provides no ancillary benefits, the 100 percent limit provided by the preceding sentence shall be adjusted, in accordance wtih regulations prescribed by the Secretary or his delegate to reflect such other form. In the case of a participant in a defined benefit plan who is also a participant in a money purchase pension plan with respect to the same employment, the limitation determined under this subsection shall be the 100 percent limitation (as adjusted pursuant to the preceding sentence), multiplied by the excess of one over a fraction—

"(1) the numerator of which is the percentage of compensation contributed under the money purchase pension plan (but not greater than 20), and

"(2) the denominator of which is 20.

The percentage limitation applicable to an employee who has been an active participant in the plan for fewer than 10 full plan years shall be the percentage limitation otherwise determined under this subsection, multiplied by a fraction, the numerator of which is the number of such full years and the denominator of which is 10."

(4) by striking out, at the end of subsection (d)(9)(B)(i) "or", by striking out at the end of subsection (d)(9)(B)(ii) "partnership." and inserting in lieu thereof "partnership, or", and by inserting after subsection (d)(9)(B)(ii) the following new clause:

"(iii) in the case of a corporation, own, or are considered as owning, within the meaning of section 1563(e), stock possessing 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of stock of the corporation."

(b) PLANS OF PROPRIETARY EMPLOYEES.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 201 and amended by section 221, is amended by inserting at the end thereof the following new section:

"SEC. 412. PLAN OF PROPRIETARY EMPLOYEE.

"(a) GENERAL RULE.—In the case of a plan which provides contributions or benefits for employees some or all of whom are proprietary employees (as defined by subsection (c))—

"(1) the provisions of section 404(e) shall apply, and

"(a) GENERAL RULE.—In the case of a plan out regard to subparagraph (v)) and section 401(e) (without regard to paragraph (2)(E) shall apply if such plan is not a defined benefit plan but excess contributions shall be repaid to the proprietary employee on whose behalf they were made.

For purposes of paragraph (1), the compensation of a proprietary employee taken into account shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year. The provisions referred to in paragraph (1) and (2) shall be applied as if each proprietary employee were an employee within the meaning of section 401(c)(1).

"(b) DEFINITION.—For purposes of this section and section 401—

"(1) PROPRIETARY EMPLOYEE.—The term 'proprietary employee' means an individual who owns, or is considered as owning, within the meaning of section 1563 (e), stock possessing 2 percent or more of the total combined voting power of all classes of stock entitled to vote or 2 percent or more of the total value of shares of stock of the corporation if the total of the present value of the accrued benefits, of all such employees who are active participants in the plan, derived from employer contributions (within the meaning of section 411(b)(2)) exceeds 25 percent of the present value of such accrued benefits for all active participants in the plan. For purposes of this paragraph, in the case of a profit-sharing or stock bonus plan, the rules of section 1563(e) shall be applied without respect to paragraph (3)(C) thereof. To the extent provided in regulations prescribed by the Secretary or his delegate, such term also means an individual who has been a proprietary employee within the meaning of the preceding sentence. The Secretary or his delegate is authorized to prescribe by regulations the actuarial assumptions to be applied in computing accrued benefits for purposes of this paragraph and the time at which the present value of such benefits is determined.

"(2) AGGREGATE OF PLANS.—For purposes of this subsection—

"(A) DEFINED BENEFIT PLANS.—If a defined benefit plan provides benefits for a proprietary employee of a trade or business who controls, or for two or more proprietary employees who together control, one or more other trades or businesses, that defined benefit plan and all defined benefit plans established with respect to such other trades or businesses shall be considered as a single plan.

"(B) DEFINED CONTRIBUTION PLANS.—If a defined contribution plan provides for contributions from a proprietary employee of a trade or business who controls, or for two or more proprietary employees of a trade or business who together control, one or more other trades or businesses, that defined con-

tribution plan and all defined contribution plans established with respect to such other trades or businesses shall be considered as a single plan.

"(C) RULES.—If any such proprietary employee is an owner-employee (within the meaning of section 401(c)(3)) of a trade or business and is a participant in a defined benefit or a defined contribution plan established with respect to that trade or business, such plan shall be taken into account under subparagraph (A) or (B), whichever is applicable, for purposes of this paragraph. A proprietary employee who is a participant in both types of plans (described in subparagraphs (A) and (B)) shall be treated, under regulations prescribed by the Secretary or his delegate, as if he were a participant in only one such type of plan.

"(D) CONTROL.—For purposes of subparagraph (A), a proprietary employee, or two or more proprietary employees, shall be considered to control a trade or business if such proprietary employee, or such two or more proprietary employees together—

"(i) own the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, own more than 50 percent of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, own (or are considered as owning, within the meaning of section 1563(e)) more than 50 percent of the total combined voting power of stock entitled to vote or more than 50 percent of the total value of shares of stock of the corporation.

For purposes of subparagraph (B), a proprietary employee, or two or more proprietary employees, shall be treated as owning any interest in a partnership which is owned, directly or indirectly, by partnership which such proprietary employee, or such two or more proprietary employees, are considered to control within the meaning of the preceding sentence.".

(c) REPEAL OF SECTION 1379.—Subchapter S of chapter 1 is amended by striking out section 1379.

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter S of chapter 1 is amended by striking out the last item in the table.

(2) Section 62 (relating to adjusted gross income) is amended by striking out paragraph (9).

(e) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 (relating to special rules), as added by section 221 and amended by section 231, is amended by adding at the very end thereof the following new item:

"Sec. 412. Plan of a proprietary employee.".

(f) EFFECTIVE DATE.—

(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 1973.

(2) In the case of a plan in existence on July 24, 1973, the amendments made by this section shall apply—

(A) to plan years beginning after December 31, 1975, or,

(B) if later, the earlier of plan years beginning after—

(i) the termination of the agreement pursuant to which the plan is maintained, which the Secretary of the Treasury or his delegate finds to be a collective-bargaining agreement, between employee representatives and one or more employers, in effect on July 24, 1973, or

(ii) December 31, 1980.

For purposes of clause (i), the date on which an agreement terminates shall be determined without regard to any extension thereof agreed to after July 24, 1973.

(3) In the case of a plan in existence on July 24, 1973, the second sentence of section 401(j)(4) (as added by this section) shall apply only with respect to plan years beginning after December 31, 1979.

SEC. 703. TAXATION OF CERTAIN LUMP-SUM DISTRIBUTIONS.

(a) AMENDMENT OF SECTION 72(n).—Section 72n (relating to total distribution) is amended by—

(1) striking out the portion of paragraph (2) preceding "applies" the first time it appears and inserting in lieu thereof the following:

"(2) CERTAIN EMPLOYEES.—In any case to which this paragraph",

(2) inserting after paragraph (B) of such paragraph the following: "This paragraph applies to amounts to which this subsection applies which are distributed or paid with respect to an individual who is an employee (within the meaning of section 401(c)(1)) if the number of plan years such individual was such an employee under the plan under which such amounts are distributed or paid exceeds 50 percent of the number of plan years for which he was a participant in such plan.",

(3) striking out "this subsection" in paragraph (3) and inserting in lieu thereof "paragraph (2)", and

(4) striking out paragraph (4) and inserting in lieu thereof the following:

"(4) DETERMINATION OF TAX ON CERTAIN TOTAL DISTRIBUTIONS.—Notwithstanding any other provisions of this chapter, except as provided in paragraph (5), the tax on amounts to which this subsection (other than paragraph (2)) applies is 15 times the product of—

"(A) the tax (determined by applying the rates contained in the table in section 1(c)) that would result if the taxable income of the recipient were one-fifteenth of the excess of

"(i) the sum of the amount to which this paragraph applies and the portion of the distribution or payment which receives capital gains treatment under section 402(a)(2) or 403(a)(2)(A), over

"(ii) the minimum distribution allowance, multiplied by

"(B) a fraction, the numerator of which is the number of calendar years after 1973 the recipient was an active participant in the plan and the denominator of which is the total number of calendar years the recipient was an active participant in the plan.

For purposes of this paragraph, the minimum distribution allowance is one-half of the first $20,000 of the sum referred to in clause (i), reduced (but not below zero) by 20 percent of the excess of such sum over $20,000.

"(5) MULTIPLE DISTRIBUTIONS.—If an individual receives more than one distribution to which paragraph (4) applies during a period of 6 consecutive taxable years of that individual, the tax payable on the second or subsequent such distribution shall be determined, under regulations prescribed by the Secretary or his delegate, by applying the provisions of paragraph (4) to the aggregate amount of all such distributions within such period and reducing the amount of the tax so determined by the amount of tax paid with respect to prior distributions within the period. For purposes of this paragraph, such distributions shall be aggregated without regard to the source of such distributions.

"(6) COMMUNITY PROPERTY LAWS.—The provisions of paragraphs (4) and (5) shall be applied without regard to the community property laws of any State.

"(7) ANNUITIES.—For purposes of paragraphs (4) and (5), the distribution of an annuity shall be treated as a distribution in an amount equal to the cash surrender value of such annuity on the date of distribution.".

(b) AMENDMENT OF SECTION 402.—Section 402(a) (relating to taxability of beneficiary of exempt trust) is amended by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) PHASE OUT OF CAPITAL GAINS TREATMENT.—The first sentence of paragraph (2) shall apply to a distribution paid after December 31, 1973, only to the extent that it does not exceed such distribution (reduced in accordance with such sentence) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(c) AMENDMENT OF SECTION 403.—Section 403(a) (relating to taxability of beneficiary under a qualified annuity plan) is amended by striking out paragraph (2)(C) and inserting in lieu thereof the following:

"(C) PHASE OUT OF CAPITAL GAINS TREATMENT.—Subparagraph (A) shall apply to a payment paid after December 31, 1973, only to the extent that it does not exceed such payment (reduced in accordance with such subparagraph) multiplied by a fraction, the numerator of which is the number of full years of active participation by the employee in such plan for plan years beginning before January 1, 1974, and the denominator of which is the number of full years of active participation by the employee in such plan."

(d) CONFORMING AMENDMENTS.—

(1) PROHIBITION OF DOUBLE INCOME AVERAGING.—Subsection 1304(b) (relating to special rules) is amended by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively, and inserting after paragraph 2 the following new paragraph:

"(3) section 72(n)(4) (relating to determination of tax on certain total distributions) and section 82(n)(5) (relating to multiple distributions),"

(2) LIMITATION ON THE APPLICATION OF SUBSECTION 1304(b).—Section 1304 (relating to special rules on income averaging) is amended by adding at the end thereof the following new subsection:

"(g) LIMITATION ON THE APPLICATION OF SUBSECTION.—(b). Recipients of distributions to which section 72(n)(2) or 72(n)(4) apply may choose the benefit of this part except with respect to such distributions.".

(e) EFFECTIVE DATES.—The amendments made by this section shall take effect on January 1, 1974.

SEC. 704. CONTRIBUTIONS ON BEHALF OF SELF-EMPLOYED INDIVIDUALS AND PROPRIETARY EMPLOYEES.

(a) REVISION OF LIMITATIONS.—

(1) LIMIT ON DEDUCTIONS.—Section 404(e) (relating to deduction limitations) is amended by—

(A) striking out "$2,500, or 10 percent" in paragraphs (1) and (2)(A) and inserting in lieu thereof "$7,500, or 15 percent",

(B) striking out "whichever is the lesser." in paragraphs (1) and (2)(A) and inserting in lieu thereof "whichever is the lesser, the alternative limitation for proprietary employees described in paragraph (4), or the minimum deductible amount described in paragraph (5).", and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) ALTERNATIVE LIMITATION FOR PROPRIETARY EMPLOYEES.

"(A) Notwithstanding the limitations of

paragraph (1) (but subject to the provisions of section 414), in the case of a plan (other than a plan which provides benefits for an employee of an electing small business corporation as defined in section 1371) which provides contributions for employees, some or all of whom are proprietary employees (within the meaning of section 412(b)(1)), the amounts deductible under subsection (a) in any taxable year with respect to contributions on behalf of any proprietary employee may equal the present value (based on a 6 percent interest rate) of the 'unfunded limitation balance'.

"(B) The term 'unfunded limitation balance' means in the case of a plan which provides no ancillary benefits any excess of—

"(i) 75 percent of the 'contribution base' divided by the appropriate conversion factor (within the meaning of section 411(b)(2)), over

"(ii) what the balance of the employee's account under the plan, as of the close of the preceding plan year, would be if it earned interest at the rate of 6 percent per annum, compounded annually until 'normal retirement age'.

The Secretary or his delegate shall prescribe regulations defining the term 'unfunded limitation balance' for plans providing for ancillary benefits.

"(C) The term 'contribution base' means the average high 3 year compensation includible in the gross income of the participant (determined without regard to section 911) for any 3 consecutive (current or past) taxable years (or if he has been an employee for less than 3 years, the number of years he has been an employee) of the participant for which his compensation from the employer is the geratest, but not in excess of the first $100,000 of compensation for any year.

"(D) For purposes of this paragraph, the term 'normal retirement age' means the older of age 65 or if older the age of the employee on the last day of the tenth year for which he will be a participant under the plan.

"(E) In making the computation provided under this paragraph the provisions of paragraph (2) shall be applicable.

"(F) Notwithstanding the limits of subsections (a) (3) and (7) (whichever is applicable), if the amount determined under subparagraph (A) for any taxable year is less than the amount allowable as a deduction under such subsections then, the excess of the amount allowable under such subsections over the amount determined in subparagraph (A) shall be carried forward and allowable as a deductible contribution when paid in succeeding taxable years to the extent that the total contributions do not exceed the amount determined under subparagraph (A) in such taxable year.

"(G) The Secretary or his delegate may prescribe separate conversion factors under subparagraph (B)(i) for whose normal retirement age is other than age 65. And may adjust this factor to reflect changes in mortality or interest rates.

"(5) MINIMUM DEDUCTIBLE AMOUNT.—For purposes of this subsection, the minimum deductible amount for any employee is the lesser of—

"(A) $750, or

"(B) 100 percent of his earned income derived by him from the trade or business with respect to which the plan is established.".

(2) LIMIT ON CONTRIBUTIONS.—Section 401(e)(3) (relating to contributions for premiums on annuity, etc., contracts), is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(3) LIMIT ON AMOUNT RECEIVED.—Section 72(m)(5)(B)(i) (relating to penalties applicable to certain amounts received by owner-employees) is amended by striking out "$2,500" and inserting in lieu thereof "$7,500".

(b) DISCRIMINATION.—Section 401(a) (relating to requirements for qualification) is amended by adding at the end thereof the following new paragraph:

"(12) In the case of a plan which provides contributions or benefits for employees some or all of whom are employees (as defined in subsection (c)(1)), the compensation of such an employee taken into account for purposes of paragraph (4) shall not exceed $100,000 per year, and the basic or regular rate of compensation of such an employee taken into account for such purposes shall not exceed the rate equivalent to compensation at a rate of $100,000 per year paid in equal installments over the year.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for taxable years beginning after 1973.

SEC. 705. COLLECTIVELY BARGAINED PLANS.

(a) GENERAL RULE.—Subpart B of part I of subchapter D of chapter 1 (relating to special rules) as added by section 201 and amended by sections 221 and 702 is amended by inserting at the end thereof the following new section:

"SEC. 413. COLLECTIVELY BARGAINED PLANS.

"(a) APPLICATION OF SECTION.—This section applies to—

"(1) a plan created and maintained pursuant to an agreement which the Secretary or his delegate finds to be a collective bargaining agreement between employee representatives and one or more employers, and

"(2) each trust which is a part of such plan.

"(b) GENERAL RULE.—If this section applies to a plan, notwithstanding any other provision of this title—

"(1) Section 410 shall be applied as if all employees of each of the employers who are parties to the collective bargaining agreement and who contribute to or under the plan on the same basis were employed by a single employer.

"(2) Section 401(a)(4) and 411(c)(4) shall be applied as if all participants who are employed by employers who contribute to or under the plan on the same basis were employed by a single employer.

"(3) For purposes of section 401(a), in determining whether the plan of an employer is for the exclusive benefit of his employees and their beneficiaries, all plan participants shall be considered to be his employees.

"(4) Section 411 shall be applied as if all employers who have been parties to the collective bargaining agreement constituted a single employer.

"(5) The minimum funding standard provided by section 4971 shall be determined as if all participants in the plan were employed by a single employer. For purposes of section 4971 (other than for purposes of determining the portion of a liability required to be amortized for a plan year), a plan year shall be considered to begin on the date the collective bargaining agreement is first effective (treating an agreement to extend a prior agreement as a new agreement, and to end on the expiration date of the agreement determined under such agreement).

"(6) For a plan year (determined without regard to paragraph (5)) the liability under section 4972 of each employer who is a party to the collective bargaining agreement shall be determined, in accordance with regulations prescribed by the Secretary or his delegate, on the basis of his contributions under the plan and his liability for contributions under the plan. The liability for tax under such section in the case of such a plan shall apply first to the extent of any delinquency in meeting required contributions on the part of an employer under such plan.

"(7) For a calendar year the liability under section 4975 of each employer who is a party to the collective bargaining agreement during the calendar year shall be determined by reference to the number of plan participants employed by the employer at any one time during the calendar year.

"(8) Each applicable limitation provided by section 404(a) shall be determined for a plan year (within the meaning of paragraph (5)) as if all participants in the plan were employed by a single employer. The amounts contributed to or under the plan by each employer who is a party to the contract, for the portion of his taxable year which is included within such a plan year, shall be considered not to exceed such a limitation if the anticipated employer contributions for such plan year (determined in a manner consistent with the manner in which actual employer contributions for such plan year are determined) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary or his delegate."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply for taxable years and plan years beginning on or after January 1, 1976.

SEC. 706. MISCELLANEOUS PROVISIONS.

(a) EMPLOYEE CONTRIBUTIONS OF OWNER-EMPLOYEES.—Section 401(d)(4)(B) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended by inserting "in excess of contributions made by an owner-employee as an employee" after "benefits".

(b) CERTAIN CUSTODIAL ACCOUNTS.—Section 401 (relating to pension, profit-sharing, and stock bonus plans) is amended by striking out subsection (f) and inserting in lieu thereof the following:

"(f) CERTAIN CUSTODIAL ACCOUNTS OR OTHER ARRANGEMENTS.—For purposes of this title, a custodial account or an arrangement similar to a custodial account or similar to an annuity contract shall be treated as a qualified trust under this section if—

"(1) the custodial account or arrangement would, except for the fact that it is not a trust, constitute a qualified trust under this section, and

"(2) the assets thereof are held by a bank (as defined in subsection (d)(1)) or another person who demonstrates, to the satisfaction of the Secretary or his delegate, that the manner in which he will hold the assets will be consistent with the requirements of this section.

For purposes of this title, in the case of a custodial account or arrangement treated as a qualified trust under this section by reason of this subsection, the person holding the assets of such account or arrangement shall be treated as the trustee thereof.".

(c) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—Section 403(b) (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by adding at the end thereof the following new paragraph:

"(7) CUSTODIAL ACCOUNTS FOR REGULATED INVESTMENT COMPANY STOCK.—

"(A) AMOUNTS PAID TREATED AS CONTRIBUTIONS.—For purposes of this title, amounts paid by an employer described in paragraph (1)(A) to a custodial account which satisfies the requirements of section 401(f) shall be treated as amounts contributed by him for

an annuity contract for his employee if the amounts are paid to provide a retirement annuity for that employee and are to be invested in regulated investment company stock to be held in that custodial account.

"(B) ACCOUNT TREATED AS PLAN.—For purposes of this title, a custodial account which satisfies the requirements of section 401(f) shall be treated as an organization described in section 401(a) with respect to amounts received by it (and income from investment thereof) which are excluded under this subsection from the gross income of the employees on whose behalf such amounts are paid.

"(C) REGULATED INVESTMENT COMPANY.—For purposes of this paragraph, the term 'regulated investment company' means a domestic corporation which is a regulated investment company within the meaning of section 851(a), and which issues only redeemable stock.".

(d) AMENDMENTS TO SECTION 404.—

(1) Section 404(a) (relating to deduction for contributions of an employer to an employee's trust, etc.) is amended by—

(A) striking out paragraph (1)(A);

(B) striking out paragraph (1) (B) and (C) and inserting in lieu thereof the following:

"(B) the amount necessary to provide with respect to all of the employees under the trust the remaining unfunded cost of their past and current service credits distributed as a level amount, or a level percentage of compensation, over the remaining future service of each such employee, as determined under regulations prescribed by the Secretary or his delegate, but if such remaining unfunded cost with respect to any three individuals is more than 50 percent of such remaining unfunding cost, the amount of such unfunded cost attributable to such individuals shall be distributed over a period of at least 5 taxable years, or

"(C) in lieu of the amount allowable under subparagraph (B), an amount equal to the normal cost of the plan, as determined under regulations prescribed by the Secretary or his delegate, plus, if past service or other supplementary pension or annuity credits are provided by the plan, an amount not in excess of 10 percent of the cost which would be required to completely fund or purchase such pension or annuity credits as of the date when they are included in the plan as determined under regulations prescribed by the Secretary or his delegate, except that in no case shall a deduction be allowed for any amount (other than the normal cost) paid in after such pension or annuity credits are completely funded or purchased."; and

(c) adding immediately after paragraph (1)(D) the following new sentence: "The limitations under subparagraphs (B) and (C) shall not apply with respect to the amount of a contribution made to or under a pension plan to the extent such contribution does not exceed the minimum funding standard described in section 4971.".

(2) Section 404(a) (relating to deduction for contributions of an employer to an employee's trust, etc.) is amended by striking out paragraph (6) and inserting in lieu thereof:

"(6) TIME WHEN CONTRIBUTIONS DEEMED MADE.—For purposes of paragraphs (1), (2), and (3), a taxpayer shall be deemed to have made a payment on the last day of the preceding taxable year if the payment is on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof)."

(e) INCLUSION OF CERTAIN EMPLOYEE CONTRIBUTIONS IN GROSS INCOME.—Subpart A of part I of subchapter D of chapter 1 (relating to general rules) as added by section 201 and as amended by sections 701 (b) and (e) of this Act is further amended by adding at the end thereof the following new section:

"SEC. 414. INCLUSION OF CERTAIN EMPLOYER CONTRIBUTIONS IN GROSS INCOME

"(a) INCLUSION OF CONTRIBUTIONS IN GROSS INCOME.—Notwithstanding the provisions of section 402 (relating to taxability of beneficiary of employees' trust), section 403 (relating to taxation of employee annuities), or section 405(d) (relating to taxability of beneficiaries under qualified bond purchase plans), an individual shall include in gross income, for his taxable year in which or with which the taxable year of his employer ends, the amount equal to the excess of—

"(1) the amount of the contributions made on his behalf by the employer during the taxable year of the employer (including amounts deemed to be paid during such year under section 404(a)(6)) to or under a money purchase pension plan which satisfies the requirements of section 401(a), 404(a)(2), or 405(a) during such taxable year of the employer, over

"(2) 20 percent of such individual's compensation otherwise paid or accrued by him from such employer during the employer's taxable year.

In any taxable year of an individual in which he is covered under two or more money purchase pension plans maintained by an employer, the amount includable in gross income shall be the amount by which the total of such contributions exceeds 20 percent of the compensation received or accrued by such individual during the taxable year of his employer.

"(b) TREATMENT OF AMOUNTS INCLUDED IN GROSS INCOME.—Any amount included in the gross income of an individual under subsection (a) shall be treated as consideration for the contract contributed by the individual for purposes of section 72 (relating to annuities).

"(c) DEDUCTION FOR AMOUNTS NOT RECEIVED AS BENEFITS.—If—

"(1) Amounts are included in the gross income of an individual under subsection (a), and

"(2) the rights of such individual (or his beneficiaries) under the plan terminate before payments under the plan which are excluded from gross income equal the amounts included in gross income under subsection (a),

then there shall be allowed as a deduction, for the taxable year in which such rights terminate, an amount equal to the excess of the amounts included in gross income under subsection (a) over such payments.

"(d) LIMITATIONS.—(1) Subsection (a) shall not apply for a taxable year of an employee if, at all times during the employer's taxable year referred to in subsection (a), under the money purchase pension plans maintained by the employer (considering all such plans as a single plan) the rate at which employer contributions are to be made with respect to employee compensation does not exceed 20 percent.

"(2) Subsection (a) shall not apply to contributions made to or under a money purchase pension plan on behalf of an individual who is an employee within the meaning of section 401(c)(1).

"(e) REGULATIONS.—The Secretary or his delegate is authorized to prescribe such forms and regulations as may be necessary to carry out the purposes of this section, including forms on which employers may be required to furnish needful information to employees. Such forms shall be furnished to employees at such time as the Secretary or his delegate may by regulations prescribe."

(f) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Section 404 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the end thereof the following new subsection:

"(h) LIMITATION ON DEDUCTION FOR CONTRIBUTIONS ON BEHALF OF CORPORATE EMPLOYEES.—Notwithstanding the provisions of subsection (a), no deduction shall be allowed for a contribution made for or on behalf of a corporate employee to or under a defined benefit plan or a defined contribution plan if the amount of such contribution or if the benefit provided under the plan exceeds the amount specified as an alternative limitation on deduction or benefits for proprietary employees in subsection (e)(4) or section 401(j)(2), whichever is applicable.".

(g) PENALTY FOR FAILURE TO FURNISH INFORMATION.—Subchapter B of chapter 68 (relating to assessable penalties) as amended by section 221 of this Act is further amended by inserting at the end thereof the following new section:

"SEC. 6691. REPORTS BY EMPLOYERS.

"(a) CIVIL PENALTY.—If any person who is required, by regulations prescribed under section 409(e), or by regulations prescribed under section 151 of the Retirement Income Security for Employees Act, to furnish information to the Secretary or his delegate or to an employee fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of $10 for each such failure, unless it is shown that such failure is due to reasonable cause.

"(b) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by subsection (a).".

"(h) NET OPERATING LOSS.—Section 172(d)(4) (relating to net operating loss modifications) is amended by—

(1) striking out "and" at the end of subparagraph (C),

(2) striking out "such individual." in subparagraph (D) and inserting in lieu thereof "such individual; and", and

(3) by adding immediately after subparagraph (D) the following new subparagraph (E):

"(E) any deductions allowed under section 219 shall not be treated as attributable to the trade or business of an individual."

(i) RETROACTIVE CHANGES IN PLAN.—Section 401 (relating to qualified pension, etc., plans) is amended by striking out subsection (b) and inserting in lieu thereof:

"(b) CERTAIN RETROACTIVE CHANGES IN PLAN.—A stock bonus, pension, profit-sharing, or annuity plan shall be considered as satisfying the requirements of subsection (a) for the period beginning with the date on which it was put into effect, or for the period beginning with the date on which there was put into effect any amendment which caused the plan to fail to satisfy such requirements, and ending with the time prescribed by law for filing the return of the employer for his taxable year in which such plan or amendment was put into effect (including extensions thereof) or such later time as the Secretary or his delegate may designate, if all provisions of the plan which are necessary to satisfy such requirements are in effect by the end of such period and have been made effective for all purposes for the whole of such period.".

(j) WHEN CONTRIBUTIONS ARE INCLUDIBLE IN INCOME.—

(1) BENEFICIARY OF EMPLOYEE'S TRUST.—Section 402(a)(1) (relating to taxability of

beneficiary of exempt trust), is amended by striking out "(1) GENERAL RULE.—" and inserting in lieu thereof the following:

"(1) GENERAL RULES.—A contribution by an employer to an employee's trust described in section 401(a) which is exempt from tax under section 501(a) shall not be includible in the gross income of the employee in the year in which so contributed or accrued. For purposes of the preceding sentence, a contribution shall not be treated as having been made by an employer if it is designated as an employee contribution or if the contribution is made as a consequence of the employee's individual choice in return for a reduction in his compensation for foregoing an increase in compensation.".

(2) EMPLOYEE ANNUITIES.—Section 403(a)(1) (relating to taxability of beneficiary under a qualified annuity plan) is amended to read as follows:

"(1) GENERAL RULES.—If an annuity contract is purchased by an employer for an employee under a plan which meets the requirements of section 404(a)(2) (whether or not the employer deducts the amounts paid for the contract under such section)—

"(A) the payment of the purchase price by the employer shall not be includible in the gross income of the employee in the year in which paid or accrued; and

"(B) except as provided in paragraph (2), the employee shall include in his gross income the amounts received under such contract for the year received as provided in section 72 (relating to annuities).

For purposes of subparagraph (A), an amount paid for the purchase of an annuity contract shall not be treated as being paid by an employer if such amount is designated as an amount paid by the employee or if the amount is paid as a consequence of the employee's individual choice in return for a reduction in his compensation or for foregoing an increase in compensation.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to taxable years beginning after December 31, 1973.

(k) TECHNICAL AMENDMENTS.—

(1) INFORMATION WITH RESPECT TO PENSION, PROFIT SHARING AND STOCK BONUS PLANS.—Subpart A of part III of subchapter A of chapter 61 (relating to information returns) is amended by redesignating section 6040 as section 6040A and inserting after section 6039 the following section:

"SEC. 6040. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION.

"(a) IN GENERAL.—Every employer who establishes or maintains a plan of deferred compensation described in part I of subchapter D of chapter 1, or the administrator of the plan, shall file an annual return stating such information as the Secretary or his delegate may by forms or regulations prescribe with respect to the qualification, financial condition and operations of the pension, annuity, profit-sharing, stock bonus, or bond purchase plan established or maintained by such employer; except that, in the discretion of the Secretary or his delegate, the employer may be relieved from stating in its return any information which is reported in returns filed by an organization forming a part of such plan.

"(b) EMPLOYER.—For purposes of this section, the term 'employer' includes a person described in section 401(c)(4) and an individual who establishes an individual retirement account described in section 408. The term 'administrator' means the person or persons described in section 3(15) of the Welfare and Pension Plans Disclosure Act.

"(c) CROSS REFERENCE.—For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).".

(2) PUBLICITY OF RETURNS.—

(A) Section 6103 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended by adding at the end thereof a new subsection (g) to read as follows:

"(g) INFORMATION WITH RESPECT TO PENSION, PROFIT-SHARING AND STOCK BONUS PLANS.—Any return filed under section 6033 or 6040 with respect to a plan of deferred compensation (or copy thereof) or under 6051(d) with respect to wages paid to an employee shall be open to inspection by the proper officers of the Pension Benefit Guaranty Corporation.".

(B) Section 6104 (relating to publicity of information required from certain exempt organizations and certain trusts) is amended by—

(i) striking out "(A) IN GENERAL.—" in subsection (a)(1) and inserting in lieu thereof "(i) EXEMPT ORGANIZATIONS GENERALLY.—",

(ii) inserting "(A) IN GENERAL.—" in subsection (a) immediately after "(1) PUBLIC INSPECTION.—",

(iii) inserting the following clause immediately before subparagraph (B) of subsection (a)(1):

"(ii) PENSION, PROFIT-SHARING, AND STOCK BONUS PLANS.—An application filed with respect to the qualification of a pension, profit-sharing, or stock bonus plan under section 401(a), 404(a)(2), or 405(a), covering more than 25 persons or with respect to the exemption from taxation under section 501(a) of an organization forming a part of such a plan, together with any papers submitted in support of such application, shall be open to public inspection at such times and in such places as the Secretary or his delegate may prescribe.", and

(iv) striking out "and 6056" in subsection (b) and inserting in lieu thereof "6040, and 6056".

(3) PENALTIES.—Section 6652 (relating to failure to file certain information returns) is amended by adding at the end thereof the following new subsection:

"(f) INFORMATION REQUIRED IN CONNECTION WITH CERTAIN PLANS OF DEFERRED COMPENSATION.—In the case of failure to file a return required under section 6040 (relating to information required in connection with certain plans of deferred compensation) or 6047 (relating to information relating to certain trusts and annuity and bond purchase plans) on the date and in the manner prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that such failure is due to reasonable cause there shall be paid (on notice and demand by the Secretary or his delegate and in the same manner as tax) by the person failing so to file, $10 for each day during which such failure continues, but the total amount imposed hereunder on any person for failure to file any return shall not exceed $5,000.".

(l) EXCESS CONTRIBUTIONS.—Section 401(e)(1)(B) is amended by striking out clause (ii) and inserting in lieu thereof:

"(ii) with respect to any plan other than a defined benefit plan, the amount of any contribution made by any owner-employee (as an employee) at a rate which exceeds the rate of contributions permitted to be made by employees other than owner-employees;"

(m) PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS.—Section 401(c) (relating to definitions and rules relating to self-employed individuals and owner-employees) is amended by adding at the end thereof the following new paragraph:

"(6) ADDITIONAL REQUIREMENTS FOR QUALIFICATION OF TRUSTS AND PLANS BENEFITING SELF-EMPLOYED INDIVIDUALS.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are employees within the meaning of paragraph (1) shall constitute a qualified trust only if—

"(A) under the plan, forfeitures attributable to contributions made on behalf of an employee other than an employee within the meaning of paragraph (1) may not inure to the benefit of any individual who, at any time during the period beginning with the taxable year for which the contribution is made and ending with the taxable year during which the forfeiture occurs, is an employee within the meaning of paragraph (1),

"(B) in the case of a defined benefit pension plan, a separate account is maintained with respect to all participants under the plan who are not employees within the meaning of paragraph (1) and another separate account is maintained with respect to all participants under the plan who are employees within the meaning of paragraph (1), and

"(C) it meets the requirements for a qualified trust which is a part of a defined benefit plan which provides benefits for employees, some or all of whom are employees within the meaning of subsection (c)(1) or proprietary employees within the meaning of section 412(b)(1), as those requirements are defined in subsections 401(j) and 401(k).

(n) CONFORMING AND CLERICAL AMENDMENTS.—

(1) Section 6033(c) (relating to cross-references) is amended by adding at the end thereof the following:

"For provisions relating to information required in connection with certain plans of deferred compensation, see section 6040.".

(2) Section 6047 (relating to information with respect to certain trusts and annuity and bond purchase plans) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) CROSS REFERENCES.—

"(1) For provisions relating to penalties for failure to file a return required by this section, see section 6652(f).

"(2) For criminal penalty for furnishing fraudulent information, see section 7207.".

(3) Section 6051 (relating to receipts for employees) is amended by inserting after "exemption," in subsection (a) the following: "or who pays wages as defined in section 3121(a), 3306(b), or 3041(a) to an individual who is an active participant in a plan described in section 219(b)(2),".

(4) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking out the last item and inserting in lieu thereof the following:

"Sec. 6040. Information required in connection with certain plans of deferred compensation.
"Sec. 6040A. Cross references.".

(5) Section 62 (relating to definition of adjusted gross income) is amended by adding after paragraph (9) the following new paragraph:

"(10) MONEY PURCHASE PENSION PLANS.—The deduction allowed by section 410(c).".

(6) CLERICAL AMENDMENTS.—

(A) The table of sections for part I of subchapter D of chapter 1 as amended by sections 701 (b) and (e) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 410. Inclusion of certain employer contributions in gross income.".

(B) The table of sections for subchapter B of chapter 68 as amended by section 221(b) of this Act is further amended by inserting at the end thereof the following new item:

"Sec. 6691. Reports by employers.".

(o) EFFECTIVE DATES.—Except as otherwise provided in this section, the amendments made by this section shall take effect on January 1, 1974.

Mr. WILLIAMS. Mr. President, the amendment which I have sent to the desk contains the exact language of H.R. 4200 which is the major pension reform legislation passed by the Senate on September 19, 1973 by the unanimous vote of 93 Senators. I am offering the amendment in order that we may go to conference as soon as possible on this important issue of private pension reform for American working men and women. It is my sincere hope, that by this approach, we may proceed to conference expeditiously and resolve the differences between the two Houses of Congress and thus achieve agreement for final enactment of this legislation.

Mr. HUGH SCOTT. Mr. President, reserving the right to object—and I will not object—I rise only for the purpose of commending the distinguished Senator from New Jersey (Mr. WILLIAMS) for bringing this matter up promptly. It is one that has been close to the hearts of a great many of us.

I should like to point out that it has bipartisan support and would like to correct the CBS broadcast on the House action where Cronkite said last week that this was a one-party bill. This is an example of an unfortunate inaccuracy. I am sure that all Senators here realize that while we have our differences, there are Senators on both sides of the aisle who, from the very beginning, are extremely anxious to see pension reform legislation approved and become law. I have supported it. I support the Senator's general approach, and I am delighted that we have reached this point. I am glad that this is a bipartisan measure, and I commend the Senator from New Jersey.

Mr. MANSFIELD. Mr. President, for the past 4 years, I have heard the distinguished Republican leader, time and time again, urge the passage of the pension legislation. It has been one of his major concerns.

Mr. HUGH SCOTT. I do thank the distinguished Senator from Montana. Mr. Cronkite made a plain but inaccurate statement which brought me off my chair.

Mr. WILLIAMS. I thank the distinguished majority leader and the distinguished minority leader. The bill is anything but a partisan bill. It is completely bipartisan. It has the complete support of all the committees concerned, on both sides of the Capitol as well as of the Finance Committee and the Ways and Means Committee.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment offered by the Senator from New Jersey.

The amendment 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 ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2) was passed.

Mr. WILLIAMS. Mr. President, I move that the Senate insist on its amendment and request a conference with the House of Representatives 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 Acting President pro tempore appointed Mr. LONG, Mr. WILLIAMS, Mr. RANDOLPH, Mr. NELSON, Mr. BENTSEN, Mr. JAVITS, Mr. SCHWEIKER, Mr. BENNETT, and Mr. CURTIS conferees on the part of the Senate.

Mr. MANSFIELD subsequently said: Mr. President, I ask unanimous consent that the Senate reconsider its action on the adoption of H.R. 2 and its action on sending H.R. 2 to conference.

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

Mr. WILLIAMS. Mr. President, I move to table the motion to reconsider.

The motion was agreed to.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent to dispense with the reading of the Journal of the proceedings of Friday, March 1, 1974.

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

WAIVER OF CALL OF CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent to waive the call of the calendar of unobjected to measures under rule VIII.

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

COMMITTEE MEETINGS DURING SENATE SESSION TODAY

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

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

THE NORTHERN CHEYENNES AND STRIP MINING OF COAL IN MONTANA

Mr. MANSFIELD. Mr. President, almost everyone is aware of the fact that in the Fort Union and Power River Basins of Montana, the Dakotas, and Wyoming there are huge coal deposits, some of them at the present time being exploited, others in the process of being exploited.

The Senate is also aware that this body, last year, passed a good strip mining control bill, which is now in the House and is, at the present time, I think, being considered by that body. The Senate passed bill is, in my opinion, a far superior measure than that recommended to the House for adoption. It would be my hope that the bill which passed the Senate would be passed in toto, or as close to it as possible, so that, as far as Montana is concerned, we would have a Federal law which would complement the Montana State law which, in my opinion, is the strongest State strip mining control law in the Nation.

Furthermore, we have in Montana a number of Indian tribes which are interested in coal development on their reservations. One is the northern Cheyenne Tribe, in the southeastern part of the State, a tribe numbering about 2,000. It is a tribe which has had to depend on meager forest reserves its tribal cattle herd and its coal deposits in order to be able to achieve a livelihood.

The unemployment factor among the Northern Cheyennes has been somewhere between 25 and 35 percent for, lo, these many years.

At present, the Northern Cheyennes have drawn up plans for the tribe to process its coal deposits, which are estimated at between $10 and $15 billion in value. Unfortunately, some leases have been entered into with some of the major coal concerns, and the Northern Cheyenne Tribal Council is trying to have those leases cancelled because of irregularities by the Bureau of Indian Affairs in granting the leases. It is trying to work out a formula by which the tribe itself can develop these resources, perhaps even inaugurate a petrochemical plant on the reservation. At present, the Tribal Council is having some difficulties with the Department of the Interior.

Senator METCALF and I are totally, completely, and wholly on the side of the Northern Cheyennes. We would hope that the Interior Department would do something shortly to see that the rights of the Northern Cheyennes are given every consideration and that in case of doubt, the Government should resolve that doubt in the Indian's favor, so that we could in some small way repay the Northern Cheyennes for what we have done to them down through the decades.

I point out, Mr. President, that it was the Cheyennes and the Sioux who carried the battle against Col. George Custer and brought about his defeat at the Battle of the Little Big Horn, in 1877, less than 100 years ago. After that defeat, they were forced to go back to Oklahoma. But the Northern Cheyennes became homesick for their hunting grounds in Montana, and they trekked from Oklahoma back to Montana. They had to contend with the U.S. Cavalry on the way and with starvation. There were slaughters, massacres, and humiliations, but they finally made it. They have tried to do what they could on their own in behalf of their own people.

The Northern Cheyennes are truly called the Race of Sorrows, because their history has been a tragic one. I would hope that, at long last, the Government—the Great White Father, as it used to be called—would come out on the side of the Northern Cheyennes, so that they could be given a planning grant from the Federal Government's Economic De-

velopment Administration to advance the studies which are now underway.

At the present time, lawyers who have been hired by the Indians are trying to argue about the legality of the leases which the Indians have entered into and are attempting to bring about a rectification of that situation, so that the Indians will be able to achieve more in the way of a royalty return or if that is not possible to cancel the leases. I think that at present the Northern Cheyennes are getting about 17½ cents on a ton of coal, not anywhere near enough to take care of the tribe, which has always tried to lift itself by its own bootstraps.

I hope that what I have said today will be heard downtown, in the Department of the Interior. I hope that something will be done on the part of the government to recognize that it has an obligation to the first Americans.

Mr. President, I ask unanimous consent that an article published in the Washington Post of yesterday, entitled "Cheyennes Set Plan To Process Coal," by George C. Wilson, and letters I wrote to Secretary Morton under date of February 20, 1974, and to Mr. Korologos of the White House staff of the same date be printed in the RECORD.

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

CHEYENNES SET PLAN TO PROCESS COAL

(By George C. Wilson)

The Northern Cheyennes in Montana have drawn up a plan for the tribe to process the $15 billion lode of coal under their reservation rather than let outsiders do it.

The proposal has drawn high-level political backing to date, including support from Senate Majority Leader Mike Mansfield of Montana.

"I'm all for the Northern Cheyennes on this and will help them in every way I can to use the coal for their own benefit," he said.

Mansfield asserted that the coal development project the Cheyennes have in mind would be the biggest Indian self-help project and is the type of endeavor the federal government should encourage.

The Cheyennes have been exploring, with professional help, everything from directly selling the coal to processing it on the spot by building a petrochemical complex on the reservation at Lame Deer, Mont., east of Billings.

Backers argue that a petrochemical complex would provide the widest range of labor and management jobs for the Cheyennes, eliminating the 25 per cent unemployment rate and enabling young Indians to stay with their people rather than work in distant cities.

The Northern Cheyenne Tribal Council report on developing the coal states:

"The Northern Cheyenne intends to change Indians' historic role of passive subservience to agencies who are charged with the administration of trust responsibility for the benefit of the Indian tribes, and who in the past have evidenced little more than apathy toward this responsibility.

"If the Northern Cheyenne are successful in the proposed undertaking the tribe intends to share their experience and to work with other Indian tribes to assist them in implementing the Federal government's presently announced policy of 'self-determination' for Indians and Alaska natives."

There are several obstacles to overcome—even if the Nixon administration elects to help the Cheyennes.

First, the Peabody Coal Co. of St. Louis already has leases to strip-mine coal out of the reservation. The leases cover 16,000 acres where thick seams of coal are believed to be near the surface. Several other firms have permits to look for coal on the reservation.

Peabody, under the leases, would pay the Cheyennes 17½ cents for every ton of coal the company stripped out of the reservation. Allen Rowland, tribal chairman of the Cheyennes, claims those leases are "ridiculously low" in light of current high prices for coal.

Rowland led a delegation of Cheyennes to Washington last week as part of a year-long effort to get those coal leases canceled. He carried with him a thick book of charges against the Bureau of Indian Affairs superintendent at the reservation—arguing that the failure to follow proper procedures in granting the leases voids them.

Rowland and his delegation argued their case before Leonard Garment, special consultant to President Nixon, and other government officials. Last year, the Cheyennes sent a formal cancellation request to Secretary of the Interior Rogers C. B. Morton.

If the tribe's plea is rejected by Morton, the Cheyennes intend to sue for cancellation.

If the tribe gets the leases canceled, either through Nixon administration or court action, the next step for the Cheyennes will be to decide what to do with the estimated 5 billion tons of coal under the reservation's 433,000 acres.

Rowland stressed that the tribal council so far has authorized him to examine the options, not to commit the Cheyennes to a specific course of action until after further study.

There is widespread agreement in the tribe of 3,000, however, that the Cheyennes themselves—not the Bureau of Indian Affairs or the coal companies—must control their own coal.

The coal under the reservation "could have a significant and lasting economic benefit to the regional economy if developed in an orderly and non-destructive manner," states the tribe's report on how to proceed to develop the resource.

Sensitive to the fact that other bold ventures launched by Indian tribes have failed for lack of planning and expertise, the Cheyenne leadership has engaged outside lawyers and engineering consultants to help them map out a program.

George Crossland, an Osage Indian lawyer based in Washington, has been doing much of the legal and liaison work for the Cheyennes.

"The full range from selling bulk coal to selling electricity, petroleum substitutes and ammonia fertilizer will be explored," states the tribal report.

"It is safe to assume that sufficient income to raise the standard of living to our national norm could be easily achieved with minimal development of the tribe's $15 billion of low sulfur coal reserves."

The Northern Cheyennes are seeking a planning grant from the federal government's Economic Development Administration to advance their studies.

In the meantime, administration and Indian lawyers will continue to argue behind the scenes over the legality of the existing leases on the Cheyennes' coveted coal.

FEBRUARY 20, 1974.

Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior, Washington, D.C.

DEAR MR. SECRETARY: The Northern Cheyenne Tribe of Montana submitted a petition to you on January 7, requesting that you declare void *ab initio* the stripmining permits and leases which Peabody Coal Company and others hold to the Tribe's coal resources. The Tribe bases its complaint on the ground that due to the apparent failure of certain BIA officials to comply with Secretarial regulations (25 CFR 171, 177), the BIA Superintendent's authority to approve the transactions never came into being, therefore, never giving rise to a binding legal agreement between the Tribe and the coal companies. Since this is a matter for your decision and of a legal nature, we will not comment on the substantive issues now before you. However, the Tribe has brought a matter to our attention which observes your immediate attention.

The Tribal officials have expressed their concern that the principal issue which they presented for your decision will not be decided within the narrow legal scope under which they framed their complaint. As we understand it, the Tribe fears that their principal complaint—whether BIA officials complied with regulations—will be glossed over by other issues which they feel are not of primary concern even though such issues may have merit. We also are concerned that this very serious matter be given the attention it deserves.

While we realize that your decision could prove to be embarrassing to some officials, it is long past the time in history when the Federal government should handle Indian trust resources in a casual manner. Our special relationship with the Indian people requires the highest standard of care and conduct in dealing with their resources. Quite clearly the intent of legislation which delegates to you the authority to handle Indian trust resources was not enaced for the purpose of bringing harm to the Indian people, but rather was enacted for their benefit.

The President recognized these special responsibilities when in a report to the Congress, July, 1970, he stated "The United States Government acts as a legal trustee for the land and water rights of American Indians. . . . Every trustee has a legal obligation to advance the interests of beneficiaries of the trust without reservation and with the highest degree of diligence and skill."

As the demand grows for these trust resources, the standard of care by which the trustee will be guided in the exercise of his duties must be more sharply defined than ever before. Therefore it appears unavoidable for all concerned that your decision should be based solely on the narrow issue of compliance.

We eagerly await your decision and written opinion on this case which has so much bearing on the future on the Northern Cheyenne Indians.

Sincerely yours,

/s/ MIKE MANSFIELD.

FEBRUARY 20, 1970.

Mr. TOM C. KOROLOGOS,
Deputy Assistant to the President for Legislative Affairs, The White House, Washington, D.C.

DEAR TOM: On February 25th, Allen Rowland, President of the Northern Cheyenne Tribe and a delegation from his Montana reservation have an appointment with Len Garment to discuss the cancellation of coal leases on their reservation.

This matter, now before the Secretary of the Interior, is one of considerable concern to the Northern Cheyenne and the Montana Congressional Delegation. They have our

support, and I would appreciate anything the White House can do to assist them.

Sincerely yours,

MIKE MANSFIELD.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Does the acting minority leader desire to be heard?

Mr. GRIFFIN. No.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of routine morning business, not to extend beyond 11:30 a.m., with statements therein limited to 5 minutes.

Is there morning business?

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

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

The legislative clerk proceeded to call the roll.

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

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

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A concurrent resolution of the Legislature of the State of West Virginia. Referred to the Committee on Public Works:

"HOUSE CONCURRENT RESOLUTION No. 5

"A resolution memorializing the Federal Energy Administration to consider the feasibility of implementation of a hydroelectric facility at the Tygart Dar, Taylor County, West Virginia, as a means of providing an additional source of electricity during the energy crisis.

"Whereas, The recent energy crisis necessitates full utilization of all energy producing resources; and

"Whereas, A possible source of clean and efficient energy for production of hydroelectric power now exists at the Tygart Dam, near Grafton in Taylor County; and

"Whereas, The Tygart Dam was constructed in 1938 with the possible potential for conversion to the production of hydroelectric power; and

"Whereas, Now is the time for the study of the feasibility and potential for production of hydroelectric power at the Tygart Dam by the appropriate agency charged with responsibility of administering energy resources; therefore, be it

"Resolved by the Legislature of West Virginia:

"That it memorialize the Federal Energy Administration to study the feasibility and potential for production of hydroelectric power at the Tygart Dam, Taylor County, West Virginia; and, be it

"Further Resolved, That true copies of this resolution be sent to the Honorable William Simon, Director, Federal Energy Administration, Washington, D.C., to members of the West Virginia Congressional Delegation, to the Clerk of the United States Senate, to the Clerk of the United States House of Representatives, to the United States Army Corps of Engineers, Pittsburgh District, Pittsburgh, Pennsylvania 15219 and to the West Virginia Department of Natural Resources.

"Adopted by the West Virginia Legislature February 8, 1974.

"LEWIS N. MCMANUS,
"Speaker of the House of Delegates.
"C. A. BLANKENSHIP,
"Clerk of the House of Delegates."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ERVIN, from the committee on the Judiciary, without amendment:

S. 1688. A bill to protect the civilian employees of the executive branch of the U.S. Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy (Rept. No. 93-724).

EXECUTIVE REPORTS OF A COMMITTEE

Mr. STENNIS. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nominations of Lt. Gen. Robert Edmondston Coffin, U.S. Army to be placed on the retired list in that grade; Rear Adm. Emmett H. Tidd, U.S. Navy, to be promoted to the grade of vice admiral; and six captains—staff corps—for temporary promotion to the grade of rear admiral; Brig. Gen. John J. Pesch, Air National Guard for promotion to temporary major general, U.S. Air Force. I ask that these names be placed on the Executive Calendar.

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

Mr. STENNIS. Mr. President, in addition, there are 763 in the Army for temporary promotion to the grade of colonel and below and 990 in the Reserve of the Army for promotion to the grade of colonel and below. In the Marine Corps, there are 345 for promotion to the grade of captain and below, one for reappointment to the garade of chief warrant officer and one Navy enlisted scientific education program graduate for permanent appointment to second lieutenant U.S. Marine Corps, and two Naval ROTC graduates for permanent appointment to second lieutenant U.S. Marine Corps. In the Reserve of the Air Force there are 47 for promotion to the grade of colonel and below. I ask unanimous consent that these nominations lie on the Secretary's desk, for the information of any Senator.

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

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. TAFT:

S. 3097. A bill to amend the Rail Passenger Service Act of 1970 in order to provide for a demonstration project providing certain rail transportation for highway recreational vehicles. Referred to the Committee on Commerce.

By Mr. DOLE (for himself and Mr. HUGH SCOTT):

S. 3098. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOMENICI (for himself, Mr. PROXMIRE, Mr. EASTLAND, and Mr. DOMINICK):

S. 3099. A bill to require the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment of such a loan by any person suffering reschedule repayment of such a loan by any person suffering substantial economic harm as a result of the energy crisis, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. BEALL (for himself, Mr. DOMENICI, and Mr. TAFT):

S. 3100. A bill to amend the Older Americans Act of 1965 to extend the Nutrition Program for the Elderly. Referred to the Committee on Labor and Public Welfare.

By Mr. BROCK:

S. 3101. A bill to prescribe a standard for increasing the money supply. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. WILLIAM L. SCOTT:

S. 3102. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973 on the last Sunday of October 1974, and to amend the Uniform Time Act of 1966 in order to provide that daylight saving time as provided for under such act shall be from the last Sunday in February until the last Sunday in October of each year. Referred to the Committee on Commerce.

By Mr. PROXMIRE:

S. 3103. A bill for the relief of Abram Aguirre-Gonzalez and Hilario Aquirre-Martinez. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 3104. A bill to promote rail-highway safety by requiring light-reflecting markings on railroad locomotives and cars. Referred to the Committee on Commerce.

By Mr. MONDALE:

S. 3105. A bill for the relief of Junjiro Tsuji. Referred to the Committee on the Judiciary.

By Mr. HUMPHREY:

S. 3106. A bill to amend the Social Security Act to provide for improvements in the program relating to diagnosis, screening, and referral of child health and maternal conditions established by title V of such act. Referred to the Committee on Finance.

By Mr. BROCK:

S. 3107. A bill to make unlawful the transportation, sale, or receipt of counterfeit recordings. Referred to the Committee on the Judiciary.

By Mr. TAFT:

S.J. Res. 194. A joint resolution to authorize the President to proclaim the 22d day of April of each year as Queen Isabella Day. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TAFT:

S. 3097. A bill to amend the Rail Passenger Service Act of 1970 in order to provide for a demonstration project providing certain rail transportation for highway recreational vehicles. Referred to the Committee on Commerce.

Mr. TAFT. Mr. President, I introduce a bill to direct Amtrak to undertake a demonstration project of a train to transport recreation vehicles from major urban centers to major recreational areas.

The last 10 years have seen the growth

of great public interest in recreation vehicles—or campers, as they are usually called. In the form either of a trailer or a self-propelled vehicle, the camper has become an important part of the recreation of many citizens. It enables families to travel inexpensively yet in comfort, to see the glories of nature while retaining indoor plumbing.

In Ohio alone, over 140,000 campers are owned. Ohio has 33 manufacturers of recreation vehicles, with a yearly production of 12,000. I am sure my colleagues will find the citizens of their own States equally involved with recreation vehicles.

The recreation vehicle has been hard hit by the fuel shortage. In the face of the inability to obtain gasoline, and the high price of that which is available, the sales and value of recreation vehicles have dropped, and many people are wondering if they will be able to make use of their investment in a camper.

I am proposing an exploration of the concept of a train that would transport recreation vehicles with their owners from metropolitan population centers to recreation areas. Such a train would consist of flat cars with electricity, water, and sewage facilities. You would drive on board, in say, Cleveland, hook up your utilities, and ride, in your recreation vehicle, to Florida, California, or Wyoming. There you would have just a short drive to your campsite; and at the end of your vacation, you would drive back to the station, meet the train, and go back to Cleveland by rail.

I think this is a practical proposal. The success of auto-train has shown that people will use trains on which they can transport their vehicles. The train would not only save gas, and eliminate the factor of uncertain fuel supplies for recreation vehicle owners, it would also save vacation time: On the train, a family on vacation would move day and night to or from their camping area. Also, because people would ride in their recreation vehicles on flat cars, no scarce railroad passenger cars would be required.

Such a train, experimentally on, for example, a Boston-New York-Cleveland-Chicago-Colorado loop route through the summer, could provide a very useful service to a large number of Americans. I hope my colleagues will join with me in authorizing such an experimental demonstration project.

By Mr. DOLE (for himself and Mr. HUGH SCOTT):

S. 3098. A bill to amend the Emergency Petroleum Allocation Act of 1973. Referred to the Committee on Interior and Insular Affairs.

PLASTIC FEEDSTOCKS ALLOCATION PROGRAM

Mr. DOLE. Mr. President, the independent plastic process industry in Kansas and across the Nation has faced a disastrous trend in recent months. In spite of efforts and measures to increase the supply, plastic materials essential to plastic processing have become more and more difficult for independent processors to purchase. The result has been financial ruin or near bankruptcy for many of them. Since the independent processors represent a substantial and vital part of our Nation's economy, this development should be of great concern to all of us here.

To remedy this situation, I am introducing legislation today to amend the Emergency Petroleum Allocation Act of 1973 to provide for the mandatory allocation of plastic feedstocks produced in or imported into the United States.

VITAL INDUSTRY

There are over 8,000 plastics processors in the United States. According to the Organization of Plastic Processors, they directly employ about 600,000 people. The employment of about 11,000,000 people depends on the products they make. About 6,500 of the plastics processors are independent companies. Most of them can be classified as small business without a broad and diverse economic base which would permit financial losses for more than a brief period.

Plastic processors produce a broad range of items—from pipe fittings vital to the oil industry to toys for children. Regardless of their size and products, plastics processors represent an important and substantial part of the economy—in Kansas and the rest of the country.

INPUTS NOT AVAILABLE

The basic inputs to the plastics processing industry are several intermediate compounds known variously as plastic materials, plastic resins or plastic feedstocks. To avoid confusion, I have used the term plastic feedstocks in my bill.

Although there are numerous plastic feedstocks, six major ones are difficult for independent processors to obtain. These are polyvinyl chloride, polystyrene, low-density polyethylene, high-density polyethylene, polypropylene, and phenolic. This legislation is aimed primarily at the allocation of these materials.

Plastic feedstocks are made by a number of large corporate chemical companies. These major corporations convert petrochemical feedstocks into petrochemicals from which plastic feedstocks are further derived.

The distinction between petrochemical feedstocks and plastic feedstocks should be emphasized. Petrochemical feedstocks are currently being allocated to obtain a fair and equitable distribution. Plastic feedstocks are not.

FAILURE OF RELIEF EFFORTS

Petrochemical feedstocks are covered by the mandatory allocation program published on January 15, 1974. These regulations provide for an allocation of 100 percent of the current requirements of petrochemical producers. It was assumed that a normal supply of petrochemical feedstocks would result in a normal supply of plastic feedstocks. However, this expectation has not taken place and the independent plastic processors have been unable to obtain the necessary materials.

ONE-SIDED COMPETITION

The major chemical and oil companies which produce plastic feedstocks are engaged in their own downstream plastics processing through their subsidiary processors. These subsidiary or "captive" processors are in direct competition with the independents.

Under normal circumstances, the major companies produce more plastic feedstocks than their own "captive" processors use. However, the shortage of petroleum products has resulted in a cutback in the production of plastic resins. As might be expected, the majors have supplied their subsidiaries first, letting the independents have what is left over. Under circumstances of a shortage, the independents are bound to be forced out of business unless some provision is made for equitable distribution. The plastic feedstocks allocation program set forth in this bill is designed to provide a more equitable distribution.

RESULT OF INACTION

Unless this legislation is acted on promptly, hundreds of plastics processors will continue to be forced into bankruptcy. Nationwide, over 500 independent processors have already been forced out of business for lack of new materials. And it is estimated that in the next 4 to 6 months, an additional 1,000 processors will be forced to close their doors, resulting in huge economic and job losses.

The number of companies forced out of business is only one measurement of the problem. In a recent study conducted by Arthur Anderson & Co. among a representative sampling of independent processors in the Kansas City area, all but one of the companies contacted indicated a cutback in supplies. As of December 1973, over half of those polled experienced cutbacks in operations of 50 percent or more compared with the operation in the first half of 1973—resulting in a sharp labor cutback and severe financial hardship for the companies and their employees.

Statistics provided by the Organization of Plastics Processors indicate that exports of plastic feedstocks have increased during the same period, some as much as 200 percent. The "captive" processors of the major companies continue to operate at full capacity, accepting new customers.

Mr. President, I do not believe it is the intent of Congress or the Federal petroleum allocation program to force the independent plastics processors into ruin. The independents need, and must have, an adequate supply of plastic feedstocks to stay in operation. They are asking for an equitable and fair distribution of materials which will not disrupt and dislocate markets, force them out of business, and lessen competition, as is now the case. I do not think this is too much to ask for.

TIME FOR FURTHER ACTION

All efforts to relieve the situation up to this point have failed. My own requests to the industry to relieve the severe hardship cases have fallen on deaf ears. Price modificiations by the Cost of Living Council and the Federal Energy Office to encourage greater production of plastic feedstocks have failed to relieve

the problems of the independents. And as I mentioned before, the allocation of petrochemical feedstocks has not resolved the inadequate supply of plastic feedstocks. The time has come for an allocation program as set forth in this legislation.

Federal Energy Administrator William Simon has stated that the Emergency Petroleum Allocation Act, as presently written, does not give him authority to allocate plastic feedstocks. This legislation I am introducing will provide the necessary authority.

Failure to act could ultimately lead to the demise of the independent processing industry, lead to further inflationary trends throughout the economy, and foster anticompetitive practices in the petrochemical industry.

Mr. President, the need for this legislation is clear. I urge my colleagues to join me in support of this important bill and in securing its early passage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3098

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Emergency Petroleum Allocation Act of 1973 is amended by inserting immediately after section 4 thereof the following new section:

"SEC. 4A. (a) Not later than 15 days after the date of enactment of this section, the President shall, by regulation, provide for the mandatory allocation of plastic feedstocks produced in or imported into the United States.

"(b) The regulations prescribed under subsection (a) shall provide, to the maximum extent practicable, for the—

"(1) preservation of an economically sound and competitive plastics industry, and the preservation of the competitive viability of independent plastics processors and small plastics processors; and

"(2) equitable distribution of plastic feedstocks at equitable prices among all regions and areas of the United States and sectors of the plastics industry, including independent plastics processors and small plastics processors.

"(c) The mandatory allocation program established under this section shall be so structured as to result, during each period to which the regulation applies, in the allocation of plastic feedstocks to each plastics processor in an amount not less than the amount sold or otherwise supplied to such plastics processor during the corresponding period of 1973, adjusted to provide a pro rata reduction in the amount allocated to each such processor if the aggregate amount of such product produced in or imported into the United States is less than the aggregate amount produced and imported in 1973.

"(d) For the purposes of this section—

"(1) 'plastic feedstocks' includes, but is not limited to, those petrochemical derivatives used by plastics processors as raw materials for their operations, such as polystyrene, polyethylene (both high and low density), polypropylene, polyvinyl chloride, and other thermoplastic and thermosetting resins; and

"(2) 'plastics processors' includes all persons engaged in the—

"(A) processing of plastic feedstocks for sale as plastic products;

"(B) processing of plastic feedstocks for use as manufacturing components; or

"(C) processing of plastic feedstocks for use by processors covered by clauses (A) and (B) of this subsection.".

By Mr. DOMENICI (for himself, Mr. PROXMIRE, Mr. EASTLAND, and Mr. DOMINICK):

S. 3099. A bill to require the administrator of any direct Federal loan program or any federally guaranteed loan program to renegotiate or reschedule repayment of such a loan by any person suffering reschedule repayment of such a loan by any person suffering substantial economic harm as a result of the energy crisis, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. DOMENICI. Mr. President, we all are aware that all levels of government are attempting to cope with current energy shortages and to formulate long-range energy conservation plans. The Congress has passed emergency energy conservation legislation and the President has instituted administrative measures to conserve energy. In addition, our citizens have been asked to comply voluntarily with some stringent, yet very necessary energy savings steps.

I am concerned, Mr. President, that these factors will combine to create economic hardships on individuals and businesses. Of course, some hardship, some disruption of normal business activity is inevitable under these circumstances and we must all be prepared to bear an equitable part of that burden. There is no doubt in my mind that the American people will respond to this challenge as magnificently, as unselfishly as they have at times in this Nation's history when sacrifices and sharing have been required for the common good.

Today I address a specific problem which will be generated by compliance with energy conservation measures. Mr. President, there are many thousands of individuals and businesses across this country who have been able to take advantage of the programs of the Federal Government to loan or guarantee the loan of money for business or personal purposes. Undoubtedly, many of these persons and businesses will suffer economic losses due to the energy shortage and conservation measures implemented to equitably distribute the shortage while carrying on the vital activities on which our continuance as a strong, free nation depends. Undoubtedly, some of these losses will be so great as to prevent repayment of Federal loans, both direct and guaranteed, on schedules established before the adverse impact of energy conservation programs.

These conservation measures instituted by the Government are in the public interest. Of that, there is no doubt. Accordingly, it is in the public interest for individuals and organizations to comply and cooperate to the fullest extent with such conservation measures. In other words, Mr. President, the countermeasures to the energy crisis, mandated by the Federal Government in the public interest, could in many instances, work very serious hardships on individuals and businesses now operating under Federal loans. It is encumbent on the Government, in my opinion, to insure that these entities do not suffer out of proportion because of the national effort to respond to the energy crisis. This is entirely consistent with the basic premise which is the stated Government policy and the intent of Congress—that all Americans should share an equal part of the burden.

Section 1 of the bill I introduced today directs appropriate Federal agencies to make adjustments and allowance with regard to repayment of Federal direct and guaranteed loans where adherence to the original terms of such loans becomes impossible as a direct result of Federal programs to conserve energy.

Mr. President, literally thousands of these situations could be conceived, but I want to cite at this point three examples of business enterprises in my home State of New Mexico that have already experienced severe adverse economic impact. Obviously, the service station operators have experienced severe difficulties in operating of their small businesses. Their problems have been well documented by the media to the extent that they do not require additional delineation here. The provisions of this bill may well prove crucial to the survival of a great many of these service station operators who are vital to the delivery of our gasoline supplies, reduced though they may be.

The situation may be just as critical for the recreation industry in New Mexico since most of those businesses depend heavily on weekend activities and since many of them require more than a tankful of gas in the round-trip from major population centers. A drastic decline in business is the probable result when the full range of energy conservation measures have been implemented.

I am concerned and disturbed that vacation and recreation plans of countless people will be interfered with, but I am even more concerned for the people who depend for their livelihood on recreational enterprises—those who own and operate the business and those who are employed by those businesses. The ripple effect in the small communities in New Mexico would be disastrous. We can ease those hardships by allowing rescheduling of Federal direct and guaranteed loans to affected businesses and by providing additional loans under the provisions of section 2 of this bill.

To do less, in my opinion would be a dereliction of our duty, feeling as I do that when we authorize the intrusion of the Government into people's livelihood, albeit in a good purpose, we have the obligation to mitigate the adverse effects of that intrusion to the maximum extent possible. Certainly included with this obligation is the rescheduling of loans controlled by the Federal Government.

Another important segment of the economy in New Mexico is the general aviation industry. New Mexico shares with only a few other States its immense dispersion of major population areas and centers of commerce which dictates the conduct of business by aircraft to an extent far greater than in most States. Information available to me indicates that there are approximately 5,500 licensed

pilots in New Mexico and that there are approximately 3,500 aircraft in the general aviation category. Of the total flying hours by these pilots in these aircraft, fully 50 percent is related to transaction of business. In other words, the use of aircraft is critical to business and commerce in New Mexico. Consequently, the fuel restrictions which are being implemented for general aviation will be felt much more severely in New Mexico than in most other States. I want to provide a means to allow those who cannot meet Federal loan repayment schedules as a result of the fuel reductions to be able to reschedule those payments rather than lose the business or default on the payment.

Certainly the problems of those business enterprises which I have just enumerated are not restricted to my home State of New Mexico. Additionally, these are only three of the many types of small businesses currently affected by the energy crisis. I have commented sufficiently, I believe, upon the first two sections of the bill I am introducing today. Section 3 authorizes loans to small business but these loans under section 3 are not predicated upon the existence of prior Federal direct or guaranteed loans.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 3099

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) every officer or agency of the United States which administers a direct loan porgram or guarantees a loan shall renegotiate, extend the maturity of, or in any other way reschedule, as appropriate, the repayment of any direct or guaranteed loan under that program by any person who suffers substantial economic harm as a direct result of the national effort to conserve energy during the energy crisis.

(b) The provisions of this subsection shall apply to any direct or guaranteed Federal loan final payment of which is due after December 31, 1973.

Sec. 2. (a) Except as provided in section 3 of this Act, an officer or agency of the United States which administers a direct loan program or guarantees a loan program may make an additional loan (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) to any person who has received any loan under such program if, in the determination of the officer or agency—

(1) such additional loan is necessary to assist that person to repay his loan under such program;

(2) there is a reasonable likelihood of repayment of such additional loan; and

(3) such person has suffered substantial economic harm as a direct result of the national effort to conserve energy during the energy crisis.

(b) An officer or agency of the United States which makes an additional loan under the provisions of subsection (a) of this section may defer repayment of the principal of that loan for a period ending not more than two years after the date on which additional loan is made.

SEC. 3. (a) Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and" and by inserting immediately after paragraph (7) the following new paragraph:

"(8) during the three-year period beginning on the date of enactment of this paragraph to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to assist any small business concern in meeting mortgage payments and operating costs, if there is reasonable assurance of repayment and the Administration determines that such concern has suffered or shall suffer substantial economic injury as the result of actions taken by the Federal Government for the purpose of conserving energy.".

(b) The Small Business Administration may allow the recipient of any loan authorized under the amendment made by subsection (a) to defer any payment of principal on such loan for a period ending not more than two years after the date of receipt of the loan.

By Mr. BEALL (for himself, Mr. DOMENICI, and Mr. TAFT):

S. 3100. A bill to amend the Older Americans Act of 1965 to extend the Nutrition Program for the Elderly. Referred to the Committee on Labor and Public Welfare.

Mr. BEALL. Mr. President, I am sending to the desk, legislation that would extend title VII of the Older Americans Comprehensive Services Amendments of 1973—the Older Americans Act of 1965 as amended.

In March of 1972, the Congress passed and the President signed into law legislation establishing a 2-year program of nutritional services for our Nation's senior citizens. This legislation was subsequently made a part of the Older Americans Comprehensive Services Amendments of 1973 which was signed into law by President Nixon last May 3. The various titles of the Older Americans Act have a 3-year lifetime with the exception of title VII which was limited to 2 years. Thus the nutrition program for senior citizens expires at the end of this fiscal year.

The nutrition program was further delayed by the failure of Congress to enact an acceptable Labor-HEW Appropriation Act for fiscal year 1973. Even though authorization legislation had been approved, the nutrition programs were unable to begin until funds were dually appropriated. This being the case, most of the money for the nutrition programs across our Nation was not obligated until the fourth quarter of 1973. Preliminary data would indicate that the program is off to a good start but it is probably still too soon to tell whether or not the existing legislation is adequate to meet the needs intended by Congress. I believe it would be prudent for us to extend this program for 1 additional year thus making it conform with the other titles of the Older American Act. This time next year it would be possible for us to have a far clearer perspective of the functioning of the nutrition projects and the Congress can more effectively legislate the future direction of this vital program.

In conclusion Mr. President, my legislation would extend for 1 year the existing title VII of the Older Americans Act of 1965, as amended. S. 3100 provides "such sums shall be necessary" to carry out the third year of this program.

Mr. President I ask unanimous consent that the text of this bill be printed in the RECORD at the conclusion of my remarks along with the letter from the Secretary of Health, Education, and Welfare, the Honorable Caspar W. Weinberger, to the Vice President of the United States transmitting this legislation to the Congress.

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

S. 3100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 708 of the Older Americans Act of 1965, 86 Stat. 94 42 U.S.C. 3045g, is amended in the first sentence thereof (A) by striking out "and" before $150,000,000", and (B) by inserting after "1974" the following: "and such sums as may be necessary for the succeeding fiscal year".

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
February 13, 1974.

HON. GERALD FORD,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the congress is a draft bill "To amend the Older Americans Act of 1965 to extend the Nutrition Program for the Elderly."

The bill would extend title VII of the Older Americans Act of 1965 for one year. The purpose of so short an extension is to conform the program's expiration date to that of the remaining titles of the Act. It is hoped, thereby, to facilitate a comprehensive review, both by the Administration and the Congress, of all of the Act's authorities in fiscal year 1975.

We ask that the draft bill be favorably considered.

We are advised by the Office of Management and Budget that enactment of this draft bill would be consistent with the Administration's objectives.

Sincerely,

CASPAR W. WEINBERGER,
Secretary.

By Mr. BROCK:

S. 3101. A bill to prescribe a standard for increasing the money supply. Referred to the Committee on Banking, Housing and Urban Affairs.

ECONOMIC STABILITY ACT OF 1974

Mr. BROCK. Mr. President, the economy of our Nation is a nexus of interrelated dynamics. Any tinkering with it, no matter how small, usually has an effect on the whole. We have had much too much of it in the past 2 years, and now we face a situation that can only be solved by moving to the most competent ruler of our economy, free enterprise.

With this is mind, I am today introducing a bill which I think can at least give us a start in permanently stemming the inflationary tide while insuring continued economic growth. The measure is the Economic Stability Act of 1974.

There is at present an agreement between the Federal Reserve System and the Joint Economic Committee by which the Federal Reserve provides the com-

mittee each quarter with a report on monetary and credit conditions. Included in this report is an estimate of the growth in the money supply. Theoretically, when the money supply grows by less than 2 percent or more than 6 percent on an annual basis, the Federal Reserve explains why.

However, this agreement has not in all respects been adequately adhered to, or complied with. The quarterly report gives little information that is not included in the monthly Fed bulletins. Deviations from the 2-to-6 percent growth rate in money are dealt with superficially, or not at all.

Of course, the Fed is not completely to blame for this failure. Accurate measurement of the money supply is a difficult task; understanding the relationship between the Fed's policies and the consequences for the money supply is similarly difficult.

By way of explanation, in raising these issues as matters of special importance, I am not supporting a pure monetarist position concerning the relation between changes in the money supply and subsequent changes in economic activity. Monetarists maintain that money is of primary importance. I cannot accept such a categorical assumption. However, virtually all economists acknowledge that the supply of money is a major factor in providing the basis for economic growth without excessive inflation.

A careful study of American history reveals the following two crucial facts:

First. There has never been a significant inflation which was not preceded by rapid increase in the money supply.

Second. There has not been a recession in the United States in the last one hundred years which was not preceded by a nonincreasing money supply.

The evidence, taken together with the sophisticated studies of the Fderal Reserve itself, should come as no surprise. An economy needs money to facilitate exchange. A growing economy requires a growing money supply. When that growth is choked off, so too is the growth of the economy and recession or depression ensuses. Similarly, when the money supply grows more rapidly than the economy, that is the total production of real goods and services, we have the age-old phenomenon of too much money causing too few goods. The price of these goods, naturally, is bid up. And as people learn to expect this inflation, they attempt to anticipate it by making purchases before prices rise still more. In so doing, they feed the inflation. By spending on scarce resources, they bid prices up still further.

Wage and price controls cannot stem this tide. When people have money and wish to spend it, they will do so, and the so-called black markets, which are of course, the real markets, reflecting people's wishes, develop.

At least a partial solution to this problem appears fairly clear. It is one which many economists have been advocating for some years.

It would be desirable to have the money supply grow at a steady pace, between a 2- and 5-percent annual rate each quarter. These figures are not arbitrary. The American economy, over the long run, grows by about 3 percent in real production each year.

The Economic Stability Act of 1974, by serving to clarify the informal agreement between the Federal Reserve System and the Joint Economic Committee, can significantly increase the probability of insuring steady economic growth with a minimum of inflation and unemployment.

I would stress that this act in no way instructs the Federal Reserve on matters relating to its modus vivendi. The Reserve will proceed as before to exercise its technical expertise as it deems appropriate. What we will have done is to alter the broad goals of our institutions for the benefit of the Nation.

Specifically, the act instructs the Federal Reserve System to increase the money supply within those limits. It does not instruct the Federal Reserve System how to use its policy tools, and it allows the Federal Reserve to go beyond those limits in cases of unusual economic conditions.

In so many words, I propose no panacea, nor do I consider these concepts to be inflexible. Perhaps those are equally effective means of stabilizing, while supporting, sound growth. This bill reflects my desire to start the debate. I hope it will lead to constructive change.

By Mr. WILLIAM L. SCOTT:

S. 3102. A bill to terminate the Emergency Daylight Saving Time Energy Conservation Act of 1973 on the last Sunday of October 1974, and to amend the Uniform Time Act of 1966 in order to provide that daylight saving time as provided for under such act shall be from the last Sunday in February until the last Sunday in October of each year. Referred to the Committee on Commerce.

Mr. WILLIAM L. SCOTT. Mr. President, I send to the desk a bill with regard to a change in daylight saving time and ask that it be printed and referred to the appropriate committee.

The PRESIDING OFFICER. Without objection, the bill will be printed; and, without objection, the bill will be received and referred to the appropriate committee.

Mr. WILLIAM L. SCOTT. Mr. President, a few months ago, Congress passed an emergency measure to provide for daylight saving time on a year-round basis. It was thought that year-round daylight saving time would be a reasonable method of conserving energy. It was estimated that daylight saving time would reduce electrical consumption by 1 or 2 percent. If this figure is translated into barrels of oil it would amount to approximately 100,000 barrels of oil per day. While preliminary reports indicate that some degree of success has been achieved in energy conservation, many people report inconveniences and in certain cases tragic consequences. The problems caused by schoolchildren waiting for schoolbuses in the predawn hours and the unfortunate death of a number of children in Florida has caused great concern to many parents in Virginia and across the country. It has been reported that some children have been abducted and molested while waiting for their buses or walking to school. I have heard that workmen are also going to their jobs before daylight and it has been reported that many tradesmen are unable to perform their work because of the darkness. For example, carpenters are unable to drive nails, farmers are hindered in their chores and many construction workers are unable to begin work.

I believe that it is possible to lessen the danger to children and at the same time effect a savings in energy, and to this end I send to the desk a bill to amend the Uniform Time Act of 1966 and the Emergency Daylight Saving Time Energy Conservation Act of 1973. The purpose of this bill is to provide that daylight saving time would begin on the last Sunday in February and extend through the last Sunday in October of each year. Adoption of this proposal would allow the country to observe 8 months of daylight saving time during which sunrise would not occur until 8 a.m. in the morning or later in many parts of the country. The Library of Congress has furnished my office with separate reports indicating the starting time of school systems in select communities in each of the 4 time zones in the United States and the Washington, D.C. metropolitan area. The reports include the sunrise/sunset times in these areas. This information indicates that a 2-month extension of daylight saving time would not cause any school system to start its elementary schools before sunrise. I ask unanimous consent to have the reports of the Library of Congress inserted at the conclusion of my remarks.

Mr. President, the enactment of this bill would alleviate the problems caused by the predawn transportation of schoolchildren and the disruptions caused in industries, which begin work at an early hour. This appears to be a reasonable compromise to the problem of year-round daylight savings and what we have had in the hope. I hope the Congress will give serious consideration to the bill.

Mr. President, I ask unanimous consent to have printed in the RECORD two research memorandums from the Library of Congress.

There being no objection, the two memorandums were ordered to be printed in the RECORD, as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., February 5, 1974.

To the Honorable WILLIAM L. SCOTT, Attn: Gus Fritchie.

From Congressional Reference Division.

Subject Sunrise/Sunset times and starting times of Washington, D.C., area public schools.

Enclosed are sheets containing sunrise and sunset times for two major cities in each of the four time zones in the United States. The times are Daylight Saving Time (DST).

The calculations were based on the method contained in tables supplied by the U.S. Naval Observatory, and printed in the "Official Associated Press Almanac 1973." Mrs. Morrison of the Naval Observatory Nautical Almanac Section advised us that 1973 figures would suffice for use in determining 1974 sunrise/sunset calculations, as the variation from year to year is so slight as to be negligible.

Also included are the starting times for public elementary, junior high and senior high schools for the following area jurisdictions: Washington, D.C., Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church, also in Virginia.

DONALD WITTIG.

WASHINGTON, D.C.—EASTERN TIME ZONE (DAY LIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:37	6:06
Nov. 16	7:54	5:51
Nov. 26	8:05	5:45
Dec. 1	8:10	5:43
Dec. 16	8:23	5:44
Dec. 31	8:30	5:52
Jan. 5	8:30	5:57
Jan. 15	8:28	6:07
Jan. 30	8:19	6:25
Feb. 4	8:14	6:31
Feb. 14	8:03	6:42
Feb. 24	7:49	6:54
Mar. 1	7:42	7:00
Mar. 16	7:19	7:16
Mar. 31	6:54	7:31

CRS-3

CLEVELAND, OHIO—EASTERN TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:53	6:22
Nov. 16	8:10	6:07
Nov. 26	8:21	6:01
Dec. 1	8:26	5:59
Dec. 16	8:39	6:00
Dec. 31	8:46	6:08
Jan. 5	8:46	6:13
Jan. 15	8:44	6:23
Jan. 30	8:35	6:41
Feb. 4	8:30	6:47
Feb. 14	8:19	6:58
Feb. 24	8:05	7:10
Mar. 1	7:58	7:16
Mar. 16	7:35	7:32
Mar. 31	8:10	7:47

CRS-4

ST. LOUIS, MO., CENTRAL TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:29	5:58
Nov. 16	7:46	5:43
Nov. 26	7:57	5:37
Dec. 1	8:02	5:35
Dec. 16	8:15	5:36
Dec. 31	8:22	5:44
Jan. 5	8:22	5:49
Jan. 15	8:20	5:59
Jan. 30	8:11	6:17
Feb. 4	8:06	6:23
Feb. 14	7:55	6:34
Feb. 24	7:41	6:46
Mar. 1	7:34	6:52
Mar. 16	7:11	7:08
Mar. 31	6:46	7:23

CRS-5

MINNEAPOLIS, MINN., CENTRAL TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:50	6:01
Nov. 16	8:11	5:43
Nov. 26	8:24	5:35
Dec. 1	8:30	5:32
Dec. 16	8:44	5:31
Dec. 31	8:50	5:40
Jan. 5	8:50	5:40
Jan. 15	8:47	5:56
Jan. 30	8:35	6:17
Feb. 4	8:29	6:24
Feb. 14	8:15	6:38
Feb. 24	8:59	6:52
Mar. 1	7:52	6:59
Mar. 16	7:23	7:19
Mar. 31	6:55	7:38

CRS-6

PHOENIX, ARIZ., MOUNTAIN TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:49	6:06
Nov. 16	8:03	5:54
Nov. 26	8:13	5:50
Dec. 1	8:17	5:49
Dec. 16	8:29	5:50
Dec. 31	8:36	5:58
Jan. 5	8:37	6:02
Jan. 15	8:36	6:12
Jan. 30	8:29	6:27
Feb. 4	8:25	6:32
Feb. 14	8:16	6:42
Feb. 24	8:04	6:51
Mar. 1	7:58	6:56
Mar. 16	7:38	7:08
Mar. 31	7:17	7:20

CRS-7

DENVER, COLO.—MOUNTAIN TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:33	6:02
Nov. 16	7:50	5:47
Nov. 26	8:01	5:51
Dec. 1	8:06	5:39
Dec. 16	8:19	5:40
Dec. 31	8:26	5:48
Jan. 5	8:26	5:53
Jan. 15	8:24	6:03
Jan. 30	8:15	6:21
Feb. 4	8:10	6:27
Feb. 14	7:59	6:38
Feb. 24	7:45	6:50
Mar. 1	7:38	6:56
Mar. 16	7:15	7:12
Mar. 31	6:50	7:27

CRS-8

LOS ANGELES, CALIF.—PACIFIC TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:13	5:58
Nov. 16	7:27	5:46
Nov. 26	7:37	5:42
Dec. 1	7:41	5:41
Dec. 16	7:53	5:42
Dec. 31	8:00	5:50
Jan. 5	8:01	5:54
Jan. 15	8:00	6:04
Jan. 30	7:53	6:19
Feb. 4	7:49	6:24
Feb. 14	7:40	6:34
Feb. 24	7:28	6:43
Mar. 1	7:22	6:48
Mar. 16	7:02	7:00
Mar. 31	6:41	7:12

CRS-9

SEATTLE, WASH.—PACIFIC TIME ZONE (DAYLIGHT SAVING TIME)

	Sunrise (a.m.)	Sunset (p.m.)
Nov. 1	7:48	5:57
Nov. 16	8:07	5:39
Nov. 26	8:20	5:31
Dec. 1	8:26	5:28
Dec. 16	8:40	5:27
Dec. 31	8:46	5:36
Jan. 5	8:46	5:41
Jan. 15	8:43	5:52
Jan. 30	8:31	6:13
Feb. 4	8:25	6:20
Feb. 14	8:11	6:34
Feb. 24	7:55	6:48
Mar. 1	7:47	6:55
Mar. 16	7:19	7:15
Mar. 31	6:51	7:34

CRS-10

STARTING TIMES FOR WASHINGTON, D.C. AREA SCHOOL SYSTEMS (ALL TIMES A.M.)

School system	Senior high	Junior high	Elementary	Comments
District of Columbia	9:00	9:00	9:00	
Montgomery County, Md	8:00	8:30	8:50 and 9:00	Some elementary schools now starting at 8:30 will revert to an 8:15 starting time in mid-February
Prince Georges County, Md	7:30 through 9:30	7:30 through 9:00	8:00 through 9:30	These are the "normal" starting times. County authorities have added ½ hour to these times during the winter DST period. However, "normal" starting times will resume Mar. 11.
Arlington County, Va	8:00	8:30	9:15	The following elementary schools have different starting times: Drew—8:00; Read and Longbranch—8:45.
Fairfax County, Va	7:45 through 8:15	7:50 through 8:40	8:15 through 8:55	
Falls Church, Va	8:30	8:30	8:30	
Alexandria, Va	8:55	8:55	9:00	T.C. Williams senior high school starts at 8:00.

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., February 20, 1974.

To the Honorable William L. Scott. Attn: Gus Fritchie.
From Congressional Reference Division.
Subject Starting Times for Public School Systems in Selected Metropolitan Communities.

Your recent request asked for the starting times of school systems in selected metropolitan communities in each of the four time zones in the United States. The information given following is to supplement similar information on school starting times in the Washington, D.C. metropolitan area. Except where noted, all starting times are A.M., Daylight Saving Time.

City and State	Time zone	Elementary	Junior high	Senior high
Cleveland, Ohio	Eastern	8:30 through 9:30	9:00	9:00.
Minneapolis, Minn	Central	8:30 through 9:00	7:50 through 8:50	7:30 through 8:00.
St. Louis, Mo	Central	8:30	8:45	8:00.
Denver, Colo	Mountain	8:30	7:50	7:00.
Phoenix, Ariz.[1]	Mountain	9:00	8:00	8:00.
Los Angeles, Calif	Pacific	9:00	8:00 through 8:15	7:30 through 8:30.
Seattle, Wash	Pacific	9:00	8:00 through 9:00	8:00.

[1] Mountain standard time.

By Mr. McGOVERN:

S. 3104. A bill to promote rail-highway safety by requiring light reflecting markings on railroad locomotives and cars. Referred to the Committee on Commerce.

PROPOSAL TO ELIMINATE NEEDLESS RAIL-HIGHWAY GRADE CROSSING ACCIDENTS

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill to promote rail-highway safety by requiring light reflecting markings on railroad locomotives and railroad cars.

Every day, every hour, too many are killed or maimed in accidents involving moving vehicles. In spite of some recent decreases because of the lowering of speed limits and less driving as a result of the gasoline shortages the number is still too high.

Now, with new emphasis on the use of railroads, we are running the risk again of rail-highway, grade crossing accidents in increasing numbers. Ten years ago, collisions at grade crossings involving trains and motor vehicles totaled 3,539. These were responsible for 1,432 deaths and 3,676 persons injured.

Even with the rail travel and shipping decline as it has in the past few years, accidents continued. In 1972, for example, 1,500 died and 5,000 were injured. There were 2,263 separate collisions, but this last number does not count all such incidents since it represents only those in which there were $750 or more dollars damage to the vehicles involved.

Particularly disturbing among the accidents are those in which motor vehicles run into the sides of trains. In 1965, there were about 1,215 in which 359 people were killed and 1,419 injured. The record for 1972 was 959 accidents, 253 dead and 1,041 injured. But again, these figures represent only those which cost $750 in damage or caused more than 1 day's disability.

Such accidents are prone to occur mostly at night and they often involve unlighted railway cars, particularly freight.

It must be remembered that rail crossings in rural areas are not the kind one sees in cities, with flashing red lights. In the country, they are unlighted, with often faded letters and even if in the best of condition, difficult to see.

I am firmly convinced that many lives would be saved by using reflective paint on unlighted railroad cars to make the equipment more readily visible, thus, eliminating the hazards of motor vehicles striking the sides of freight cars moving over rail-highway grade crossings.

The bill which I am introducing is a very simple one. It provides the Secretary of Transportation with the authority to establish such orders as may be necessary to require each railroad carrier to place, prior to such date as is established in such orders, on all of its locomotives and cars in service, such light-reflecting markings as the Secretary determines to be the best suited to promote safety at rail-highway crossings. These orders shall also require proper maintenance of such markings and installation of them on locomotives and cars placed in service after such date.

I would like to point out that it would be difficult to find a means of lifesaving at a lower price. This method, consisting only of a strip of reflective paint, is undoubtedly the cheapest safety device obtainable.

In light of anticipated great rail use I very much hope that action will be taken at an early date on this bill designed to save lives. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 3104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 25 of the Interstate Commerce Act (49 U.S.C. 26) is amended by inserting at the end thereof a new subsection as follows:

"(1) The Secretary of Transportation shall establish such orders as may be necessary to require each carrier to place, prior to such date as is established in such order on all of its locomotives and cars in service such light-reflecting paint or order reflector markings as the Secretary determines to be best suited to promote safety at rail-highway crossings. Such orders shall also require proper maintenance of such markings and installation of such markings on locomotives and cars placed in service after such date."

By Mr. HUMPHREY:

S. 3106. A bill to amend the Social Security Act to provide for improvements in the program relating to diagnosis, screening, and referral of child health and maternal conditions established by title V of such act. Referred to the Committee on Finance.

CHILD AND MATERNAL HEALTH CARE EXTENSION ACT

Mr. HUMPHREY. Mr. President, today I am introducing legislation which authorizes a decisive Federal response to the critical deficiencies in the availability as well as the financing of early diagnosis, screening, and treatment of serious child and maternal health conditions within numerous areas of this country and, particularly, among the Nation's lower-income families.

The bill, entitled the "Child and Maternal Health Care Extension Act of 1974," can signal the initiation of a new child and maternal health care policy for the United States—a program which would guarantee that all infants, children, and pregnant women, without regard to their place of residence, family income, or race will have equal access to medical diagnosis, screening, and comprehensive medical care.

The bill is designed specifically to provide the means by which child and maternal health problems in need of medical care can be identified, treated immediately or referred for additional care to major hospital facilities, and financed for low income families unable to purchase the required medical care.

DOCTOR SHORTAGE EMERGENCY

Currently, there is a critical shortage in the United States of medical personnel providing primary health care to children. Statistics presented in the book, "Lengthening Shadows," published by the American Academy of Pediatrics, indicate that between 1948 and 1968 the national proportion of all fully trained physicians who functioned as primary child health care providers fell from 59 to 36 per 100,000 population under 18, a drop of 64 percent.

Although there were 7,500 more practicing pediatricians in 1967 than there were in 1950, the number of general practitioners, the other major group of child primary health care providers, in the same period decreased from about 100,000 to 64,000.

The same pattern of dramatic decreases in the number of primary child health care providers is manifested in the shorter but more recent period between 1963 and 1971. Combining the statistics in "Lengthening Shadows" with the information published by the American Medical Association in its text, "The Distribution of Physicians in the U.S., 1971," demonstrates that during this 8-year period the national number of general practitioners decreased from 69,518 to 54,439, while pediatricians increased from 9,958 to 13,200 and during this same time period the population under 18 years of age increased by more than 6 percent. Since the loss of general practitioners was almost 5 times as great as the gain in pediatricians, there was actually a substantial decrease in the total number of effective primary child health care providers to handle our increased child population.

The decreasing number of primary child health care providers is not the only problem hampering the provision of health services to children. There is also a serious nationwide maldistribution. According to statistics published by the American Medical Association in "The Distribution of Physicians in the U.S. 1971," there are currently 133 counties, having a total population of nearly one-half million persons, which do not have a single active physician. In addition, more than 1,600 counties, with a total population of at least 23 million persons,

do not have an active, resident pediatrician.

While the medical professions have not agreed on the ideal number of primary health care providers per 100,000 children, these counties without a single pediatrician and only a small number of general practitioners are by any standard severely understaffed. Consequently, children of all races, rich and poor alike, residing in these severely understaffed counties, are capriciously denied a basic equality of access to the elementary health care services available to children fortunate enough to reside elsewhere.

FAILURE TO VISIT PHYSICIAN IS WIDESPREAD

Partly as a result of the shortage and maldistribution of primary child health care providers, a disturbing number of our children either have not visited a physician or do so far too infrequently to receive adequate health care. In 1968, according to the 1970 White House Conference on Children and Youth, among those children under 17 years of age, 9.8 million had not seen a physician in a year, 8.8 million had not seen one in 2 to 5 years, and 739,000 had never seen a physician.

A household survey by the National Center for Health Statistics, included in a report for the 1970 White House Conference on Children and Youth, revealed that 18.7 percent of all children 0–5 years old and 39.2 percent of the children 6–16 years of age had not seen a physician in the year prior to the study.

Failure to visit a physician regularly is most serious among low-income families earning less than $3,000 per year. A survey by the National Center for Health Statistics, published in "The Health of Children—1970" revealed that while 74 percent of those children from families earning more than $7,000 annually visited a physician within 1 year of the study, only 52 percent of the children from low-income families did so. The same survey demonstrates that the amount of dental care a child receives follows this same pattern: 62 percent of low-income family children under 17 have never seen a dentist, as compared to 27 percent from high-income families.

Although there is disagreement within the medical professions as to the necessary number of physician and dental care visits for a child, particularly under 6 years of age, it is certainly not zero. In addition, those children seeing a physician at most only once every 2 to 5 years cannot possibly receive the proper medical and dental care to assure safe growth and development.

To improve this Nation's child health care program, the problems caused by the declining numbers as well as the maldistribution of primary child health care providers must be alleviated. Only by addressing these two basic problems can the infrequency of physician visits by such large proportions of American children be reduced, and equal access to child health care be assured for all children regardless of family income or residential location.

ONE BASIC SOLUTION: MOBILE HEALTH CARE FACILITIES

The first substantive part of my bill, section 3, specifically confronts the problems of declining numbers and the maldistribution of primary child health care providers. And it addresses these critical needs through a new and very practical mechanism—the establishment of mobile health care facilities in physician-shortage counties across the Nation.

My bill amends title V of the Social Security Act—Maternal and Child Health and Crippled Children's Services—by adding a new part B to this title, under which the Secretary of Health, Education, and Welfare would make grants to States which submit approved plans for the establishment and operation of mobile health care facilities serving eligible counties. Such counties either would not have a practicing pediatrician, or would have a seriously inadequate number of child health care providers for the population under 18 years of age, as prescribed in regulations to be issued by the Secretary.

These State plans must meet certain important requirements.

In every eligible county in the State there must be a mobile health care team in operation, including a pediatrician and more than one of the following: A pediatric nurse practitioner, a registered nurse, a licensed practical nurse, a dietician, and a health assistant. Emphasis is also placed on the utilization of paraprofessionals and students in medicine and the allied health professions. And, the frequency and locations of mobile health team visits must be clearly spelled out in the State plan.

The key focus of mobile health care teamwork will be careful medical examinations of expectant mothers and children. These examinations must include the diagnosis of the following child health problems:

Child abuse and neglect;
Nutritional deficiencies;
Dental problems;
Emotional problems;
Visual and hearing defects;
Mental retardation and learning disorders;
Crippling and handicapping conditions; and
Catastrophic illnesses.

But the process does not stop here. When these conditions are screened, the child must receive immediate treatment by the mobile health care team, and be referred to the nearest major facility which provides health care on an inpatient or outpatient basis. And this referral must be followed up by a team assistant, to assure that the further required treatment was actually received.

Medical examinations by the mobile health care team are to be free to all children and expectant mothers. The costs of further treatment for lower-income families are to be covered under appropriate public health programs.

PEDIATRIC NURSE PRACTITIONERS

Another step in alleviating the shortage and maldistribution of primary child health care providers is to expand opportunities for education and service as pediatric nurse practitioners.

It is abundantly clear that from the perspectives of time and economy, greater use should be made of pediatric nurse practitioners. Data published for the 1970 White House Conference on Children and Youth, indicate that by spending $19 million over 5 years, 9,500 pediatric nurse practitioners could be trained and who would work under the supervision of about 2,400 physicians. However, to train pediatricians who would provide an equivalent amount of service would require 10 years and $950 million.

Also, in a recent survey of pediatricians, by the American Academy of Pediatrics, more than 50 percent favored delegating to allied health workers, such as pediatric nurse practitioners, such tasks as immunization, providing instructions on child care and feeding, compiling the medical history of the patient and the patient's family, and providing minor medical advice. However, these same pediatricians stated that the major obstacle to the greater use of allied health workers in pediatric practice was the lack of trained workers.

While the Federal Government has provided some moneys for the training of pediatric nurse practitioners, much more needs to be done. To place more emphasis upon this obvious educational need, section 4 of my bill would amend title V, section 511 of the Social Security Act to authorize the Secretary to make grants to institutions of higher learning specifically for the training of pediatric nurse practitioners.

OVERCOMING THE COST BARRIER TO HEALTH CARE

The United States has a comparatively high infant mortality rate—higher than that of 12 other developed nations in the world.

The infant mortality rate varies considerably, however, among economic categories within the United States. As revealed by statistics published in "The Health of Children—1970," the infant mortality rate among low-income families is nearly 63 percent higher than among families with an income greater than $7,000. In a recent HEW publication, "Infant Mortality Rates: Socioeconomic Factors," the authors concluded that infant mortality rates were highest in families which measured low on the socioeconomic variables; an increase in socioeconomic status on any one of the variables was associated with a decrease in infant mortality rates.

One of the factors causing the high infant mortality rate, particularly among the poor, is the lack of pre- and postnatal medical care. The percentage of mothers who receive no prenatal care is 10 times greater among low-income white families than it is among white families earning more than $10,000; the discrepancy between these income categories is even greater when non-white families are considered.

Many of these mothers receiving no prenatal care would be able to receive a diagnosis and some medical assistance from the mobile health care units established under the provisions of the bill I am introducing today.

For those low-income mothers who currently may be fortunate enough to receive prenatal care, most do not have any insurance covering medical costs and hospitalization during delivery or for subsequent treatment. According to sta-

tistics published in "The Health of Children—1970," when family income was under $3,000, 78 percent of white mothers and 82 percent of other mothers had no health insurance. At the family income level of $10,000 and over, about 17.5 percent of white mothers and 36.2 percent of other mothers were without insurance coverage. These discouraging figures indicate a dramatic need for both the provision and the financing of health services for pregnant women and infant children.

After birth, life-threating and catastrophic illness take a toll among our children and usually require large financial expenditures by the family in order to secure remedial medical care. While care for these health conditions is certainly expensive, a larger proportion of children and youth, according to 1968 statistics, was uninsured for hospital and surgical costs than was any other age group. According to the 1970 White House Conference on Children and Youth, 24.9 percent of children under 17 years of age had no surgical insurance and 23.7 percent had no hospital coverage.

The lack of coverage among low-income families is even greater than these figures indicate. Hospital insurance covers only 20 percent of the children in low-income families, while such coverage reaches 83.3 percent of the children in high-income families.

In addition, family medical insurance usually does not cover the considerable expense of treating a catastrophic or life threatening illness.

If we are to guarantee that our children suffering from life-threatening and catastrophic illnesses will receive medical care—and not have such care denied by a family's low income—the Federal Government must begin to provide greater support for such care.

To achieve the goal of greater Federal Government support for the care of these child and maternal health conditions, section 6 of my bill would amend section 505(a)(7) of the Social Security Act to require that as a condition for receiving Federal allotments, State plans must provide for comprehensive health care and services for prematurely born infants and for full-term infants who have defects or conditions which are life theratening or handicaping and which can be corrected or ameloriated.

This section also is amended to require that by fiscal 1979 State plans should provide for comprehensive health care and services to all children under 6 years of age whose health is threateneed or has been impaired seriously by a major trauma, a life-threatening illness, or an illness of catastrophic nature.

Furthermore, section 7 of my bill would amend section 505(a) of the Social Security Act to add a new requirement that States shall have plans to provide comprehensive maternity and infant care for low-income families. This care would include prenatal care, care during and after childbirth, and related hospital services for mothers, and comprehensive medical care for infants during their first year of life.

EARLY DIAGNOSIS AND TREATMENT VITAL

Mr. President, it has become increasingly clear that the most serious need in promoting quality health care for mothers and children in America today is the early identification of health problems and their immediate treatment.

This point is driven home in a recent study of child health care in the Washington, D.C., area, and reported in the Washington Post, of March 1, 1974. The article, by Victor Cohn, and entitled "Health Care for Children Found Poor," notes a high incidence of serious health problems, such as iron deficiency anemia, uncorrected vision defects, and hearing losses among children of upper income neighborhoods as well as in low-income areas.

But the conclusion of the study's director, Dr. David M. Kessner, is the central message of this article, that "either the children had not been screened by doctors, or that a thorough diagnosis had not been made after initial screening tests, or the children had not been properly treated after diagnosis."

I repeat, this conclusion applies to children of families in the upper income brackets as well as to children of poor families. It is a conclusion that has been reached again and again in recent studies of child health problems across our Nation.

It is precisely the central intent of my bill to make early medical examination, diagnosis, screening, and immediate treatment readily accessible to expectant mothers, infants, and children, regardless of income or place of residence. I urge Congress to take action on this priority national program.

Mr. President, I ask unanimous consent to have printed in the RECORD the Washington Post article, and the text of the Child and Maternal Health Care Extension Act.

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

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

HEALTH CARE FOR CHILDREN FOUND POOR

(By Victor Cohn)

One in every four young children studied in both the middle to upper-income Shepherd Park-Takoma neighborhood in Northwest Washington and in largely low-income Congress Heights in Southeast suffer from such serious health problems as iron deficiency anemia and uncorrected vision defects.

In addition, a team of doctors from the Institute of Medicine at the National Academy of Sciences found that 18 per cent of the 2,487 children they studied here suffered from hearing losses and 13 per cent more had definite or suspected ear infections of the kind that lead to hearing loss.

As a result, the doctors concluded that medical care for families in both well-off and poor neighborhoods is ineffective, with the children of wealthier families not always healthier than those with much lower incomes.

Because the serious ear infections, visual defects and iron-deficiency anemia are all easily identifiable and usually easily treatable conditions, Mr. David M. Kessner, the study's director, concluded that either the children had not been screened by doctors, or that a thorough diagnosis had not been made after initial screening tests, or the children had not been properly treated after diagnosis.

The apparently poor health care was found by the doctors to be the same whether the children's families went to private doctors, hospital outpatient clinics, the prepaid Group Health Association, or—in the case of 337 of the children—the public Cardozo Neighborhood Health Center.

Many private doctors and the American Medical Association have long asserted that they give more preventive care than hospital clinics. Spokesmen for prepaid group practices like Washington's Group Health Association have said they give more attention to prevention than any other medical care program in D.C.

But Kessner said that this study shows that much "medical diagnosis, treatment and follow-up are poorly done" in all settings and that some way of measuring health care quality must be built into each.

The study was made during 1970–71 by: (1) picking a representative sample of 1,436 families with children between 6 months and 11 years old in the two primary neighborhoods and 274 families using the Cardozo center (so a neighborhood health center population could be studied too); (2) interviewing all the mothers; (3) giving physical exams to 2,487 children in a special clinic at Children's Hospital; (4) sending questionnaires to more than 300 of the children's doctors and examining medical records.

The doctors found:

26 per cent of the children between one month and 3 years old had iron deficiency anemia.

26 per cent of those between ages 4 and 11 had uncorrected or inadequately corrected visual disorders. Those wearing glasses were no better off on the average than those without them. Evidently, they were wearing old glasses or had been ill fitted in the first place.

18 per cent suffered from partial hearing losses, and almost 13 per cent had definite or suspected ear infections that could lead to hearing loss at the time they were examined.

"I don't think there's any reason to believe that if we studied the entire city, the results would be strikingly different," Kessner said at a news conference.

There also is no reason to believe that health care in Washington is any different from care in other cities, Dr. Paul B. Cornely, retired Howard University dean and former president of the American Public Health Association, said in a written foreword to the study results.

In economic status, most Congress Heights families studied were in the under-$10,000 annual income class and many were under $5,000. In Shepherd Park-Takoma, most of those families studied earned more than $10,000 and many had incomes more than $15,000.

But the illness rates were the same regardless of economic status. Only when children were compared by mothers' education—another socioeconomic indicator—were those children whose mothers had more education less likely to have iron deficiency anemia or infection-related hearing loss.

Anemia rates varied from 18 per cent in children whose mothers had education past high school to almost 33 per cent among those whose mothers had one to 11 years' schooling. Hearing loss ran from 16 per cent in children whose mothers had education past high school to 23 per cent among those with less than a high school diploma.

Hearing loss, visual defects and anemia were picked out for the study because an Institute of Medicine group found earlier that medical care in children can be judged by looking at just these three "tracer" conditions.

S. 3106

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 "Child and Maternal Health Care Extension Act".

DECLARATION OF POLICY

SEC. 2. The Congress finds and declares that in order to reduce the infant mortality rate and generally improve the health of children—

(1) more emphasis must be placed upon alleviating the problems caused by the declining numbers and the maldistribution of primary child health care providers, and

(2) greater access to medical care for children must be provided in order to improve child health and to eliminate the needless suffering and crippling conditions experienced by children because of the lack of available early diagnosis, screening, and treatment of potentially serious medical conditions.

SEC. 3. (a) Title V of the Social Security Act is amended by adding at the end thereof the following:

"Part B—Mobile Health Care Facilities

"APPROPRIATION

"SEC. 525. For the purpose of enabling the States to diagnose, screen, and provide immediate limited treatment of child health and maternal health conditions, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education, and Welfare, State plans for establishment and operation of mobile health care facilities.

"STATE PLANS FOR MOBILE HEALTH CARE FACILITIES

"SEC. 526. (a) A State plan for the establishment and operation of mobile health care facilities must—

"(1) provide that a mobile health care team shall be in existence and operate in each of the eligible counties within the State;

"(2) provide for the establishment or designation of a single State agency to supervise the administration of the plan;

"(3) provide that the State agency designated in accordance with paragraph (2) will have authority to carry out the plan in conformity with this section;

"(4) provide that the State agency will (A) make an annual report to the Secretary concerning the activities, achievements, and operations of each mobile health care team established in such State, in such form and containing such additional information as the Secretary may from time to time require, and (B) comply with such requirements as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

"(5) provide that the Comptroller General of the United States or his delegate shall have access, for the purpose of audit and examination, to the data on which any report required to be submitted under paragraph (4) is based;

"(6) provide that the State agency will from time to time, but not less often than annually, review its State plan and submit to the Secretary any modifications thereof which it considers necessary;

"(7) provide that—

"(A) the personnel assigned to each mobile health care team will include a pediatrician and more than one of each of the following: a pediatric nurse practitioner; a registered nurse; a licensed practical nurse; a dietician; and a health assistant; and

"(B) to the extent practical, students in medicine and the allied health professions who want to specialize in pediatrics or family medicine will be included as personnel on each mobile health care team;

"(8) designate, in accordance with regulations established by the Secretary, the locations within each eligible county that the mobile health care team will visit and the frequency and duration of such visits;

"(9) provide that the mobile health care team will give children medical examinations and that such examinations must include, but are not limited to, the diagnosis and screening of the following conditions—

"(A) child abuse and neglect,

"(B) nutritional deficiences,

(C) dental problems,

"(D) emotional problems,

"(E) visual and hearing defects,

"(F) mental retardation and learning disorders,

"(G) crippling and handicapping conditions, and

"(H) catastrophic illnesses;

"(10) provide that the medical methods, procedures, and equipment the State will require each mobile health care team to employ to assure that the examination and the diagnosis of the conditions designated in paragraph (9) will be of high quality be set out in the State plan;

"(11) provide that each mobile health care team test for pregnancy and screen and diagnose all prenatal and postnatal conditions up to one year after giving birth;

"(12) provide that each mobile health care team screen all pregnant and lactating women for nutritional deficiencies;

"(13) provide that the medical examination, diagnosis, and screening provided by each mobile health care team be free to all children and pregnant and lactating women;

"(14) provide that each mobile health care team will provide immediate preventive care or treatment for the diagnosed conditions where, in the judgment of the attending physician, such immediate care is required because of the serious condition of the patient;

"(15) provide that, for those conditions requiring medical treatment a mobile health care team reasonably cannot provide, the patient will be referred to the nearest, major facility which provides health care on an inpatient or outpatient basis, except that children requiring such referrals shall, whenever possible, be referred to an accredited hospital with facilities for parents to spend extended periods of time with their children during the child's hospital confinement;

"(16) provide that each mobile health care team will refer cases of child abuse and neglect to the appropriate State agency and to any public or private nonprofit center established to identify, prevent, and treat child abuse and neglect which serves the geographic area covered by such team;

"(17) provide that in addition to giving immediate treatment to infants diagnosed as nutritional risks, each mobile health care team will refer such infants to the appropriate local public or private nonprofit health or welfare agencies receiving funds under section 17(a) of the Child Nutrition Act of 1966, as amended, so that such infants may receive supplemental foods;

"(18) provide that children who are crippled or who are suffering from conditions leading to crippling will be referred to the State agency providing services to crippled children under part A of this title;

"(19) provide that women diagnosed as pregnant will receive from the mobile health care team whatever immediate care or treatment their conditions require and for further referral by such team to appropriate health care facilities and physicians as appropriate;

"(20) provide that women determined to be nutritional risks shall be referred to the appropriate local public or private nonprofit health or welfare agencies receiving funds under section 17(a) of the Child Nutrition Act of 1966, as amended, so they may receive supplemental foods;

"(21) provide that all referrals shall be subsequently reviewed by a health assistant assigned to the mobile health care team which makes a referral; and

"(22) provide that any individual who receives treatment in addition to the examination, diagnosis, screening, or immediate treatment which is authorized under the State plan will be given the opportunity to enroll in any public health care program for which he is eligible and that payment for such additional treatment will be made in accordance with the provisions of such program and that, in all other cases, additional treatment will be paid for by such individual.

"(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which—

"(1) proposes to employ a mobile health care team which will visit too few locations or whose visits will be of such frequency and duration to be inadequate to carry out the purposes of this part; or

"(2) fails, in the case of a State in which there is an agreement in effect pursuant to section 794C of the Public Health Service Act under which students or trainees in the allied health professions participate in a work-study program, to provide that employment under such a work-study program on a mobile health care team automatically qualifies as part of such a work-study program.

"PAYMENTS TO STATES

"SEC. 527. (a) Appropriations pursuant to section 525 shall be available for making grants to States having a plan approved under section 526 for the establishment and operation of mobile health care facilities.

"(b) Payments pursuant to grants made under this section may be in advance or by way of reimbursement and in such installments as the Secretary shall prescribe by regulation.

"OPERATION OF STATE PLANS

"SEC. 528. (a) The Secretary shall review periodically the eligibility of all counties in each State and notify the appropriate State agency of changes in the eligibility of each such county to participate in the program established under this part. Each county that is an eligible county (and is participating in the program established under this part) whose child health care ratio is found to exceed the limit established by the Secretary shall continue to be an eligible county and may continue to participate in the program established under this part for not more than one year after notice of ineligibility has been transmitted to the State agency.

"(b) If the Secretary, after reasonable notice and opportunity for hearing to the State agency supervising the administration of the State plan approved under this section, finds—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 526(a); or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision; or

"(3) that an eligible county within the State is not included within the State plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"(c) Whenever any State desires a modification of the State plan in order to reduce the scope or extent of the care and services provided by a mobile health care team under such plan, or to terminate any of the care and services so provided, the Secretary shall, upon application of the State, approve any such modification only if such modification does not violate any of the provisions of section 526(a) or any existent regulation established pursuant thereto.

"Definitions

"SEC. 529. When used in this part—

"(a) The term 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa.

"(b) The term 'county' includes a political subdivision of a State formally denominated as a county, parish, or other similar unit.

"(c) The term 'child health care provider' means a pediatrician and such other health care personnel as the Secretary shall designate by regulation after consultation with recognized authorities in, and Federal agencies concerned with, child health care.

"(d) The term 'child health care ratio' means the proportion of child health care providers in a State per 100,000 population under 18 years of age in such State.

"(e) The term 'eligible county' means (1) a county in which there is not located a practicing pediatrician, or (2) a county whose proportion of child health care providers to population under 18 years of age is less than the child health care ratio as defined in subsection (d).

"(f) The terms 'pregnant and lactating women', 'infants', and 'supplemental foods' shall have the same meanings when used in this part as such terms are defined in section 17 of the Child Nutrition Act of 1966, as amended.

"Reports

"SEC. 530. The Secretary shall evaluate annually the operations and accomplishments of the mobile teams in terms of extending child and maternal health care to areas with few primary child health care providers and achieving the purposes of this part. The Secretary shall report his findings together with any recommendations to the President and the Congress not later than March 1 of each year."

(b) Title V of the Social Security Act is further amended by inserting "Part A—General Service Programs" immediately below the caption of such title.

TRAINING OF PEDIATRIC NURSE PRACTITIONERS

SEC. 4. Section 511 of such Act is amended by inserting immediately before the period in the last sentence "and for the training of pediatric nurse practitioners".

PAYMENT FOR SERVICES RENDERED BY A PEDIATRIC NURSE PRACTITIONER

SEC. 5. (a) Section 1905(a) of such Act is amended by redesignating paragraph (17) as paragraph (18) and inserting after paragraph (16) the following new paragraph:

"(17) services rendered by a pediatric nurse practitioner;".

SERVICES FOR CRIPPLED CHILDREN

SEC. 6. (a) Section 505(a)(7) of such Act is amended to read as follows:

"(7) provides, with respect to the portion of the plan relating to services for crippled children—

"(A) for early identification of children in need of health care and services, and for health care and treatment needed to correct or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services that are not already provided by mobile health care teams established pursuant to part B, and such treatment, care, and other measures to correct or ameliorate defects or chronic conditions, as may be provided in regulations of the Secretary;

"(B) effective July 1, 1975, for comprehensive health care and services to prematurely born infants (as determined in accordance with standards prescribed by the Secretary) and full-term infants (as determined in accordance with standards prescribed by the Secretary) who have defects or conditions which are life threatening or handicapping and which can be corrected or ameliorated by health care services and other measures relating to the correction or amelioration of such defects or conditions, as may be provided in regulations of the Secretary; and

"(C) effective July 1, 1975, for comprehensive health care and services to children whose health is threatened or has been seriously impaired by major trauma, life-threatening illness, and other illnesses of a catastrophic nature, and for the provision of such care and services to all children in such age groups as may be prescribed in regulations of the Secretary except that effective by July 1, 1978, such care and services shall be provided to all children under age 6;".

MATERNAL AND CHILD HEALTH SERVICES

SEC. 7. Section 505(a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (14);

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof a semicolon and "and"; and

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

"(16) effective July 1, 1976, provides, in the case of families with low income (as determined by the State in accordance with criteria prescribed by the Secretary), for (A) comprehensive maternity care to prospective mothers (including prenatal care, care during and after childbirth, and inpatient hospital services related to such care), and (B) comprehensive medical health care for infants during the first year of life.

EFFECTIVE DATE

SEC. 8. The provisions of this Act shall become effective on July 1, 1974.

By Mr. TAFT:

S.J. Res. 194. A joint resolution to authorize the President to proclaim the 22d day of April of each year as Queen Isabella Day. Referred to the Committee on the Judiciary.

Mr. TAFT. Mr. President, I introduce a joint resolution to designate April 22 of each year Queen Isabella Day.

Too often, in our attempts to memorialize our past, we have remembered our great men and forgotten our great women. Simultaneously, while we have endlessly lauded our English founders, we have neglected those from Spain. I know of no better remedy for these deficiencies than the designation of a day of honor for a great woman and a great Spaniard: Isabella, Queen of Castile.

As all the tests tell, it was thanks to the bold vision of this monarch that Columbus was authorized the appropriation for his voyage of discovery. But this was only a part of her work. In a short life of 53 years, she restored the power of the Crown of Aragon, and united that kingdom with Castile, creating modern Spain. She reformed the judicial system, initiating the concept of providing equal justice for all classes. She brought professional administrators and middle-class lawyers into the royal councils, supplanting the hereditary nobles. Throughout her life, Isabella devoted herself so fully to her faith as to go down in history as "the Catholic Queen."

Just as she laid the foundations for Spain's greatness, Isabella also began the rich contribution which Spain has made to our Nation. Not only were we discovered by a Spanish expedition; we were first settled by Spaniards, we received our first culture from Spain, and today many parts of our country reflect a rich Spanish heritage.

I think it is time we recognized this strong woman, and I think a day of commemoration is the least that we owe to her memory.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 1414

At the request of Mr. CHILES, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1414, to strengthen congressional control in determining priorities of appropriations and expenditures by requiring the budget to be organized and submitted on the basis of national needs, agency programs, and basic program steps.

S. 2518

At the request of Mr. MONDALE, the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2518, the Women's Educational Equity Act.

S. 2650

At the request of Mr. CRANSTON, the Senator from Maryland (Mr. MATHIAS) and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 2650, the Solar Home Heating and Cooling Demonstration Act.

S. 2852

At the request of Mr. STEVENSON, the Senator from Pennsylvania (Mr. SCHWEIKER), the Senator from Iowa (Mr. HUGHES), and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 2852, to preserve small communities' air service.

S. 2893

At the request of Mr. KENNEDY, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of S. 2893, the National Cancer Act of 1974.

S. 2932

At the request of Mr. MONDALE, the Senator from Alabama (Mr. SPARKMAN), the Senator from Michigan (Mr. HART), the Senator from Rhode Island (Mr. PELL), and the Senator from Ohio (Mr. TAFT) were added as cosponsors of S. 2932, to amend title 38 of the United States Code to provide that veterans' pension and compensation will not be reduced as a result of certain increases in monthly social security benefits.

S. 3006

At the request of Mr. PROXMIRE, the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Kansas (Mr. DOLE) were added as cosponsors of S. 3006, the fiscal note bill.

S. 3045

At the request of Mr. BELLMON, the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 3045, the Rural Development Health Care Services Act.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 240

At the request of Mr. TOWER, the Senator from Oregon (Mr. PACKWOOD) was added as a cosponsor of Senate Resolution 240, authorizing additional expenditures by the Committee on Banking, Housing and Urban Affairs for inquiries and investigations.

SENATE RESOLUTION 281

At the request of Mr. MANSFIELD (for Mr. INOUYE), the Senator from Alaska (Mr. GRAVEL) and the Senator from New Mexico (Mr. MONTOYA) were added as cosponsors of Senate Resolution 281, to express the sense of the Senate with respect to the allocation of necessary energy sources to the tourism industry.

FAIR LABOR STANDARDS AMENDMENTS OF 1974—AMENDMENT

AMENDMENT NO. 993

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

Mr. BARTLETT submitted an amendment intended to be proposed by him, in the nature of a substitute for amendment No. 987 to S. 2747, to amend the Fair Labor Standards Act of 1938 to increase the minimum wage rate under that act, to expand the coverage of the act, and for other purposes.

RIGHT TO PRIVACY ACT OF 1974—AMENDMENT

AMENDMENT NO. 994

(Ordered to be printed, and referred to the Committee on the Judiciary.)

Mr. GOLDWATER submitted an amendment, in the nature of substitute, intended to be proposed by him, to the bill (S. 2810) to protect the constitutional right of privacy of individuals concerning whom identifying numbers or identifiable information is recorded by enacting principles of information practice in furtherance of amendments I, III, IV, V, IX, X, and XIV of the U.S. Constitution.

DISAPPROVAL OF PAY RECOMMENDATIONS OF THE PRESIDENT—AMENDMENT

AMENDMENT NO. 995

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

Mr. STEVENS submitted an amendment, intended to be proposed by him, to the resolution (S. Res. 293) to disapprove pay recommendations of the President with respect to rate of pay for Members of Congress.

ADDITIONAL COSPONSORS OF AMENDMENT

AMENDMENT NO. 991

At the request of Mr. CHURCH, the Senator from Missouri (Mr. EAGLETON), the Senator from South Dakota (Mr. MCGOVERN) the Senator from Wyoming (Mr. HANSEN), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Idaho (Mr. MCCLURE), the Senator from Ohio (Mr. METZENBAUM), the Senator from Georgia (Mr. TALMADGE), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Minnesota (Mr. HUMPHREY), the Senator from Alabama (Mr. ALLEN), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from North Carolina (Mr. ERVIN), the Senators from Nevada (Mr. CANNON and Mr. BIBLE), the Senator from Virginia (Mr. HARRY F. BYRD, JR), and the Senator from Florida (Mr. GURNEY) were added as cosponsors of Amendment No. 991, proposed by Mr. CHURCH (for himself and Mr. DOMINICK) to Senate Resolution 293, to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress.

NOTICE OF HEARING WITH PROF. BERNARD LEWIS

Mr. JACKSON. Mr. President, on Friday morning, March 8, the Permanent Investigations Subcommittee is having a special hearing in its negotiation and statecraft study with Bernard Lewis, distinguished historian and professor of Near and Middle Eastern history at the University of London. He will testify on "Détente and the Middle East." The hearing will be in the Government Operations Committee hearing room (room 3302, Dirksen Office Building) at 10 a.m.

NOTICE OF HEARINGS ON U.S. WEAPONS POLICY

Mr. SYMINGTON. Mr. President, I ask unanimous consent that a release issued by Senator MUSKIE and myself be printed in the RECORD.

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

HEARINGS—U.S. NUCLEAR WEAPONS POLICY

Senator Stuart Symington (D-Missouri), Chairman of the Subcommittee on U.S. Security Agreements and Commitments Abroad, and Senator Edmund S. Muskie (D-Maine), Chairman of the Subcommittee on Arms Control, International Law and Organization, announced today that their two Foreign Relations Subcommittees will hold hearings in March on various aspects of United States nuclear weapons policies. The Security Agreements and Commitments Subcommittee will focus on "The Changing Security Implications of U.S. Commitments to Europe." The Arms Control Subcommittee hearings will concentrate on current strategic issues involving the United States and the Soviet Union. The two Subcommittees will also hold joint sessions to hear testimony from the Secretaries of State and Defense on nuclear weapons issues of concern to both groups.

The hearings will begin on March 4, with Secretary of Defense James Schlesinger scheduled to testify before a closed session of the Arms Control Subcommittee. Secretary Schlesinger will focus his remarks on Soviet strategic doctrine and current military developments.

Hearings of the Subcommittee on U.S. Security Agreements and Commitments Abroad will begin on March 7. Witnesses on that day will be Professor Stanley Hoffmann of Harvard University and Dr. Morton Halperin, formerly Deputy Assistant Secretary of Defense for International Security Affairs. Professor Hoffmann will survey the history of the United States security commitments in Europe, analyze the constant or recurrent features of American involvement in Europe and discuss the main issues of the present, with special emphasis on strategic nuclear weapon. Dr. Halperin will discuss the role of American military forces in Europe with particular emphasis on the impact of United States tactical nuclear weapons deployed in Europe on our relations with our NATO allies.

On March 14, the Honorable Paul Warnke, former Assistant Secretary of Defense for International Security Affairs, and the Honorable Alain Enthoven of the Stanford Business School, former Assistant Secretary of Defense for Systems Analysis will testify before the Subcommittee on U.S. Security Agreements and Commitments Abroad on the evolution of United States military strategy in Europe and the capabilities and implications of United States conventional and nuclear weapons systems in Europe

Following these hearings, the two Subcommittees plan joint public sessions, on dates yet to be determined, with Secretary of State Kissinger and Secretary of Defense Schlesinger. Secretary Kissinger will testify on the foreign policy implications of United States nuclear weapons in Europe, and Secretary Schlesinger will testify on United States force deployments in Europe. In addition, the two Secretaries will testify on current strategic policies and programs of the United States and the Soviet Union, with emphasis upon the effects of these programs and policies upon the SALT II negotiations.

ADDITIONAL STATEMENTS

TRUMAN AND FULBRIGHT

Mr. FULBRIGHT. Mr. President, I wish to commend the editor of the Baltimore Sun for the accuracy of his account of an incident which has been erroneously described by many others, including the President of the United States.

The editorial from the Sun makes it clear that the suggestion I made in 1946 was not intended to criticize or in any way reflect upon President Truman.

It was intended to promote greater unity between the legislative and executive branches.

Upon reflection, if the precedent had been established at that time, the Congress today would probably not agonize so deeply about the prospect of a change in the person occupying the White House.

Whenever circumstances warrant a change in any public office, it should not be impossible to bring it about. I ask unanimous consent to have the editorial printed in the RECORD.

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

[From the Baltimore Sun, Feb. 28, 1974]

TRUMAN AND FULBRIGHT

At his press conference the other night, President Nixon compared his situation to one he said Harry Truman once was in. Mr. Nixon was asked to comment on the recent House race won by a candidate who called for the President to resign or be impeached.

". . . I recall the year 1948 [the President said] when we confidently expected to gain in the House and Mr. Fulbright, as you may recall, called for President Truman's resignation in the spring because the economy was in a slump and President Truman had other problems, and we proceeded to campaign

against Mr. Truman, he was the issue, and we took a bad licking. . . ."

What happened was different.

In November, 1946, just after the off-year elections, in which the Republicans won control of House and Senate for the first time since Herbert Hoover's early days (sending to the House for the first time young Richard Nixon, by the way), Representative J. William Fulbright of Arkansas was quoted in the press as saying President Truman should resign, and appoint a Republican successor, since stalemate was at hand. Truman was then quoted as having said Fulbright was "an over-educated Oxford S.O.B."

This had nothing to do with the 1948 election. Republicans did try to make Mr. Truman "the issue" that year, and interestingly enough Mr. Truman, in a sense, tried to make Mr. Nixon the issue. That fall the House Un-American Activities Committee, whose most active member was Richard Nixon, was investigating Communists in the Truman government. Truman blasted this investigation as a red herring and suggested it showed the Republicans couldn't be trusted. And, as Mr. Nixon said, Truman won.

Fulbright's 1946 suggestion came to be a newsy item in a strange way. Fulbright *was* an Oxford man, having gone there after college as a Rhodes Scholar. He liked the British system of parliamentary government. In late October, 1946, Fulbright, a few other members of Congress and a couple of reporters were shooting the breeze at lunch. It was one of those "what if" conversations. What if we lose the House? What if we lose the Senate? Fulbright said if the Democrats lost both House and Senate, Truman should name Republican Senator Arthur Vandenberg of Michigan as next in line (there was no Vice President; under the law the Secretary of State was the successor) and quit. One reporter said she'd like to write the story. Fulbright said no, it was just talk; anyway everyone expected the Democrats to keep control of the Senate. The reporter persisted and finally Fulbright said, okay, *if* we lose House and Senate, print it. Which she did the day after the election.

Years later Truman wrote Fulbright that he had been misquoted. "I made the remark that if you had attended a land grant college in the United States instead of Oxford, you would have never made that statement. I never made any reflection on your personal character nor on your mother."

To which Fulbright replied that he had attended the University of Arkansas, "a land grant college."

THE PRESIDENT PROCLAIMS VIETNAM VETERANS DAY

Mr. HANSEN. Mr. President, I was among those privileged last Tuesday to attend White House ceremonies at which the President proclaimed March 29 Vietnam Veterans Day.

The observance will mark the day that the last American combat troops left Vietnam, where the longest war in which the United States ever was involved took place—an area, it seems, almost doomed to perpetual war, with or without U.S. involvement, since the Communist elements of that region rose to power during and following World War II. Unfortunately, in a number of the nations or troubled Indochina, millions, who since World War II have found intolerable their centuries-old status quo, have been able to find no middle ground—no truly democratic republic that most Americans feel ideal for all people. The Indochinese, in many cases, have felt their choices boiled down to a single family dictatorship, or a Communist dictatorship. Along those general lines often have developed the warring factions.

Their situation is extremely difficult, and certainly it has proved untenable for our country.

The Vietnam veteran, in my judgment, has faced greater difficulty than veterans of any war in which this country has engaged. The Vietnam veteran went to a war, which, in most cases, he didn't understand. He came back to a peace, where, instead of receiving from the American people the honor and respect he, having been reared in the wake of World War II when a nation expressed adequate gratitude to its returning warriors and to their survivors, perhaps felt might be expected; he found instead either an indifference, or at the worst almost a contempt for the military service he had performed, and the inference that he was a "sucker."

Such a situation, for anyone, would be depressing.

Therefore, I believe every American, and certainly all of us here in the Senate, have a special duty to pay honor to the Vietnam veteran on March 29—to show him that he is a valued citizen of our country, that the Nation is not ungrateful for his service, and that we recognize that his service was performed under the most trying of circumstances and that that service was performed well, exceedingly well.

Some have alleged that the Vietnam veteran did not win his war. I submit that the Vietnam veteran did win his war within the parameters of his assignment; and if the war was not "won," it certainly was not his fault. Early in the war, and through the 1960's, if there was a no-win policy, it was through high-level concern over both international and domestic politics, and from 1969 on, when the American fighting man was a part of this Nation's withdrawal policy, that had the support of the American people, the American in uniform supported his Nation's policy in a highly creditable manner. We owe him much—this American who fought a war that nobody wanted, except perhaps the leaders of the Vietcong and the leaders of those nations that supported them, and hoped to gain power, prestige or territory regardless of how many of the people of South Vietnam and their own people died in the course of it.

President Nixon's address Tuesday was inspirational—for the Vietnam veteran; and for those of us in Congress who have the duty to insure that the Vietnam veteran receives expressions of gratitude from this Nation at least equal to those given veterans of earlier and perhaps less difficult wars, from the standpoint of mental anguish.

Mr. President, I ask unanimous consent that the President's message, along with his proclamation of Vietnam Veterans Day, be printed in the RECORD following my remarks, and that we take note of the instrumental role played by President Nixon in extricating America's combat troops from Vietnam in such a manner that our allies did not fall before the enemy as a consequence of the withdrawal vacuum; and I urge that all of the Members of the Senate give special consideration to Vietnam Veterans Day and plan to participate in activities that will indicate to the Vietnam veteran our esteem for him.

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

[From the Office of the White House Press Secretary]

REMARKS OF THE PRESIDENT UPON SIGNING THE VIETNAM VETERANS DAY PROCLAMATION

This Proclamation that I am now signing all of the Members of the House and the Senate who have sponsored it, are aware of it, the members of the press and perhaps the Nation are not aware of why we have a Proclamation designating March 29 as Vietnam Veterans Day.

That is the day that the last American combat soldier left Vietnam, the day, therefore, that marks the final conclusion of America's longest and without question its most difficult war.

It seems to me appropriate that in signing this Proclamation that reference be made to those who fought in that war, those who served in that war, why they fought and why their service was not only in the interest of the country, but in the highest tradition of service to the United States of America as far as the wars in which we have been engaged throughout our history, wars which we trust we will not have to be engaged in in the future if our foreign policy is as successful as we hope to make it.

I know there are some who quarrel with the phrase that I have often used, that our men in Vietnam and those who served in the Armed Forces finally achieved what many thought was impossible—peace with honor.

I do not use this phrase in any jingoistic sense. I use it because when I consider the alternative, I realize how much those who served did for their country under difficult circumstances.

This has been described as a war without heroes, without heroes perhaps except for those who occasionally receive a Medal of Honor that we hand out, but very little attention given to it, those without heroes, a war in which for the first time our prisoners of war come home and for a few fleeting months are recognized for the character that they showed as prisoners, but when I refer to peace with honor achieved by over two and one-half millions who served in Vietnam, I think of what would have happened had they had served and had we failed in our objective.

I am not now going to go into how the war began. It would serve no useful purpose to point out the difficulties that some of us have had as to how the war was conducted, but I do know this:

It was important to bring it to a conclusion in the right way, in a way that America remained respected throughout the world, in a way in which our allies had confidence in us, the neutrals did not lose their faith in us, and particularly where those who might be our opponent still respected us, respected not only our power, but respected our strength in terms of will and willingness to use that strength for a cause to which we were committed.

What would have happened had we not ended the war in the way we did end it? Seventeen million people in South Vietnam, instead of having a Government which is non-Communist with a right to choose for the future, would now be under Communist control.

The seven million people of Cambodia who are fighting against very great odds would certainly now be under Communist

control. The small countries of Malasia and Singapore, the much larger country of Indoesia, Thailand, the two hundred million people that live in the perimeter of Southeast Asia, those nations would have a much greater danger threatening them of aggression sweeping over the entire peninsula of Southeast Asia.

People say the domino theory really is not accurate. The difficulty is they have never asked the dominoes, because when we find in visiting those areas, as many of us have, that they are watching what the United States does in terms of its relations to a small country so far away in a very difficult war, when they reach a conclusion that the United States is not a dependable ally, that the United States will be pushed over, when faced with Communist aggression, then they lose confidence in us and they accept the inevitable—that the tide of aggression will engulf them, also.

So, we are grateful to our men who served, because as a result, 250 million people, and perhaps more in the Southeast Asian effort have a chance—not a guarantee, but a chance—to choose their own way, a chance to remain free from a takeover by aggression from outside forces.

Our part will, in the future, be under the Nixon Doctrine, not to furnish troops, but to furnish within our capacities and depending upon their ability to use it, to furnish the economic and military supplies so that they can have what they need to defend themselves.

But, also, the way that this war ended had a much greater significance. There have been some foreign policy developments over the past five years, and particularly over the past two years, that in my opinion would not have occurred, could not have been accomplished, had not the United States proved that it was a dependable ally and also demonstrated in Vietnam that it would not join an enemy to overthrow an ally.

What I am referring to is very simply that when a great power in any of its relations with any countries, large or small, shows a lack of will, it loses respect not only in that area but it loses respect all over the world, and particularly among those who might oppose it in the future and who might be tempted to engage in adventurism, proceeding on the assumption that the United States having backed down one place might do so somewhere else.

So, in conclusion, I simply want to say to the Members of the Congress present, both Democrat and Republican, that we do owe a great debt of honor to those who served here, a great debt that is difficult to repay because this has been a misunderstood war, this has been one in which Americans have been honestly divided and we trust that that may never come again.

But as we see what would have happened had these men not stood firm and had we not backed them up, let me say the chance now to go forward with great initiatives for peace, with the United States strong and respected, we would not have.

So the 2½ million who served in Vietnam deserve our thanks, they deserve, I would say to Mr. Johnson as he may have noted from the press conference last night, special attention insofar as those who have suffered from the wounds of war, and I want particularly personal attention given to any indications that our laws are not being adequately carried out in that respect, in providing the benefits for them.

And finally, looking to the future, the way that we can pay the debt that we owe those who served, those who died, those who were wounded, those who have been prisoners, and those who served and came back with very little in terms of praise or applause, the best way we can repay that debt is to have a strong America militarily, but an America that is respected throughout the world, an America that will not back away from its great and destined role to be the pacemaker of the world, whether it is in the Mideast, in Europe, in Asia or in any other area of the world.

That is our goal, and as we designate this as being Vietnam Veterans Day, let us set as our goal that we in the United States will be able to avoid not only more Vietnams, but build a structure of peace in which all people in the world will be able to avoid a future war, large or small.

VIETNAM VETERANS DAY

(By the President of the United States of America)

A PROCLAMATION

As America enters its second year of peace after a decade of conflict, it is highly appropriate for us to acknowledge the debt we owe to those veterans who served in the Armed Forces during the conflict in Southeast Asia. The untiring devotion that characterized our Armed Forces during this trying conflict is a tribute to the national character.

There are over six and one-half million Vietnam-era veterans, of whom more than two and one-half million served in Vietnam Despite significant disruptions in their lives and other personal sacrifices, they answered the call of their country and served with great distinction.

As a Nation, we have acknowledged our deep respect and admiration by setting aside March 29, 1974, as Vietnam Veterans Day to remember that the honorable peace America achieved came through great sacrifice. Those who served, those who gave their lives, those who were disabled, and those who are still missing in Southeast Asia—and whose full accounting we shall continue to seek—deserve the profound gratitude of their countrymen. For this purpose, the Congress has authorized and requested me to issue a proclamation designating March 29, 1974, as Vietnam Veterans Day.

NOW, THERFORE, I RICHARD NIXON, President of the United States of America, urge the people of this Nation to join in commemorating Friday, March 29, 1974, as Vietnam Veterans Day with suitable observances.

I direct the appropriate officials of the Government to arrange for the display of the flag of the United States on all public buildings on that day; and I request officials of Federal, State, and local Governments, and civic and patriotic organizations, to give their enthusiastic support to appropriate ceremonies and observances throughout the Nation.

I urge all citizens of every age to participate in the events of this day as one means of honoring those men and women who served their country faithfully and courageously during the Vietnam conflict.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of February, in the year of our Lord nineteen hundred seventy-four, and of the Independence of the United States of America the one hundred ninety-eighth.

RICHARD NIXON.

AUTO INSURANCE REFORM

Mr. TAFT. Mr. President, the cost to the Nation's motorists for automobile insurance premiums was estimated to be over $8 billion last year with only $3.36 billion returned in benefits. This expense and low ratio of return falls heaviest on individuals in the lower and middle income sectors of our economy and in many cases creates great economic hardship. This problem has been brought to the attention of the Congress and legislative proposals to alleviate this situation have been actively considered during the last 3 years. A proposal in this area that has generated a great deal of support, and one that I favor, would establish Federal guidelines for State no-fault insurance plans. Both the Commerce and the Judiciary Committee have had an opportunity to examine this area in depth and I am hopeful that the Senate will proceed expeditiously in considering this subject.

An editorial from the Washington Post of February 9, 1974, entitled "A Chance for Auto Insurance Reform," presents a very thoughtful analysis of this issue and I ask unanimous consent that it be printed in the RECORD.

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

[From the Washington Post, Feb. 9, 1974]

A CHANCE FOR AUTO INSURANCE REFORM

When people buy automobile insurance, they like to believe that their hefty premiums are purchasing them financial protection in the event of an accident—that the money they spend is for something called "coverage." Yet more and more Americans are finding out that a disproportionate amount of their car insurance dollars are wasted on a system that doesn't really protect them the way it should. Instead of getting swift, direct compensation at a justifiable cost, they are running into needless, time-consuming litigation, red tape and unfair payoffs.

In 1972, for example, the nation's motorists paid premiums of $8 billion merely for auto personal injury liability insurance. They got back only $3.36 billion, however, according to the Senate Antitrust Subcommittee staff. Of the $4.6 billion that they did not get back, lawyers' fees accounted for $1.4 billion. Moreover, the system of lawsuits and negotiation often results in overcompensation for small losses and undercompensation for large losses.

In fact, the auto insurance system in most states isn't really designed to deal with accidents in the real sense of the word; it is concerned instead with the expensive, cumbersome business of identifying—or arguing over—*fault* in vehicular mishaps. That is why the no-fault approach—whereby insurance companies pay for losses without regard to who caused the damages—has become an increasingly popular issue with consumers as well as insurance companies.

Last week, the reform movement for a federal no-fault insurance law gained new momentum in the Senate, where foes of a pending bill had based much of their opposition on constitutional arguments. In a 154-page opinion, former Solicitor General of the United States Erwin N. Griswold termed the Senate legislation "constitutional, both overall and with respect to each of its provisions." He concluded that "Congress has the power to enact a national no-fault automobile insurance statute."

Mr. Griswold said the authority lies in clauses of the Constitution that empower Congress to regulate interstate commerce, to build public roads and to make all "necessary and proper" laws to execute its powers. The former solicitor general also responded to arguments that a no-fault system deprives people of their common-law right to sue in court for injury caused by the negligence of others. He noted that the Supreme Court had found that the Constitution did not forbid the creation of new rights or the abolition of old ones recognized by common law to attain a permissable legislative objective.

In addition, according to the opinion, there is precedent: Many workmen's compensation

acts totally abolished the common law rights of employees to recover for pain and suffering. The Senate's bill merely eliminates this claim in relatively minor cases. Mr. Griswold argued that the legislation actually provides a broader remedy, since it calls for "basic protection without fault, while at the same time allowing additional recovery for the more serious losses resulting from negligence."

In effect, then, the Senate bill would give people the right to recover directly for damages instead of merely the right to *sue* to recover. It would not eliminate lawsuits in serious cases; they would still be permitted when loss exceeded basic benefit limits. Suits for "non-economic detriment"—which is to say, intangible losses—would be permitted only if an accident victim died, suffered serious and permanent disfigurement or injury or suffered serious and permanent disfigurement or injury or suffered more than six continuous months of total disability. These suits would be subject to a $2,500 deductible, however.

Not only is this a more sensible, efficient and fair system for compensating losses, there is considerable evidence that it would result in lower premiums. One cost study received by the Senate Commerce Committee shows that any plan complying with the standards of S. 354, the Senate bill, would result in significant savings in the average personal injury premium (20 per cent for the District and West Virginia, 10 per cent for Maryland and 5 per cent for Virginia). The study has been analyzed by a joint group of actuaries from three insurance groups—including two major groups that oppose the bill.

The approach to no-fault embodied in S. 354 is important, too, for it is not an attempt to "federalize" insurance systems in the states. Instead, the legislation provides a framework in which each state could proceed to enact no-fault programs—a job that state legislatures controlled by trial lawyers have been slow to take on. The bill would allow states to regulate insurance, set rates and oversee procedures for claims and litigation.

Indeed, S. 354 grows out of years of exhaustive studies and hearings, and it has won important support from the nation's largest auto insurer, State Farm Mutual, which retained Mr. Griswold, as well as the American Insurance Association. Last year, the Senate Commerce Committee approved the bill by a 15-to-3 vote. Now the legislation, under the main sponsorship of Sen. Warren G. Magnuson (D-Wash.) and Philip A. Hart (D-Mich.), is before the Judiciary, with assurances that this committee will permit it to come to a vote.

We believe that S. 354 offers a sound formula for reforming America's auto insurance mess, and that reasonable members of the Senate and House recognize the need to do something about it this year—to end the frustration and discontent of auto insurance buyers as well as accident victims.

PRICE TREND OF GASOLINE

Mr. FULBRIGHT. Mr. President, Mr. Alex H. Washburn, president and editor of the Hope Star recently asked the Associated Press for a fact-finding report on the long-range price trend of gasoline. There is much misunderstanding about the nature and scope of the current energy crisis, and I believe my colleagues will find the Associated Press' report interesting and informative. I also wish to take this opportunity to commend Mr. Washburn for his continuing efforts to keep the citizens of Arkansas well informed.

I ask unanimous consent that an article from the Hope Star of February 25, 1974, entitled "Fact-Finding Report Shows Gasoline To Be Underpriced" be printed in the RECORD.

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

FACT-FINDING REPORT SHOWS GASOLINE TO BE UNDERPRICED

Newspapers offer the reading public both facts and opinions—but our primary service is the publication of facts.

Disturbed by my discovery in The Star's own files last month that the newsprint mills' claim that the paper we print on is badly underpriced in this inflationary age, was true, I wondered if gasoline might also have been underpriced before the rise which began in late 1973.

Therefore I asked the Associated Press for a fact-finding report on gasoline's long-range price trend. Here is the letter I wrote:

HOPE, ARK.,
Jan. 24, 1974.

Mr. JOHN R. STARR
Chief of Bureau, The Associated Press, Little Rock, Ark.

DEAR BOB: I am requesting a national AP fact-finding story on the long-range price of "regular" gasoline, that is, the record from 30 or 40 years ago up to the point where the price advanced steeply in 1973.

I am under the impression that the price picture is so distorted by tax increases that gasoline itself may have been underpriced by inflationary standards, until the 1973 rise.

By way of illustration, during the uproar over a great increase in the price of newsprint in 1973 I went through my files and found that 20 years ago (1954) the delivered price of newsprint was $152 a ton compared to $168 a ton for what we now have on hand, and a new price of $178 for some Southern mills, and a $198 price quoted for the South by Canadian mills.

This proves that newsprint is vastly underpriced, even at $198, by today's inflated standards—the lowest multiplier I know of being 3x, and running 5x and 6x on industrial products.

The same fact-finding study on gasoline prices would be a public service, indeed. Please ask the national AP to put someone on it. Yours truly,

ALEX. H. WASHBURN,
President & Editor, Star Publishing Co.

P.S.—Price facts rather than politics will spell out the future of gasoline supplies, a point that needs to be driven home to the public.

Here is the reply from the AP Little Rock bureau:

LITTLE ROCK, ARK.,
Jan. 29, 1974.

DEAR ALEX: I've written to New York requesting the gasoline price history that you asked for.

Sounds like a good idea to me.

BOB STARR,
Chief of Bureau, The Associated Press.

The national Associated Press responded with the following report published in Hope Star Saturday, Feb. 23—repeated today for emphasis:

WASHINGTON.—In 14 years from 1958 through 1972, gasoline prices rose 18 percent. In 1973 they shot up another 28 percent.

The American Petroleum Institute says that in January the average price of regular grade gasoline nationwide hit 44.82 cents per gallon. It was considerably higher in some areas. The February average has not been compiled yet, but it will be higher still.

The average price in 1972 was 36.13 cents per gallon.

Until the energy crisis hit, the increase in gasoline prices had lagged substantially behind the more rapid inflation rate of the general Consumer Price Index.

Taking 1957–1958 as a basis, the Consumer Price Index rose 21 percentage points in 10 years, while gasoline rose 10 points.

By 1972, the Consumer Price Index had climbed 45.7 points, while gasoline was 17.9 points higher than when it started.

But late in 1973 the Arab oil-producing nations tripled their prices and other foreign producers followed suit.

Last December, the gasoline price stood at 38 percentage points over the 1958 base, and in January it reached 46.3 points over that base.

The present price of foreign crude oil averages about $10.50 a barrel.

Energy chief William Simon figures the likely eventual price of oil may come down to $7 or $8 a barrel.

But that's still twice as much as foreign oil cost a year ago, and half again as much as price-controlled U.S. oil costs now.

Actually, the good old days for gasoline prices were the early 1930s, but in those depression years a lot of people couldn't afford it even at 17 cents a gallon.

The figures available through the American Petroleum Institute go back to 1918 when regular gasoline sold for about 25 cents a gallon. The average price climbed in postwar inflation to almost 30 cents a gallon in 1920, but then started backing down until 1931 when the price bottomed out at 16.98 cents per gallon.

By 1957, the average price of regular grade gas went above 30 cents per gallon, and for the next seven years it leveled off at about 30 to 31 cents.

From around 1965 onward, gasoline prices began acting like the rest of the inflation-prone economy, rising about one cent a year.

For 1973, the price of regular gas averaged about 38.82 cents a gallon.

In January, it averaged almost 45 cents per gallon.

THE ENERGY CRISIS

Mr. HANSEN. Mr. President, the only solution to the energy shortage is more supply.

Inasmuch as more than three-fourths of the U.S. energy needs come from oil and gas, the only short-term solution lies in the domestic exploration, development, and production of more oil and gas.

There are already encouraging signs that the petroleum industry is ready, willing, and able to discover, drill for and produce the new oil and gas we must have to restore domestic energy self-sufficiency and avoid another crisis such as the one brought on by the Arab oil embargo.

Friday's issue of the Washington Post reports that industries supplying petroleum and other forms of energy have sharply increased their planned investment spending this year.

The economics department of McGraw-Hill Publications Co. said the petroleum industry plans to invest $7.68 billion in 1974 which is 42 percent higher than last year and double the increase planned last October.

Mr. President, this is the industry's response to more realistic crude oil and

natural gas prices, and higher profits last year. This is the free market system at work, the law of supply and demand operating. Listen to what a group of independent oil operators representing most of the oil-producing areas in the United States said in a telegram to Senators last week:

For the first time in many years, the independent oil producers find that the present prices received for their crude oil enable them to continue and expand the needed search for the vital energy requirements, in an atmosphere of ever-increasing costs.

We vehemently oppose any attempt to roll back or reduce the prices for crude oil in the firm conviction that this action would have a crippling effect upon efforts to restore domestic exploration and development and cause increased reliance upon unstable foreign sources of crude oil.

Independent oil producers have historically reinvested revenues in order to continue to find new reserves, we stand ready to intensify our historic efforts to plow back these revenues for this purpose.

We endorse and pledge our wholehearted efforts toward the objective of achieving American energy self-sufficiency as soon as possible.

But, Mr. President, these planned investments of almost $8 billion by the petroleum industry in 1974 are based on realistic oil and gas prices and, I can assure you, will quickly fade away if crude prices are rolled back by the Congress.

Listen to what an independent drilling contractor wrote to one of the Senators who supported the Energy Emergency Act which includes the price rollback:

It is impossible to understand the economic logic of your support of Senator Jackson's so-called Emergency Energy Act. This Act is the biggest fraud yet upon the consuming public and will not do what is purported. How can you increase domestic supplies to decrease dependence on higher priced foreign crude oil by a lowering of needed income or incentive? In the long run affirmative action on this bill can only lead to a greater domestic deficiency and higher end costs due to higher imports, if available. Consumers will eventually figure out what Congress has done to them.

If this bill survives, it will be the first time in history that Congress has set a price on one commodity for one industry. I hope the Supreme Court will find the bill unconstitutional.

In addition to primarily being drilling contractors, we are also small independent oil operators. Passage of this bill will forestall two exploratory wells we had planned and will cause probable plugging and abandoning of two or three other wells. Also, the price rollback will deter public funds or investments in ours and others drilling programs.

Since U.S. crude oil prices have been allowed to increase, oil operators have gone all out to find new domestic reserves. Our rigs, operating in Colorado, Montana, Utah and Wyoming, have increased in activity from a 71.7 percent work factor last year to 95.6 percent for the past three months. This legislation will turn around that rig activity. As a result, we will drop plans to purchase a new big rig. By ourselves this will not make any difference in our overall economy, but multiplied by the hundreds and hundreds of similar examples, our overall economy must suffer. As you can tell, I believe the Senate has done, for short term political reasons, exactly the opposite of good, sound economic logic. Should the bill be vetoed, I hope you will sustain the veto.

Historically, intervention by Government in business has not worked successfully to the benefit of the public. Witness the price freeze on beef a year ago and the deterioration of the railroads over the years under ICC's mass of regulations and red tape. This intervention will be no different. It is very unfortunate that the Congressional body which caused this shortage in the first place, is now trying to correct it. I would much rather be able to purchase needed gasoline at 75¢ per gallon than not be able to purchase any at a lower price.

Rationing (Section 104 in the bill), in my viewpoint, will not solve the basic problem and would become very unpopular with the public. I hope this portion of the bill can be dropped. I further object to all this power being placed in the hands of the administration.

Mr. President, this is ample justification for the President to veto S. 2589, the Energy Emergency Act and for the Senate to sustain that veto.

I hope by now many Senators who voted for that act have reconsidered and can visualize the hoax that would be perpetrated on American consumers.

There are no waiting lines in Europe because those countries did not tinker with the market demand system. They let prices rise and new supplies flowed in. That will happen in this country, too, if we will allow it. The only solution to a shortage is more supply. As higher prices attract more supply, more supply and competition will control higher prices. No one has yet devised a better system than market demand and the market clearing price although various forms of price control and rationing have been tried off and on for centuries. Those who refuse to study history are doomed to repeat its mistakes.

Mr. President, one of the editors of Human Events had some rather pertinent remarks about the author of the price rollback section and another proposal he is now cooking up to solve the energy crisis.

I ask unanimous consent that the article be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. HANSEN. Mr. President, while I have the highest personal regard for the distinguished chairman of the Committee on Interior and Insular Affairs and his zeal in the floor management of bills such as the Energy Emergency Act, I must say that his information and calculations of the effects of the crude price rollback were somewhat erroneous.

A rollback of the price of about one-fourth of U.S. domestic oil production could not possibly have the effect of reducing gasoline prices by 4 or 5 cents a gallon. Three-fourths of U.S. domestic production would not be affected at all and the one-fourth of total U.S. supply that is imported at even higher prices than the uncontrolled one-fourth of U.S. production would not be affected.

So what we are actually talking about is one-fourth of three-fourths of total U.S. supply which converts into something more like 1 cent a gallon.

Another gross misrepresentation that apparently influenced some votes on the bill was the purported rollback in propane prices that would result from the crude price rollback.

Mr. President, about 70 percent of all propane produced in this country is extracted from natural gas at natural gas processing plants and not at refineries and would not be affected at all by the Energy Emergency Act.

Admittedly, the price of propane did get out of hand through the inept application of price ceilings by the Cost of Living Council. Since the Federal Energy Office took over propane pricing control under the allocation program, Secretary Simon has issued a rollback order which has already achieved substantial propane price reductions. Secretary Simon said:

There would be a roll-back across the line by propane producers and if we don't see it, we'll roll it back ourselves.

So I hope some Senators will contemplate the real effects the Energy Emergency Act will have on the energy crisis.

It does nothing toward bringing on the additional supplies we must have and will create such an atmosphere of uncertainty as to actually discourage the industry from making the long-term decisions and capital commitments that are so necessary to get us out of this mess.

If the Energy Emergency Act becomes law over the President's veto, then the President will probably need the authority to ration gasoline and other fuels because the shortages will surely be worse even if or when the Arab embargo is lifted and would be with us for a long time.

But on the other hand we could try to demonstrate to the American public that Congress can and should act responsibly and sustain the President's veto.

EXHIBIT 1

While conservatives have been rightly pleased with Democratic Washington Sen. Henry M. Jackson's generally realistic approach to national defense issues over the years and with his stand against further trade concessions to the Soviets unless they allow freedom of emigration for their citizens, Jackson is anything but a conservative on domestic policy, as his approach to the energy crisis makes dramatically clear. Indeed, Jackson's increasingly manifest disdain for the free market system, as evidenced by his dismissal in Senate debate last week of the idea of limiting demand for energy by raising consumer prices as a "19th Century notion," is fast arousing a ground swell of conservative opposition to the Washington lawmaker's 1976 presidential ambitions.

Thus, Sen. Barry Goldwater (R.-Ariz.), in a recent closed-door speech before an audience of top U.S. industrialists, warned that, far from a friend of business, Jackson must be regarded as a skillful and dangerous antagonist of the free market economic approach.

"The Goldwater assault was not personal," wrote columnists Evans and Novak last week, "but in strictly political terms it sought to lay bare what Goldwater called 'the myth' of Jackson as a conservative Democrat close to big business.

"Not at all, said the usually mild-mannered Goldwater: 'Scoop' Jackson was parading in conservative Democratic sheepskin, concealing the wolf of economic populism.

"But in fact, Goldwater went on, Jackson represents a profound threat to American business. He cited Jackson's sponsorship of the bill to place government and public members on boards of directors of major U.S. oil companies. That, he implied, could be the

beginning of the end of the free enterprise system."

Goldwater was by no means exaggerating. The onerous piece of legislation to which he referred would not only require the oil companies to tolerate these so-called "public" board members as the price of remaining in business, but—incredibly—would require the companies to pay their salaries as well. Moreover, each of these "board members" would be provided with a staff of assistants; and the cost of these, too, would be borne by the beleagured firms.

In addition, the companies would be required to secure charters from the federal government in order to remain in business. While the details of the bill will not be available until Jackson introduces it in the next week or two. Human Events was able to get some information from Greg Erickson of the Senate Interior Committee staff, who is helping to draft the measure.

According to Erickson, these "public members," who might not even have to be approved by Congress, would perform numerous functions. He noted, for instance, that they would have "statutory authority to have access to all internal information, memoranda, etc. They would be able to look into anything."

In addition, said Erickson proudly, they "could go back to the government" with inactions. The "board members" could also "file briefs on environmental actions, testify at congressional hearings and other things of this kind. Since they would owe no particular allegiance to the companies, we hope, their voices would carry considerable weight."

In short, though Erickson might not put it this way, the Jackson measure seeks to install a government spy ring in the inner sanctum of each of the nation's major oil companies, and to do this at the industry's expense. Commented one observer: "This would be somewhat as if the Watergate burglars had not only staged the break-in but presented the Democratic National Committee with the bill."

Besides their ability to take tales back to the government, moreover, the "public members" would endanger the free enterprise concept in other substantial ways.

Critics are quick to point out, for instance. that where similar arrangements have been imposed in Sweden and other Socialist European countries, the government representatives have used their privileged positions to intimidate industry and inhibit business expansion. Certainly, there is nothing in Erickson's description to indicate that these adjuncts of the federal apparatus would operate differently in the United States.

While Erickson would not discuss the measure's chartering requirements in any detail, saying this part of the bill remained to be written, the Jackson aide made it clear that without a charter, a company would find it extremely difficult, if not impossible, to operate. And to get this charter—and, what's more, to keep it—the targeted firms would be at the mercy of the bureaucrats charged with administering the chartering procedures. Under these conditions, it does not take much imagination to see that the government, and no longer the stockholders or the free market, will have the controlling voice in the direction of one of this nation's most vital industries. Small wonder, then, that Goldwater spoke out about this dangerous and unprecedented legislation.

Nor has the would-be President limited his efforts to the chartering measure alone. Indeed, Jackson more than any other lawmaker was responsible for the Senate's passage last week of the sweeping Energy Emergency measure. This measure fairly overflowed with grants of vast new powers to the federal government and other costly provisos; but by far the most controversial feature was an oil-price roll-back engineered by Sen. Jackson in conference committee.

So ludicrous from an economic standpoint was this provision that even the liberal Washington Post came out against it. "[I]t is disingenuous," the Post said, "for Sen. Henry Jackson (D.-Wash.) to suggest that this kind of roll-back would result in large reductions in gasoline prices for consumers. . . . Legislating fixed ceilings, and trying to write prices into law, is always a bad idea. It is particularly dangerous when applied to a commodity like oil, the future prices of which are very difficult to predict precisely."

In fact, as was amply demonstrated in floor debate on the measure, Jackson's price roll-back would save the consumer little more than 1 cent per gallon of gasoline—and this is in the short run. In the long run, however, the price roll-back provision would actually reduce production and assure higher prices for consumers of gasoline and other petroleum products.

As written by Jackson, the bill would affect what the government calls "new" oil produced above 1972 output levels, plus oil from "stripper" wells that extract less than 10 barrels a day. The average uncontrolled price of this oil was $10.35 a barrel in January, which compares with the controlled price of $5.25 a barrel for "old" oil produced at pre-1972 output levels. If enacted into law, the Jackson roll-back feature would reduce the price of "new" and "stripper" oil to a maximum of $7.09 per barrel, and in many instances much lower.

The result of lower prices inevitably would be lower production, wasted resources, and indefinite prolongation of the shortage. As the Post explained it:

"Both the petroleum industry and the government often speak as though, except for offshore drilling, our domestic production has a rigid physical limit and is now irrevocably declining. In fact, the amount of oil drawn from a well depends on the price for which that oil can be sold.

"If the oil is forced up the well by the pressure of gas or water trapped underground, producing it is comparatively cheap. But in time the pressure will fall, and then recovery begins to get expensive. At that point it becomes necessary to pump the oil up. In time, again, the pump no longer reaches the oil. Then recovery becomes still more expensive, and perhaps the producer has to pump water or gas down to force the oil up. Or perhaps he just closes the well as exhausted.

"In this country wells have typically been shut down with two-thirds of the oil still in the reserve that it has tapped. But at present prices it will become profitable to get many of these wells back into production. It will also be worth sinking wells deeper in the oil fields."

Spurred on by the recent trend toward higher prices, hundreds of small independent producers have been reopening these wells, just as the *Post* predicted. Already, however, Jackson's continuing threats against the future of the industry is reducing this trend.

Testifying before the Senate Finance Committee, for instance, C. John Miller, president of the Independent Producers Association of America, described the recent move toward increased production, but cautioned that a price roll-back could destroy this encouraging development. Miller told the senators:

"We had a rig count up to 1,440 during the month of December and it is now softened to 1,340, and this indecision, this continued sniping that is coming into the industry is making many of the people reconsider the plans that they had made; and we can cite instances, specifics across the country, in every oil,producing area operators have come back into business, where they have leased lands, started to rework old wells and putting together new drilling rigs. . . .

"These things will come to a screeching halt if we have this roll-back," Miller predicted, "not out of spite, but out of the fact there will not be the dollars to do the job."

Thus, at a time when sound considerations of economics would dictate increasing incentives for oil producers to search out and develop more oil, Sen. Jackson has been energetically seeking to thwart the oil industry at every turn. Under these circumstances, it is hardly surprising that conservatives are turning against Jackson and his presidential ambitions in ever growing numbers.

GAO REPORT ON INDIVIDUAL CHARGES UNDER MEDICARE

Mr. CHURCH. Mr. President, today I wish to announce the release and comment on a study prepared at my request by the General Accounting Office on the amount of coverage being provided by medicare on individual claims. Over the years I know that all of us have received many complaints that medicare was covering far below its authorized 80 percent on individuals' claims. As chairman of the Senate Committee on Aging, I have been increasingly concerned over these reports, especially in that they so often stated coverage of 50 percent instead of 80 percent.

Most studies of medicare coverage have viewed claims in the aggregate. In this GAO study, however, claims were selected in four States—Idaho, Missouri, New Jersey, and California—to examine how they were covered on an individual basis. This is, after all how our constituents view them; it will also be how they will view coverage under any national health insurance program. When health insurance programs persistently advertise 80 percent coverage and often deliver far less, dissatisfaction will remain rampant.

The charges medicare will allow are calculated on data collected in a prior time. In a period of rising charges for health care, the charges allowed by medicare must lag behind. Coverage, therefore, will be less than 80 percent. But clearly, if the coverage provided is frequently as low as 50 percent, the intent of the program is not being met. The GAO report provides excellent information on this issue. Unfortunately, it is technical in nature, but I will comment on its salient features in general terms as they apply to Idaho although its findings are very similar for all of the studied States.

GAO studied medicare claims in Idaho for the first 9 months of 1972, finding that over half—55 percent—of them for physicians' services were reduced. These reductions averaged about 25 percent. Almost two-thirds of these reduced claims were for physicians' visits. Claims for laboratory procedures, X-rays and injections were also frequently reduced. About 70 percent of the $600,000 in reductions became liabilities for Idaho medicare recipients.

GAO offered a number of legitimate explanations for these reductions. But the services involved are the most basic in health care. Although GAO found that coverage as low as 50 percent was an infrequent occurrence, the amount of

these reductions is quite substantial. If the intent of the medicare program has been met, it has been met at a minimum.

Another striking finding which pertains directly to this situation is the dramatic drop in assignments being accepted by doctors under the medicare program. When a doctor accepts an assignment, he agrees that the charges for his services which medicare will allow will be his final charge, receiving 80 percent of payment directly from medicare and the remainder from the patient. GAO found that in Idaho the number of assignments had dropped from 71 percent of claims in 1969 to 31 percent in 1972. Given other considerations, the rate of assignments is actually less than 30 percent.

Obviously when medicare is paying far less than 80 percent for doctors' services, few doctors will accept what medicare allows as their ultimate charge for a service. Instead they will bill the patient who then applies to medicare for coverage. The patient must eventually pay 20 percent of the amount medicare allows plus all of what medicare does not allow for the service. When the services involved are so basic to health care, the out-of-pocket health costs for medicare recipients increases significantly.

Another point uncovered by GAO was that when a medicare recipient requested that the amount of his coverage on a claim be reviewed, the review often resulted in that coverage being increased. But almost no one requests such a review, particularly when compared to the number of reduced claims.

These findings and the entire GAO report underscore difficult problems in the medicare program which recur in any consideration of national health insurance. For example, the President has proposed an "assignment" system in his health insurance plan in which doctors will either accept allowed charges as their own or inform patients before treatment that they will be liable for the amount in excess of the "allowed" charge. Will this and other jawboning pressure tactics reverse the phenomenon of drastically dwindling assignments observed under medicare?

These problems have no easy solutions, and the GAO report provides no recommendations. But the actual coverage provided to individuals is the crux of whether any insurance program is satisfactory. When such a program is advertised as providing certain coverage for certain services and delivers on only some of its promises, its good points provide little consolation for those who must pay for its failures. Medicare and any other health insurance program must be structured so that it delivers all of the goods, leaving no bad debts behind for its beneficiaries. I recommend the GAO report—"Study of the Application of Reasonable Charge Provisions for Paying Physicians' Fees Under Medicare"—as a timely analysis for dealing with these problems.

A PLEA FOR SANITY

Mr. CURTIS. Mr. President, the American public is being led to believe the cry for impeachment is louder than ever. That is the message we are supposed to be getting from the VANDER VEEN victory in Michigan. That is supposed to be the new sentiment of the silent majority.

I have often said I do not believe that the majority of the American public wants impeachment or resignation. I still believe that is true.

I ask unanimous consent to have printed in the RECORD a copy of an editorial published in the Ottumwa, Iowa, Courier. The piece was sent to me by a constituent from Butler County, Nebr. If middle America wants Richard Nixon out of office, that is not the message I am getting from my mail.

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

EDITORIAL COMMENT: A PLEA FOR SANITY

EDITOR'S NOTE: The following editorial, A Plea for Sanity," appeared recently in the Ottumwa, Ia., Courier. It was written by the publisher of that newspaper, Jerry Moriarity.

Will not one sane voice be raised in these United States with a plea for reasonableness in judging President Richard Nixon?

Will not just one politician abandon the vitriolic, hysteria-creating rhetoric long enough to ask what is being done to our country? And why?

Will not just one editor, embraced by his own obsessions over a shield law, honestly admit that others, even Presidents, have rights to privacy also? Even on tape.

As an interested observer on the presidential scene since the days of Harry S. Truman (although earlier I had heard and seen both Franklin D. Roosevelt and Al Smith) it is distressing to see how this once vigorous nation is being torn asunder in the wake of the sordid Watergate debacle.

Nixon now is being condemned as a Hitler-figure, as an immoral politician, incapable of leading this nation. Impeachment looms on the horizon.

Somehow the perspective has been lost completely.

Just how great are his crimes? How many lives have been lost? How many tax dollars have been misappropriated? How many elected officials have been contaminated?

And let's compare Nixon with several of his predecessors, too, while we're at it.

I was in Washington, D.C., in the new State Department building a number of years ago on the exact day President John F. Kennedy confessed to us that American pilots were flying missions for the first time in South Vietnam.

Before that, under President Eisenhower, we had only an advisory role. Now we were projected—by presidential decree—into that of actual combatants. The pilots who died in those first sweeps started a parade of dead that later seemed interminable. And the war itself was almost interminable, made so because of the no-win policies inflicted on our fighting men.

And don't forget we had the ill-conceived and ill-fated Bay of Pigs invasion of Cuba, engineered by Kennedy, who let the Cuban patriots die on the beaches because no American fire or air power had been supplied as promised. Not even the New York Times protested! And there were no cries for impeachment.

Does the arrest of the four Cubans in the Watergate burglary match this tragedy as some commentators would have us believe?

I heard President Lyndon Johnson in Peoria, condemning Barry Goldwater as a war-monger, while proclaiming himself as a disciple of peace. Many of us still remember the distasteful TV commercials of the little girl with a daisy being blown up in an atomic holocaust, all because of Goldwater, according to the Johnson scriptwriters. Johnson once said: "I'm President of the United States and I can do any doggam thing I want to." And he did. So it wasn't surprising that in a few months after his election, the Messiah of peace out-Goldwatered Goldwater, hobbling us in a war unlike any other in our history.

I felt at the time that Johnson was a dangerous hypocrite and the thousands of crosses in the jungles of Southeast Asia now attest to that truth. And surprisingly—or is it surprisingly?—the fawning liberal press praised Johnson as a hero upon his death. Impeachment never crossed their minds.

Yet these same critics are yelping at Nixon's heels, even though it was Nixon who brought that ugly war to a conclusion.

For the first time in a generation America is at peace. For the first time in more than a score of years, no American serviceman is dying in combat.

And it was Nixon who broke down the barriers separating the U.S. from both Red China and the Soviet Union, no small accomplishment under any standards.

To understand Watergate, it is wise to reflect on the America Nixon inherited as President. Cities were burning. Weathermen revolutionaires were blowing up buildings, occasionally themselves. Civil disobedience was the pattern. President Johnson could not even attend the Democratic convention in Chicago, so ugly was the mood. Candidate Eugene McCarthy couldn't get from his hotel to the convention hall because of demonstrators on the streets. Yippies rioted in the parks, foul words written on their foreheads; some with their pants' fronts opened, exposing themselves. Others contended themselves with throwing human waste at the harassed Chicago police. I was happy to get away from that scene.

And can you honestly say conditions in the U.S. are worse now under Nixon? You've got to be lying in your teeth!

Honk for impeachment, if you will. The sounds can be heard again over the still land; a few years ago they would have been drowned in the cacophony of discontent.

(Editor's Note—Jerry Moriarity, publisher of the Ottumwa Courier, has interviewed and photographed every President since the days of Harry S. Truman. An Air Force veteran of World War II, he is a former Illinois Editor of the Year with newspaper experience in Wisconsin, Illinois and Iowa.)

TRANSPORTATION—NOT JUST AN URBAN PROBLEM

Mr. FULBRIGHT. Mr. President, recent events have focused attention on the transportation situation in this country and have pointed to some serious shortcomings in this area.

The energy shortage has dramatized the danger of over-reliance on highway transportation, a point that some of us have been emphasizing for years in calling for a revitalized national railway system, as part of a truly balanced transportation network.

It would, however, be a serious mistake to ignore the extremely important role that highway transportation must continue to play, particularly in the less-urbanized sections of the Nation.

President Nixon recently submitted a message on transportation to the Congress, including recommendations for some new and consolidated programs. The major emphasis in the President's proposal is on urban transportation problems. Indeed, this is a critical need,

deserving of considerable attention by the executive and legislative branches. The danger, however, is that this will be done to the detriment of the needs of our less-populated areas.

There are several clear lessons which should emerge from the Nation's experience in the past decade. On the domestic front one of these is that we need to take the pressure off our urban areas. One way to do this is by making our smaller communities attractive places to live, with the necessary amenities and infrastructure to enable them to be economically viable.

This is why, for example, I have worked so hard in support of the grant and loan program for water and sewer facilities for rural and small communities. Regrettably, despite the clear intentions of Congress, the administration has consistently impounded or reduced funds for these important programs.

Another element vital to the development of the smaller communities, and the resultant easing of pressure on urban areas, is an adequate transportation system, including highways, and, wherever possible, rail connections.

A recent editorial in the Jonesboro, Ark., Sun makes the important point: Smaller communities need help too.

The Sun editorial states:

Those of us who live away from the urban centers pay gasoline taxes—perhaps a larger share per person than city dwellers because distance is greater and the private car or truck is about the only means of transportation.

We need both better highways and better public transportation—both air and rail—for our area to continue to grow and develop.

Mr. President, as the Sun points out in its editorial, the highway trust fund has done a great deal for Arkansas. Our State continues to maintain its standing as first among the 50 States in the percentage of total interstate highway miles completed and open to the public. A total of 526 miles were authorized under the Interstate System in Arkansas, and 502 miles, or 95 percent, are open to traffic. The Sun editorial notes:

The Interstate system was conceived and constructed to allow the movement of a large volume of traffic rapidly and safely. Now that the nation is in the grips of an energy crisis and speed limits have been lowered to conserve fuel, the multi-lane facilities, which often reduce mileage between cities, will serve the motorist well.

A report recently submitted to the Senate Agriculture Committee by a group headed by Mr. Ray Metzger, Jr., of Little Rock cited the extreme importance of the transportation system to the movement of agricultural commodities to market. Mr. Metzger, who has studied this matter in great detail, reported that:

Where rail and highway transportation are substantially inadequate in rual areas, farm bankruptcy and the turning of formerly productive cropland into pasture are the net results.

The report submitted to the Agriculture Committee noted that most farm-to-market roads must be built and maintained by county or local governments which are without the resources for sweeping improvements and unable to tap the Federal-aid highway system for assistance. According to the report:

The real danger to our agricultural system lies in the abandonment of rail trackage where the highways are incapable of offering substitute service. It is not enough to look at a map and say that there are sufficient roads serving a given area—the question must be asked, "Are those roads capable of carrying a high frequency of heavy loads?"

Since 1940, the report states, American railroads have abandoned 46,000 miles of track, mostly in rural areas, and the farm-to-market road system has been "virtually ignored."

I also want to mention another component of our transportation system—traffic on our inland waterways. Arkansas has made considerable progress in recent years in developing our inland waterways and this can help relieve the freight load on our railroads and highways. Barges are relatively efficient in their use of fuel, and where possible barge traffic should be integrated into the system of transportation of our agricultural commodities.

In this regard it is important that the Government do what it can to aid in the development of commerce on these waterways. This includes assistance in developing harbor and port facilities which can handle large shipments.

A good transportation system is essential for the movement of our agricultural products. As Mr. Metzger's group points out, if we allow our agricultural transportation system to deteriorate, the costs of food to the consumer will go higher. This would threaten a chain reaction which would have serious repercussions for our economy.

Mr. President, I have frequently heard from community leaders in Arkansas about the need for upgrading highways in the rural areas of the State. For example, Mr. George Severson of the Northwest Arkansas Planning and Development District, and Mr. Jack Gibson, of the Southeast Arkansas Resource Conservation and Development Project, have stressed the importance of the development of rural access roads in their respective areas.

I believe we would be making a serious mistake if we fail to heed these calls for attention to the transportation needs of our rural areas and smaller communities. I am not minimizing the seriousness of the problems of the urban areas, but I am afraid that the administration, certain Members of Congress and the national media may be minimizing the problems of the nonurban areas.

WHAT A SMALL COMMUNITY CAN DO

In conclusion, Mr. President, I want to cite an example of what a small community can do, with Federal assistance, to upgrade itself and to become attractive to industry, thus stimulating the economy.

Yellville, in Marion County, Ark., recently dedicated a new sewer and water treatment plant, and bought a railroad spur to a new industrial park. Grants for these projects were obtained through the Economic Development Administration, Environmental Protection Agency and the Ozarks Regional Commission. These grants were supplemented by local funds.

As a result of the new water-sewer facilities and industrial park, construction has begun on a new $629,000 plant for the Marion County Shirt Co., which will employ 100 people.

Yellville also has a new low-cost housing project with 24 units, 16 of which will be for elderly. The project received a $375,000 grant from the Department of Housing and Urban Development.

Mr. President, this is an example of what progressive-minded local citizens, in this case led by Mayor William E. Browning, can do, working in conjunction with Federal agencies.

Without an adequate transportation network, however, such communities will be isolated and severely limited in their development. The result will be even greater pressure on our urban areas.

I ask unanimous consent, Mr. President, to have printed in the RECORD an article entitled "Progress in Yellville," from Arkansas Municipalities, February 1974; an editorial entitled "Where the Votes Are" from the Jonesboro Sun; and an article from the Arkansas Gazette of February 22, 1974.

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

PROGRESS IN YELLVILLE

Mayor William E. Browning points with pride to the six major projects which began in 1973, all of which are completed, with the exception of the Marion County Shirt Company, scheduled for completion in April 1974 and the Low Cost Housing Project, scheduled to be completed in May 1974.

The Sewage Disposal Plant which consists of a digester, primary and final clarifier, pumps, three recirculation pits, and first and second stage filters, is located south and east of town.

The Water Filtration and Treatment Plant located South of Yellville, above the Gray Spring, is where the City gets its water supply. The building houses a laboratory with various controls, a pumping station, several filter compartments and a large clear well storage tank. Completing the system is a 194,-000 gallon surface tank which is located in the industrial Park, west of town.

The cost of the Sewage Disposal Plant and Water Filtration and Treatment Plant was approximately $1,258,220. The prevalence of rock made the cost so much higher than normal, that one government agency could not provide enough financing. By tying the railroad spur in the Industrial Park, the Sewer and Water improvements program funds were obtained through Grants from the Economic Development Administration, Environmental Protection Agency and the Ozark Regional Commission. Other money was raised locally with the sale of $100,000 general obligation bonds, voted in a special election and a revenue bond issue of $179,000 which was purchased by EDA, to be paid for by the revenue of water and sewer.

Don R. Raney, Executive Director and Ernie Wilkerson, Executive Secretary of the Northwest Arkansas Economic Development District, Inc. assisted in putting the project together.

The Marion County Shirt Company shipping plant, a subsidiary of the Capital-Mercury Shirt Corporatiton of New York, is the first industry to move in to the Industrial Park. A pressing and boxing operation will be in conjunction with the facility.

Construction began October 1, 1973 on the 9,000-square-foot plant which cost $629,067. The plant covers two and one half acres and is on a twenty-five acre tract controlled by Marion County. When production begins 100 people will be employed.

Land was donated by Mrs. Bernice Berry and Hal Burns, Yelville citizens, and the

financing was accomplished by Marion County citizens who approved an Act 49 Bond issue, to be paid by a 5-mill tax levy and an Act 9 Bond issue to be paid off by a lease agreement between Marion County and the Capital-Mercury Shirt Corporation.

The Missouri-Pacific tracks were cut into, bringing a rail spur to the Industrial Park, which is available for future industrial development.

The Low Cost Housing Project, a twenty-four rental complex includes 1, 2 and 3 bedroom units. Sixteen units will be for elderly and eight units for non-elderly. There will be eleven structures in the complex, located on a 4.85-acre tract, and all are single story.

The $375,000 project is funded by a Grant from HUD and is under the supervision of the local Federal Housing Authority. Mr. Gay Rorrie is the Executive Secretary, appointed by the Yellville City Council.

Postmaster Burl King announced the U.S. Post Office is in the process of moving to their new location, a 2,320-square-foot brick building. The structure includes a 120-square-foot loading platform and a large black top parking area.

The $40,000 building was erected by Leo Avey, a Yellville businessman and leased to the Post Office.

The Yelcot Telephone Company, serving Yellville and Summit, has moved to its new 3,344-square-foot building on Mill Street, north of the square. Cost of the building is $35,000 and is constructed of cement block with brick front.

WHERE THE VOTES ARE

Another raid on the federal highway trust fund—the federal gasoline tax revenues that have been used to build highways and interstates—is in the offing.

Highway trust money will play a large part in financing urban mass transit, if proposals of President Richard Nixon are approved.

Rep. Bill Alexander discussed the matter realistically the other day when he was in Jonesboro, pointing out "the votes are in the cities."

He noted that there are only about 25 congressmen who represent predominately rural-agricultural districts and a few more who represent districts with large agricultural areas.

In light of the energy crisis, mass transit is fine, but precious little of that money is going to filter down to Northeast Arkansas. So far, we can't even get an Amtrak stop within 60 miles of Jonesboro, and the one Arkansas Amtrak has no Walnut Ridge stop scheduled.

The highway trust fund did plenty of good in Arkansas. According to statistics released recently by the Federal Highway Administration, Arkansas ranks first among the 50 states in the percentage of total interstate mileage complete and open to the motoring public. Highway trust funds paid most of the costs of building the interstate system and a large part of the cost of work on the primary system.

Latest reports show that 502 miles, or 95 per cent of the total 526-mile interstate route in Arkansas, are now open to traffic, while nationally only about 77 per cent of the free facilities are open.

The Interstate system was conceived and constructed to allow the movement of a large volume of traffic rapidly and safely. Now that the nation is in the grips of an energy crisis and speed limits have been lowered to conserve fuel, the multi-lane facilities which often reduce mileage between cities, will serve the motorist well.

But to get back to the trust funds and urban transit, smaller communities need help, too.

Funding for better public transportation is need, and the expenditure of gasoline tax money should not be confined to the large metropolitan areas.

Those of us who live away from the urban centers pay gasoline taxes—perhaps a larger share per person than city dwellers, because distance is greater and the private car or truck is about the only means of transportation.

We need both better highways and better public transportation—both air and rail—for our area to continue to grow and develop.

It takes money for both.

SYSTEM FOR MOVING FARM PRODUCTS BAD, REPORT TELLS PANEL

WASHINGTON.—The country's agricultural transportation system is "very near a complete collapse" that could cause soaring food prices and "the worst depression this country has ever experienced," a report prepared for the Senate Agriculture Committee warns.

The report, written by the Associated Construction Publications' Transportation Betterment Committee, chaired by Ray Metzger Jr. of Little Rock, said increasing rail abandonments and reduced rural road construction had created a transportation "crisis."

The Senate Committee is in the midst of a study of problems in transporting agricultural commodities to market.

The report by Metzger contends that the deteriorating rural transportation network would cause food prices to rise and make the country more dependent on agricultural imports.

"If we do not move very soon, we will be importing food cheaper than we can raise and transport it to our cities," the report said. "If this happens (and it very well might in the next 10 years if something isn't done immediately), then we could have the worst depression this country has ever experienced."

46,000 MILES OF TRACK ABANDONED

Since 1940, American railroads have abandoned 46,000 miles of track, mostly in rural areas, and the farm-to-market road system has been "virtually ignored," the report said.

Further massive rail abandonments are being planned, although the country's "inability to efficiently move last year's agricultural sale has been proven beyond a shadow of a doubt," the report says.

"The real danger to our agricultural system lies in abandonment of rail trackage where the highways are incapable of offering substitute service," it said, adding that the government never conducted a study to correlate the two systems.

"Where rail and highway transportation are substantially inadequate in rural areas, farm bankruptcy and the turning of formerly productive cropland into pasture are the net results," the report contends.

Although the major portion of the farm-to-market system was built prior to 1930, it has been maintained poorly and improved little, the report said.

8.6 PERCENT OF ROADS IN STATE DURABLE

In Arkansas, it noted, only 8.6 per cent of the rural roads are capable of carrying heavy loads.

It said most farm-to-market roads must be bulit and maintained by county or local governments which are without the resources for sweeping improvements and unable to tap the federal-aid highway system for assistance.

Although revenue sharing is expected by some to help, it is inadequate when divided with school systems, health facilities and others, the document contended arguing that federal money must be channelled to the rural transport systems.

The report also suggested that transportation of containerized agricultural products be encouraged with demonstration projects conducted by land-grant colleges and universities in Arkansas, Maine, Indiana, Illinois, Oklahoma, Iowa, Minnesota and Texas.

Arkansas, was recommended as a test site because of its large poultry export industry.

THE PROPANE CRUNCH

Mr. BARTLETT. Mr. President, I have just received a letter from Mr. William A. Johnson, assistant administrator for Policy Analysis and Evaluation, which confirms my remarks of February 25, 1974, before this body.

Mr. President, I ask unanimous consent to have this letter printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BARTLETT. Mr. President, the propane crunch, which was caused by previous inept Government price controls, is easing. In my home State of Oklahoma much propane storage is full, and retail propane prices have dropped to as low as 22 to 26 cents per gallon in some areas.

Mr. President, the crude oil rollback provision of S. 2589—the Emergency Energy Act—would not significantly affect the price of propane. About 70 to 75 percent of the propane produced in this country comes from natural gas. The Oklahoma Energy Advisor's Council estimates that the rollback provision would reduce the price of propane in Oklahoma only about three-quarters of a cent per gallon. This can be projected into a national savings at the most of about 1½ cents per gallon. All this is at the expense of taking away the incentive to increase crude oil production.

In summary, the price of propane is already dropping far more than the rollback provision provides because the free market is working.

The cost of Senator JACKSON's rollback provision would be reduced domestic production of crude oil at the expense of importing larger quantities of more expensive foreign crude oil.

EXHIBIT 1

MARCH 1, 1974.

Hon. DEWEY F. BARTLETT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BARTLETT: Propane prices have been dropping recently. This is primarily due to high propane inventories this spring and the pricing actions taken to date by the FEO. Examples of prices delivered to the homeowner in selected states are shown in the following table:

[Cents per gallon]

	Peak prices	*Current prices*
North Dakota	34–36	28–30
South Dakota	34–36	28–30
Tennessee	37–40	31–34
Georgia	37–40	31–34
North Carolina	37–40	31–34
South Carolina	37–40	31–34

The primary reasons for the very high propane prices this winter were two actions by the Cost of Living Council during 1973. First, in the spring of 1973 the CLC froze the price of large oil companies could pay to natural gas processing plants for propane which they extract from natural gas. However, companies with under 60 employees (brokers) were free to purchase and resell propane at any price. Consequently large volumes of propane were taken from normal channels of distribution and placed in the hands of brokers who very often resold the propane to major oil companies at inflated prices. This caused the major oil company prices to increase.

Second, CLC regulations resulted in a less

than proportionate raw material cost pass through on gasoline, heating oil, and diesel fuel and a more than proportionate raw material cost pass through on other products, including propane. Consequently, propane was carying part of gasoline's share of these higher foreign crude oil prices.

We have strongly recommended a change in FEO pricing regulations which will alleviate the second problem and reduce the impact of the first problem. This recommended change is to treat all products as "other" products in CLC terms. This would allow an oil company flexibility in pricing products in a responsible manner. If this recommended change were adopted, I am confident propane prices would fall to under 30 cents per gallon for the homeowners.

Sincerely yours,

WILLIAM A. JOHNSON,
Assistant Administrator for Policy Analysis and Evaluation.

CROWNPOINT—GETTING THE ENTIRE COMMUNITY INVOLVED

Mr. MONTOYA. Mr. President, in the January-February issue Community Education Journal a series of articles discussing community education in the Southwest should be of major interest to all those who have worked to improve the educational opportunities of minority groups in the United States.

The small village of Crownpoint, N. Mex., is the focus of an article which I particularly commend to my esteemed colleagues.

This report tells the story of a community in action—and the miraculous things which can be achieved through cooperation. The people of Crownpoint have used their own talents, the help of various State, Federal, and local programs, and the physicial assets of local schools, to create a series of community education programs which are changing their lives and the lives of their children. They are rediscovering cultural arts and values which were being lost through neglect and poverty. They have improved their economic status, and their own feeling of worth. They are working together to educate one another and to develop meaningful and worthwhile community activities.

Their experience should be of interest to every other small community which wants to improve its own opportunities but which feels unable to do so.

Mr. President, I ask that the article by Bruce Carlson, staff writer of Community Education Journal, be printed in the RECORD.

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

CROWNPOINT—GETTING THE ENTIRE COMMUNITY INVOLVED

(By Bruce Carlson)

Crownpoint is located about 57 miles north of Gallup, New Mexico, This little village is the site of the Bureau of Indian Affairs Offices, public and Indian boarding schools, a hospital, and several small businesses. During the last decade, the village's political and educational leaders have attempted to get the area's populace involved in different community activities. The following are results of their efforts.

THE CROWNPOINT RUG WEAVERS ASSOCIATIONS

The Crownpoint Rug Weavers Association, which was organized as a tool to help preserve the weaving of Navajo rugs, has mushroomed into a very sound venture for its members. This nonprofit organization provides for the buyer a quality product at the lowest possible cost and to the weaver the most profit.

Interested persons, both Navajo and non-Navajo make up the Association. Those who work with the Association and the auction donate their services without cost to the organization. Ten per cent of the selling price of each rug is retained for the use of advertising and promotion. If there is any money left over, it is paid as shows to the members.

Since starting these auctions, the quality of rug weaving has improved. Old designs that appeared to have been lost, have revived. Unique colors made from natives dyes, not seen for years are being used to create beautiful rugs.

These auctions are held at Crownpoint Elementary School on the 3rd Sunday of every other month starting with February. Buyers should come early, so they can register and have time to enjoy fried bread, mutton stew and chili.

The first rug auction, which was held on May 27, 1964, totaled just $649.00 from the sale of 33 rugs. The last auction, held on February 16, 1973, however, grossed $26,000.00 from the sale of 350 rugs. One could say that the association has made great progress and success.

CROWNPOINT BOARDING SCHOOL PHOTO CLUB

The Crownpoint Boarding School Photo Club plays a vital part in the life of the school as well as the community of Crownpoint. The Photo Club was organized five years ago by Mr. Arvor Roland, seventh and eight grade math teacher at Crownpoint Boarding School.

Mr. Roland selected willing students from the sixth, seventh, and eighth grades to work in the Photo Club at the school. Students are taught the fundamentals of camera and equipment care to begin with. Later they advance to the other phases of photography such as loading and taking pictures, developing and drying prints, developing pictures.

The photo club is involved with recording most all school activities. They are requested to go along on various field trips, sporting events and other school related activities. Experience is also given in taking portraits, wedding pictures, powwows, and various other types of pictures.

SUMMER RECREATION PROGRAMS

Crownpoint Boarding School, assisted by the University of New Mexico's Department of Health, Physical Education and Recreation, is operating a summer recreation program at the school for students in the Crownpoint area. Students ranging in age from 7 to 13 are eligible to attend the June 11—July 19 program free of charge.

The program under the supervision of Community School Director, Larry Lloyd; Student Activity Director, Mary Shannon; and Acting Principal, Jeff D. Bean, offers each student an hour a day in beginning swimming under a qualified water safety instructor. Other sessions include recreational games and sports, archery, roller skating, arts and crafts, hunter safety, library and good grooming.

Miss Mickie Michelson is the Coordinator for the University of New Mexico portion of the program. This program stresses physical education games, swimming, and arts.

Navajo Indian university students majoring in these fields are placed in leadership positions—teaching various segments of the program.

CROWNPOINT SILVERSMITH AWARDS

An eight-week silversmithing class sponsored by the Ft. Wingate Board of Education Adult Education Program, under the direction of Lee Jim, recently concluded in Crownpoint with a banquet and the awarding of certificates to the 25 adults who successfully completed the course. The class was taught at the Crownpoint Boarding School by Albert Tolino, a silversmith and employee at the school.

Students were taught about the basic tools and equipment used in silversmithing as well as stonecutting and setting techniques. Weights and measures of metals and all the processes involved in jewelrymaking were covered during the course instruction.

The students progressed from the simple to the more complexed techniques in silversmithing during the eight-week course, and all of the students completed several pieces of jewelry.

Other activities at Crownpoint which involve large segments of the population include the Crownpoint P.T.A., "Mother Earth Day," the Crownpoint Theatre Workshop, Crownpoint Consumer Education classes, and an annual Arts and Crafts show. These programs demonstrate that Crownpoint is unquestionably a leader in developing community activities.

STATEMENT OF SENATOR HENRY M. JACKSON ON INFORMATION RECEIVED IN OIL COMPANY HEARINGS

Mr. JACKSON. Mr. President, senior officers of the seven largest oil firms—Exxon, Texaco, Gulf, Mobil, Shell, Standard of California—Chevron, and Standard of Indiana—Amoco—testified before the Senate Permanent Subcommittee on Investigations January 21, 22, and 23, 1974.

Witnesses included Roy A. Baze, senior vice president of Exxon; T. M. Powell, vice president of Standard Oil of California; R. H. Leet, vice president of Standard Oil of Indiana; Z. B. Bonner, president of Gulf; Harry Bridges, president of Shell; Annon M. Card, senior vice president of Texaco; and Allen E. Murray, vice president of Mobil.

They testified on a wide variety of issues, ranging from their companies' profits to their current exploration projects.

Information, in the form of statistics, historical data, and business philosophies was given under oath by the oil executives as they participated in the subcommittee's effort to explain to the American people the nature of the oil industry and the causes of the shortages that now affect us.

Questions which the oil executives were not able to answer at the hearings—questions which required additional research by the companies—were responded in written replies given to subcommittee staff in February.

As chairman of the subcommittee, I directed the staff to compile the written replies and then make them public. I wish to announce today that most of the replies have been compiled and may be found in the files of the subcommittee. Subcommittee offices are in room 101 of the Russell Senate Office Building. The oil companies' responses are available weekdays from 9 a.m. to 4 p.m.

Several of the oil companies' written responses concern taxes and other very complex matters which will require more time for the staff to review before being

made public. In addition, the companies have asked that certain information submitted to the subcommittee be treated confidentially. These requests are under consideration.

In addition, a vital question—one relating to national defense—raised in the hearings had to do with actions by U.S. oil companies in the recent cutoff of fuel to our military forces overseas. This question is the subject of a current subcommittee investigation. I will have more to report on this inquiry in a few days.

The written replies from the companies are lengthy, but I would like to touch briefly on some of the points the companies made in the responses being made public now.

GAS PRICES

Senators were anxious to learn from the oil executives what they thought the price of gasoline at the pump would be for the remainder of the year. It should be noted, in view of the recent rapid escalation of prices, that these estimates were made in early February.

All seven of the companies offered their estimates in language heavily qualified due to the uncertain impact on price of developments such as market conditions and actions in the Middle East.

Exxon foresaw increases this year of about 6 or 7 cents a gallon. Standard Oil of California expected increases this year not to exceed "a few pennies a gallon."

"Relatively modest" was Gulf's opinion of gas price increases at the pump and Shell, reiterating a view expressed at the hearings by the firm's president, Harry Bridges, predicted that prices would be "fairly stable" over the next 2 or 3 months but in the long run "could go up to 10 to 15 cents a gallon."

While Mobil envisioned a 10-cent a gallon rise this year, Texaco anticipated "some future upward pressure on gasoline prices might be expected." Standard of Indiana estimated 1974 increases to total 10 cents a gallon.

Announced March increases of some companies of over 10 cents a gallon coupled with January and February increases show the prudence of the companies' heavily qualified predictions. Even the highest estimated increases for the year appear to have already been reached in slightly over 2 months.

EXPLORATION

A key issue in the energy crisis is the amount of money the major oil companies are investing in exploration.

Some of the companies set forth the figures budgeted strictly for exploration while others lumped together exploration and production, the latter appearing include development of new wells and secondary and tertiary recovery.

Standard Oil of California said it plans to spend $348 million in 1974 on exploration, $241 million of which will be in the United States, $35 million will be elsewhere in the Western Hemisphere and $72 million in the Eastern Hemisphere. It also intends to spend $481 million—$241 million in the United States—for "production" which is said to include costs of developing new oil fields and projects for secondary and tertiary recovery in oilfields.

Standard Oil of Indiana reported it will invest $1.4 billion in capital and exploration in 1974. Nearly $1 billion is to be spent in projects to develop new supplies of energy, the company said, and some $670 million will be spent on energy resource acquisition and development in North America.

An exploration budget of $221 million and production expenditures of $206.8 million are planned for 1974 by Shell within the United States, while Gulf has programed 1971 expenditures of $486 million for exploration in the United States and $210 million overseas.

Some $153 million will be invested by Texaco this year in exploratory and drilling operations to establish new oil reserves in the United States. Texaco also plans to spend approximately $750 million in developing and providing established reserves.

Mobil gave no estimate on 1974 exploration plans. The company explained that it could not make an accurate projection because so much "will depend on exploration opportunities."

Exxon's 1974 exploration budget includes $1.181 billion for petroleum exploration and development—$609 million in the United States—and $93 million for nonpetroleum exploration and development—$44 million in the United States. Total exploration figures come to $1.274 billion.

Several companies noted that exploration expenditures could increase substantially depending on the extent that Federal and State leases are made available for bidding and the company's success in such sales.

RATE OF RETURN

Senators, like most other Americans, are curious about just what rate of return the oil companies believe they require in order to operate efficiently.

A rate of return of 14 to 16 percent would be "adequate," according to the Exxon Corp. Mobil thought a 12- to 15-percent return was needed to "finance our business and attract the necessary capital."

Saying there was "no meaningful way" of deciding what a necessary rate of return for the oil industry should be, Texaco said "free market forces" should be allowed to set the rate of return. In any event, Texaco said, "rates of return substantially higher than present rates are fully justifiable."

Approximately 15 percent would be a sufficient rate of return, Gulf related, adding that this figure assumed Federal financial aid for projects in coal liquification and gasification. Shell's rate of return should be 14 to 15 percent "over a long period of time" but, the company noted, to meet national energy needs rates of returns for the "next few years" should be higher.

Standard Oil of Indiana said the rate of return should be 15 to 19 percent to meet the needs of the United States and the "remainder of the free world." An "appropriate and proper" rate of return for Standard of California would be at least 16 percent, the firm asserted.

HOARDING

On the subject of whether or not they were using abandoned service stations to hoard gasoline, the oil companies said they practiced no such hoarding.

Mobil said it was aware of rumors that service stations were being used to hoard gasoline, but that the company had been unable to substantiate the rumors. Exxon pointed out that it was possible that "a third party" might purchase or lease a closed station and store petroleum products there without Exxon knowing about it.

COMPANY STATIONS

Senators were interested in knowing whether the large petroleum companies were taking advantage of the shortage of gasoline as alleged to convert dealer operated stations to direct company operated units.

Five of the seven petroleum companies reported small increases in the number of company operated stations during 1973 as can be observed from the table below. One of the seven converted none of its stations from dealer to company operations. Exxon actually converted several hundred stations from company operated stations to dealer operations.

	Gulf	Mobil	Socal	Exxon	Amoco	Shell	Texaco
Switched from dealer to company operated unit	48	[1] 64	[2] 36	14	11	54	0
Switched from company operated to dealer				549	2		
Total number of company operated units		401				332	
Total service stations		24,000			17,800		

[1] Since Jan. 1, 1970—net gain and losses. [2] Net change.

SELF-SUFFICIENCY

The seven oil companies share similar ideas with respect to what must be done in order for this country to approach energy self-sufficiency as rapidly as possible. The requirements would be to develop and use all sources of energy and not rely on any single source. They stress that new sources and technical developments in oil and gas, coal, nuclear fission, synthetics, solar, and geothermal energy will be required to mitigate the simultaneous decreasing efficiencies of existing oil and gas wells and the increasing energy demands required to maintain a healthy economy.

Because of long lead times required for technical development and physical facility installation, uncertainties about prices and taxes, and environmental constraints, the companies claim that many of these energy sources will not make sufficient contributions to our total energy supply until the mid-1980's. Until

they do, the United States will be forced to rely upon substantial imports, the companies predict.

Most companies point to the need for energy conservation by the American public for the next decade to reduce the rate of energy consumption growth. Several of the companies emphasize the shortrun need to refine and develop profitable secondary and tertiary recovery methods—waterflooding, thermal stimulation, liquified gas floods, and so forth.

But, among the companies, there is a divergence of predictions as to when—or even if—the United States will achieve self-sufficiency. The companies agree that if self-sufficiency is to be reached or even approached, it will require an unprecedented national effort. It will include "favorable" outcomes of all the aforementioned items, plus the availability of all potential acreage for exploration and development, including the naval reserves in Alaska and California. However, only two of the seven companies, Mobil and Gulf, feel that self-sufficiency can be achieved by 1985. Standard of Indiana, Exxon, Standard of California, and Texaco said self-sufficiency can be achieved, but not by 1985. Shell Oil predicted a need for 1 to 2 million barrels per day of imports in 1990 under the assumption of constrained demand, implying that self-sufficiency is not attainable in this century.

ASIATIC PETROLEUM

On January 13, 1974, the Washington Post reported that Asiatic Petroleum Co., identified as a subsidiary of Shell Oil Co., had been selling heating oil at prices three times what it paid to import the oil.

I ask unanimous consent that the January 13, 1974, Washington Post article be printed at this point in the RECORD.

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

THE $1.5 MILLION ON $540,000 PURCHASE: OIL SOLD FOR TRIPLE ITS COST

(By Thomas O'Toole)

A subsidiary of Shell Oil Co. has been selling heating oil in metropolitan New York at prices three times what it paid to import the oil.

The Shell Oil subsidiary, Asiatic Petroleum Co., bought crude oil from Shell's Venezuelan subsidiary, had it refined in the Caribbean and then tanked it last summer to Perth Amboy, N.J., where it stayed in storage until the home heating oil season began in November.

Asiatic paid an estimated 16.5 cents a gallon for the refined oil when it brought it in last summer. Asiatic has made to New York distributors this winter at least three sales of the same oil for 47.5 cents a gallon and now is offering what it has left for 55 cents a gallon.

One sale of 25,000 barrels was made to a Long Island distributor in November, a second sale of 25,000 barrels to a Bronx distributor in December and a third sale of 28,000 barrels to a Queens dealer in December.

The 78,000 barrels of oil add up to almost 3.3 million gallons, which gave Asiatic revenues of more than $1.5 million on oil for which it paid $540,000.

The three New York distributors who confirmed the transactions all asked not to be identified, but all three willingly discussed the sales in somewhat angry terms.

"I bought the oil for 47.5 cents because I had to have it," the president of the Long Island heating oil firm said. "Then they (Asiatic) came to me a second time with a price of 55 cents and I asked them, 'How can you do this to me?' I can't charge these kinds of prices to my customers."

The Long Island distributor turned down Asiatic's oil at 55 cents a gallon, then told a reporter how Asiatic justified its price to him.

"They told me they were a foreign company and not under price controls," the Long Island company head said. "They said they were only charging the going rate for imported heating oil at the time." Asiatic is a subsidiary of Shell Oil in New York, which itself is a subsidiary of the Royal Dutch Shell Oil group of the Netherlands.

Asiatic refused comment on the three transactions, but a spokesman for the company said it had received no formal complaints about its prices from either the Cost of Living Council or the Federal Energy Office.

"It's quite normal for companies to bring heating oil into New York in the summer at one price," the Asiatic spokesman said, "and then sell it in the winter at the going price. The price is nearly always higher in the fall."

Asiatic does not normally sell home heating oil. It is almost exclusively a seller of heavy fuel oil, not the lighter oils like diesel fuel, kerosene and heating oil.

What Asiatic did was to haul the home heating oil from the Caribbean last summer and put it in what oilmen call "bonded storage." This means it cannot be sold. It must be kept in storage until an import license is granted, a practice that was widely used by oil importers in the days when oil import quotas existed.

Asiatic then "moved" the oil through customs in November, when it put it up for sale at 47.5 cents a gallon. This was the "spot" price at the time for independent cargos of heating oil being imported from Western Europe and the Caribbean.

Mr. JACKSON. At the hearing Harry Bridges, president of Shell Oil Co. was questioned about the Post article. Mr. Bridges said that Asiatic Petroleum Co. is not a subsidiary of Shell Oil Co., but is a subsidiary of the Royal Dutch Shell group. He said that Asiatic has no direct connection with the Shell Oil Co.; that Shell is not involved with Asiatic's business; that Shell does not have any control over what Asiatic does; and that the transaction cited was "a transaction they—Asiatic—made."

Mr. Bridges said that although Royal Dutch Shell owns 100 percent of Asiatic, it owns only 69 percent of the Shell Oil Co.

Mr. Bridges said that Royal Dutch exercises no control over Shell Oil, notwithstanding its percentage of ownership. To the contrary, Mr. Bridges explained, Shell Oil is run by its own board of directors.

I requested a complete statement on this matter from Asiatic. This was supplied in an affidavit of John D. Ritchie, president of Asiatic Petroleum Corp., sworn to January 23, 1974.

The affidavit has been received and may be found in the files of the Permanent Subcommittee on Investigations. The staff of the Subcommittee on Investigations has summarized the Ritchie affidavit and reported on other developments in connection with the Asiatic matter. I ask unanimous consent that the staff summary be printed in the RECORD at this point.

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

In the affidavit, Mr. Ritchie said that Asiatic has an arrangement with Shell subsidiaries in Curaco, Trinidad and Venezuela to sell petroleum products. The price payable to the suppliers by Asiatic is fixed as the amount of the proceeds received by Asiatic from its customers less a mark up for Asiatic, and all its direct costs.

Mr. Ritchie said that under these agreements Asiatic is required to consult with its suppliers before closing a contract with a United States customer since the supplier's sales price depends on the proceeds to be received.

Mr. Ritchie said that the oil sold by Asiatic is sought after by buyers in Central and South America and Europe, as well as the United States. If United States prices are lower, Mr. Ritchie said, oil will necessarily go to competing markets outside the United States.

Mr. Ritchie said Asiatic foresaw a need for additional quantities of No. 2 heating oil to be available on the East Coast during the 1973/74 heating season and set about putting itself in a position to meet part of that requirement by acquiring oil during the season of the year when it is likely to be most readily available.

Accordingly, Mr. Ritchie said, Asiatic's Caribbean suppliers agreed to make quantities of No. 2 fuel oil available to Asiatic; Asiatic spent $65,000 during the early summer to convert storage facilities; and during the period July-December 1973, following the normal trade pattern of stock building, some 900,000 barrels of No. 2 oil were brought into bonded storage at Reserve Terminal.

This oil, according to Mr. Ritchie, was provisionally valued at from 20 cents a gallon (July) to 55 cents a gallon (December). On October 3 and 14, 1973, Asiatic sold two barge lots, aggregating 78,628 barrels, to Steuart Petroleum Company at 17.55 cents a gallon, Mr. Ritchie said, adding that Asiatic's posted prices from June 1 through December 31, rose from 20 cents a gallon to 55 cents a gallon.

In mid-November, Mr. Ritchie said, Asiatic sold quantities of No. 2 oil from its Reserve Terminal stocks at 47.5 cents a gallon to the reseller customers and at 49.5 cents a gallon to the industrial users. Mr. Ritchie said that none of Asiatic's customers complained about the price. Pursuant to price arrangements with suppliers, Asiatic credited 46.655 cents a gallon for sales to reseller customers and 48.381 cents a gallon for oil sold to two industrial customers, to its suppliers' accounts.

Mr. Ritchie said that since early December Asiatic has maintained a 55 cent price but has neither offered nor sold No. 2 oil from Reserve Terminal. He said that he expected, subject to the Mandatory Petroleum Allocation regulations, to use the balance of its stock to meet existing contracted commitments in the first quarter of 1974.

On February 6, 1974, the State of New York instituted a civil suit charging that four members of the Royal Dutch Petroleum Group—Shell Oil Company, Asiatic, Shell de Venezuela, Ltd. and Shell Curaco, N.V.—diverted and held secretly in storage, home heating oil meant for New York homeowners. Shell Oil Company and Asiatic denied the charge.

Generally, the statement charges that Shell Oil Company diverted home heating oil, which it normally would have received, to Asiatic. This, the complaint alleges, resulted in (1) higher prices for Asiatic since it sold only foreign oil which is free to seek its own level while Shell Oil Company's price was

based on an average of domestic and foreign prices; (2) a common pool which Shell could have drawn on; (3) the hiding of the oil in storage and non reporting to the American Petroleum Institute which provided figures to the Federal Government.

The civil trial commenced on February 27, 1974.

DRILLING

Mr. JACKSON. The companies were asked to provide data on their drilling operations over the last 3 years.

Some of the responses gave gross drilling figures only, some net only. Some isolated exploratory wells; others did not. Some did not indicate what the number of wells stated represented: oil, gas, dry, service, total, or some combination. Some noted that figures given included percentage interest in joint drilling projects or shares in consolidated companies; others were silent as to what the figures included.

In any event, the results show a marked decrease in drilling operations.

The following table lists exploratory wells for the 3-year period, if given, and if not lists the drilling figure given by the company.

I ask unanimous consent to have the table printed in the RECORD.

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

Year	Exxon, gross wells completed—exploratory	Texaco, gross wells drilled (oil, gas, exploratory in United States)	Shell, wells drilled (dry), injection and producers domestically	Standard of Indiana, net exploratory wells drilled in United States	Standard of California, wells drilled (oil, gas, dry) in United States including percentage content in joint drilling projects	Gulf, net wells drilled worldwide	Mobil, exploratory wells worldwide including consolidated companies
1971	37	1,145	474	254	464	656	93
1972	50	1,225	569	136	320	585	72
1973	36	1,092	471	138	214	[1] 388	61

[1] United States only, foreign not available.

Mr. JACKSON. Only Standard of Indiana drilled more wells in 1973 than in 1972—by a total of 2 wells. All six of the others drilled fewer wells in 1973 than they did in 1972 or in 1971—assuming Gulf's foreign drilling for 1973, which was not available, did not drastically increase.

Standard of Indiana offered an explanation about the decreased exploration, which began industrywide in the mid-1950's. The firm said:

Standard Oil"s exploratory drilling in the U.S. was largely influenced by cash, incentive and prospect availability considerations from 1964 until well into 1969. The exploratory drilling program was sharply curtailed in 1970 following tax law changes which were expected to reduce incentives and the availability of cash. In 1972 and 1973, spending was increased in response to improving incentives and the availability of OCS acreage. The number of exploratory wells was lower in 1972 and 1973 than earlier years reflecting more high cost offshore, deep and remote location wells being included in the program.

Efforts to increase exploratory drilling . . . were frustrated by uneconomic results and associated lack of attractive prospects. Improving incentives and cash availability along with increasing OCS acreage sales has encouraged Standard to increase domestic spending.

The companies also supplied information on drilling operations over a 10-year period.

Finally the companies supplied some information on secondary and tertiary costs including research and development costs.

ANDERSON REPORTS

Representatives of Aramco shareholders—Mobil, Texaco, Exxon, and Standard of California—were questioned at the hearing on charges made by Jack Anderson, in his column of January 10, 1974, in which it was reported that Aramco encouraged Saudi Arabia to increase oil prices. It was alleged that such increases would give the companies a higher rate of return and also provide the justification for increasing U.S. prices.

I ask unanimous consent that Mr. Anderson's column of January 10, 1974 be printed in the RECORD at this point.

The four companies agreed to submit statements for the record in response to these allegations. Subsequently, subcommittee staff obtained a response from Aramco.

Aramco and its four shareholders denied these charges. They denied that they had met with Saudi Arabian officials to encourage them to increase prices. They said that higher prices were the result of unilateral actions by oil producing countries and that they vigorously opposed such increases.

The companies and Aramco were requested to search their files for documents and records of the type described by Mr. Anderson. All of the companies and Aramco said that they have failed to find such documents.

Representatives of Aramco shareholders were also questioned at the hearing on charges made by Jack Anderson in his column of January 11, 1974 that Aramco followed poor oil field practices and damaged Saudi Arabian oil fields. It was alleged that this damage would limit capacity to only 7.5 million barrels per day and hence the 20-million-barrel-per-day production, often quoted as required to meet world demand, could never be achieved.

I ask unanimous consent that Mr. Anderson's column of January 11, 1974, be printed in the RECORD at this point.

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

[From the Washington Post, Jan. 10, 1974]

BEHIND-THE-SCENES OIL MANEUVERING

(By Jack Anderson)

Locked in the files of Aramco, intended for the eyes of its top executives only, is evidence that the giant U.S. oil combine encouraged Saudi Arabia to increase oil prices.

According to the secret paperwork, Aramco calculated that a price increase would boost its "rate of return." So the company, fearing nationalization of its Saudi oil works "well before 1980" and wishing to squeeze out more profits before the takeover, quietly pressed for higher prices.

The cost of crude has shot up 470 per cent over the past year. This has caused economic shock waves throughout the industrial world and could precipitate a worldwide depression.

The Aramco documents show that the corporate controllers were uneasy over the size of the increase and, belatedly, began to worry about the world reaction.

Likely, too, the Persian Gulf countries, would have raised prices without any behind-the-scenes encouragement from Aramco. Still, the company deserves a measure of blame for the Great Price Squeeze.

Aramco, known more formally as the Arabian-American Oil Co., is a consortium of four U.S. corporations—Exxon, Mobil, Standard of California and Texaco. Together, they work the fabulously rich oil fields in Saudi Arabia.

As surely as oil is the life-blood of the West, the Saudi development is the jugular vein.

We have now been given a peek behind the corporate curtain, which for years has concealed the Saudi oil story. We happen to believe that the truth about the oil crisis is a journalistic challenge every bit as important as Watergate. Not only the press but the government itself has had to depend upon the oil companies for information about the dimensions of the crisis.

Now, we have developed our own sources inside Aramco who have access to its most secret files. Admittedly, they have been able to give us only a limited view into the back rooms of the great oil consortium. Many of the documents are also highly technical and, therefore, difficult for laymen to understand.

To protect our sources, we have agreed not to quote directly from the documents. We read carefully selected excerpts to an Aramco spokesman, who disputed the contents. "A lot of people within the company write memos," he said. "This doesn't mean everything they write is correct."

Nevertheless, the confidential memos, supported by tables giving the "rate of return" at various price levels, show that the company early last year was quietly agitating for higher prices.

The documents also show that the company later became alarmed over the greed of the oil producers. In fairness, the press for extortionary prices came more from Saudi Arabia's neighbors than from the Saudis.

Aramco sent a delegation, headed by George Piercey, a senior Exxon vice president, to urge Saudi Oil Minister Zaki Yamani last fall to hold down the price demands. "We were trying," an Aramco spokesman told us, quite accurately, "to keep prices from going crazy."

But Aramco's only concern, judging from the documents, was to prevent political repercussions in the West. Earlier, the company had helped to stimulate a price increase.

The production costs for a 42-gallon barrel of Saudi oil average only a trifling 12 cents. In contrast, the posted price finally hit $11.65 a barrel on Jan. 1. This is a fictitious price, which oil nations use to calculate taxes and royalties. The actual price for a barrel of crude, upon arrival in America, is closer to $9.

Aramco's confidential price-and-profit tables are based on complex calculations. But they can be reduced to this simplicity: the company winds up with a percentage of the price rise. Therefore, the higher the prices, the higher are Aramco's profits.

One reason for this is that the company can charge off the royalties and taxes it pays to Saudi Arabia, dollar for dollar, against its U.S. taxes. This lovely loophole leaves the four members of the consortium with a U.S. tax debt next to nothing.

In 1972, Exxon, with a 6.5 per cent tax rate, paid the most. Mobil paid only 1.3 per cent Standard of California, 2.05, and Texaco, 1.7. Other U.S. corporations pay around 50 percent.

Now, Saudi Arabia has increased Aramco's tax benefits by raising the royalties from about $3 to $7 per barrel.

The confidential tables also indicate that Aramco gets a payback from Saudi Arabia for its technical help in developing new industries, such as salt production. The tables aren't clear, but it appears that the proportion of the payback increases as the price of oil goes up.

In short, the secret documents reveal that the four Aramco partners are making a profit off the price increase. Only their customers are hurting.

Footnote: The documents show that Aramco is changing its economic base. Because the Saudis are expected to take over the oil at the wellhead, the company is preparing to take its profits from refining and marketing. In the past, it has been the other way around.

[From the Washington Post, Jan. 11, 1974]

REPORTS HIT ARAMCO HASTE ON OIL

(By Jack Anderson)

The final lifting of the Arab oil embargo, according to secret reports from the Saudi Arabian fields, won't bring the promised gush of oil.

The reports have been shown to us by sources inside Aramco, the multinational, multibillion consortium which developed the Saudi fields. There are four Aramco partners—Exxon, Mobil, Standard of California and Texaco—each an oil giant in its own right.

In these reports, which have been withheld from both the Saudi and U.S. governments, Aramco engineers have warned that "severe technical difficulties" have hampered production.

Their best estimate is that production will be "stabilized" at no more than 7.5 million barrels a day. This is less than half the 20 million barrels that the Saudis promised if their political terms were met.

But the real scandal, if the engineering reports are correct, is that the production foul-up was caused by Aramco's greed.

For three decades; Aramco has been pumping oil from under the sands of the sheikhdom and paying the Saudis mere alms.

Not only are the fabulous, one-sided oil concessions of the past now at an end, but the company fears that its whole Saudi operation will be taken over by the government. The secret Aramco memos are full of references to "possible nationalization" and "unstable political conditions."

A year ago, the memos predicted nationalization would come "well before 1980." More recent memos warn that the takeover may be only two or three years away.

Aramco, therefore, began draining every drop of oil that could be sold from its Saudi wells. The daily production was increased from 6.5 million barrels in 1972 to 9 million barrels in 1973. The company had set a 9.3-million-barrel production goal by the end of the year.

The corporate objective, according to the secret memos, was to increase production from existing fields without spending any more money than necessary on developing new wells.

The rush to get the oil out caused technical problems. As early as last June, engineers warned that production was too fast. Their secret reports tell of "huge pressure drops" and "erratic production."

The hurried production, according to the reports, created "tremendous volumes" of natural gas, which simply had to be burned off. At a steadier production rate, the reports state, the gas could be compressed and reinjected into the formation.

This would cost a little development money, but it would increase the pressurization and permit more oil to be pumped through existing wells.

However, the documents make clear that Aramco is not interested in preserving petroleum for the Saudi government to expropriate but only in removing as much as possible before nationalization takes place.

There is no shortage of oil under the Saudi sands. The barren, baked desert virtually floats on a sea of petroleum. The engineering reports, indeed, are highly critical of Aramco's management for failing to conduct adequate "development drilling" and "reservoir analysis."

But plainly, the company is unwilling to invest substantial sums in developing Saudi Arabia's vast oil reserves unless the government makes the risk worthwhile.

One memo estimates that it would cost Aramco $1 billion to increase production. The money is needed for drilling new wells and building more pipelines and storage tanks. Even if this vast investment is made, according to the memo, no substantial increase in production could be expected before 1977.

The Aramco documents show that the company, meanwhile, is concentrating on draining the fields it has already developed. Only 14 of the 20 known fields are now being worked, according to the engineering reports, and substantial production is coming from only 12. Geological surveys indicate that many more fields merely await exploration and development.

When the Saudis offered to increase production to 20 million barrels daily, they evidently didn't know about the technical difficulties that have developed. Their suspicions, apparently, were aroused. But the secret reports indicate they were kept in the dark about the seriousness of the trouble.

This is vigorously denied by an official spokesman for the oil consortium. He assured us that the company is developing Saudi Arabia's oil reserves as fast as feasible and that the technical problems haven't been serious. He specifically denied that the company's carelessness will limit future production to about 7.5 million barrels daily, without heavy investments.

We quoted some of the memos to him, including one which declared the "reservoir pressures" fluctuated so greatly that the engineers estimated the daily production would be held at "no more than 7.5 million barrels."

This memo, said the spokesman, was "all wet, completely erroneous." The welfare of the West may depend, to a large extent, on who's telling the truth—the secret memos or the official spokesman.

For Saudi Arabia is the western world's oil jugular.

Mr. JACKSON. Again the four companies and Aramco were asked to submit statements for the record. All denied these charges.

Aramco said that it had some 164.5 billion barrels of remaining probable reserves in its concession area. The production for 1973 totaled 2.7 billion barrels representing an annual depletion rate of less than 1.7 percent as compared to an annual depletion rate in the United States of approximately 13 percent.

Aramco answered charges that it was unwilling to invest substantial sums in developing Saudi Arabia's vast oil reserves by supplying the following figures for expenditures for exploration, drilling, and oil facility investments:

1971, $170 million; 1972, $425 million; 1973, $630 million; and 1974, $900 million programed.

Aramco said that its production rate had reached 8.8 million barrels per day in early October 1973, just prior to the embargo. Aramco said that its present reservoir management practices and oil reserves could easily accommodate an increase in production to the 20 million barrels a day mentioned by Saudi Arabia. All companies and Aramco said that a search of their files has failed to reveal documents and records of the type described by Mr. Anderson.

I ask that unanimous consent that Mr. Anderson's columns of January 28 and February 5, 1974, further commenting on these matters be printed in the RECORD at this point.

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

[From the Washington Post, Jan. 28, 1974]

DETAILS OF ARAMCO PAPERS DISCLOSED

(By Jack Anderson)

We're calling Aramco's bluff.

The Arabian-American oil colossus has accused us of "irresponsible journalism" for reporting that it employed wasteful production methods and secretly encouraged Saudi Arabia to increase prices.

"It is inconceivable," Aramco declared, "that Mr. Anderson could have any valid evidence" to back up the charges.

The evidence comes right out of the secret files of the four oil giants—Exxon, Mobil, Standard of California and Texaco—which make up Aramco.

Some of the documents are so sensitive our sources had to hand-copy them on the premises. Other documents, stamped "Confidential," were photocopied by our sources. Some of these papers contain the notation:

"Please respect the confidential nature of this publication by keeping it in a locked drawer or by destroying it if you do not wish to retain it. The proper disposition of this copy is your personal responsibility."

We believe it would be "irresponsible journalism," indeed, to accept the oil industry's self-serving statements about the oil crisis.

To protect our sources, we have agreed not to quote directly from the documents nor to show them to anyone. But we have told Senate investigators generally which documents to subpoena. We have also offered to inspect the subpoenaed documents after they are delivered to the Senate to check whether any have been withheld.

Now let's get down to the specifics.

We reported that Aramco fearing nationalization of its rich Saudi Arabia fields, began draining out every salable drop last year. At the same time, the company also spent as little as possible to maintain and pressurize the wells, causing "severe technical difficulties."

For the evidence, the Senate should subpoena the memos summarizing all the telephone calls between Aramco's headquarters

and the four partners. There was considerable telephone talk about the threat of nationalization and the need, therefore, to increase production.

From each of the Big Four, the Senate should also demand to see the responses of the analytical department to inquiries from the board. These describe the technical difficulties caused by overproduction.

The Senate can get the technical details by subpoenaing the engineers' "trip reports." These speak of "erratic production" and "huge pressure drops." Last summer, the technical problems became so serious that Aramco called for the assistance of reservoir experts from Standard of California.

Photos of Saudi Arabia, taken by our astronauts from space, clearly show the huge smoke plumes from the natural gas flares. Production reports criticize Aramco for burning off the gas instead of slowing down production and reinjecting the gas into the oil formations for pressurization.

The technical problems, we reported, will make it impossible for Saudi Arabia to keep its promise to increase production to 20 million barrels a day once its political demands are met. Let us quote one line from the documents in our possession:

"The reservoir pressures fluctuated so greatly that engineers now estimate production will be stabilized at no more than 7.5 M barrels/day, far below the 20 M barrels/day projection." This estimate was made shortly before Christmas.

For evidence that Aramco secretly encouraged Saudi Arabia to boost prices, the Senate should subpoena the records of all meetings with the Saudi oil minister, Ahmed Zaki Yamani. At first, the Aramco crowd quietly pressed for an increase to around $6 per barrel. The price rise was to be in the form of a tax, which could be charged off against the U.S. taxes of the Aramco partners.

With oil prices going up in the Middle East, the partners could then justify increasing U.S. prices, which would give them extra capital to reactivate abandoned wells at home.

The Senate might be interested in subpoenaing the statistical data, which Aramco furnished to its partners. The Big Four also prepared some fascinating economic analyses, complete with charts, showing how the price rise would increase the return on investment.

Footnote: We explained in our original story that Aramco became nervous over the world repercussions caused by soaring oil prices. At this point, Aramco tried to stop the price trend it had helped to start. A delegation, reversing its earlier line, urged the Saudis to stabilize prices.

[From the Washington Post, Feb. 5, 1974]

ARAMCO BACKED SAUDI OIL PRICE RISE

(By Jack Anderson)

The story behind the leap in oil prices is revealed, at least in part, in the secret corporate papers of the Arabian-American Oil Co. (Aramco).

The new Pike's Peak prices will cost the world's oil consumers billions of dollars and the jolt the economies of oil-dependent nations.

Aramco is the world's largest oil producer. Its derricks outnumber the palms on the Saudi Arabian desert, which covers an underground sea of petroleum.

Aramco is a consortium of four of the five largest U.S. oil giants—Exxon, the biggest; Texaco, second; Mobil, fourth and Standard Oil of California, fifth.

Over the past three decades, the four companies have earned enormous profits on the crude oil under the Saudi sands—profits that were sharply boosted by a secret 1950 Treasury Department ruling that permitted them to charge their royalty payments off their U.S. taxes, dollar for dollar.

The write-off, which has been worth hundreds of millions of dollars in tax credits to the Aramco partners, was justified on national security grounds. This special incentive was needed, Aramco pleaded, to preserve the Saudi oil for U.S. defense.

As a measure of the worth of this multimillion-dollar argument, Aramco has cut off all Saudi oil to U.S. armed forces since Oct. 21 at King Faisal's request. The king was offended at U.S. arms shipments to Israel.

Aramco expects to lose its fabulous Saudi oil concessions eventually, but would dearly like to put off the dreadful day. The corporate papers predict that King Faisal will take over the oil fields "well before 1980."

In an anxious scramble for new sources of crude, the Aramco partners dusted off plans to reactivate U.S. wells that had been temporarily abandoned.

As long as there was plenty of cheap Saudi oil available, the four partners weren't interested in conducting costly pumping operations in the United States. But the threat of nationalization dramatically changed their outlook.

However, they didn't want to give up the fat profits they had become accustomed to piling up. They decided, therefore, that they needed higher oil prices to pay for reopening the U.S. wells.

Before they closed these wells, they had creamed off the oil that gushes out on its own power. Now they must pump gas or water into the wells to force out the "secondary" oil. They are also studying "tertiary techniques" for extracting oil from the oil sands.

To raise money for all this, Aramco encouraged Saudi Arabia to raise oil prices. The corporate papers tell of secret meetings with Zaki Yamani, the polished Saudi petroleum minister. The papers mention $6 as the price they hoped to set for a barrel of oil.

The Saudis obligingly came through with a price rise in the form of a tax increase, which the Aramco partners could credit against their U.S. taxes. The secret papers contain complex charts, which show that their profits increased in proportion to the price rise.

Exxon's profits for the last three months of 1973 jumped 59 per cent over the same period in 1972. Mobil reported a 68 per cent increase, Texaco a 70 per cent increase, Standard of California 94 per cent.

The strategy of raising prices worked better than the Aramco partners bargained for. Other oil-producing countries joined in the clamor for higher profits, until the price soared out of bounds.

Alarmed Aramco officials, fearful of worldwide political repercussions, went back to Yamani with a plan to stabilize prices. Although the Aramco partners have benefited mightily from the high prices, they don't want to press their luck too far and risk government controls.

The corporate papers show that the Aramco brass is preparing for another showdown with Yamani this month. They expect Yamani to call for "restructuring Aramco, giving Saudi Arabia a greater share of the oil production. They believe that he will demand an increase from 25 to 51 per cent of the company.

Then Saudi Arabia will wind up controlling Aramco, and it will be just a matter of time before the Aramco partners will be left with whatever oil they can squeeze out of their U.S. fields.

Footnote: Aramco declared that "far from encouraging increased oil prices," it has "worked for reasonable prices." A corporate statement charged that we had failed to substantiate our story and that we couldn't possibly have any "valid evidence" to back it up.

On the contrary, we have given the Subcommittee on Multinational Corporations headed by Sen. Frank Church (D-Idaho) a detailed description of the documents in our possession. We were called behind closed doors, where we testified under oath, read excerpts from the corporate papers and told the subcommittee which documents to subpoena.

STATION CLOSINGS

Mr. JACKSON. The subcommittee requested statistics on 1973 gasoline station closings.

Mobil reported that no Mobil-owned and operated stations were closed; 670 Mobil-owned and dealer-operated stations closed; and 171 dealer-owned stations shut down.

Nineteen of its "salary stations" were closed last year, Shell said, as were 741 franchised stations and five independents.

Some 258 Texaco-owned stations ceased operations as did 793 stations operating under a third-party lease. Texaco reported that 865 privately owned and independently operated service stations handling Texaco brand products were closed by the retailers.

Standard Oil of California said 19 stations it owned were closed in 1973 and 298 dealer-owned stations closed. Another 661 stations closed which were leased to and operated by dealers, Standard of California said.

Standard of Indiana reported that five company-owned stations shut down; and 768 stations which were operated by lessee dealers selling gasolines under the Standard or Amaco brands were closed.

A total of 1,268 "company-owned and leased—from investors—stations" were "deactivated," Exxon informed the subcommittee.

Gulf reported that 1,931 "assured" stations—those which are owned by the firm or leased—ceased to operate in 1973 as did 1,969 "Gulf contract dealers." Those dealers who own or lease their facilities from a third party.

ARAB CRUDE OIL NEGOTIATIONS

Generally, crude oil may be obtained from the Arab States or from any other foreign state by any of three methods. The first of these methods is the acquisition of the rights to explore for and produce crude oil in designated tracts. Although the rights are usually assigned by competitive bidding, they sometimes are assigned to a company which has individually submitted an exploration application to the host country for a particular tract. Rights may also be obtained by a "farm-in," where a company is invited to share the existing rights of another party, usually subject to the approval of the host government.

The second method of obtaining crude oil from foreign states is through direct purchases from state oil companies. This relatively new procedure has increased dramatically in importance recently as state oil company participation in major oil concessions has become a much more dominant force. Available state oil company supplies are usually allocated by competitive bidding.

The third method of obtaining crude oil from foreign states is through direct purchases from other private oil companies. These transactions require no negotiation with the government of the foreign country involved.

The day-to-day relationships with host country governments are usually handled by company field management personnel. Matters such as negotiating tax reference—posted—prices and basic revisions to agreements are usually handled by concessionaire shareholder representatives and field management personnel. Because many concession arrangements are jointly owned, many company decisions and negotiations are made on a team basis.

During the 1960's, there were true negotiations between oil companies and foreign states. However, since the early 1970's, the "government take"—royalties, taxes, and other payments from the oil companies' share of oil production—has become less negotiable.

Before 1970, Middle East—including OPEC and Libya—posted prices—the number upon which Government take was calculated—were determined in negotiations. But in the 1970's, with spare producing capacity vanishing worldwide, the accidental rupturing of the trans-Arabian pipeline, ensuing tanker shortages, and ever increasing demand, the present era of unilateral pricing by foreign oil producing governments evolved.

Efforts to establish countervailing powers by consuming nations and oil companies have failed. Joint industry negotiation terms, under the full knowledge and support of the U.S. Department of State, formed for the Teheran and Tripoli negotiations, encountered stiff resistance and threats of nationalization. Agreements have been continually revised before their exploration dates to "maintain" dollar parity. Cutbacks in production by Kuwait and Libya in early 1972 led to an increasing tightness of supply. Unilateral price increases by OPEC have basically been considered as dicta by the oil companies. Apparently none of the companies has negotiated with Arab states since October 1973 for new rights, although some anticipate a resumption of or are currently negotiating for "buy back" oil terms negotiations and participation agreement revisions.

The role of U.S. Government agencies in assisting oil companies in acquiring foreign crude oil, according to the seven largest domestic oil companies, has been very limited. Very little information or assistance is ever requested by or received from the U.S. Government. Although it does appear that the companies do submit negotiation information to the Government, the majority of these submissions are on a voluntary basis. The Government has not actively participated in industry or company negotiations with OPEC nations, except the 1971 visits of Under Secretary Irwin to oil producing countries and current attempts by the administration to have the OPEC boycott lifted. Exxon makes the following statement about the need for increased Government participation:

> It seems imperative that, in view of the radical changes that have occurred in the international oil scene, the U.S. Government must play a more active role.

All companies stated that it is in their corporate interest to negotiate the price of Arab crude oil downward in the interest of their consumers and of the U.S. economy in general. Standard of Indiana indicated that to the extent that high prices discourage wastefulness, they are beneficial, although current prices and price increases have been disruptive to our economy because of their magnitude. Standard of Indiana also states:

> In the present near-chaotic state of overseas crude oil prices, it is impossible to forecast how our profits would be affected by a negotiated reduction in crude price by the Arab states. . . . From the company's point of view, it would appear pointless to attempt a negotiated reduction in crude oil prices without at the same time seeking to resolve the factors that have contributed to the worldwide supply/demand imbalance.

UNUTILIZED PRODUCTION CAPACITY

Another question asked had to do with the number of oil and gas wells in which each company had an interest which are capable of production but are not at present producing at full capacity and the unutilized production capacity represented by these wells, classified by their location and the reason they are producing less than capacity.

Texaco said that it "has no oil well with unutilized production capacity" below that permitted by State regulatory bodies. Texaco also indicated it had no unutilized gas production capacity.

Exxon's position was similar to that of Texaco, as it reported:

> Exxon U.S.A. does not have proved oil reserves capable of economic production currently that are shut-in waiting for higher prices. Exxon's U.S.A.'s producing oil well compilations are operating at capacity rates subject to applicable State and Federal conservation rules and environmental regulations.
>
> Exxon U.S.A. has virtually no gas that it can make currently available for additional sales.

Exxon said its liquid production decreased since 1972 but that:

> The rate of decline has been substantially retarded by extensive work programs. A similar program for gas wells has also been conducted.

Standard of California explained that:

> Over the years a number of wells have been shut-in because they reached the economic limit at prevailing prices.

When shut-in these wells accounted for production of 5,000 to 7,000 barrels of oil per day. The firm said that 500 wells could be brought back into production at the new level of crude oil prices.

Mobil said:

> It only makes good business sense to produce as much oil and gas allowed under Federal or State regulations and consistent with technically sound reservoir operation aimed at maximizing recovery. This is what we are doing and will continue to do in the future.

Mobil said that of its 15,000 wells in the United States, approximately 200 are shut-in at any one time for workovers taking less than a week. In addition, Mobil had 85 wells shut-in waiting for pipeline connections or Government clearances. These wells were estimated to be capable of producing 13,775 barrels of oil per day and 290 million cubic feet of gas per day.

Shell Oil reported that in the third quarter of 1973, its unutilized oil producing capacity was 45,200 barrels per day from 710 wells. Almost two-thirds of this unutilized capacity was from a field in Utah. Shell said that lack of transportation facilities complicated by the unusual waxy characteristic of the oil was the reason for not producing the Utah field. The remaining one-third of the unutilized oil-producing capacity was indicated as being associated with State regulatory agencies that were not permitting maximum production of fields.

Gulf Oil indicated that it has 588 wells shut-in that were capable of producing 14,769 barrels of oil per day. Of the total, 8,208 barrels of oil per day was not being produced because of State regulatory controls over production. Another 6,400 barrels of oil per day of oil was not produced in Utah since transportation facilities were limited.

Gulf said that its shut-in gas wells were capable of producing 286 million cubic feet of gas per day. About half of the shut-in capacity was attributed to being "prorated by pipeline nominations." One-fourth of the shut-in gas capacity was associated with "waiting on pipeline construction," and another 20 percent was explained as resulting from "State regulatory controls."

Gulf did not report the quantities involved, but said that it had wells that had "been drilled but not completed for production."

Standard of Indiana said that it had no substantial production capacity that it could bring onstream to help alleviate the energy shortage. However, with an in-State regulatory and legal requirement an additional 50,000 barrels of oil per day could be produced with facility expansion. The company said that its shut-in production that could be brought on-stream with the higher crude oil prices would amount to only 2,681 barrels of oil a day.

1973 EARNINGS

Standard of California reported its estimated net income in 1973 was $184 million in the United States and $844 million worldwide. Sales and operating revenue were an estimated $4.169 billion in the United States and $8.482 billion worldwide.

The company issued these figures for the 2 previous years:

[In millions]

	1971		1972	
	United States	Worldwide	United States	Worldwide
Sales revenue	$3,385	$5,728	$3,634	$6,476
Net income	185	511	200	547

On January 30, 1974, Standard of California issued a press release saying that 1973 worldwide profits were up 54 percent over 1972 and 65 percent of 1971. In the United States, the release asserted, profits were down 8 percent from 1972 and down 0.5 percent from 1971.

The firm noted:

> The principal reason for declines in the U.S. was that the November and December increased cost of purchased oil, domestic and imported, could not be passed on, by means of price increases, until 1971 because of the delays built into the Cost of Living Council regulations. The foreign earnings reflect improved product prices compared to seriously depressed prices in prior years, and from the dollar devaluation.

In replying to the question of its 1973 earnings, Texaco referred the subcommittee to a press release issued January 24, 1974, in which Maurice F. Granville, chairman and chief executive officer, announced that:

The full year 1973 produced the highest earnings for any year in Texaco's history and the fourth quarter of 1973 similarly showed higher earnings than in any previous quarter.

Mr. Granville described the record earnings as "gratifying."

Specifically, the press release reported, consolidated net income of Texaco for the full year 1973 was $1,282,403,000 or $4.75 a share. These figures were then compared with 1972 income of $889,040,000 or $3.27 a share. The earnings increase came to 45.4 percent, the press release noted, adding that fourth quarter earnings climbed 70.1 percent from 1972 to 1973. In dollars, net income for the fourth quarter went up from $266.6 million in 1972 to $453.5 million in 1973.

Approximately 35 percent of the 1973 earnings was attributable to U.S. operations compared with 49 percent in 1972. The bulk of the earnings for 1973 came from other areas worldwide. Mr. Granville stated:

U.S. earnings failed to keep pace because of declines in U.S. crude oil and natural gas production and because of price controls on petroleum products and on existing production in the face of sharply rising costs.

The Texaco press release said consolidated gross income for the full year was about $11.8 billion in 1973, an increase of 31.9 percent over the $8.97 billion total of 1972. Texaco's gross income for the fourth quarter had gone up 46.6 percent from $2.4 billion in 1972 to $3.6 billion in 1973.

Terming this a "highly unusual" period in history, Mr. Granville added:

This strong upswing, especially in the latter part of 1973, followed a period of four years in which the company's returns on both gross income and total assets had been lagging behind the average returns of the last 10 years.

The higher earnings reflected sharp increases in product prices that followed the imposition of the Arab oil cutbacks and embargoes in October, as well as the continued high levels of worldwide operations.

This strengthening of product prices over the previously unsatisfactory levels took place both in Western Europe and other overseas markets and in the United States within Cost of Living Council guidelines.

To report on its 1973 earnings, Mobil put out a press release January 24, 1974. The press release was submitted to the subcommittee.

In the release, Mobil said its 1973 earnings were $842.8 million or $8.28 a share. This was 46.8 percent higher than the $574.2 million, or $5.65 a share, earned in 1972. For the fourth-quarter of 1973, earnings were $271.6 million, or $2.67 a share, an increase of 68.2 percent over the 1972 fourth-quarter earnings of $161.5 million, or $1.59 a share, Mobil said.

Mobil Chairman Rawleigh Warner, Jr., was quoted in the release as saying that earnings outside the United States accounted for the major portion of the earnings increase over 1972.

The press release said:

Of particular significance were the unusually high foreign currency operating earnings as expressed in U.S. dollars. Estimated earnings in the United States rose about 15 percent.

About $150 million of the $268.6 million worldwide earnings improvement resulted from the conversion of foreign currency profit and loss statements into a weaker 1973 dollar. Mr. Warner cautioned that the recent strength of the dollar versus foreign currencies, if maintained through out 1974, would have an adverse effect on 1974 earnings.

To demonstrate the impact of foreign currency operating earnings on its 1973 earnings Mobil included in its press release two charts. The first shows earnings with the favorable currency translated effect. The second chart shows earnings without the currency translation effect. I ask unanimous consent that the charts be printed in the RECORD at this point.

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

[Dollar amounts in millions]

	1973 earnings estimated	Change (percent)
U.S. operations	$273.8	Up 15
Foreign operations	569.0	Up 70
Worldwide	842.8	Up 47

	Adjusted 1973 earnings estimated	Change (percent)
U.S. operations	$273.8	Up 15
Foreign operations	419.0	Up 25
Worldwide	692.8	Up 21

Mr. JACKSON. Mobil Chairman Rawleigh Warner, Jr., said the increased earnings in 1973 "reflected recovery" from low 1972 earnings. Mr. Warner said domestic crude and natural gas prices had also increased while marketing expenses had declined. He said that:

While product prices had gone up in 1973, these increases were substantially offset by higher costs for crude oil and other raw materials.

Mr. Warner also pointed out that the oil industry had been under Government price controls since the summer of 1971.

In a press release of January 23, 1974, submitted to the subcommittee, Exxon estimated consolidated earnings for 1973 at $2.44 billion or $10.89 a share. In 1972, the firm had earnings of $1.532 billion or $6.83 a share.

Fourth quarter 1973 earnings were estimated at $784 million or $3.50 a share, Exxon reported, compared with 1972 fourth quarter earnings of $493 million or $2.19 a share.

The press release asserted that Exxon had achieved an 18.8 pecent return on shareholders' equity in 1973, compared with 12.8 percent in 1972. On the basis of assets employed totaling about $25 billion at year end 1973, the return improved to 10.4 percent in 1973 from 7.3 percent in 1972, Exxon reported.

J. K. Jamieson, chairman of the board, observed:

I hope this signals the start of a period in which the [Exxon] Corporation will again be earning a rate of return on investment which is comparable to that of leading companies in other industries.

Exxon submitted a chart showing its estimates on selected financial and operating data. Financial data are expressed in millions.

I ask unanimous consent that the Exxon chart be printed in the RECORD at this point.

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

	1973	1972
Total revenues	$28,500	$22,438
Taxes and duties other than excise and income taxes	$4,533	$3,989
Excise taxes	$2,330	$1,761
Income taxes	$3,602	$2,346
Total income and other taxes:		
Amount	$10,465	$8,096
Percent of total revenues	36.7	36.1
Net income:		
Amount	$2,440	$1,532
Percent of total revenues	8.6	6.8
Chemical product revenues (including transfers to petroleum affiliates)	$1,880	$1,517
Petroleum product sales, barrels daily	6,155,000	5,701,000
Gross production of crude oil and natural gas liquids, including offtake under special arrangements, barrels daily	6,712,000	6,145,000
Refinery runs, barrels daily	5,759,000	5,146,000
Natural gas sales—billion cubic feet daily	9.7	9.3

Mr. JACKSON. Gulf reported its statement of earnings for 1973 this way:

Gulf Oil Corporation's consolidated net earnings for 1973 were $800 million, compared with $447 million for 1972, before inclusion of a $250 million extraordinary write-off in that year. These 1973 earnings are equivalent to $4.06 per weighted average share, up from $2.15 in 1972. These earnings represent a profit of 8 cents per dollar on the gross revenue of $9.9 billion up from the 5.8 cents margin on 1972's $7.7 billion. Translated into profit on crude and product sales, Gulf earned about 1.5 cents per gallon on its worldwide operations last year.

Approximately $480 million was earned in Gulf's petroleum operations in the United States, a 14 percent increase over 1972, and before amortization of nonproducing leases, exploration expenses and dry hole expenses totaling $116 million. The improved performance of U.S. Petroleum operations was due to increased prices for crude produced and to a 12.3 percent increase in refined product sales volumes. Product price increases received by the company reflected the recovery of increased costs as approved by the Cost of Living Council. Production of crude oil declined 37,000 b/d or about 8 percent. However, this was more than offset by significant increases in crude oil imports and by increasing refinery runs to 96 percent of capacity, compared with 90.5 percent in the prior year.

Foreign petroleum operations showed net earnings of $560 million compared with $150 million in 1972. The balance of the operations had an aggregate loss of $124 million chiefly reflecting nuclear activities.

Reporting in a January 28, 1974 press release, Standard Oil of Indiana—Amoco—estimated consolidated earnings for 1973 to be $511.2 million. Earnings per share were $7.33, an increase of 36 percent over 1972, the firm announced. "On a fully diluted basis," Amoco said, earnings in 1973 were $7.08 a share and in 1972 were $5.21.

Fourth quarter earnings for 1973 were $121.5 million, an increase of 53 percent over the $79.5 million earned in the

fourth quarter of 1972, Standard of Indiana said. The company chairman, John E. Swearingen said the 1973 earnings of $511.2 million are,

less than the company will expend in the United States in 1974 on efforts to increase domestic supplies of natural gas and crude oil.

Pointing to gains achieved in both petroleum and chemical operations worldwide, Mr. Swearingen attributed a large portion of the increased profits chiefly to higher prices for crude oil. Mr. Swearingen described the increase in domestic crude oil prices as:

crucial to an expanded search for new domestic supplies of petroleum and increased production from existing fields.

Shell submitted a chart showing "statement of income and retained earnings" for 1973 and 1972 for Shell and its subsidiaries.

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

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

SHELL OIL AND SUBSIDIARY COMPANIES—STATEMENT OF INCOME AND RETAINED EARNINGS

Revenues	1973	1972
Sales and other operating revenue (including consumer excise and sales taxes)	$5,701,135,000	$4,817,468,000
Dividends, interest and other income	48,431,000	32,368,000
Total	5,749,566,000	4,849,836,000
Costs and expenses:		
Purchased raw materials and manufactured products	2,264,903,000	1,693,295,000
Costs and operating expenses	1,071,777,000	989,685,000
Selling, general and administrative expenses	503,154,000	489,788,000
Income, operating and consumer taxes:		
Consumer excise and sales taxes	817,327,000	741,570,000
Operating taxes	135,465,000	136,221,000
Federal and other income taxes	121,771,000	82,578,000
Depreciation, depletion, amortization and retirements, including dry holes	441,695,000	396,805,000
Interest and discount amortization on indebtedness	60,780,000	59,423,000
Total	5,416,872,000	4,589,356,000
Net income	332,694,000	260,480,000
Retained earnings at beginning of year	2,116,801,000	2,018,072,000
	2,449,495,000	2,278,552,000
Cash dividends paid: $2.40 per share	161,704,000	161,751,000
Retained earnings at end of year	2,287,791,000	2,116,801,000

Note: 1973—$4.94, and 1972—$3.66 per share based on weighted average shares outstanding of 67,365,167, and 67,396,610 respectively.

Mr. JACKSON. Shell explained these comparative results as follows:

The financial performance of the company in 1973 compared in relation to the depressed levels of the previous few years. Net income rose from $260.5 million in 1972 to $332.7 million in 1973. A major reason for this was continuing improvement in the performance of the chemical divisions. Other pertinent factors were the large scales volumes of petroleum products, an increase in domestic crude oil prices under the 2-tier system established by the Cost of Living Council, and the firming up of the prices of most products.

COMPARISON OF U.S. AND FOREIGN ACTIVITIES

Senators were interested in comparing United States and foreign sales volume, earnings, and crude production for each company.

The companies answered this question in a variety of ways and it would be impractical to summarize their responses which are to be found in the subcommittee files.

However, Standard of California provided a clear breakdown of such activities by percentage which I believe is very informative. Since Standard of California is a major shareholder in Aramco, the Saudi Arabian producer, its figures show the impact of production from that huge reservoir of oil.

In 1960, 52 percent of Standard of California's net earnings were derived from the United States, 5 percent from the Western Hemisphere and 43 percent from the Eastern Hemisphere. Preliminary figures for 1973 indicate that U.S. earnings had dropped to 22 percent of the total while Western Hemisphere earnings rose to 15 percent and Eastern Hemisphere earnings to 63 percent of the total.

Gross production of crude and natural gas liquids showed the U.S. percentage dropping from 34 percent in 1960 to 15 percent in 1973; the Western Hemisphere's portion dropping from 9 percent in 1960 to 6 percent in 1973; and the Eastern Hemisphere percentage jumping from 57 percent to 79 percent.

Net assets in the United States were 71 percent of total assets in 1960 but dropped to an estimated 58 percent of the total in 1973. The Western Hemisphere percentage of total assets increased from 12 percent in 1960 to an estimated 15 percent in 1973 while the Eastern Hemisphere assets increased from 17 percent in 1960 to an estimated 27 percent of the total in 1973.

Standard of California points out that while its schedules were expressed in terms of percentage, in accordance with the subcommittee's request, the overall magnitude of the dollars or quantities involved should be examined.

Thus, while net earnings in the Eastern Hemisphere increased from $116 million in 1960 to $528 million in 1973, net earnings in the United States also increased, albeit at a much slower rate, from $140 million in 1960 to $184 million in 1973.

Similarly, while gross liquids production in the Eastern Hemisphere grew from 563,000 barrels per day in 1960 to 2,632,000 barrels per day in 1973, U.S. production also rose in that time period from 335,000 barrels per day to 509,000 barrels per day.

Likewise, while Eastern Hemisphere assets grew from $477 million in 1960 to $1.6 billion in 1973, U.S. assets grew from $1.98 billion to $3.36 billion in that time period.

Standard's comment on growth of its net assets in absolute terms and the returns on investment here and abroad is informative:

Of particular interest in the various numbers is the fact that the net assets of the company have grown by $3 billion since 1960, an increase of 107%. In the United States the increase is $1.4 billion vs $1.6 billion abroad. This increase of 70% in the U.S. investment over the past eleven years has resulted in an increase in domestic profits of only 31% over 1960 and an increase of 52% in production. The charge that investments have been made abroad at the expense of investments in the U.S. is untrue, but it is true that investments made in the U.S. have not brought the results that have been achieved abroad.

OTHER SUBMISSIONS

These are just some of the submissions which have become part of our record of this important hearing. Other noteworthy company submissions include estimates of recoverable crude reserves for 1973 and 1974; expenditures for research and development in alternate energy sources; the impact of crude price increases on energy intensive industries and a comparison of the rate of internal financing of the oil industry with that of other industries.

I would like to thank the members of the Permanent Subcommittee on Investigations for their active participation in these hearings and for their probing questions, many of which resulted in the information I have briefly outlined for you today.

ENVIRONMENTAL PROBLEMS

Mr. McGOVERN. Mr. President, on a cold January morning citizens from every corner of South Dakota joined with me to discuss some of the most urgent issues on my home State's environmental horizon. Our goal was to bring these issues squarely before the people, that we might begin the process of finding a vital balance between economic growth and a clean environment.

The response was overwhelming. The standing-room-only crowd that jammed this Conference on Environmental Issues clearly demonstrated the need to address these issues. To the many of us who have long stood for the recognition of these principles, it was a heartening sign.

Our task has only begun, but I ask unanimous consent to have printed in the RECORD the proceedings of this conference, to serve as the springboard from which further leadership must now come.

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

PROCEEDINGS OF THE CONFERENCE ON ENVIRONMENTAL ISSUES, JANUARY 12, 1974, SIOUX FALLS, S. DAK.

(Opening remarks of Senator GEORGE MCGOVERN)

I extend a warm welcome to you, on this cold January morning, to this Conference on Environmental Issues.

The recent sub-zero weather and the threats of heating problems this winter bring to mind the harsh reality of pioneer life in South Dakota and the Great Plains region. Recall this passage from Rolvaag's epic work, *Giants In The Earth*, on those early winters:

"A grey waste . . . an empty silence . . . a boundless cold. Snow fell; snow flew; a universe of nothing but dead whiteness. Blizzards from out of the northwest raged, swooped down and stirred up a greyish-white fury, impenetrable to human eyes. As soon as these monsters tired, storms from the northeast were sure to come, bringing more

snow. 'The Lord have mercy! This is awful!' said the folk, for lack of anything else to say."

Well, our winter weather is often still awful. And we still hope that the Lord has mercy on us—at least until after we return home from this meeting. And while we're here, perhaps the "heat" surrounding some of the issues on the agenda will be adequate to keep us warm.

I have long believed that one of South Dakota's greatest assets was the quality of her unspoiled environment. It is one of those blessing that we have taken for granted. It seemed incapable of being despoiled.

But we now recognize that this precious asset can be lost here, as it has been in other parts of the country. Our snow still falls just as white as the snow Rolvaag saw. But there are places in America where it mingles with choking smog and pollution. There the snow is gray. And that and much more could happen here, too.

Such concerns inspired this Conference. Its purpose is to focus public attention on some of the major issues that will affect our environment in the near future.

All South Dakotans—not just a few decision makers—must confront these issues. We will all be affected; not just a few. And to participate intelligently the people must have access to all the facts on both sides. That is why I have invited you here today. I hope for a thoughtful discussion, for most of us have as much to learn as we have to share.

We have made the balance you see behind me the symbol for this Conference. For it is also my hope this morning that we can all realize the need for a balance between Growth and the Environment. It is becoming increasingly clear that extremism in either will not serve our long-term objectives. Certainly we must have growth to prosper and progress; the alternative is stagnation and decay. But to seek growth at any cost is equally unwise. Development of any area, or any resource, without regard for the possible environmental damage, is at best short-sighted and at worst the seed for future destruction of the area, its resources, and perhaps even its people.

South Dakota needs growth. We need it badly. But I am convinced that we can ill afford any kind of development purely for the sake of development. Well planned programs are welcome. Our modern state of technology is quite capable of designing development consistent with environmental quality. It is up to us to insist upon it in adopting our standards.

None of us in this room wants to see or cause any significant damage to our environment. On this we all agree. Thus we start this Conference from common ground by sharing a common goal. There will be differences in how we follow this standard in a particular situation. Such differences are not only natural, but highly beneficial if we approach them rationally and if we listen carefully to what everyone has to say.

So I hope that throughout this meeting we will respect the many and varied viewpoints that will come out initially. We have deliberately asked individuals and groups of a wide array of opinions to be with us. All are not only entitled to be heard, but to be heard with respect. There are areas of clear controversy before us. Let us remember that one cannot move toward a balance until the limits of the scale are clearly before us. Thus our goal today must be to understand the differences, consider them both now and afterward, and only then begin to move toward a rational solution. Too often we think mostly of our differences. I ask each of you to stop from time to time to think of the points on which nearly all agree. I think you will be surprised to find that there are many.

SEMINAR I: COAL MINING AND POWER DEVELOPMENT

Moderator: Professor Brent Haglund, Augustana College, Sioux Falls.

Panelists: Merlin Tipton, Associate State Geologist, Univ. of South Dakota; Ernst Habicht Jr., Staff Scientist, Environmental Defense Fund, New York; James Grahl, Manager, Basin Electric Power Cooperative, Bismarck, North Dakota; Ken Holum, Former Assistant Secretary, Dept. of Interior, Washington, D.C.

Participants: Jack Weiland, Public Utilities Commissioner Pierre John Hardaway, Environmental Protection Agency, Denver.

Mr. Tipton presented a series of slides showing the extent and quality of South Dakota's coal resources. Since the text of his presentation would only be relevant accompanied by the slides, his remarks are not included. Questions related to this area may be directed to Mr. Tipton at the University of South Dakota, Vermillion, South Dakota.

WATER: A LIMITING FACTOR TO ENERGY DEVELOPMENTS IN THE NORTHERN PLAINS

(Ernst R. Habicht, Jr., Staff Scientist and Director, EDF Energy Program)

Thank you, Senator McGovern, for providing all of us with this opportunity to exchange ideas and information.

On October 16th 1973 the Environmental Defense Fund, together with other environmental groups, including the Northern Plains Resource Council, the Natural Resources Defense Council and the Montana Wildlife Federation joined forces in litigation with a number of irrigation companies and individual water users on the lower Yellowstone River. Together, we filed suit against the Bureau of Reclamation in Billings, Montana because that Agency has literally given away vast quantities of agricultural water for coal gasification and electric power generation. To many this may seem a strange combination—a consortium of environmentalists and agricultural water users. But the issue that drew this coalition together is gathering momentum every day and it should be a vital concern to all those who depend on water for their livelihood in regions where vast amounts of energy resources are likely to be extracted during the coming decade. South Dakota, downstream of such developments, cannot afford to look the other way.

A vastly more water intensive activity than irrigation promises to soon take hold in the Northern Plains. The conversion of coal to oil, pipeline quality gas and electricity requires enormous amounts of water, principally for the dissipation of waste heat. A 1200 MW(e) generating station, operating at an 80% load factor, occasions the evaporation of some 20,000 acrefeet of water annually in getting rid of waste heat. The first commercial scale coal gasification plant to be built in the United States, to be sited in Northwestern New Mexico by the El Paso Natural Gas Company, will consume roughly 10,000 acrefeet of water in the course of producing about 90 billion cubic feet of gas annually. Such industrial plants represent an annual production of somewhat less than one-half of one percent of our current demands for electric power and natural gas, respectively. That very demand has been increasing at a rate of between 7–10% per year. As this growth is compounded annually, we have had to double our electric power production about every ten years and our natural gas production rather more frequently.

Western coal, high in water and ash content and rather low in heat content is ill-suited to direct combustion for purposes of generating electricity. Were it not for the low to moderate sulphur content of much of this coal, increases in western surface mining would not have been so marked of late. However, such recent developments are in all likelihood the tip of the iceberg since there are gathering incentives for converting this resource into pipeline quality gas. The pressure is on suface mineable coal more than ever because it is very cheap to extract and, unlike eastern bituminous coal, it lends itself quite nicely to existing technologies for coal gasification. Current production of natural gas is in the neighborhood of 25 trillion cubic feet annually and falls considerably short of demand. Let me briefly review the reasons for this shortfall:

1. Uncertainties concerning price deregulation and reregulation of natural gas in interstate shipments have certainly provided incentives for withholding new supplies from the marketplace.

2. The sale of natural gas on a declining block rate basis has served to foster uneconomic growth in the demand for this resource. While less absurd when unit costs of production of gas were declining, such continued practices can only be regarded as ludicrous in an era of rising unit cost production.

3. The incomplete regulation of natural gas led to the two-tiered supply/demand situation in this country. Intrastate gas, not affected by the authority of the Federal Power Commission, has been committed with increasing frequency to extremely poor values of service with concomitant inefficiencies and waste.

4. Underlying the present energy situation has been the systematic lack of attention that all levels of government have paid to the energy sector of the U.S. economy. One particularly unfortunate aspect of such inattentiveness has been the failure to provide ourselves with an independent assessment of domestic oil and gas reserves. While the U.S. Geological Survey provides us with very good numbers for coal and uranium, we have no such equivalent authority to obtain parallel data for oil and gas. Instead we rely entirely upon information supplied by the petroleum industry.

I do not wish to dwell on the question of deregulation of natural gas prices. Suffice it to say that we have chosen to treat the natural gas energy sector as a public utility precisely because of the lack of competition that prevails in that industry. Of course, a sizeable portion of that industry is controlled by oil firms who have, in recent years, also gained substantial control of our coal and uranium reserves. It could well be that we require more rather than less regulation but only such regulation that works to insure the long term public interest. We do *not* need a continued array of short term conflicts of interest such as have prevailed at all governmental regulatory levels since the concept of public utility economics began to be applied in this country.

The development of energy reserves in the West is of paramount interest because of the vast quantities of those very reserves. Colorado is sitting on more oil than Saudi Arabia although it will be fare more costly from both an environmental and an economic perspective to obtain. There is thought to be coal under nearly half of the land in Wyoming and though only a small portion of it is extractable by surface mining techniques, that quantity is very large compared to other cheaply available energy resources and represents an exceedingly attractive investment. Until only a few years ago, the domestic oil companies were paying the Federal Government bonus bids of only $1.00 per acre for tens of thousands of tons of the fuel. The concentration of portions of this coal in relatively small areas is of considerable importance. A single township enveloping the town of Gillette, Wyoming contains 2.87 billion tons of coal, most of which is within 500 feet of the surface. This represents an average of 70 feet of coal underlying the entire 36 square miles.

Montana contains roughly the same amount of coal as Wyoming and, under the

easternmost part of Montana and the western third of North Dakota, there are formidable deposits of lignite, a low heat content form of coal that contains much ash and water. While South Dakota is estimated to possess some 2 billion tons of remaining lignite resources, this is paltry in comparison to North Dakota's 350 billion tons of lignite, Montana's 132 billions tons of sub-bituminous coal and 88 billion tons of lignite and Wyoming's 108 billion tons of sub-bituminous coal. I should hasten to add that, of these enormous resources in place, only a modest fraction can be identified as reserves produceable at present prices and thus liable to extraction in the near future. Though technology and prices can increase the quantity of producible reserves rather rapidly, suffice it to say that there is presently more coal than water in the Northern Plains States.

Last summer I went to Bismarck, North Dakota to give testimony before the State Water Commission regarding a proposal by the Michigan-Wisconsin Pipeline Company to make use of some 375,000 acrefeet of water annually from the Garrison Unit for the purpose of converting coal to natural gas. That company claimed that it would require 17,000 acrefeet annually of water for a coal gasification plant producing 250 million cubic feet of gas per day. El Paso, in Northwestern New Mexico, proposed to do the same job with only slightly over half as much water. Interestingly, the North Dakota proposal would use coal which contained a good deal more water—water that could be applied to the overall water requirements of the process—than did the coal to be used by El Paso. Furthermore, the North Dakota climate is substantially cooler than that of New Mexico; gasification of North Dakota coal should thus require less cooling water.

In effect, one company in one state claimed it needed to use more than twice as much water to do the same job employing the same process as another company had already described in a different region of the country. I concluded that either the Michigan-Wisconsin Pipeline Company did not know the process and cooling water requirements of the coal conversion technology they had proposed to use or they were being less than candid with the North Dakota State Water Commission. In either eventuality there was a clear need to further study the proposal. Abundant water available from the Garrison Unit, in contrast with limited water supplies in New Mexico, may have influenced the proposal.

What was clear from the Michigan-Wisconsin proceedings in North Dakota was the enormous momentum that a large industrial concern is able to bring to bear on state and local decisionmakers with a technical proposal involving a very large capital investment. If I came to this community tomorrow with the backing of several New York banks, flanked by an array of technical experts, I could probably persuade a number of influential citizens of the merits of turning South Dakota into green cheese and shipping it to the moon. Make no mistake about it, I would have the same success in persuading my fellow residents of Port Jefferson, New York of covering Long Island Sound with a plastic dome for "all weather boating." Such is the blindness of the growth ethic.

Distressingly, state and local governments are not equipped to perpetually play a defensive role against such propositions. They lack the technical expertise and legal assistance to make the best bargains for their people and for their environment. Of course, the political process is not immune from those who would enhance the value of their land and mineral resource holdings at the expense of their neighbors and fellow citizens. Also, the possibility of playing one community or state off against another—economic blackmail as it were—is becoming a genuine problem of energy-related developments in the Northern Plains. Regional planning, with the teeth of enforcement derived from control over water use in entire drainage basins, is one answer. But the most important solutions lie on the demand side rather than merely focusing on energy supply.

On a grandiose but admittedly haphazard scale, first delineated in the "North Central Power Study" set forth by the Bureau of Reclamation, upstream energy developments are occurring that will surely have great impact on South Dakota. The consumptive use of vast quantities of water from the Missouri River and its tributaries will soon commence with little or no concern as to the consequences.

The Bureau of Reclamation is actively encouraging such developments; after decades of urging the agrarian populace as to the benefits of water developments, the cry of "use it or lose it" is beginning to have a hollow ring. Impoundments containing water earmarked for agricultural purposes are being rededicated to the benefit of Exxon, Mobile, Gulf, Shell and other such needy recipients. The commitment of water at bargain basement prices to this array of corporate welfare clients will insure its rapid consumptive use. Of course, the more quickly Montana and Wyoming water out of the Yellowtail and Boysen Units, now under option contracts to an array of energy companies, is committed and used, the more rapidly the Bureau can justify the construction of new impoundments on the Yellowstone River and its tributaries. One such impoundment, the proposed Allenspur project near Livingston, Montana, would back water up into Yellowstone Park and destroy what is generally thought to be one of the finest trout streams in the United States. That project would surely have to be built in order to maintain firm downstream flows for present water users. Apparently, having run short of useful and statutorily authorized activities with which to busy itself, the Bureau of Reclamation has illegally and irresponsibly carved out a whole new course of action for itself. It promises to soon become the handmaiden of industry rather than of agriculture. Before we grant this Agency authority to put the oil companies in control of the Northern Plains we should examine alternatives to the gathering water grab.

One of the principal problems in providing industrial water from streamflows in this region is that the demand for industrial cooling water is cyclic. Peak cooling demands coincide with both peak irrigation demands and minimum stream flows in the months of August and September. To surmount this unfortunate coincidence of maximum demand and minimal supply and guarantee firm flows during all seasons, it seems necessary to build an extremely expensive array of impoundments. This is an extraordinarily wasteful way to go about solving this nation's energy crisis in view of both economic and environmental expense associated with a proliferating network of dams and diversions of surface waters.

Before EDF took this issue to court, we looked into alternatives to the proposed action of the Bureau of Reclamation. As a point of common sense and indeed one of law as well, the Bureau is compelled to look at alternatives before it enters into any such commitments to supply agricultural water to industrial users. Of course, one alternative is to compel, through sound marketing practices, the least water intensive technology that is feasible in coal gasification or electric power generation. Indeed, where water costs are high, processes are devised to make each drop of water go as far as possible. The City of Los Angeles, which buys water from the metropolitan Water District of Southern California, presently markets industrial water on a declining block rate basis over a range of 135 to 105 dollars per acrefoot. Consequently, the Kaiser Steel Works in Fontana, just outside of Los Angeles, has one of the lowest water requirements per ton of product in any steel mill in the United States. The demand for water by large users is extraordinarily price sensitive. If governmental bodies could impose a price for industrial water commensurate with the real value of this resource in the Northern Plains, considerable leverage over industrial consumption would be repaid along with substantial revenues.

There exists another, perhaps more significant, alternative to the present "marketing" of industrial waters. Beneath the vast coal resources of Montana and Wyoming there is known to be an extremely large, deep aquifer known as the Madison Limestone Formation. Here lies hundreds of millions of acrefeet of water which, though not easily accessible to an individual irrigator or small water user, is a genuine possibly quite economic alternative to the Bureau of Reclamation's schemes. It certainly merits close scrutiny with regard to its economic and environmental costs.

EDF hopes to dissuade the Bureau from delivering any industrial water from existing impoundments until such time as we can determine the feasibility of using deep aquifers for industrial purposes in the Northern Plains. Even if these deep aquifers were recharged with water that would otherwise flow to surface supplies, we would still have the advantage of a natural "impoundment" which may well eliminate the need for a new array of dams and diversion systems. But the fight may not be easy; the energy companies would be perfectly happy to receive yet another subsidy from the taxpayers.

Although environmentalists, energy company executives and politicians now are accusing one another of responsibility for our energy shortages, one major cause for our present energy difficulties lies in the rigid application of policies which were inappropriate in the past and have now become ludicrous. Long-range solutions can only be achieved by conservation in present uses of energy, efficiency in new uses, and an unswerving commitment to insure that the consumer pays the full cost for existing and increasing supplies of energy. Should we elect to satisfy our needs through an environmentally destructive, taxpayer-subsidized exploitation of new sources of energy supply, our present energy supply situation could ultimately be converted from a state of inconvenience and dislocation to one of far more serious economic proportions.

Energy in this country has been artificially cheap because its price has not reflected the true costs of its production. Government tax, regulatory, land-use, and research and development policies at Federal, state and local levels have resulted in the massive subsidization of energy extraction, conversion and end use. Over the years, gross inefficiencies have arisen as a direct consequence of such policies. One notable instance of poor policy is reflected in the rates for power charged by electric utilities. These rates, already subsidized through other policies, decrease in price with increased consumption, even though much new generating capacity increases the average cost of a kilowatt hour. EDF has singled out the electric utility industry because of its inefficiencies and its extraordinarily high growth rate. For nearly two years, we have sought to change the rates that electric utilities charge their customers, with the aim of reducing the excessive growth in demand for electricity. We are also concerned that emerging coal conversion technologies to be employed by the natural gas industry will cause that sector to become far more inefficient and environmentally destructive than it has been in the past.

In its most recent electric rate case, EDF has carried out an extensive utility by utility study in New York State to determine how the demand for electric power may vary with

price changes. Our findings, unique in their detail and presented in testimony before the New York State Public Service Commissioin in August, 1973, are in agreement with such data for the nation as a whole and show that price is a strong determinant of demand. This is especially true for large users of electric power, but also applies to smaller consumers who do require longer periods of time to adjust their uses. Given such a responsiveness to price, it is clear that meaningful energy savings, price stability and waste reduction would result from a rate structure that would establish prices for electricity which truly reflect the costs of production. Heretofore, no electric utility in this country has had an accurate idea of what it truly costs to serve most customers. EDF has come forth with several practical suggestions to change this absurd state of affairs. We are also developing parallel arguments regarding the pricing of natural gas.

While consumption of electricity varies with the seasons, the day of the week, and the time of day, electric utilities must have the capacity to supply their customers at the peak period of demand. Consequently, generating units and transmission facilities are used only part time. Those who consume electricity at off-hours do not strain the utility system, and thus do not add appreciably to the costs of the system. But those who make added demands for power during peak periods compel utilities to build new, ever more expensive generating facilities. By utilizing time-of-day meters, as employed in France, higher rates would be charged to those who consume power during peak periods of demand. Such a pricing policy has been shown to reduce the peak demand thus diminishing the need to construct new generating plants. Further, it equitably assigns those extra costs of peak-demand electricity production to those consumers who strain the limits of the system. Even now, instead of such a sound pricing system, our electric utilities continue to satisfy peak demand with dirty, inefficient, part-time generators that burn scarce and expensive fuels and to distribute the additional costs on all consumers, including those who create no peak demand. This is a luxury we can ill afford to continue. EDF will continue to advance its sound economic alternative and will enter further cases with a view to insuring that the marketplace for electric energy works efficiently while insuring a full accounting of environmental costs.

The conservation of demand for energy, an essential component of any successful strategy for solving our energy sector's problems, is also a labor intensive solution. Employment increases with a move to a recycling economy, with increasing insulation of buildings and, in general, where subsidized energy has served to displace labor, to the detriment of economic efficiency. Yet now we are about to embark on a subsidized energy expedition unprecedented in costs. The synthesis of gas and oil from strip mined coal and the utilization of oil shale will be expensive both environmentally and economically with respect to many other energy sources. The energy industry is seeking continued help from the taxpayers—in the form of federal research and development, cheap energy from government lands at giveaway prices, relaxation of those standards that represent the first step towards incorporation of environmental costs in energy prices, and the continuation of the vast panoply of policies that have served to so heavily subsidize energy use in the past. Once again, the environment, the taxpayer and even many consumers are being asked to make sacrifices. Given the inequities now inherent in the energy marketplace, environmentalists, consumer groups, the spokesmen for the poor, taxpayer coalitions, and even many labor unions, should begin to identify their considerable areas of common interest, for the routes to many of their individual objectives are virtually identical.

REMARKS BY JAMES GRAHL, MANAGER, BASIN ELECTRIC POWER COOPERATIVE

As my assignment on this panel, I will review the policy adopted by Basin Electric eleven years ago on rehabilitation of strip-mined lands and our present views on this important matter.

When Basin Electric negotiated its fuel supply contract in 1962 with Consolidation Coal Company, it was new to the business of power production and perhaps better able than established producers to consider policies somewhat different from the usual ones in the power and mining industries in the West. Because it would be a new mine and the amount of strip mining in the Upper Missouri Basin had been relatively limited, Consolidation Coal also was in an easier position to follow different practices than if these had meant a radical break with widely established mining policies in the region.

All of Basin Electric's Directors were and are now working farmers and, therefore, people to whom the prudent use of land and its conservation for the use of future generations are of daily concern and importance. Probably for this reason, the Board and management were anxious from the beginning of Basin Electric to reduce adverse environmental effects of Basin Electric's power production activities. It was recognized that such effects could not be avoided, but the Board felt a responsibility for trying to reduce them to the extent possible while still remaining competitive in power production costs.

Accordingly, the Board decided to include some provision in our contract for fuel supply for some rehabilitation of the spoil banks which would result from Basin Electric's purchases of more than one million tons of lignite per year for our first generating unit alone. (Copies of editorials commenting on Basin Electric policies are attached.)

We did not know what could or should be done because there was no experience to draw upon in respect to spoil bank reclamation in the upper Great Plains. As a minimum effort that would make the spoil banks look better, make it possible for machinery to traverse the mined lands, and create at least the possibility of plantings, we proposed to Consolidation Coal Company the inclusion of a contract provision for the return of the spoil banks to the contours of rolling countryside, and for participation by Consol and Basin Electric in an experimental planting program.

Under this provision, Consol has graded and contoured a substantial proportion of the spoil banks to the contours of rolling countryside. They do resemble the contours of the adjacent undisturbed countryside, except for the "high wall" which marks the beginning of the stripping operation. This experience has demonstrated that spoil banks can be graded into acceptable contours at a relatively low cost.

However, the restoration of these lands to a condition that will support grass or other desirable vegetation is another matter. The subsoil which ends up on top of the mined land apparently is almost entirely devoid of the properties required for the proper absorption of moisture and the support of plant life for more than a few seasons, until after the soil has had many years to weather, leach, etc.

Consol and Basin Electric, shortly after mining operations began, asked for assistance and advice on possible soil treatments from the Northern Great Plains Research Center, of the Department of Agriculture. This is located at Mandan, within an hour's drive of the Consol mine. Although the Center had no funds for such work, the scientists at the Center recognized the problem as an important one. They have analyzed the soils, established numerous test plots and generally have done what they can to investigate the relative worth of various types of treatment for the soils characterizing the spoil banks.

The Center has done considerable research considering that it had to be done with almost no money. As I understand their findings to date, it appears that the most effective treatment is to set aside surface soil materials and replace them on top of the graded and contoured spoil banks. Other types of treatment, such as fertilizing, mulching, etc., do some good, but their value for the long-term is inconclusive as yet and even their short-term effects are less beneficial than covering the spoil materials with a layer of the original surface soils.

This very general conclusion is by no means the precise kind of statement which the Center scientists would make, but it is my impression as a layman of what their work to date generally means.

Partly because of the Center's findings, which the scientists there regard as very preliminary, the latest session of the North Dakota state legislature amended the law on spoil bank reclamation to require the replacement of up to two feet of surface soil material after the spoil banks had been graded and contoured, and then a revegetation program of grasses, shrubs or trees.

As a result, Consol has been removing and stockpiling surface soil material since May, 1972, preparatory to spreading it over the spoil materials after grading and contouring.

The Center's research work to date seems to show that this treatment will be a great improvement over previous practices. Whether two feet of surface soil material will be enough, the scientists at the Center are not prepared to say. Recent news reports indicate that they believe the necessary depth to support perennial grasses and other desirable vegetation will prove to be nearer five feet than two. This is surface soil material, not black "topsoil", that they are talking about.

The cost of the treatment now required by North Dakota law is certainly an acceptable cost, approximating nine cents per ton in 1973. It therefore seems probable that the restoration of strip-mined lands in North Dakota to an acceptable appearance and productive use should prove feasible from a cost standpoint even if it is found that a deeper layer of surface soil material is required and other additional treatment is necessary.

I say it seems "probable" because there is much yet to be learned about the effects of strip-mining on soil structure and productivity, underground water courses, and other aspects.

I believe that through research and experimentation and experience, it will be possibe to develop satisfactory methods for the reclamation of strip-mined lands and their return to long-term productive use in most areas of the West where large coal reserves exist, and for the prior identification of those areas in which such reclamation is not feasible.

I believe this because of the success in various parts of the world in converting unproductive land to agriculturally productive land through research, and because of the findings to date by even the very limited research the Mandan Center has been able to perform with almost no budget.

Then too, there is the popular assumption that by throwing enough money at the research scientists and engineers, we can develop new energy technologies which will make this country self-sufficient. There seems to be widespread optimism that we can develop the fast plutonium breeder, solar power and fusion power to practical, large-scale commercial levels.

However, these in fact pose difficult technical problems. There is no natural law that

says we can ever develop *fusion* power, for example, particularly on a large-scale commercial basis. But if we can embark with such optimism on this quest for "unlimited energy" sources, then surely we should have more confidence that through research and practical experience, we can solve the less difficult and more familiar problems associated with the reclamation or restoration of Western strip-mined lands, and to identify ahead of time those which will not be amenable to reclamation.

A very substantial amount of reclamation can be done for acceptable costs. The reclamation cost per ton of coal or lignite will vary widely depending upon the thickness of the coal seam, the amount of overburden, nature of the overburden, the reclamation requirements, and so forth. To provide some rough idea of possibilities, an eight-to-ten foot seam of North Dakota lignite produces about 12,000 to 15,000 tons of lignite. In such a mine, ten cents a ton would provide $1200 to $1500 per acre for reclamation.

In Wyoming and Montana, the thickness of the coal seams varies much more widely, with coal beds up to thicknesses of 100 feet and more. In the case of a 100-foot seam, ten cents per ton would yield $10,000 per acre for reclamation, far more than should be needed.

However, it is not possible to say exactly what is "needed" in terms of investment per acre. There has not been enough research work and reclamation experience for there to be agreement on what must be done to achieve a satisfactory level of mined-land reclamation—or even on what a "satisfactory" level is. For example, it is not *always* best to return land to its original contours. Yet draft legislation these days often calls for this. "Original contours" sometimes include gullies and eroded slopes. It would seem better to spend the energy consumers' money to *improve* upon such "original contours" rather than simply "restore" them.

I would urge, therefore, that those organizations and individuals who are so deeply and rightly concerned about adverse effects of strip-mining in our Western states devote a much larger portion of their efforts than they have to getting an adequate, effective, well-organized research program under way on mined-land rehabilitation by experienced institutions like the Northern Great Plains Research Center. With an adequate budget, I believe the scientists at this Center and in similar institutions could develop a substantial body of very valuable and useful information and ideas which mining companies could then apply and prove out on a practical basis within the next five to ten years.

For this type of research and development program, an adequate budget would be a very modest amount of money compared to the hundreds of millions of dollars being poured into the fast breeder reactor and, I would guess, at least as beneficial in the long run to maintaining a wholesome environment for mankind.

[From the Bismarck Tribune, Feb. 22, 1969]

BASIN RESTORES SPOIL PILES

It isn't often that any business organization asks for tougher regulatory legislation, at a greater cost to itself, than lawmakers are prone to give; but that's what Basin Electric is doing.

The Bismarck-based rural electric generating giant has urged that mine spoil bank reclamation be required on considerably stricter terms than those contemplated in a bill now before the Legislature.

Basin, of course, already is a leader in this area, and a voluntary one. What other coal producing companies operating in North Dakota don't want to be forced to do, Basin has voluntarily required its own coal supplier to do.

Under the terms of its contract to supply lignite to the big Basin Electric plant at Stanton, Truax Traer must restore the land from which coal is strip-mined to the condition of "rolling countryside." The cost to Basin is about $18,000 per year at $100 to $150 per acre, which isn't much when balanced against royalty payments to landowners which, at 10 cents a ton, can run to $2,000 per acre, not to mention the many more thousands the mining company gets per acre for the coal.

Actually, under the present proposal being blasted through the Legislature by the coal mines lobby, Basin would be exempted completely from spoil bank rehabilitation. The only mandatory leveling required by the bill would appy to spoil banks within 660 feet of a road or other public facility. Basin has none such, and most other spoil banks would be equally immune.

Next, the mining company bill now in the Senate asks that banks be graded down only to a 25 per cent slope. Soil Conservation Service experts have pointed out this would be too steep for any agricultural use and perhaps too steep to permit water retention for plant growth.

Other states far bigger in mining than North Dakota have far stricter requirements than are being proposed here. This includes states such as Illinois, Virginia, West Virginia and Pennsylvania.

The fact that Basin Electric has been able to absorb the cost of spoil bank reclamation, and require its coal supplier to do such restoration work, should demonstrate that it is feasible for others.

When thousands of dollars of coal can be taken out of a single acre of ground—which, left alone, will never again support agriculture, wildlife or tax-provided services—it shouldn't be too much to put $100 to $150 back into its restoration. Surely it ought to be possible to work out a formula which will divide this cost equitably between the mining company, the landowner who collects the royalties and, perhaps, the buyer of the coal.

[From the Bismarck Tribune, Feb. 3, 1970]

BASIN ELECTRIC POINTS WAY

In this day of corporate and government bigness and sometimes seeming lack of concern for the general interest, it is heartening to take note of an example that Basin Electric Power Cooperative of Bismarck is setting.

Basin's plans for major distribution lines to member consumer cooperatives posed the usual problems of routing and cost. To these considerations, Basin has voluntarily added one other: The needs of other resource development.

Usually, a straight line is the shortest and cheapest route to use in building a power line, and too often power companies follow that line no matter who or what else might be inconvenienced. The same may be said of other facilities, such as roads.

When Basin began planning for new transmission lines, however, it first contacted the federal Soil Conservation Service and other agencies such as the State Park Service, State Water Commission and State Highway Department to inquire as to what development plans for the future these agencies might have in the areas to be traversed.

Where might future irrigation projects be located? What about dams, and parks, and roads? The purpose: to discover where new lines might be located with the least economic disruption.

Construction of a power line or a road across a quarter-section of prime irrigation land, for example, might cripple or destroy the land's irrigation potential. This would be especially true where use of a modern, pivot sprinkler system that covers a quarter-section at a time is dictated.

The cost of bending the road around the choice land, or of bending the power line around it, would be essentially a one-time cost, and perhaps very small compared to the ultimate loss in revenue from the land over a period of years.

Perhaps there was a time when the cross-country builders could trample on the rights and wishes of anybody who happened to lie in their straight-line path, standing on their power of eminent domain in their refusal to deviate an inch from the straight-line path.

This time should be no more. It doesn't make sense to knock out of production forever an area that over the years would produce hundreds of thousands of dollars in income to save a few thousand in immediate construction costs.

Basin Electric is to be complimented for its broad and innovative consideration of total resource development requirements in its transmission line planning.

[From the Great Falls (Mont.) Tribune, Aug. 9, 1973]

TO USE COAL MORE EFFICIENTLY

Two salient points coming out of early discussions at the Forum on Human Needs in progress this week at the College of Great Falls are (1) the need to make more efficient use of coal in production of electricity and (2) the folly of moving millions of tons of coal by long trains running daily from Montana and Wyoming coal fields to generating plants in Minnesota, Illinois and other Great Lakes states.

Because present methods are quite inefficient, only about 30 to 40 per cent of the energy in coal is converted to electricity, explained Lloyd A. Ernst, a Basin Electric Power Cooperative official from Bismarck, N.D. This means 60 to 70 per cent of the heat value of this fuel must be dissipated in the environment, in the air and in the water.

The crying need is for society to develop technology to get more kilowatt hours out of a ton of coal, so less heat will be wasted in the environment, Ernst declared. A new technology called magnetohydrodynamics (MHD) holds the promise of converting 50 to 60 per cent of the heat value of the coal into electricity. The program, which has the support of Montana's delegation in Congress, is based on converting oil or coal to a very hot gas and passing it between electrodes.

The Russians have done significantly more work than the United States in this field and now have a 25 megawatt MHD generator in operation.

The practice of transporting Missouri basin coal to distant generating plants—perhaps ultimately as far away as Texas, Louisiana and the Tennessee Valley—constitutes a wasteful use of natural resources, Ernst said. Out of every 100-ton rail car of coal, 35 tons consist of moisture and ashes. So we haul 35 tons of moisture and ashes hundreds of miles to get 65 tons of combustible fuel to a power plant. This plant then converts only about 22 tons of the material into electricity, while the other 43 tons are wasted in the environment where the generating plant is located.

It would make more sense, as Ernst concludes, to burn the coal as near the mine as possible and instead ship out the "finished" electricity over large capacity transmission lines. It would be better business for the states in the region from which the coal comes. Power plants produce payrolls and add to the tax base of the economy.

A related point brought out in the discussion at CGF: With the people and the government telling the engineers to design and develop power plants capable of "zero discharge" of liquid, gaseous and solid effluents, progress should and no doubt can be made in that direction, but can't be achieved instantly.

In this connection, Ernst noted that Basin Electric's generating plant near Stanton, N.D., which burns lignite, bears the distinc-

tion of being the first in the United States to voluntarily require spoil bank rehabilitation in its fuel supply contract.

[Mr. Holum's prepared remarks were not available, but a summary including them may be found within the reprinted news articles at the end of the proceedings.]

REMARKS OF JACK WEILAND

In these days of energy crisis, it is both timely and thoughtful that we are gathered to discuss the environment of the Northern Plains.

This region contains about one-fourth of the nation's remaining coal reserves. This region also badly needs new jobs and economic development.

Taken together, these two factors form a dynamic duo. On the one hand they offer a golden promise of opportunity for the future development of this region. On the other hand, that opportunity is fraught with danger to our physical environment and our social environment.

Before we get carried away by a giddy greed to cash in our region's resources on the energy crisis, we should take a long, hard look at the experience other parts of the country have had with this dynamic duo.

West Virginia is a perfect case in point.

Nature endowed West Virginia with staggering natural resources. The normal human being would think that by virtue of those resources, West Virginia would be a veritable land of plenty for its people. That was not the case. Her natural beauty was wronged. Her people were left a legacy of slag heaps, black lung disease, miner's wages and abject poverty. It was not a fair trade.

Before we allow ourselves to be carried away by that sweet-talking dynamic duo of economic development and the physical environment, we must be absolutely certain that we are getting a fair trade. Otherwise that golden promise will be turned to tragedy and ruin once our resources have yielded all that they will.

There will be others who can speak better than I about what can be done to protect the physical environment from careless exploitation and eventual destruction. All I will say to the point is that no monetary system can hold real value against the natural beauty which is so much a part of our heritage in this region. No amount of money will ever compensate if that heritage is squandered. We will have lost the very thing which sets us apart as a region and makes our people think of themselves as special.

My statement will be about the social environment. It will be short and simple.

1. We must take pains to assure that a significant part of the wealth which can be created by our natural resources will be reinvested in our people, in their health, their education, their general welfare and their common institutions.

2. We should take pains to avoid putting all of our eggs in one basket by using part of that newly-created wealth to stimulate a diversification of the region's economy.

3. We should take pains to assure that the development process supplies jobs which pay decently, provide dignity and encourage upward mobility. Sweatshop development is not worth having. The creation of minimum wage employment and little else is a losing proposition. When the resource is depleted, when the tax angles have played out and when the sweatshops close, we are too often left with social disruption, high incidences of alcoholism and broken families, swollen welfare rolls and a tax base with diminished capacity to care for the problem.

These three protections of the social environment are simply stated; implementing them is quite another matter.

Fortunately, our region has a unique heritage of cooperative ventures. We are not strangers to participating in common enterprises for the common good. The essence of that experience is that we have learned to do for ourselves what others cannot be trusted to do for us. If we do not sell out that heritage, perhaps we have a chance of avoiding the pitfalls inherent in the proposition put to us by the dynamic duo.

Fair warning is in order: What I propose is difficult to achieve. It swims against a strong current. The giant energy corporations are not accustomed to accountability. Their habits are strictly profit-oriented and have made colonies of many places. Those colonies have a lesson to teach. The question is whether we will learn it.

Thank you.

SEMINAR II: AGRICULTURE AND LAND USE

Moderator: Roger Steinberg, Extension Environmental Specialist, So. Dak. St. Univ.

Panelists: Allyn Lockner, Secretary, S.D. Dept. of Environmental Protection, Pierre, S.D.; Pat Godsil, Chief of Planning, Air & Water Programs, U.S. Environmental Protection Agency, Denver, Colo.; Steve Quarles, Committee on Interior & Insular Affairs, U.S. Senate, Washington, D.C.

Participant: Evan Dildine, U.S. Environmental Protection Agency, Denver, Colo.

LAND USE ISSUES IN SOUTH DAKOTA, REMARKS BY ALLYN O. LOCKNER, SECRETARY, SOUTH DAKOTA DEPARTMENT OF ENVIRONMENTAL PROTECTION

Land use in South Dakota is the topic requiring far more comment than I can make in the next few minutes. The purpose of my remarks today is very limited. It is to summarize some of the existing and potential major issues of land use, and land use planning and regulation in South Dakota. In so doing, I intend to stimulate questions and comments on this vital subject and on the strategies and tactics of land use planning and regulation. I begin my remarks by discussing very briefly the framework for making land use decisions.

MAKING LAND USE DECISIONS

Land use management problems arise when a scarcity of land is perceived. Land use decisions are affected by many social and cultural factors. The competition for the use and enjoyment of land occurs in the buying and selling of land where the amount of money and credit available for the purchase of land largely determines land use. This land market is tempered by the imposition of legal rules governing land conveyance and use. Anglo-American jurisprudence developed an elaborate set of rules for public and private management of this resource. Common law doctrines regulating land use, such as nuisance, have more recently given way to more comprehensive public regulation of land use at the municipal and county levels. More recently, control has been extended to state government in some states and consideration is being given to assigning a role to the Federal Government.

SOME LAND USE ISSUES

Several land use issues have been identified in South Dakota. It has been maintained that the existing land use problems should be corrected or alleviated through land use planning and regulation. It is also alleged that potential land use problems should be prevented through such planning and regulation. Several specific problems requiring land use plans and regulations have been identified by persons interested in this topic:

1. Prohibit residential, commercial and/or industrial development of flood plains.

2 Prohibit residential, commercial and/or industrial development of fire hazard areas.

3. Control residential, commercial and/or industrial development of areas having soil-slip problems or unstable geological formations.

4. Control residential development of lake shores and river banks.

5. Restrict development of areas supplying water for human consumption where such development would pollute or contaminate water supplies.

6. Designate high amenity areas for outdoor recreation purposes.

7. Protect wildlife habitat areas against all types of incompatible development.

8. Protect prime agricultural land against residential, recreational, commercial and/or industrial development.

9. Protect scenic, wilderness and high amenity areas against all types of incompatible development.

10. Protect archaeological, cultural, historic and scientific sites.

11. Control large-scale development such as highway interchanges, shopping centers, and sports arenas, having widespread adverse effects on adjacent areas.

12. Control the platting and sub-dividing of land, including the size and shape of plats, and require advance provision of, or arrangement for, public services to residents of sub-divisions.

13. Control residential development, such as mobile home parks, outside municipal limits.

14. Regulate or prohibit surface mining in areas difficult or impossible to reclaim.

15. Control land use where conflicts exist between public and private goals for use of the land.

16. Resolve jurisdictional disputes on land use among local units of government such as on the municipal-rural fringe.

17. Control land use in areas where private lands adjacent to public development projects are undergoing pressure to be converted to other undesirable uses because of these projects.

18. Regulate land use in areas having substantial air, land, and/or water pollution problems.

These and other demands for land use planning are caused by population growth and mobility, the sharpened competition for land by alternative uses and new environmental constraints.

LAND USE PLANNING AND REGULATION

One way of dealing with these and other land use issues is through land use planning and regulation. A land use plan is a set of objectives, policies, regulations and performance standards and the assignment of responsibilities and authorities for controlling through government one or more uses of some or all land within a unit of government. More specifically, at a minimum, land use planning requires the performance of several functions.

1. Determining existing land use.

2. Determining land use capabilities.

3. Ascertaining land ownership.

4. Determining short- and long-range goals and policies for economic and social growth and development.

5. Determining the public's preferences for land utilization.

6. Analyzing the effectiveness of existing techniques of land use management and control.

7. Evaluating the environmental impacts of land use.

8. Establishing land use objectives.

9. Establishing land use plans and regulations for achieving objectives.

10. Implementing land use plans and regulations.

11. Evaluating the effectiveness of land use plans and regulations.

12. Making appropriate adjustment in plans and regulations to achieve goals. As distinguished from land use issues alone, land use planning and regulation present some issues which must be understood and solved. If planning and regulation is to have wide public support and be effective in achieving desired land use objectives, these issues are stated as questions:

1. Why, or for what reasons, should land use be planned and regulated?
2. What uses of the land should be planned and regulated?
3. Where, or what should be the location of land that is planned and regulated?
4. When, or for how long, should the land use be planned and regulated?
5. How, or by what specific means, should land use be planned and regulated?
6. Who, or what level of government, should do the planning and regulating?

The answers to these questions determine the nature and scope of land use planning and regulation. If land use planning and regulation is desired, the answers must be consistent.

Successful land use planning and regulation is not achieved by merely passing a law and appropriating tax dollars for planning, administering and enforcing land use controls. Besides informed and strong leadership, some of the major characteristics of successful land use regulations are worth noting.

1. Land use plans and regulations should be preceded by an inventory of land use.
2. Land use plans and regulations should be closely tied to comprehensive plans describing the objectives, policies, programs and evaluations of the economic, social, cultural activities of the community or state.
3. Land use plans and regulations and the authority to implement them should embrace the entire area containing the land use problem, factors contributing to the problem, and the effects thereof.
4. Land use plans should be formulated and administered by the lowest level of general purpose government embracing the area containing the land use problem and the effects thereof.
5. State government should develop foundation land use plans and regulations which stipulate the minimum standards and guidelines for land use controls by local governments.
6. State government should regulate land use in areas of critical concern to the entire state, such as flood plains, prime agricultural land and areas in which large-scale development projects are planned.
7. Boards of adjustment should not grant frequent variances, exceptions and special permits, thereby altering in a major way the basic land use pattern envisioned by the land use plan and established by local officials who administer land use controls.
8. Land use plans and regulations should stipulate the basic steps required in the preparation and implementation of a land use plan.
9. Land use planning and regulation should have wide and active public support and the planning process should have wide public participation at all stages.
10. Land use planning should utilize technical personnel who are knowledgeable in the planning process and land use.
11. Land use planning should be closely coordinated with air and water planning.
12. Land use plans and regulations should be enforceable in a court of law.
13. Land use plans and regulations should allow for the construction of "unitized" large-scale projects, such as planned neighborhoods, which create their own environment.
14. Land use planning should require or provide incentive to federal, state, and local governments to regulate the use of their lands in a manner consistent with the land use plans for adjacent private lands.
15. Land use planning and regulation should be consistent with numerous other public policies affecting land use, such as annexation policies, public health codes and inspections, building codes and inspections, types and uses of streets and roads, service district formation and extension, eminent domain, access easements, water rights, mineral rights, aquifer recharge, economic and social development legislation and policies and many other provisions affecting directly or indirectly land use patterns.
16. Land use planning and regulation should assure that private property will not be taken for public use, or its private use changed or restricted, without just compensation and due process of law.
17. Land use planning and regulation should be supported by tax policies, particularly income and property taxation which discourage undesirable land uses and encourage desirable land uses.

These characteristics seem essential if land use planning and regulation is to hold land in desirable existing uses and to guide land into desired new ones.

CONCLUSION

Is there a need for land use planning and regulation in South Dakota? If so, for what uses shall we plan and regulate the land? How shall we go about it?

I conclude my remarks by drawing on a quote from William H. White in The Last Landscape. White wrote:

"Desecration does seem a prerequisite for action. People have to be outraged. Most of the new land-use legislation and the pioneering programs did not come about as a result of foresighted, thoughtful analysis. They came about because people got mad over something they could see."

Shall the desired land uses be achieved by our using foresight, thoughful analysis and planning? Or shall those land uses be achieved only after we are outraged and mad at the desecration of the South Dakota land we see?

TOWARD LAND USE REFORM, STATEMENT OF STEVEN P. QUARLES, SPECIAL COUNSEL, U.S. SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Land Use is indeed a timely subject. Undertaking rigorous land use planning necessary to insure a balancing of environmental, economic, and social goals is one of the most critical challenges any generation of Americans has ever faced. The states are proceeding to meet that challenge. We in Washington, both on Capitol Hill and downtown, are striving to complement those efforts. Many in Washington share the concerns expressed here today. Congress joins you in recognizing that we are faced with a land use crisis of national proportions. This is evidenced in this Congress by the over 350 land use policy measures which are pending before thirteen committees of both houses.

I would like to discuss with you today this land use crisis from the perspective of the U.S. Congress and, in particular, the Senate Interior Committee which handles four of the most important measures: the national land use policy, public lands policy, power plant siting, and surface mining proposals. I hope to summarize prospective national land use policy legislation, some of the concepts embodied in that legislation, and some of the major questions confronted in the development of that legislation.

The environment emerged as a major national concern and issue in the late 1960's. Today, television documentaries routinely inform us of the grim story of blight and pollution. Newspapers catalogue environmental crises. Polluters are being picketed, and lawsuits are being filed. I believe future historians will record the first day of this decade as the advent of a new environmental value system in American government. On January 1, 1970, the President signed into law the National Environmental Policy Act. With the adoption of this Act, the quality of life and the proper relationship of man to his surroundings became an official and fundamental governmental responsibility and a priority national goal.

This Act, authored by Senator Henry M. Jackson, Chairman of the Senate Interior Committee, constituted a Congressional response to the need for a comprehensive policy and a new organizing concept for dealing with environmental problems.

The strength of the Act is well established. The President has strongly endorsed it and has appointed vigorous members to the Council on Environmental Quality created by the Act. The administrative provisions of the Act, particularly the inordinately famous environmental impact statement requirement, have proven influential in bringing consideration of environmental factors into Federal decisions at all levels.

But the machinery of government to meet these new environmental responsibilities is in a transitional period.

A consensus is developing that further national policies must be formulated to complete this environmental transition. The agenda for the ninety-third Congress suggests that *land-use planning* is the next logical step in a policy making process which began in 1968.

Government's responsibility to manage the environment until the enactment of the National Environmental Policy Act had taken the form of problem-oriented, narrow-objective policies and programs. Most of these so-called environmental programs had originated in response to crisis conditions. We were *acting*—or, more precisely, *reacting*—on a crisis-to-crisis basis. On the other hand, developmental and social programs were created for and justified solely by narrowly-defined economic and social objectives. Even resources management programs, such as water and timber programs so important to the West, could not be considered as true environmental management programs.

In 1968, the comprehensive nature of environmental management began to be perceived. For the first time, we began to see that every Federal action—the construction of a reservoir, granting of research funds, leasing of public lands—presents an opportunity to obtain environmental benefits—or a risk of incurring unnecessary environmental damages.

The thousands of governmental decisions which were being made often involved tradeoffs between environmental protection and other normally economic values. There was ample evidence that environmental considerations were undervalued, simply overlooked, or outright ignored by responsible decisionmakers. The technicians who designed federal programs had no training with which to determine, much less measure, the environmental consequences of their designs. Furthermore, even the most well-meaning of officials often found their roles circumscribed by limits on authority and responsibility which restricted their ability to give environmental factors any real attention as they pursued the primary objectives of their programs. These conditions formed the backdrop and the justification for the enactment of the National Environmental Policy Act.

We now need a focal point upon which we can continue the proper and logical course of the policies we have begun. This focal point should be the proper planning for the uses of our nation's limited land base.

For two centuries the American people have moved to the West seeking land on which to live, work, and play. The time has passed when there was always more land over the next rise and when your neighbors' smoke had to blow a ways before it reached your door. Yet, the immigration continues and with increasing evidence that the problems of the crowded Eastern seaboard—urban blight, suburban sprawl, an environment that generates despair and violence—are beginning to visit the West as well. There is no longer all land for all uses.

Unfortunately, in the face of a more crowded future, the frontier land ethic re-

mains with its concepts of "expand and conquer", the "sanctity of property rights", and "unlimited resources". Our land was and continues to be settled and developed according to the commonly accepted principle that ownership of the land carries with it the right to do with the land as one damn well pleases. In short, we all still side with Will Rogers. He described our present conception of land most succinctly, albeit unwittingly, when he said "Buy land; they ain't making any more of it".

Although there is much that is good in the frontier ethic—the neighborliness, the strength of the individual, and the equality of opportunity—the frontier attitudes toward the land no longer serve us well. Today, the majority of private and public decisions on land use have impacts in public costs far beyond the proprietary interests of the decisionmakers. At the other extreme, major public decisions on large-scale facilities such as highways, water resource projects and airports predetermine the development of land use patterns on a regional basis for decades to come. These decisions all too often are made with scant appreciation of their impact on State and local interests, on the environment, or on the long-range public good. Thus, we are committing our finite land resource base day-by-day with decisions which may not be in our national interest.

We can expect no better performance from our land use decisionmakers as long as their decisions continue to be made on the basis of totally inadequate information about the land as a resource. Tidelands and estuaries have been filled and developed without regard for or an adequate understanding of the ecological impact. Open space valuable for recreation, greenbelts or just a break in the carpet of urbanization, is succumbing to private development or public projects, not because it is the best land for the new uses but because it is the cheapest. Land uniquely suitable for certain uses, such as for major airports, is being preempted for other uses which possess far less demanding criteria. Often unpopular but essential uses, such as power plants, are placed in locations where resistance is least but with virtually no consideration of both sound developmental and environmental factors. What planning we accomplish is, too often, single purpose planning which fails to relate highways, pipelines, and power plants to recreational housing, and other social and environmental needs. Without an adequate knowledge—sufficient data—concerning our land resources these tragic land use mistakes will be perpetuated.

More often than not the common denominator of all major questions of policy, national or local, is the uses of land. Competition between urban centers and rural areas, between developers and environmentalists, between the employers, the employed and the unemployed, quite often is waged over the application of our land resources. In short, the final focus for much of the competition amongst competing social, economic, and environmental interests and requirement is the land. This competition has been intensified dramatically by the pressure of rapid and continued population growth, expanding urban and economic development, balkanization of governmental entities exercising control over land use, and the increased size, scale, and impact of private actions.

I won't bore you with statistics which document the growing pressure upon our land. Let me just say that, when all the data are thrown together, statisticians tell us that by the year 2000 we must more than double the physical plant of our nation today. This means building a new school, hospital, airport, office building for every one in existence today. We will have to construct in three decades what our forefathers built in *two centuries*. And we simply must do it under the constraints of the emerging environmental conscience. We must begin to develop new policies, procedures, and institutions at all levels of government to improve land use decisionmaking.

With this in mind, Senator Henry M. Jackson introduced the first National Land Use Policy proposal in 1970 and has fought for such a measure during the last two Congresses. His proposal was reported from the Senate Interior Committee too late in the 91st Congress to reach a floor vote. In 1971 his measure was joined by proposals of the Administration and Representative Aspinall, former chairman of the House Interior Committee. With the support of the National Governors' Conference, all but a few of the States, the National Association of Counties, the Administration, all the major environmental groups, and with the endorsement of such publications as the New York Times, St. Louis Post-Dispatch, Wall Street Journal, and Business Week, Senator Jackson's proposal has been reported favorably twice more by the Senate Interior Committee. On September 19, 1972 and June 21, 1973, the Senate passed the National Land Use Policy Act. On the basis of the overwhelming support for the Senate bill, I believe that a National Land Use Policy measure can become law by the end of 1974.

I would like to emphasize, that it is not too late to participate constructively in the development of Federal land use legislation. And that's why I'm here: to solicit your participation. Congress will likely wrestle with literally hundreds of other land use proposals in this next session. In relation to all these measures the views of the citizens and government of South Dakota should be expressed.

To assist you in your thinking as to what should be the proper shape of Federal land use legislation, I would like to outline some of the questions the Interior Committee addressed over the last three years as it put together the best aspects of Senator Jackson's and the Administration's National Land Use Policy proposals.

Both Senator Jackson's and the Administration's proposals would establish a new partnership between Federal, State, and local governments to lessen the stridency, the wasteful delays, and the inefficient results which land use competition generates. The competition would be shifted from contentions over specific land use problems or proposals to the planning process where rational, consistent, long-term decisions can be made. Provision would be made for *participation* of citizens and experts alike and for the collection of the necessary base of land resource data and information.

In general, the two proposals and the combination of the two which was passed by the Senate—

Encourage the States, which have police power and the basic Constitutional authority for planning and management of non-Federal lands, to take the initiative in developing land use programs;

Provide Federal assistance to the States for the staffing, data gathering and analysis, and planning which are necessary prerequisites for coherent decisions;

Encourage or require State land use controls to implement State land use programs;

Contemplate a higher measure of coordination and compliance of Federal action with approved State programs; and

Introduce Federal review of the State programs as a condition to further grants.

The principal questions facing the Committee as the National Land Use Policy Bill was shaped for reporting were:

1. What shall be the emphasis?
2. What should be the result?
3. How much detail?
4. Who shall do the State job?
5. What authority shall the Federal Government have?
6. Who shall do the Federal job?
7. What shall be the provisions for resources?

I will briefly elaborate on each of these questions.

1. WHAT SHALL BE THE EMPHASIS?

Perhaps the threshold question in devising land use legislation is what shall be the emphasis. Certainly we are all opposed to any more legislation encouraging single-purpose planning; for example, we do not need increased planning powers for what I call the "Modern Highwaymen" who rob us of our land for highway construction in the name of some misbegotten notion of freedom. But, we must be careful not to impose a distinct "mission-orientation" upon the planning we mandate. In this environmental era, it would be all too easy to call for planning which has as its only mission the protection of the environment. To do so would limit land use planning's effectiveness. The land use planning we must encourage and which the Federal proposal would mandate is planning which will carefully balance competing environmental, economic, and social requirements and values. To create a land use planning process which serves only as a weapon for environmentalists will insure the absence of participation of developmentalists. Then just as in criminal trials when each side has its own psychiatrist affirming the view of the defendants' sanity, we will have each mission—development, environmental, and social—marching out its own house planner. And it's an accepted law of the Parkinson genre that too much and conflicting planning equals no planning. Both Senator Jackson's and the Administration's measures and the resultant Senate-passed bill emphasize that land use planning must know no single master.

2. WHAT SHOULD BE THE RESULT?

Senator Jackson's proposal even more than the Administration's views this "balancing" of needs and priorities as the essence of land use planning. It reflects a distrust of the most immediate tangible product—the color-coded often utopian map or plan—and a trust in the process—the wide participation of and negotiation among persons and agencies reflecting diverse points of view and priorities. The Senate-passed bill adopts Senator Jackson's belief that this democratic land use process will insure better decision-making not just on land use, but on all environmental, economic, and social issues.

3. HOW MUCH DETAIL?

A principal objective of the national land use policy proposals is to encourage preparation of State land use programs. Clearly, total acre-by-acre planning at the state level, providing for all of the detailed needs of society, would be undesirable and impossible—both financially and politically.

On the other hand, it is the very essence of the land use concept that a measure of comprehensiveness be included in planning. The aim is to have a real knowledge of the available resource—all of it—and a real recognition of all of the critical public demands upon it. Without such perspective, planners do little more than fight "brush fire wars"—that is they plan in isolation on issues immediately before the public eye. Furthermore, in the end, such "instant planning" tends to involve more intervention into local matters by the State than truly far-sighted, comprehensive planning.

The Administration's proposal, borrowing from the Model Land Development Code devised by the American Law Institute, asked that the States assume authority only over that 10% of decisions on areas and uses that are clearly of more than local concern. Certainly, such an approach allows a minimum of State intervention in local affairs; but without a comprehensive overview such a critical areas and uses approach may be nothing more than "spot zoning" at the

State level. Therefore, while the Senate-passed measure does join the Administration bill in mandating state planning for only those critical areas and uses of more than local concern, it maintains all the requirements of the Jackson bill concerning a comprehensive statewide land use data base. From the comprehensive data base, the State can wisely make its more selective critical areas and uses planning decisions.

A quick aside here: Both in hearings on the Federal legislation and in hearings on state legislation which I have attended, even the notion of the State assuming authority over 10% of local land use decisions was often deplored as undemocratic. I think it is important to make the point that the truth is exactly 180 degrees away. Too much of today's land use decisionmaking is plainly undemocratic. With today's larger population, greater wealth and more sophisticated technology, at least 10% of local land use decisions impact upon the wider economy, the greater environment, and the larger regions beyond the boundaries of the local decisionmaker's jurisdictions. Yet those citizens who are active in the wider economy, situated in the greater environment, and living in the larger regions can neither participate in those local decisions nor elect the officials who make them. It is very democratic to ask the states to represent the citizens of the wider economy, greater environment, and larger regions in those critical widely-impacting land use decisions.

4. WHO SHALL DO THE STATE JOB AND IN WHAT MANNER?

The kind of planning which will be done will in part reflect the unique character of the people and geography under the jurisdiction of the State or local government conducting the planning. Therefore, the Senate passed measure attempts to provide as much flexibility as possible to the states in setting up the machinery for the state level decisions and in conducting the processes by which those decisions will be reached.

5. WHAT AUTHORITY SHALL THE FEDERAL GOVERNMENT HAVE?

The national land use policy proposals are viewed by both the Administration and Senator Jackson as "enabling acts" to allow the States and local governments to do their own planning. The Federal government should not substitute its own judgment for the judgment of those levels of government closer to the land use problems and the citizens who would feel the impacts of the decisions concerning those problems. In fact, if the Federal government were to substitute its judgment for that of the States and local governments, the States could be forced to submit to lowest common denominator national standards. I say "lowest common denominator" because any Federal land use standards would have to be loose enough to be workable in States where, for much of the land, use patterns have already been established in a manner which has seriously and adversely affected environmental quality. For States such as South Dakota, for example, where land use is still sufficiently non-intensive as to allow advance planning to preserve the environment, such common denominator standards would be weak indeed and would constitute a roadblock to existing or proposed stringent State land use laws. Instead, the Federal role should be to provide assistance to the State and local governments.

Therefore, the Federal review authority provided in the Senate-passed bill is very limited. The review specifically does not include the second-guessing of the policies embodied in the State's land use program or the designing of a single institutional and processual pattern which the State must fit. Rather, consistent with the enabling act concept, the Senate-passed bill focuses Federal review on whether the State has the authority to implement whatever program it devises, whether it is implementing the program, and whether local governments and citizens are given full opportunity to participate in the program.

6. WHO SHALL DO THE FEDERAL JOB?

It is certain that the responsibility must be placed upon the Federal government to "put its own house in order" as it asks the Senate to do likewise. Senator Jackson's bill embodies a realization of the tremendous and often contradictory impacts Federal programs have upon land-use patterns. That Federal programs have such an impact is best evidenced by Daniel Moynihan's oft-quoted remark: "We already have a national growth policy. It's called the interstate highway program."

Two recent problems confronted by the Senate Interior Committee demonstrate that the Federal "House" *does indeed* need "ordering". Four years ago, the Committee and Congress wrestled with the issue of whether dams should be constructed in the vicinity of the Grand Canyon. The decision was "no" and nearly everyone said it was a resounding environmental victory. Two years ago, the Committee took over 3000 pages of testimony on the Four Corners power plants controversy, considered by many to be a much greater threat to the environment. The issues are the same—the energy "crisis" and the environmental "crisis"—but no proper planning was conducted, no data collected or expertise developed to identify and consider various alternatives to either the Grand Canyon dams or the Four Corners powerplants.

In 1969, the Senate Interior Committee conducted hearings on the Everglades Jetport controversy. Here three prestigious Federal agencies were shown to be blithely undertaking activities—the Department of Transportation developing an airport, the Department of Defense managing a flood control district, and the Department of the Interior protecting a national park—all in conscientious compliance with their mission-oriented mandates but with scarce appreciation of the contradictory, self-defeating and potentially environmentally disastrous land use impacts of their activities.

Obviously, the first step in putting the Federal House in order is to encourage inter-agency communication on land use matters. Senator Jackson's proposal contains several provisions to insure better coordination and rationalization of not only the proposal's programs but all major Federal programs with land-use implication. Among other things, an interagency council was to administer the proposal's program and facilitate communication on land-use matters. On the other hand, the Administration virtually ignored this "house in order" question by proposing a line agency—the Interior Department—to administer its proposal.

Unfortunately it is impossible to sell an inter-agency proposal in Washington where almost everyone has worked in a line agency and has seen his pet proposal "prostituted" in an inter-agency process. And little is accomplished by attempts to say that what is regarded as "prostitution"—that is the rationalizing of competing often conflicting needs and requirements—is exactly what we are after.

Therefore, the Senate passed bill did follow the line agency approach but with strong inter-agency safeguards adapted from the Jackson proposal. The bill requires daily administration of the program by Interior, but provides that all major policy decisions, including review of State programs, be made through a carefully prescribed interagency process.

7. FINALLY, WHAT SHALL BE THE PROVISIONS FOR RESOURCES?

Development of land use programs will be an expensive job. It will also require the assembly of technically trained people at all levels of government and the collection of a great deal of data. Common sense tells us that legislation which requires a job to be done should provide the resources to do it.

Obviously we need better planners . . . we need resource planners rather than the traditional urban, "spatial" planners. And it is improbable that sufficient technically trained people of that ilk can now be obtained to staff 50 State planning agencies which would be responsive to the demands of the legislation. The costs of training such staff and for collecting the necessary data must be appreciated and provided for in the legislation.

I don't know what the cost will be. I don't think anyone does. The Administration bill would have provided $20 million annually in new grant money at 50% of the cost of the State planning effort. The Jackson bill provided $100 million at 90% of the cost. The Senate reduce this $100 million figure to an average of $35 million at 66⅔% of the cost.

To conclude an overly long talk, I urge you to remember that better land use planning is more than a desirable goal; it is an essential one. Unlike two other pre-Socratic elements—air and water—earth or land too often cannot be recycled. Wetlands once dredged and filled, mountains once strip-mined, open spaces once developed may be permanently lost to us. We must work actively and together to insure that we plan for the future—that we achieve a better design for tomorrow. If we do this, we will preserve a healthy liveable environment for our children and their children. I know of no finer legacy.

GETTING BIG MONEY OUT OF POLITICS

Mr. MATHIAS. Mr. President, I am sorry that I was unable to join my colleagues on February 27 in a colloquy on the opportunities which are open to the American people to insure that "Big Money" and "Rampant Secrecy" do not rule the Presidential campaign in 1976. That year, our Bicentennial year, can be the beginning of a new era in Presidential politics. The American people, by "checking-off" $1 on their 1973 tax return, and by checking another box on the same return to allocate $1 from their 1972 taxes, can put their tax money in a fund from which the 1976 general Presidential campaigns will be financed.

I am encouraged by the early response of the American taxpayer which has been reported by Internal Revenue Commissioner Donald Alexander. If the American people continue to respond in the numbers that these early returns indicate, then there will be no need for huge private contributions for the 1976 general Presidential election. If, in addition, the Congress and the President will act on the other campaign measures which are currently before us, then there will be no role for big money or secrecy in any Federal elections in 1976.

America faces no more serious problem today than the growing loss of confidence of the people in their public institutions and their elected representatives. This loss of confidence is corrosive; it attacks throughout the system; it leads to a loss of confidence in the people themselves, and that has the most serious consequences for any society, particularly any democratic society.

Therefore, it is important that the people realize there are ways to recapture the political system for themselves.

It is important that they realize that just because it may be true that "politics was always that way" does not mean that politics must be that way in the future. The people can control the political system; the people can control the politicians; the people need not take a back seat to any "fat cat" or "wheeler-dealer."

And the tax checkoff, which we are discussing today is one good way to begin. In Maryland, I am devoting each week part of a column which I write for some of the newspapers to reminding citizens of the checkoff. I am talking about it on the radio and in speeches which I give throughout the State. I am encouraged by the response I receive. The people want to participate, and to know that their participation in the political system counts.

And so I am pleased to join with my colleagues in reviewing this step toward greater democracy. I will be even more pleased to join them again in the days ahead to consider a major campaign finance reform bill affecting all Federal elections. And I will be ready to join with any of my colleagues in considering what more must be done to insure that the political system handed to us by our forefathers—the greatest inheritance ever received—is secure and vigorous and responsive for our Bicentennial and the years beyond.

MIRACLE CARBURETORS

Mr. PACKWOOD. Mr. President, many congressional offices, mine included, have received an overwhelming number of inquiries into the existence of "miracle carburetors." As a result of the great interest in this subject, I and a number of other Senators asked the Library of Congress to prepare a study addressing the remarks received from constituents as well as various newspaper articles which have appeared from time to time on fuel-efficient engines. Particularly now, in these days of scarce fuel supplies, it becomes all the more critical that any rejorts alleging suppression of inventions resulting in improved fuel economy be investigated. It is interesting, therefore, to note some of the preliminary findings included in the study prepared by the Library of Congress.

Mr. President. I ask unanimous consent that the report be printed in full in the RECORD.

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

AUTOMOBILE CARBURETORS AND FUEL ECONOMY: FACT AND FALLACY

(By George N. Chatham, specialist, Aeronautics and Space, Science Policy Research Division)

Fuel saving carburetors and carburetor attachments have appeared at a steady rate since mass production of the auto first began. Today's gasoline shortage has caused an intense renewal of interest in many of these devices and in the legends which accompanied them.

As a response to innumerable requests for information on carburetors, real and legendary, as well as the alleged suppression of carburetor inventions, the Science Policy Research Division in the Congressional Research Service held interviews with nationally recognized authorities on the carburetor art. The Patent Office and the Bureau of Standards were also contacted. A summary of the findings and of the interviews follows.

SUMMARY AND CONCLUSIONS

Special driving techniques, discussed in the body of this report, enable vehicles to achieve phenomenal mileage per gallon of fuel consumed. These "economy-runs" lend credence to the idea that some mechanical change, such as a new carburetor, could bring such economy to everyone. However, under normal driving conditions, the energy available from a gallon of gasoline is inadequate to provide the mileage economy promised in carburetor legends.

The consensus of expert opinion and the research at the California Institute of Technology, Pasadena, California, indicates the following points:

1. *Private Brand Carburetors.* Private brand carburetors, (those made to compete with the standard equipment furnished with the car) past and present, have generally fallen short of the efficiency and reliability of those supplied by auto makers.

2. *Modern Carburetors.* The standard modern carburetors approach a practical optimum in performance. Potential increases in performance are small and not worth the excessive increase in cost and complexity required.

3. *Suppression.* The non-validity of the claims made for the super carburetors eliminates the basis for suspicions that some carburetor inventions were suppressed.

4. *Fuel line and carburetor accessories.* Far more carburetor "aids" and fuel line gadgets have been placed on the market than new types of carburetors. One class, the water injection devices, is worthy of mention. The water injection systems meter a fine mist of water into the gasoline-air mixture, usually at the base of the standard carburetor. These devices have been available since the 1930's and are still on the market. The nuisance of keeping the small water tank filled and the injector orifices clean was, in the past, too costly for the 10% to 15% gasoline saving they provided. However, today's fuel shortage could change this attitude and make these devices popular.

5. *The Patent Office.* According to the Patent Office, there are about 19,000 carburetor and carburetor related items on file. This Office does not conduct experiments or make competitive evaluations.

6. *The Bureau of Standards.* The Bureau of Standards ceased all activity in automotive research 24 years ago. At present, the Bureau has no plans to initiate new activity in the field.

OVER A HUNDRED MILES TO THE GALLON

Much credence is lent to the miracle carburetor stories by the often astounding results honestly obtained from special "miles-per-gallon" contests. Oil companies sponsor these contests each year to show that an automobile can obtain 100 or more miles from a gallon of gasoline. The vehicles are made as friction free as possible. They are tuned to conserve gas at the cost of performance. However, the largest factor in the competition is not the machines but the special driving technique. Momentum is conserved to the maximum extent and the engine is turned on for brief periods of acceleration between long coasting periods. Neither the vehicle performance nor the driving techniques would be tolerable or safe in normal driving conditions.

However, information on fuel conservation, useful to the average driver, is produced by these contests. This will be explained in the following section—the gist of an interview with the editor of *Motor Trend* magazine, Mr. Eric Dahlquist.

DAHLQUIST: ON CARBURETORS

Mr. Eric Dahlquist, editor of *Motor Trend* is a leading authority on the carburetor, the history of its development, its ultimate potential and, of course, its legends. In an interview with Mr. Dahlquist, the following information was obtained:

Today's standard carburetors. Mr. Dahlquist contends that the carburetors in use today represent the best balance between cost and the functions expected of a carburetor, namely; a) fuel economy, b) full availability of engine power at all operating speeds, and, c) smooth engine performance.

Carburetor Research. Auto makers have continuous research programs to improve carburetors. The problem they attack is not that of determining the ultimate fuel dispersion/air mixture for the varying engine loads; they already know this. The problem is to find ways to achieve improvements within reasonable costs standards.

Economy demonstrations often give the erroneous impression that the equipment, not the driver, could increase gas mileage by a factor of 10 or more. The fact is that all things held constant—driver, car, etc.—a super carburetor would provide only a modest increase to a car's mileage performance. The California Institute of Technology, with a $3 million grant from General Motors, has devised a super carburetor. It is a computer-controlled, fully electric device. When installed in a Chevrolet, gas mileage was improved by 66%—from 15 miles per gallon to 25 miles per gallon. The cost, however, is about $2,500 per unit. This would almost double the price of some cars, and the fuel economy provided would not be worth the added cost.

In short, the amount of fuel saved by a new type of carburetor must be enough to justify the added cost. If cost is disregarded, then Mr. Dahlquist considers the Cal. Tech. device the ultimate carburetor since its performance closely approaches the theoretical limits of achieving perfect carburetion.

Suppressed Inventions. Most carburetor legends appearing over the past 40 years had their origins in fraud. However, a number of real inventions have appeared. In some cases, companies were founded to produce "superior" carburetors. However, Mr. Dahlquist noted that in each case the designs have had technical problems. Following the designs and products through the years, he observed that the carburetors which offered significantly improved gas mileage, generally 10%, did so at the cost of complexity and unreliability. He stressed that unreliability as well as generally poor performance were the major reasons these private designs eventually vanished. Neither he nor any of his staff has ever found the slightest reason to believe that any carburetor invention has been suppressed.

Auxilliary devices. Far more numerous than new carburetors have been carburetor attachments sold for the purpose of increasing gas mileage. Only one class of these devices, Mr. Dahlquist notes, is worthy of discussion, that is, the water injection systems. There are several brands available in a price range of $25 to $40. They have a history dating back to the 1930's and can increase mileage as much as 20%.

Historically, the savings in fuel have been less important than the bother of using the system. The problem is that the space available under the hood for a water bottle is small. The need for frequent refilling caused most motorists to abandon the devices. However, in the past there was always a sufficient supply of gasoline. In today's fuel shortage conditions, Mr. Dahlquist predicts that the motorist will view frequent water bottle filling differently. *Motor Trend* plans to review some of these devices in an issue tentatively scheduled for mid-year publication. Meanwhile, he had no brand name recommendations but said that some models were list-

ed in the *J. C. Whitney Catalogue of Automotive Accessories*.[1]

Saving gas. According to Mr. Dahlquist, any motorist could increase his' gasoline mileage by as much as 30% by using radial tires, leaving his air-conditioner off and by "pacing" his driving. He considers driving technique the most important of these factors. He points out that gasoline is the car's source of momentum—but that the average driver wastes about as much, through braking, as he uses. A driver is "pacing" himself when his attention is at least a block ahead of his car. For example, driving up to a red light and braking to stop wastes momentum. Lights should be anticipated. With due consideration for safety, a driver should coast toward a red light or toward a light he knows will be red before he can pass it. If the light changes to green prior to his arrival, the driver has wasted neither time nor momentum (gas).

Theoretical limits. Mr. Dahlquist alluded to the "theoretical limit" of carburetor performance—that not quite attainable perfect performance where carburetion contributes a zero loss in efficiency. To elaborate on his point, the following excerpt explains in greater detail just how much improvement in gasoline mileage is possible through improved carburetion.

Excerpt from Kirk-Othmer Encyclopedia of Chemical Technology:

"COMMON FALLACIES CONCERNING GASOLINES

"Over the years, a number of misconceptions about gasoline have cropped up again and again. Some are the products of wishful thinking; others stem from a lack of understanding or a misunderstanding of gasoline behavior in engines. Rumors of some suppressed invention, such as a special carburetor or miraculous fuel additive, that would give fuel economies of 100–200 miles per gallon fall in the wishful-thinking category. By definition, one British thermal unit (Btu) equals 778.26 ft-lb of work, and one horsepower (hp) equals 33,000 ft-lb of work per minute; thus, 2545 Btu are required to produce 1 hp for 1 hr. Because all gasolines, whether regular grade or premium, have almost identical energy content, about 115.000 Btu/gal, 1 gal of gasoline could produce as much as 45-hp of work if every bit of its energy could be converted into useful work by the engine.

"However, the engine must reject still-hot combustion gases to make room for a fresh fuel-air charge, and some 45% of the fuel's heat energy is lost for this reason. Another 20% is dissipated to the cooling water and/or air required to keep engine parts at temperatures they can stand. Friction losses in reciprocating and rotating engine parts consume about 5% of the fuel's energy. Thus, even modern high-compression engines convert only about 30% of a fuel's available energy into useful work. In other words, of the 45 hp-hr theoretically available in 1 gal of fuel, only about 13.5 hp-hr is converted to useful work at the engine's flywheel. And because some 5.5 hp is required to maintain a 2-ton automobile at a constant speed of 20 mph on a level road, the 13.5 hp-hr of flywheel work could run the car for 13.5/5.5 or less than 2.5 hr at that speed.

"Thus, maximum steady-speed fuel economy of the car would be around 2.5×20 or 50 miles per gallon—but only at a constant speed of 20 mph on a level road. Furthermore, because wind resistance and power losses due to tire flexing increase very rapidly with vehicle speed, the power required at highway speeds is much greater—around 20 hp at 45 mph, 40 hp at 65 mph, and 80 hp at 80 mph. Therefore, if all of the flywheel output were available just to move the vehicle at constant speed on a level road, maximum attainable fuel economies would be about 30 miles per gallon (mpg) at 45 mph, 22 mpg at 65 mph, and 13.5 mpg at 80 mph. And these figures do not take into consideration fuel consumption to power such accessories as power steering, power brakes, air conditioning, etc. Nor do they take into account fuel consumed in idling, hill climbing, accelerations, decelerations, etc. And, finally, they do not take account of the fact that, for the acceleration performance demanded by motorists, cars are equipped with engines considerably larger and more powerful than needed just to maintain a given highway speed. Obviously then, dreams of a 200-mpg automobile of the size and performance that the motoring public demands are only wishful thinking—a myth beyond the bounds of possibility."

KNOLL: ON CARBURETORS

Mr. Robert Knoll is a research and testing scientist with the Automotive Research Laboratory of Consumer's Union. The laboratory tests and evaluates automobile and automotive accessories. Their results are published in the Consumer's Union monthly magazine, *Consumer Reports*. The following points have been summarized from an interview with Mr. Knoll.

Carburetor Legends. The gasoline shortage has given the public a genuine reason to hope that there is some germ of truth in the carburetor legends. Since the 1950's, these stories of 200 and 300 miles per gallon carburetors alleged to have been lost in the Patent Office or suppressed by oil firms, have been revived at roughly five year intervals. How and why this happens has always been a puzzle, but this time the reason seems clear. Unfortunately, a myth is still a myth, regardless of its rate of revival.

Private Brand Carburetors. There have been several good attempts to produce carburetors competitive in quality with those supplied by the auto industry. It is Mr. Knoll's observation that none of the private brands were quite as good as the original equipment. None of these carburetors were tested in his lab. However, Mr. Knoll tested the Fish[2] carburetor in his own car. He determined that it worked fairly well but was less efficient than his original carburetor.

Carburetion has improved with time but in the view of Mr. Knoll and his associates this function has never been a weak point in automobile technology. Mr. Knoll advises that improvements in gas mileage lie "down stream" from the carburetor.

Since the "Clean Air Act" of 1970, engine efficiency has been increasingly compromised by anti-pollution devices. The most serious loss occurred with the sharp reduction in compression ratios. This was done to accommodate the lower octane "low lead" fuel and also to reduce nitrous oxide emissions. (A more complete discussion of this point is contained in a letter to *Science* written by Robert J. Nauman which is appended to this section.)

Mr. Knoll closed his discussion by noting that the end point of carburetion was to supply properly dispersed fuel in the correct fuel to air ratio as required by the engine work load. There are no unknowns or mysteries about the process and today's carburetors approach the practical limits of efficiency. According to Mr. Knoll, looking for "breakthroughs" in the carburetion function is equivalent to searching for ways to "cancel the laws of chemistry and physics."

[From the Science magazine, Feb. 15, 1974]

AUTOMOTIVE EMISSION STANDARDS AND FUEL ECONOMY

The Clean Air Act of 1970 (PL 91–604) requiring reduction of automotive emissions by a rather arbitrary 90 percent by 1976 has until recently enjoyed considerable public support, despite the grumblings of the automotive manufacturers and the bitter complaints of new car buyers about poor performance and gas mileage. However, with a serious threat of gas rationing and drastically increased prices facing us, we must reexamine the consequences of proceeding in this direction (1).

The rather simple steps taken before 1971, such as crankcase blow-by control, evaporative controls, leaner mixture ratios, and minor engine modifications to improve burning efficiency were successful in reducing carbon monoxide emissions by 41 percent and hydrocarbon emissions by 73 percent (2). These steps added negligibly to the cost of an automobile and did not result in any loss of performance or economy.

By 1973 all the easy fixes had been used. Further reductions required more drastic and uneconomical measures. Since nitrogen oxide emissions are directly related to wall temperatures, which in turn are related to thermodynamic efficiency, there does not appear to be any way to significantly reduce these emissions without sacrificing efficiency. The steps taken in 1973 to lower the compression ratio and recycle exhaust succeeded in reducing nitrogen oxides by 54 percent, but at a cost of approximately 30 percent in fuel economy. Family-sized automobiles (4500 to 5500 pounds) that averaged from 12 to 14 miles per gallon (mpg) in 1970 now average from 8.3 to 9.7 mpg. Even the new engine designs (such as the Wankel engine and the Honda stratified charge engine) that are reportedly capable of meeting the 1976 emission standards, do so by sacrificing efficiency.

It is estimated (3) that addition of air pollution control devices on a new car in 1975 will cost $314. If we assume that 10 million cars are sold each year, the total cost for these devices will be $3.14 billion per year. Replacement of catalytic converters every 50,000 miles requires an amortized cost of $40 per year for each car. The total annual cost will thus be $4 billion. The fuel consumption of cars manufactured in 1973 is already 30 percent higher than that of 1970 models and we are nowhere near meeting the 1976 emission standards. Even if we assume that these standards can be met with no further sacrifice in economy, the cost of the 30 percent increase in fuel consumption is more than $12 billion at current prices. Thus, we can estimate that the implementation of the 1976 automotive emission standards will cost approximately $20 billion per year.

What will we actually accomplish as a result of this expenditure? Certainly the automobile will become a negligible polluter. However, to require a 90 percent reduction of emissions from a source that is responsible for less than half of the pollution seems somewhat disproportionate. The Los Angeles area already has one of the lowest rates of automotive emission per square mile of any major city in the United States. Its air pollution problem is due to its peculiar geographical location and the resulting high incidence of inversion conditions. Even without automobiles, there would probably still be an air pollution problem in the Los Angeles area from home heating, power generation, and the petrochemical industry. In cities where there is more heavy industry, the reduction of automotive air pollution would produce even less of an improvement in the quality of the air.

There appears to be little evidence that automotive air pollution produces any widespread deterioration of the environment in nonurban areas. Wouldn't it be more reasonable to invest the $20 billion we are about to pay for emission controls in mass transit for the cities, where the population density is high enough to make it practical, and reserve the use of automobiles for small towns and rural areas, where mass transit is not fea-

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[1] J. C. Whitney & Company, 1917–19 Archer Avenue, P.O. Box 8410, Chicago, Illinois 60680.

[2] The Fish Carburetor Co., Daytona Beach, Florida was dissolved August 28, 1964 due to non-payment of taxes.

sible? Furthermore, the requirement by the Clean Air Act that automotive emissions be reduced by 90 percent should be replaced with a provision that every effort should be made to reduce automotive emissions that does not interfere with fuel economy.

ROBERT J. NAUMANN,
Space Sciences Laboratory,
Marshall Space Flight Center, Ala.

REFERENCES AND NOTES

1. The U.S. Senate has already voted to postpone until 1977 the requirement that automotive emissions be reduced by 90 percent.

2. These percentages were obtained by taking the values for automotive emissions reported in the 1968 inventory of the National Air Pollution Control Administration and dividing them by the total number of miles driven to get the average grams per mile. These values were then compared with the 1970 emission standards.

3. H. E. Hesketh, *Understanding and Controlling Air Pollution* (Ann Arbor Science Publications, Ann Arbor, Michigan, 1972), p. 162.

THE PATENT OFFICE: ON CARBURETORS

The possibility is often suggested that somewhere in the files of the Patent Office there exists one or more designs for superior carburetors. Further, if the Patent Office could identify and evaluate these inventions, the public might benefit.

Contacts with officials of the Patent Office have revealed that there are 19,902 patents on the carburetor and related art. It should be noted, however, that not a single one of these patents was granted on the basis of superior performance. Patents are granted on the basis of a legally valid "claim" of one or more (one is sufficient) novel features. For example, a carburetor patent may show a complete, but common carburetor modified to include a novel means of attaching the air filter. Although the body of the patent may include great detail of the entire filter/carburetor/engine system, the claim (the strength of the patent) will carefully exclude all but a description of the novel fastener system to hold the air filter.

Searching the patented carburetor art to locate a superior design would require two major steps. First, each patent would be examined by engineers who are proficient in the carburetion process. They would screen the body of patents, identifying those with claims specifying novel features related to fuel economy. The patent office estimates that this screening process could be done at a cost of $50.00 to $100.00 per patent. ($1 million to $2 million total).

The second step would be far more costly. The selected patents, after suitable arrangements with their owners (unless the patent has expired) would be given to an automotive research laboratory for further analysis, research and development.

In conversations with Dahlquist (see preceding interview) and others on the merits of such a program, the following points have emerged.

1. The best laboratories for this purpose are those serving the auto industry. The patents they would examine would fall into three classes: a) those previously selected from the patent art, and licensed by these labs; b) patents issued to the engineers and designers of the labs; c) patents issued to others. The latter group would have two sub-classes. The first would include designs which were actually produced as private brands to compete with carburetors supplied by the auto makers. The second sub-class would consist of untested designs which, for one reason or another, were never developed by anyone.

The preceding interviews with Dahlquist and Knoll provided evidence that the private brand efforts were generally unsuccessful in producing carburetors of the general quality or reliability of those supplied with the cars. In view of this, the prospect that a "super" design could reside in the files of the patent office is reduced to the hope that it is among those in the second sub group, namely private inventions which were passed over. The prospect for this seems dim, especially in light of the point which follows.

2. The question arises of what could be expected of a super design, should one exist. In other words, how much of an improvement is possible over today's designs. The answer is, unfortunately, very little. The optimum air-fuel ratios and the optimum fuel vaporization conditions are all well established. Today's carburetors closely approach these ideal conditions within reasonable cost constraints. (See the Dahlquist interview for an elaboration of this point.)

In summary, the prospect of locating an overlooked jewel in the patented carburetor art appears to be a formidable and costly gamble involving very poor odds for a prize of sharply limited value.

THE BUREAU OF STANDARDS

It is a common but erroneous idea that the Bureau of Standards is conducting automotive research including carburetor testing and design. The Bureau has not conducted investigations in the automotive field for the past 24 years. It has no plans at present to initiate programs in this area.

THE FISCAL 1975 FEDERAL BUDGET

Mr. BIBLE. Mr. President, the distinguished chairman of the Appropriations Committee (Mr. MCCLELLAN) opened the committee's hearings on the fiscal 1975 Federal budget on February 27, 1974, with a thoughtful statement which I believe will be of paramount interest to all Members of this body.

Senator MCCLELLAN pointed out that although this budget—a record $304.4 billion—is being presented when we are at peace for the first time in a decade, peace has not meant an end to the economic and fiscal trials faced by our Nation.

Senator MCCLELLAN made an eloquent plea for return to fiscal responsibility in the conduct of our affairs which I believe bears repeating:

We cannot continue to pass on to future generations the burden incurred to pay for the excesses of this generation. This practice is both unwise and unsound . . .

It is imperative that we make a concerted effort to reduce Federal expenditures to levels that are more consistent with our fiscal capabilities. No segment of the budget should be sacred—neither military nor civilian expenditures.

Mr. President, as Senator MCCLELLAN has emphasized, the Federal budget is the major instrument in our possession for determining the course of the Government not only for the next fiscal year but also in years to come. As he has said, it is incumbent upon all Members of Congress to make certain that this budget provides a durable fiscal foundation for a solvent and prosperous future for all.

I ask unanimous consent that Senator MCCLELLAN's remarks be printed in the RECORD.

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

REMARKS OF SENATOR JOHN L. MCCLELLAN

The Senate Committee on Appropriations today begins extensive hearings on the Administration's $304.4 billion budget for fiscal year 1975—the largest in the history of our Nation.

For the first time in a decade these proceedings are being held at a time when there are no American troops dying on foreign soil, no American planes bombing hostile concentrations, no American warships firing on targets in anger.

We are at peace, and for this blessing we are thankful. But peace has not meant an end to the economic and fiscal trials faced by our country.

These hearings begin at a time of mounting crisis and concern over the fiscal stability of our Government and of the world economy. Recession and the threat of depression cast a lengthening shadow over all decisions—from the highest councils of government to the smallest households in the Nation.

These hearings begin at a time when the energy crisis, compounded by the Arab oil boycott, is upsetting the American way of life, dislocating domestic industry, disrupting world trade and drastically altering the balance of international payments.

These hearings begin at a time of mounting inflationary pressure on our economy—currently running at a rate of 8.8 percent a year—and showing no evidence of abating in the near future.

These hearings begin at a time of rising unemployment. After dipping to 4.6 percent in October 1973, the rate of unemployment jumped to 5.2 percent in January 1974 and is expected to grow worse as a result of the energy crisis. It is estimated that about 300,000 workers have already lost their jobs due to the energy crisis.

These hearings begin at a time when the rate of real growth of our economy is declining. After three years of sustained thrust, the real growth of the Gross National Product almost came to a halt in the fourth quarter of 1973—dropping to only 1.3 percent and is expected to drop even further during the first quarter of this year.

These hearings begin at a time when the national debt is still soaring seemingly without control and shows no signs of being stabilized or reduced.

During the decade ending in fiscal 1975, we will have accumulated Federal deficits totaling $13.5 billion. Much more than half of this sum, $7.5 billion, has been incurred in the last five years, alone. By the end of fiscal 1975, the total national indebtedness will be $508 billion, according to current projections. Interest on this sum is estimated at $29.1 billion annually—a sum equivalent to almost 10 percent of total Federal expenditures for fiscal 1975.

The budget before us is not only the largest in the Nation's history, but it is also the first to exceed $300 billion. It is more than double—$34 billion more than double—the fiscal 1965 budget of $118.4 billion.

And the trend is upward. New budget authority—the barometer of future spending levels—is estimated at $322.1 billion in fiscal 1975 as compared to $310.9 billion in fiscal 1974.

While the increase in new budget authority in fiscal 1975 over fiscal 1974 is estimated at $11.2 billion, it should be noted that the new budget also contains requests for supplementals, amendments, and allowances of $14.3 billion for the current fiscal year which are included in the 1974 totals of the new budget, but which have not yet been acted on by the Congress. So, in these terms the fiscal 1975 budget is $25.5 billion over the level the Congress has actually provided so far for this fiscal year.

Yet, our ability to carry out sound fiscal policies and to provide the resources needed to meet current needs and emerging problems is limited by past decisions. In fiscal 1975, over $223 billion in outlays—almost three-quarters of the budget—will be vir-

tually uncontrollable due to existing law and previous commitments. About 90 percent of the increase in outlays between 1974 and 1975 represents mandatory increases that are unavoidable under current law.

Year by year, the amount of the budget that is under Congressional control has steadily been eroded, as trust funds, interest on the debt, legislative bills with either mandatory or backdoor spending authorization have made up larger portions of the budget.

In 1967, for example, only 59 percent of expenditures were uncontrollable. In fiscal 1975, 73 percent of the budget will be uncontrollable. The portion of the budget subject to discretionary control—that is the appropriations process—has declined for three major reasons:

The relative decline as a percentage of the total budget of defense spending, which is the largest relatively controllable outlay in the budget.

The growth in mandatory grants to State and local governments.

The expansion of human resources programs which take the form of benefit payments set by law to individuals and families.

This budget recommends total outlays of $304.4 billion in fiscal 1975—$29.8 billion more than in 1974—and anticipates receipts of $295 billion—an increase of $25 billion over 1974. In view of our lagging economy, this would appear to be a very optimistic estimate.

Thus, we are once again faced with another budget inscribed in red ink—this one with a projected deficit of $9.4 billion.

Uninformed observers—both within and without Congress—have blamed increased military spending for this and previous deficits. But since 1964, defense spending has been steadily decreasing as a percentage of the total budget, while spending on human resources has constantly increased.

Proposed defense spending is up 8% over last year but . . .

Pollution control is up 54%;

Medicare and other health programs are up 13%;

Social Security benefits are up 16%;

Public aid, food stamps and similar programs are up 25%; and

Unemployment pay is up 27%.

From all of the above, it is clear that the Administration is using the budget to prop up the economy in a year of economic stress and uncertainty.

It will be one of the major purposes of these hearings to fully examine all aspects of this decision and to determine its ultimate wisdom.

We cannot continue to pass on to future generations the burden incurred to pay for the excesses of this generation. This practice is both unwise and unsound.

Obviously, we are now paying for the consequences of this folly. Can anyone seriously doubt that the series of huge Federal deficits piled upon each other in recent years and the continued deficits in the U.S. balance of payments have had a devastating effect upon the economy and the value of the dollar? Within a 15-month period we witnessed two back-to-back devaluations. Chronic inflation stalks the economy. There is a world-wide economic malaise and a flight from paper currency to gold. Gold is now selling at $168 an ounce on the open market while it is officially valued at $42 an ounce.

It is imperative that we make a concerted effort to reduce Federal expenditures to levels that are more consistent with our fiscal capabilities. No segment of the budget should be sacred—neither military nor civilian expenditures.

In an effort to restore fiscal responsibility to the operations of the Government, I suggested last year that the Senate Committee on Appropriations, acting through its 13 Subcommittee Chairmen, set tentative appropriations and expenditures ceilings to be observed during the consideration of the various 1974 appropriations bills.

Not only did Congress meet these goals, it exceeded them. After extensive hearings and judicious examination of the President's spending proposals, we cut new obligational authority by a total of $3,262,696,451.

In view of this measure of success, I have again requested the Subcommittee Chairmen to establish tentative appropriations and expenditures ceilings for fiscal 1975 appropriations bills. I am hopeful that once again we will meet—or exceed—these goals.

The Federal budget is the major instrument we have for determining the course of the Federal Government not only during the next fiscal year but also in coming years. It is incumbent upon us—and all Members of Congress—to make certain that this budget provides a durable fiscal foundation for a solvent and prosperous future.

THE RETIRED SERVICE VOLUNTEER PROGRAM

Mr. DOMENICI. Mr. President, I read with great interest an article by Mr. Charles Bartlett in the March 2 edition of the Washington Star-News describing the success of the Retired Service Volunteer Program—RSVP—in Chicago.

As a member of the Special Committee on Aging, I have a strong, continuing interest in programs which are successful in improving the lot of elderly Americans. Mr. Bartlett's article will be of interest to all who are concerned in aiding the elderly, and I request unanimous consent that it be printed in the RECORD.

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

OPPORTUNITY OPENS FOR THE ELDERLY

(By Charles Bartlett)

CHICAGO.—In times when the young are unable to channel their idealism and the middle-aged are gripped by a malaise of corruption, it is agreeable to find that the elderly are striking out on their own.

The most recent breakthrough in voluntarism is the extent to which older people are being mobilized in their own behalf. Within the past 18 months, large numbers of citizens past 60 have begun to discover the usefulness of longevity and the satisfaction of unselfish works at a stage of life when many begin to turn inward.

The spur for these efforts has been programs like RSVP (Retired Service Volunteer Program) which opens opportunities for people past 60 to help those who encounter difficulties in old age. This comes at a time when the national conscience is being aroused to the problems of the elderly. A real move is underway to meet the complaints of those who are living longer but enjoying it less.

Antonio Faustini is showing how it can be done in Chicago's Italian community. Retired after a career as radio personality in Italian language broadcasts, he enrolled more than a year ago as a Vista volunteer with the mission of finding immigrants who have been isolated in their old age by language problems. He initially promised to work only 20 hours a week (for about $500 salary) but now he is totally immersed in a battle against human misery.

With Faustini, as with Alex Rackankas who works among the Lithuanians or with Sister Theresa who works among the Mexicans, the most important task is to get these people acquainted with the benefits available to them. Some are even unaware of Social Security. The time-consuming task is to cope with the mass of forms that establish entitlement to food stamps, supplementary income and other cushions against deprivation. Often the cushions do not cover the adversity.

They encounter great pools of loneliness, so it is important also to respond to calls for advice and friendship. "I have not the wisdom of Solomon," Faustini tells people who telephone him, "but I will try." It is hard, patient work to get at the diverse problems and find solutions. Often the volunteers must battle their own frustrations as they hear tired voices describing problems for which there is no solution. This is work that calls at times for the qualities of a saint.

But it is extremely rewarding for those with the stamina and goodness to tackle it. "The more you get involved, the more you love it," Faustini says. "I worked for more money in the past but I never was so happy as I am now."

In fact, the psychological rewards of this volunteer work are the chief reason why many people are being recruited for RSVP. This is less intense and less time-consuming than the work among the ethnics so the volunteers get no reward beyond out-of-pocket expenses and an accident policy. The primary aim of the program is to make older people feel useful. Their good deeds are a by-product.

Success is attested by the program's swelling enrollments, 1,200 in New York City and 950 in Chicago.

Apart from the obvious benefits of these programs, they have two important potentials. They are surfacing the fact that poverty is not solely the concern of ghetto blacks. Ethnic leaders who have been skeptical of social programs are learning that many of their own people need help. The elderly volunteers bring the neglect into the open and learn from their visits to nursing homes and apartments how real help can be supplied.

ON HIRING MINORITIES

Mr. McCLELLAN. Mr. President, the January 1974 issue of the American School Board Journal contains some interesting statistics on the employment rights of minority teachers in the North versus those same rights in the South.

Not surprisingly, the statistics clearly demonstrate the great discrepancies between northern rhetoric and northern action. As we all know, the rhetoric flowing from New York City would lead one to believe that minority teachers, particularly black teachers would be employed on a percentage roughly equal to the percentage of black students in the schools. However, according to the National Education Association, New York City would have to hire an additional 15,375 black teachers to equal the percentage of black students in their schools. In much the same manner that the Federal Government has imposed integration on the South—but not on the North—it now appears it is imposing quotas of black teachers on the South while ignoring the much more serious condition of discrimination against minority teachers that exists in the North.

Mr. President, I ask unanimous consent that the full text of "On Hiring Minorities," that appeared in the January 1974 issue of the American School Board Journal, be printed in the RECORD so that the Nation may be more fully aware that northern liberal rhetoric is not matched by action with regard to the hiring of minority teachers.

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

ON HIRING MINORITIES

The National Education Association claims that 211,000 additional minority educators must be hired to bring about "equity and parity" for minorities in the public schools.

Samuel B. Ethridge, director of N.E.A.'s teacher rights program, says that minority teachers generally have "fared much worse proportionately in the East, North and West than in the South." While states such as Mississippi, Louisiana, Virginia, Florida, Georgia, South Carolina, North Carolina, Texas, and Tennessee have relatively favorable ratios of black teachers to black students, the northern state of New York, according to Ethridge, "would need almost as many additional black teachers to correct its black teacher-pupil ratio as would the entire 17 southern states, or one-third as many as would the other 49 states." The ratio of black teachers to black students in New York is 1–128.

Among cities with unfavorable ratios, according to N.E.A., are Boston, 1–89; New York City, 1–83; Buffalo, 1–79; San Francisco, 1–61; Pittsburgh, 1–57; Oakland, Calif., 1–52, and Columbus, Ohio, 1–50.

East Baton Rouge, La., with a black teacher-student ratio of 1–26, was named by N.E.A. as having the best ratio out of a group of 37 cities from across the country. Other cities with favorable ratios (1–32 or lower) included Houston; Atlanta; Charlotte-Mecklenburg, N.C.; Richmond; Caddo Parish, La.; Washington, D.C.; and Duval County, Fla.

To bring minority educator and minority student ratios in line with the national teacher-student ratio of 1–22.5, N.E.A. says that public schools would have to hire 116,000 black teachers; 84,500 Spanish-speaking teachers; 7,400 American Indians; and 3,000 Asian Americans.

Just to correct the disparity in black teacher-student ratios, Chicago would have to hire 4,410 black teachers, Philadelphia would have to hire 3,239, Detroit, 2,115, and New York City would need an additional 15,375 black teachers, says N.E.A.

New York City's poor showing in N.E.A.'s study is especially significant in view of the latest school census in that city, showing that black students now are the single largest group of students in the city's school system. Blacks have doubled their numbers in the city's schools during the last 12 years and now make up 36.1 percent (406,974) of the student body. Whites are the second largest group, numbering 397,694 students or 35.2 percent of the student population.

THE CBS TAPES

Mr. HANSEN. Mr. President, the Wall Street Journal on February 20, in an editorial, commented on a court action brought by the Columbia Broadcasting System—CBS—against Vanderbilt University.

I was one who in the spring of 1971 was surprised to learn that Vanderbilt University was the only place where videotapes of network news programs were retained on a permanent basis. I thought at the time, and still believe, that the project is very worthwhile, considering the significant impact that I think television news has upon the American public. Television, and its effects, are in my opinion very much a part of the history of our times.

According to news reports, CBS has sought an injunction against further copying of CBS programs and the delivery of existing copies to the court.

So far as I am aware, Vanderbilt University has never charged fees for use of the videotapes in question; and it is my understanding that the university has kept not only CBS, but the other major networks as well, informed of its activities in this area from the very outset. I am not aware of the motivating factor that may have generated this action by CBS, but I do hope it in no way relates to action I took in the spring of 1971, although that action, in my view and in the view of a number of colleagues, did prove somewhat of an embarrassment to some of the networks.

Most of you had opportunity to view the evening newscasts of a 10-day period during the controversial Laos incursion when they were made available at a day-long presentation in the Russell Senate Office Building. At the risk of reopening old network wounds, I will just state that most with whom I talked felt the news presentations during that period were weighted somewhat against the allied efforts in Laos at that particular time. Some with whom I talked felt the apparent slant of the reporting was inadvertent, and others felt it was deliberate.

But nevertheless, if my use of those videotapes in any way has helped motivate CBS to bring this court action against Vanderbilt, I take this opportunity to publicly apologize to the university, which in my judgment is one of the greatest in the Nation.

The chancellor of Vanderbilt, Alexander Heard, has issued the following statement in regard to the CBS action:

The chancellor of Vanderbilt, Alexander Heard, has issued the following statement in regard to the CBS action:

The Vanderbilt Television News Archive is a nonprofit repository of a circulating collection of television network news broadcasts, initiated and maintained in the public interest and in the absence of any similar service elsewhere. These broadcasts are of nationwide significance, influence, and interest, and we believe that they should be preserved and readily available for study now and in the future.

The procedures of the Television News Archive have been carefully designed in an effort to insure that they do not infringe rights of CBS or of the other networks.

Mr. President, I ask the Senate's unanimous consent that the Wall Street Journal article, entitled "CBS and Its Tapes," be printed in the RECORD, and would only observe that one point in the article appears inaccurate. To my knowledge, the university does not charge a rental fee for use of the videotapes, but rather just expenses related directly to the use.

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

CBS AND ITS TAPES

CBS has asked the court to order Vanderbilt University to surrender video tapes of the "CBS Evening News with Walter Cronkite." Moreover, CBS's attorney in Nashville, Tenn., told a TV trade publication that if the court rules in the network's favor, it will likely erase the videotapes.

Incredible as it sounds, the Vanderbilt Television News Archive is the only place where complete videotapes of network news programs are saved permanently. Since most Americans get their information about national and international news from network TV, the archive is obviously a valuable research tool for scholars and researchers.

For almost six years the Vanderbilt archives has videotaped each evening newscast of the three major television networks. The collection presently consists of more than 3,000 hours of news programs, including presidential speeches, Watergate hearings and political conventions. The archive publishes an index and abstract. Tapes are available for study within the archive or at nominal rental fee for use outside. Renters are asked for a statement of how the videotapes will be used, and they must sign an agreement not to rebroadcast or duplicate the tape.

In a suit filed in U.S. District Court in Nashville, CBS charges that the university is infringing its copyright. The issue is a serious one, and all the more so since the status of broadcast copyrights impinges on cable and the whole future of the broadcasting industry. CBS says it wants to protect the sanctity of its copyright, and does not want to risk having its news broadcasts subjected to unauthorized duplication and editing by others.

Moreover, network spokesmen claim they have tried unsuccessfully for several years to persuade the university to accept a royalty-free license. This would allow Vanderbilt to continue videotaping the broadcasts and to maintain them at the university, but not duplicate, edit, rent or sell the tapes. University officials say the first mention of a royalty-free license didn't occur until nearly four years after the archive began, and that CBS still has not proffered a firm offer with stated terms.

Yet surely there ought to be some collection of television news, which no doubt has vast and subtle effects on American life. All the more so since a great many people obviously believed Spiro Agnew's charges that the networks abuse their power. Whatever technical problems the CBS legal department sees, we should think its news department would be glad to have its material collected in a way that such charges can be examined in scholarly fashion rather than traded in the political marketplace.

So it seems to us that a disinterested observer can only hope that in the absence of a network-university agreement, the courts will somehow arrive at a Solomonic solution that will allay CBS's fears yet will not halt Vanderbilt's unique and important archival undertaking. But whatever the outcome in court, it seems clear that the public's right to know would be seriously abridged by erasure of the existing tapes.

IMPROVING OUR PROTEIN SUPPLY

Mr. McGOVERN. Mr. President, the world is facing a startling deficit of protein.

Rapidly building demand for protein food is outstripping our ability to supply it, bidding up prices.

One significant way in which we could increase protein supply, to the benefit of consumers and farmers alike, would be to sharply increase yields of soybeans.

Late last year, in a newsletter to rural people in my State, I pointed out the promise of substantially increased research into soybean productivity. And now, in the March issue of Farm Journal, appears an article which makes the same point.

I ask unanimous consent that my September 1974 South Dakota Rural News and the article entitled "Let's Break the Soybean Yield Barrier," be printed in the RECORD.

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

[From the South Dakota Rural News]

SOYBEANS: AMERICA'S NEW "BONANZA" CROP

The soybean was a nearly unknown crop in South Dakota three decades ago. And although it represented only 5 per cent of South Dakota's crop production last year (ranking behind corn, hay, wheat and oats) soybeans will rapidly become a significant cash crop in South Dakota as it has in other states.

In 1940, only 2,000 acres was planted to soybeans in all of South Dakota; the yield was a modest 12 bushels an acre. Last year's 253,000 acres harvested an average yield of 29 bushels an acre. This year, acreage has nearly doubled. Crop estimators say South Dakota farmers have planted 468,000 acres to soybeans; they expect a harvest of 459,000 acres. Last year's soybean production brought nearly $25 million ($16 million of that from export sales) into the State's farm economy at an average price of $3.22 a bushel.

Two factors limit the outlook for a "soybean bonanza" for South Dakota—the adaptability of present-day soybean varieties to a relatively small part of the state, and relatively little progress in improving per-acre soybean yields in the past dozen years.

Twelve South Dakota counties—Bon Homme, Brookings, Clay, Grant, Hutchinson, Lincoln, Minnehaha, Moody, Roberts, Turner, Union and Yankton—accounted for 6,983,500 bushels of South Dakota's entire 1972 soybean production of 7,337,000 bushels—95 per cent of the total. Growing conditions west and north of the leading soybean counties are less favorable to today's varieties because the growing season is not long enough, and rainfall is less than in the southeast.

The National Soybean Processors Association believes that a modest investment in research can develop new strains of high-yield soybeans adaptable to such growing conditions. By investing about $2 million a year over the next 10 years in soybean research, NSPA says, the average yield can be doubled.

Agronomist Fred Shubeck of South Dakota State University, who works with soybeans at the Southeast experimental farm near Beresford, believes that additional research can increase soybean yields in South Dakota by at least 30 per cent.

Over the past 20 years, progress in soybean yields has been relatively slow—an improvement of 35 per cent since 1952—while wheat yields increased 80 per cent, corn yields 130 per cent and grain sorghum 260 per cent.

RESEARCH SHORTCHANGED

NSPA says the principal reason for slow progress in improving soybean yields is the limited number of researchers. There are now only 40 soybean breeders in our country—employed by industry, USDA and universities. In relation to the value of the crop, the total ARS expenditure for production research in soybeans in Fiscal 1971 was the lowest of nine major crops. Between 1950 and 1972, the increase in yields of corn was from 38.2 to 96.9 bushels per acre.

A University of Illinois researcher last fall returned from the Far East with over 1,000 new samples of soybean germ plasm—the first time in over 40 years that the U.S. has had a sizable collection of new soybean stock from the crop's area of origin. Other germ plasm collection trips—particularly to mainland China—can build the stock diversity to sustain continued variety improvement.

SDSU's Shubeck points out that South Dakota could gain substantially by development of soybean varieties for shorter growing seasons, narrow rows and possible strains with narrow leaves which would admit more sunlight. He says high-phosphorous fertilizers (soybeans, a legume, won't respond to nitrogen) can increase yield, and new, higher-cost weed control chemicals can help.

Just 20 years ago, American farmers planted 14 million acres of soybeans and harvested 299 million bushels worth $811 million. Last year, acreage soared to 46 million, the crop yielded 1.25 billion bushels and its cash value reached $4.5 billion. The increase was four-fold; export earnings grew from $104 million to more than $2 billion.

BOOMING DEMAND EXPECTED

USDA forecasts that domestic and foreign demand for U.S. soybeans could reach 2.2 billion bushels by 1985; others set it at 2.5 billion, if the beans can be produced. Exports are expected to slow substantially in the summer of 1973 because we have no more beans to ship; and, even earlier, many overseas customers stopped buying because the price had gone above their economic levels.

The soybean is not the only source of protein feed or vegetable oil. The competition is waiting. If we don't learn to produce soybeans more efficiently, U.S. soybean products could be displaced in world markets by lower cost Brazilian soybeans, Canadian rapeseed, Far Eastern palm oil, coconut oil, African groundnuts, Russian sunflower seed, urea, and petroleum-based proteins. Once lost, overseas markets are hard to regain. During the 1972–73 marketing year, the soybean contribution to the balance of payments will be about $2.5 billion. NSPA believes that underproduction could lose most of these markets because American soybeans can not continue to sell in export markets at $6 levels and higher.

THE NSCIC PROPOSAL

The National Soybean Crop Improvement Council, in proposing to double the funds now being used in government-supported soybean research, says USDA spending for soybean production research through the Agricultural Research Service is approximately $2.5 million—about 1/2000th of the value of the crop.

A doubled investment in soybean research, NSCIC claims, can mean a difference of $3 billion a year, by 1985, to the American soybean farmer and to every American who eats beef, pork and poultry, or uses margarine and salad or cooking oil. It can mean an additional $2.5 billion to the American balance of payments. Doubling soybean yields may be an ambitious project, but a 30 per cent increase is indeed likely, if Congress and the Administration agree to this rather modest increase in research funds.

There is only one way to keep food costs stable while maintaining the income of the American farmer—and therefore maintaining his incentive to produce the needed crops and livestock products. That is through yield improvements that will lead to greatly increased crop production at essentially stable farm costs. In this way, we can meet the objection of increasing farm income even while maintaining reasonable food costs to the housewife.

GEORGE MCGOVERN,
U.S. Senator.

[From the Farm Journal, March 1974]

LET'S BREAK THE SOYBEAN YIELD BARRIER

You've already done it with other crops. There's reason to believe you can double soybean yields in the next 20 years, if you get the help you need from USDA, state and commercial researchers, and if you give beans the attention they deserve.

Sure, you may be sitting already at 35 or 40 bu. per acre, a sizeable margin above the national average for 1973 of 27.8 bu. But that low average is a disgrace. It's up only 53% from 20 years ago, whereas corn yields are up 125%, grain sorghum 220% and wheat 84%.

You don't have to look far to see how high yields can reach right now. Wilbur A. Wassenberg and sons Tim and Dan of Nemaha County, Kan., made 91.2 bu. per acre last year on 5.2 acres of bottom land. That's the highest yield ever in a state contest.

Yields like this make you wonder why we haven't pushed the average yield any higher. One reason is that even good growers still don't take the pains with soybeans that they do with corn or cotton. If they plan corn in a 30" row spacing, they plant beans the same way with the same planter, even though scientists know that soybeans will respond to much closer row spacings.

The Wassenbergs used a 30"-row planter, but they doubled back with it so rows were spaced 15" apart. Using 90 lbs. of seeds per acre, they dropped seeds 2" to 3" apart in the row and no more than 1½" deep.

Growers aren't the only ones neglecting soybeans. As percentage of crop value, the money that the USDA puts into soybean research is less than amounts pumped into any other major crop.

Skeptics say this isn't the time to push for more soybean production and higher yields. Not with this year's carryover expected to approach 240 million bushels, the second highest on record. "Our markets have grown by 600 million bushels since 1967, and they'll grow that much again by 1980," answers Laurel Meade, former head of USDA's Export Marketing Service. "Either we'll have to increase our soybean acreage substantially, which some people doubt we can do, or we must increase our yields to 40 bu."

The stage is set for the most thorough test yet of solid-seeded soybeans this year. You may be ready to try it yourself. New chemical combinations earned their stripes in test plots last year, and some of the highest yields reported in contests recently came from fields with row spacings of less than 20".

Wilbur A. Wassenberg got 91.2 bu. yield with 15" rows. George Fluegel had the top Illinois yield in 1973 with 74.6 bu. Doubling back with his twin-row planter gave him row spacings of 9" and 8½".

Early shallow planting in narrow rows is basic to high yields, believes Wassenberg, who planted on May 10. "If you see some seed once in awhile, that's still not too shallow," he says. The Wassenbergs also believe in inoculating seed at extra heavy rates.

Close row spacings require almost total weed control. Wassenberg incorporated a tank mix of Treflan and Sencor. Fluegel incorporated Treflan preplant; sprayed on Basagran after beans were up.

But, there are some other things you should know before you get the itch to broadcast beans yourself. To get more information, *Farm Journal* sought the counsel of agronomist Richard L. Cooper, of USDA's Regional Soybean Laboratory, Urbana, Ill., and USDA-ARS weed scientist Loyd M. Wax. Here are their hopes and concerns:

Cooper has become increasingly hopeful about planting soybeans in narrower rows. He talks about solid seeding soybeans as "going all the way" and has compiled six years of research data comparing 30" and 20" row spacings with 7" rows. This plainly showed a 10% to 20% yield advantage for the solid stand.

These results, however, were gained by using precision planting equipment to get a fairly certain stand of 150,000 plants per acre (two plants per foot of row in 7" rows).

Now, Cooper has been thrown a curve! When he tried duplicating his results using a grain drill—like many farmers would use if they go to solid seeding—he just couldn't get a predictable stand. Lack of that predictability makes solid seeding a risky proposition—even with excellent weed control.

In 1973, Cooper and colleagues at the University of Illinois used a grain drill to plant 225,000 seeds per acre in 7" rows—hoping to come up with a stand of 150,000 plants. Instead, they got only 95,000!

Past studies had convinced Cooper that the yield advantage for 7" rows over 30" rows was reduced when the population dipped much below 150,000. Results in 1973 underscored that observation.

"We need to debug the grain drill system. That's the bottleneck," Cooper asserts. Scientists will evaluate grain drills and other experimental planters this spring. Implement companies are concerned enough about the lack of information on planting soybeans with grain drills that they'll conduct tests of their own this year.

If you want to try solid seeding, the agronomists have several suggestions: First, *try it on a limited scale*—5 or 10 acres. "With the present state of the art, it makes a high level of management," they say.

The kink is figuring out some way you can be sure of getting 150,000 plants per acre—no matter how you put them into the ground. Without that kind of stand, you're gambling whether solid seeding will be as good or better than planting in rows. A stand much heavier than that may lodge badly. Thinner stands invite weed competition and just don't have enough plants to produce comparable yields.

You'll need a firm seedbed. Tractor wheel tracks have posed a nightmare to those seeding with a drill.

"Remember, a firmer seedbed for better seed contact also is good for germinating more weed seeds," reminds Loyd Wax.

Speaking of weeds, try solid seeding in your cleanest fields, urges Wax. Which of the newer herbicide combinations you choose may depend on their prices and availability. (See story on page 23.)

Finally, please don't assume now that we have some broadleaf herbicides, solid seeding is a lead-pipe cinch. It is not.

Recognize some of the gamble that still goes with it. Otherwise you'll end up kicking a rusty cultivator (or yourself!).

BOB COFFMAN.

BENJAMIN FRANKLIN FIRE SERVICE AWARD TO JON C. GROVER

Mr. MATHIAS. Mr. President, the International Association of Fire Chiefs recently presented its International Benjamin Franklin Fire Service Award to Jon C. Grover, a member of the fire department in Silver Spring, Montgomery County, Md. The ceremony honoring Sergeant Grover marked only the 20th time the award has been presented and the first time a Maryland firefighter has been so honored. An article published December 5, 1973, in the Wheaton, Md., News described the heroism for which Sergeant Grover was cited, and I ask unanimous consent that it be printed in the RECORD.

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

INTERNATIONAL AWARD TO LOCAL MAN

Firefighter Jon C. Grover of Silver Spring, recieved the International Benjamin Franklin Fire Service Award at the anniversary convention of the International Association of Fire Chiefs, (IAFC).

The award, the highest honor in the fire service worldwide, honors Grover for his March, 1973 rescue of a woman trapped in an apartment fire in Silver Spring. Upon arriving at the scene of the fire, Sergeant Grover saw two tenants screaming for help from the seventh floor of the apartment building. One was calling from a window, while the other was actually outside an apartment window standing on an extremely narrow, sloping ledge and steadying herself by grasping the brick facing. After shouting to reassure the two that help was on the way, the eight-year department veteran entered the building and made his way to the seventh floor. When he arrived, he found the door of the apartment where the women were trapped had been forced open. Searching the room through the dense smoke, he found that the woman who had been calling for help apparently had escaped. However, looking out the window himself, Grover saw that the other woman was still on the window ledge of the next room. Without hesitating, Firefighter Grover made his way through the intense heat and smoke to the window where the woman was standing precariously. The window itself was broken and as he leaned out to talk to the victim, he noted she was badly cut, apparently from crawling through the window. After trying unsuccessfully to coax the victim to come into the apartment, the firefighter finally leaned through the broken glass onto the ledge, grabbed her, brought her into the apartment and took her to safety.

In addition to the commemorative plaque Chief Kenney presented Sergeant Grover in behalf of the IAFC, the Silver Spring firefighter also received a $200 U.S. Savings Bond from Ray Balzer, vice president of Motorola Communications and Electronics, Inc.

As part of the international award ceremony, Chief Robert Little of York, Pennsylvania, an IAFC director, will also present a special Benjamin Franklin departmental award to Chief Hunter P. Heltzel of Silver Spring and Chief David B. Gratz, director, fire and rescue services for Montgomery County, Maryland. The award recognizes the Silver Spring department's outstanding fire service program which has provided the foremost in training for its personnel, instilled a strong professional attitude and dedication to humanity and duty. As evidenced by Sergeant Grover's actions, the program has provided invaluable service to the community.

This ceremony honoring Sergeant Grover marks only the twentieth time the award has been presented and the first time a Maryland firefighter has been honored.

THE OTHER PRESIDENCY

Mr. HUMPHREY. Mr. President, I call to the attention of the Senate an excellent article entitled "The Other Presidency" by Mr. John Herbers, a White House correspondent of the New York Times.

We are indebted to Mr. Herbers for his critical analysis of the Office of Management and Budget—how it functions, how it is organized, and the personnel who are responsible for its operation.

Every Member of Congress should read this article. It is most revealing. It underscores what has been a growing realization that the power and the authority of the OMB is second only to that of the Presidency itself. The OMB is indeed the other Presidency. The article is a challenge to the Congress to put its own house in order—to modernize our machinery, to restructure our committees, and to equip ourself with the personnel and the legislative tools that are necessary for perfecting good legislation as well as monitoring performance under the legislation.

This article demonstrates once again the importance of Senate confirmation of the Director of OMB and his chief deputies. The article also points out how our Government operates, even though the President may have lost the capacity to govern.

I ask unanimous consent that the full text of this article be printed in the RECORD.

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

THE OTHER PRESIDENCY

(By John Herbers)

WASHINGTON. During the past few months the great superstructure of Presidential government that Richard Nixon built has slowly collapsed: a landslide here, a cave-in there, leaving billows of dust to hover over the ruins. Through the haze, however, it is possible to discern some remaining promontories that have become more important to the President and to the Government, whatever its shape and leadership may be in the months ahead.

One is the Office of Management and Budget, a durable and elite Presidential agency, formerly known as the Bureau of the Budget. For many years it has been the regulator of the disparate departments and agencies the the executive branch, largely through its power to control funds. During the collapse, it has played a stronger role than usual in keeping the Government from flying apart or grinding to a halt. In many respects it has become a surrogate President, administering the Nixon policies as its top officials see them.

This has occurred under the direction of two controversial men who assumed their offices a year ago, each under his own cloud of suspicion raised by the Nixon critics. Roy L. Ash, the new director, encountered considerable opposition because he had come from the presidency of Litton Industries, the giant conglomerate engaged in claims of cost overruns from the military. Frederic V. Malek, the new deputy director, was one of the tough young progmatists whom H. R. Haldeman elevated to authority; he came to O.M.B. from the Committee for the Re-election of the President, where he was deputy director. They have made an odd but apparently effective pair. Mr. Ash, who serves as assistant to the President as well as boss of 660 people in his agency, is disarmingly quiet and gentle, exercising authority over the enormous Government conglomorate in much the same way that he did at Litton; Mr. Malek, a product of the United States Military Academy and Harvard Business School, who readily acknowledges his reputation as an "ass kicker," has furnished the top levels of the agency with the kind of talent he respects—bright young wizards of the business world who want to try their hand at government.

Because the Administration has been so shaken by the Watergate disclosures, O.M.B. has become deeply involved in some phases of the day-to-day operations of the Government, to the consternation of some old-timers, who say the agency should never become a part of operations. But under the circumstances it could hardly avoid doing so. In the recent fumbling attempts by the Government to get a grip on the energy crisis, it was the O.M.B. that supplied most of the initiative and information, because frequently it had the only expertise available.

Moreover, and perhaps more important for the long run, the role that President Nixon had planned for O.M.B.—as a kind of supermanager that would give the President formalized control of his Administration without his having to work the levers of power on a daily basis—has gone on pretty much as the pre-Watergate White House had set it up, despite the general collapse. Before Nixon, only about 30 professionals in the agency were assigned to management. Now there are about 130, roaming the vast bureaucracy to see that the President's policies are carried out in an efficient manner.

O.M.B. can wield enormous power through relatively few people because in representing the President it decides to a large extent how much money will be spent for each program. It then oversees how each program is carried out. It reviews all legislation the departments and agencies submit to Congress, with authority to change it. O.M.B. analyzes every bill that is passed and recommends that the President either sign or veto it.

Virtually every questionnaire sent to business or other private groups must be cleared by O.M.B. It establishes the broad array of committees that advise the Government on policy. To carry out these functions, O.M.B. is equipped with the staff and computers to make the necessary analyses, and it has access to every study and piece of information gathered by the departments and agencies.

In O.M.B. one could learn virtually all there is to know about any branch of the Federal Government, however remote from the center of power. For every program, every expenditure of any size, there is someone in O.M.B. watching. To Ash, it is like world headquarters for a conglomerate, a necessity for orderly business. At this time, about 660 people work there at an average salary exceeding $20,000. Of these, about 440 are professionals. There are about 60 recruited by Malek for the management effort from within and without the Government, mostly in the top levels.

In exercising their authority, the people at O.M.B. have adhered closely to the Nixon philosophy and policies, both by design and execution. That policy, as perceived by the bureaucracy, boils down to this:

"Strengthen the military and the civil police power, but look askance at all else. Economic and social programs run by the Federal Government generally do not work and should be abolished or, if that is not possible, converted either into income supplements or turned over to the states. Free enterprise is basically good, worthy of emulation and should be interfered with as little as possible."

The top levels at O.M.B., and throughout the executive branch, are filled with people who earnestly believe in these ideas and seek to implement them. And they have melded well into a traditionally conservative agency with 30 years' experience in saying no.

Where one finds the O.M.B. depends on whom one sees, and when. Ash has one of the prestige offices in the White House, only a little smaller than that of chief of staff Alexander M. Haig Jr. His top assistants have offices across the way on the second floor of the Executive Office Building. The lesser executives and several hundred troops are housed in the new Executive Office Building, across busy Pennsylvania Avenue on 17th Street. All of this, of course, does not contribute to efficiency, but it lets everyone know how far he is removed in authority from the President.

Everyone who has a White House office may choose his own décor. Ash's outer office is red baroque, like a turn-of-the century ice-cream parlor at Disneyland. His inner office is paneled in rich walnut, befitting his recent status as titan of American industry and his current position in which he manages the expenditure of $300-billion a year. His desk is vast and clean. After introductions, he sits composed before a coffee table in a finely tailored blue suit that does not show a wrinkle. His smooth features are enhanced by ivory skin untouched by weather. Sensitive hands, set off by French cuffs, are folded in his lap. He appears very much at rest, an impression that can be misleading. "At times you think he is not listening," said one of his aides. "But Ash is always listening." Rowland Evans and Robert Novak, the columnists, who dislike Ash and his operation, wrote they were told by a White House "insider" that conferring with Ash "is like sitting in a room with some chilled liver." This observation may be overdrawn, but there is doubt Ash is a private person less at ease with strangers than with organizational charts and computer read-outs. Yet he can be persuasive, even charming.

Like Nixon, Ash springs from Southern California and maintains a residence there. In Washington, he and his wife live in an apartment, at "700 New Hampshire Avenue," Ash says with a laugh. That's the Watergate complex.

For many years, Richard Nixon and Roy Ash, both of whom fought their way to the top, have admired one another, and even after the events of this year, Ash speaks glowingly of his boss. But this may be understandable. While the President has been criticized for taking advantage of every available loophole in the tax laws, Ash has been criticized for claiming Washington as his residence to avoid testifying in a California lawsuit relating to his past business practices while, at the same time and in another document, claiming California as his residence in order to secure a $200 reduction in his real-estate tax. The courts found this legal.

When the 55-year-old conglomerate pioneer was named to head the O.M.B., he had to face a barrage of accusations. Gordon W. Rule, the Defense Department official noted for his tough attitude toward corporations that get too cozy with the Government, asserted that "old General Eisenhower must be twitching in his grave" over the "military-industrial-executive department complex" suggested by Ash's entry into government. And Senator William Proxmire charged that "here we have one of the most difficult and conspicuous conflicts that I have ever seen." Congress sought to require Senate confirmation of Ash and Malek, but President Nixon vetoed the effort successfully. All of this, however, has been so overshadowed by blatant scandals in the Nixon Government that it now is all but forgotten.

Ash cooly rejects any suggestion of conflict, claiming that his loyalty to Litton was severed with the sale of his stock at the time of his appointment. He also rejects charges that he is under a cloud because of the reverses Litton suffered under his leadership, because of Litton overcharges to the Air Force and because of successful lawsuits by former officials of Litton in a dispute over stock. "I left behind a legacy I'm proud of," Ash says. "Remember Litton was entrepreneurial and venturesome. In venture-type business, not everything succeeds and some fail." Ash is proud that he has brought some of his venturesome ways to government.

Ash views the Federal Government as "the biggest conglomerate of them all" and much in need of management. At Litton he developed a system under which a few executives supervised subsidiaries all over the world. "I believe strongly in decentralization and have for 20 years practiced that belief," he says. "Litton was, in some people's minds, a model of how decentralization of large organizations can be carried out. My style is management by inducement rather than management by directive. The only way to get the work of this Government done is to induce, inspire, motivate thousands of people to do thier work. One way of inspiring people is to set goals, high goals, and do what is necessary to achieve them.

"In working with agencies, we always go out and work on their turf. We wouldn't summon them in here. That had been a practice. One of the symbols that some people sometimes use for status is who gets to summon whom to his office. We don't summon anybody. I travel to the departments and agencies and meet with their people on their own grounds I did always at Litton.

To some the Nixon policies may be a matter of politics, but Ash, as a transplanted industrialist, appears to believe in them deeply. When the President's plan for special revenue sharing—converting Federal grants for specific purposes into consolidated funding with state control—bogged down in Congress, Ash quietly got the President to sign a directive ordering the departments and agencies to implement the concept as much as possible by administrative means. His subordinates then served the directive on the Federal establishment across the country.

Some old hands in Washington say that while Democrats tend to be interested in what innovations government can make in the national life, Republicans tend to be fascinated by the machinery of government. In this sense, Ash is very much of the business-oriented managerial class that proliferates in the Nixon Administration.

Yet he is not typical of the Nixon pragmatists who carry out orders without much question. He is too used to being the boss, and it is clear he does what he does for his own reasons. His deputy, however, who is delegated wide authority, is not only typical, he has often been cited as a prototype of the tough, young, nonideological managers who were attracted by Richard Nixon.

Fred Malek is only 37, but he is something of a legend in the annals of the Nixon tough guys. He comes from the blue-collar, ethnic Chicago suburb of Berwyn, where his father is a Pabst beer salesman, and to this day he stands in awe of the American system, free enterprise and the work ethic. His climb upward was made possible by a free education at the United States Military Academy. After serving his required three years in the Army, including a stint in Vietnam as an Airborne Ranger for the Green Berets, in 1960 and 1961, he resigned and earned a master's degree from Harvard Business school while his wife, Marlene, worked.

His first job was with a business consulting firm in Los Angeles, where he and two other Harvard business graduates spent their spare time looking for a faltering manufacturing company. They found a tool company in South Carolina, which they bought for $9-million, with a $2-million down payment, raised in loans on the basis of their persuasion, eagerness and a few thousand dollars of their own money. By applying Harvard management principles and hard work they soon had the company out of the red and in the black, and when Malek came to the Government to find new challenges in 1969, he claimed that he had become a self-made millionaire, barely, before he was 30.

In Washington, he was sent first to H.E.W. as deputy under secretary to apply his management methods to the jungle of agencies and programs that had ensnared and entrapped every secretary. Robert Finch especially needed help, bulldozed as he was by both the White House and the bureaucracy, and Malek soon earned a reputation as a ruthless cutter and shaker. Unlike some of his colleagues, however, he was no hater of blacks and the poor. His cause was efficiency, and he was credited with enhancing some social programs even while cutting back their personnel. On several occasions he has expressed admiration for the late Senator Robert F. Kennedy and said he could have worked for him as readily as for Richard Nixon "Fred doesn't admire or dislike people because of their political ideology necessarily," said a Malek associate. "He wants his heroes to have_____." At H.E.W., Malek is remembered for having helped politicize the department, in the Nixon mold.

He did so well that he was moved to the White House in 1970 as special assistant for personnel, the chief talent scout for high-level appointments. He recruited scores of executives, many of them young eager types like himself. Two incidents brought him to public attention: First, after Walter Hickel was fired as Interior Secretary, Malek went over to the department and cleaned out the Hickel lieutenants who were balking at leaving; and second, it was Malek who said in 1971 that the White House was considering C.B.S. correspondent Daniel Schorr for a Government position to explain the disclosure that the F.B.I. was investigating Schorr. Others have since confirmed Washington's suspicions that the job story was a lie, invented to explain an F.B.I. check on a White House enemy, on orders of Haldeman, Malek now

attributes his action to a mixup, a matter of misinformation given to him by his staff.

It was not until mid-January that Malek was identified as the director of a White House effort in June of 1972 to shape Federal grants and actions to win votes for the President's re-election. In memorandums to Haldeman obtained by the Senate Watergate committee, Malek took credit for such things as stopping a Government lawsuit against racial discrimination in the University of Texas faculty because Texas was considered a key state. Malek, replying to the disclosure, said his claims had been "fluffed up a little bit" to please Haldeman, who had ordered the effort.

After John Mitchell resigned from C.R.P. in the wake of the Watergate burglary in 1972, Malek was sent over as deputy to Clark MacGregor, the campaign manager. He never was implicated in the Watergate cover-up, and he has a lot of pride in the campaign C.R.P. put on, especially in the way it was organized down to the storefront and precinct level all over the country. Some who worked there said that in many ways Malek actually ran the committee. After the election his services were recognized even in the haughty, postelection atmosphere at the White House, and it was decided he should have a key role in imposing the Nixon policies and control on the Government, an undertaking the President believed to have been implied in his overriding mandate from the electorate.

Malek is as serious as he is aggressive. He is as lean as a long-distance runner, wiry and hard-muscled. He has boyish blue eyes and graying hair cut mod but not long. He walks with an athletic crouch (football in high school and wrestling in college) as if he were always about to tackle something. He keeps in trim with chin-ups and cottage cheese and occasionally plays touch football with his two children in the Virginia suburbs.

"Fred is a driven man, with a compulsion to succeed, to move upward wherever he is," said one of his associates. "He is not exactly a deep thinker, but he is smart and he is the kind of guy who, if you tell him to take Hill 603, he'll take it one way or the other." For him now, Hill 603 is the Nixon policy. He was determined, for example, to make the President's pledge on drug control work. When the A.F.L.-C.I.O. objected to the merger of enforcement agencies on the ground that jobs would be lost, Congress balked at approving the plan. Malek then executed an extraordinary written agreement with the labor organization guaranteeing a specific number of jobs, an act some said had doubtful legality but which saved the plan.

Malek, in addition to running the management program, oversaw drafting of the budget a task he found invigorating. While the process was not open to public view, one can imagine him getting in licks here and there for the Nixon policy. Much of his mission at O.M.B., however, was accomplished before the sky fell, in recruiting the kind of personnel he and Ash wanted for the agency. It is doubtful that many of them would come now, but since they did, they are, with the President, toughing it out.

The new eminence for the firm of Ash and Malek came about by both design and chance. The old Bureau of the Budget, established by Congress in 1921, was a tweedy, intellectual kind of place where nonpartisan professionalism carried a premium. President Nixon, in his persistent desire to control the bureaucracy throughout the executive branch, saw in his first term the opportunity to achieve that end by building up the bureau's rather weak management component.

With Congressional approval, he reorganized and renamed the agency. And he put layers of political appointees over the career people who had served Democratic and Republican Administrations with equal devotion.

Then early last year, after his landslide reelection, he went a step farther. Ash and Malek were moved into O.M.B. and, through a network of Nixon loyalists newly placed in key positions throughout the departments, put into force a plan called "management by objective," which was simply an orderly means of seeing that the Nixon policies were carried out at all levels. Another component of the move for greater but more formalized Presidential control was the establishment of a super-Cabinet that was to assume much of the authority wielded by the Domestic Council, which Ehrichman had headed but which was reduced greatly as part of the new scheme.

However, after the Watergate disclosures in the spring, the super-Cabinet was abolished (except for Henry A. Kissinger's role in foreign policy and Treasury Secretary George P. Shultz's in economic matters) to placate an aroused Congress that disliked so much concentrated power. Almost unnoticed, the preponderance of the super-Cabinet's authority reverted to O.M.B., which was about the only White House unit with the professionalism and stability to function undeterred through the shocks and scandals. The team of Ash and Malek, happily pursuing "management by objective," knew what to do with their inheritance.

Thus, for example, when a career civil servant who has seen Presidents come and go was asked the other day who was the czar of the wide range of social, urban and transportation programs now that John D. Ehrlichman was no longer in the White House, the answer was simple: "Why, Paul O'Neill, of course," he replied, referring to a young associate director of O.M.B. who is virtually unknown outside the bureaucracy. While studiously avoiding publicity—something the non-O.M.B. Presidential aide seldom does—Mr. O'Neill has negotiated agreements with Congress, initiated programs, blocked proposals from the agencies, decided disputes between departments, brought about the impoundment or release of funds and precipitated Presidential vetoes.

O'Neill provides an excellent example of how much clout a key O.M.B. official can have. He is a youngish looking man of 38 with a smooth open countenance, educated in economics and systems analysis. In the national Government, information is power, and O'Neill, who came to the Bureau of the Budget in 1967, has an enormous store of knowledge about the vast array of programs under H.E.W., H.U.D., Transportation, Agriculture, Labor and related agencies.

O'Neill was close to Ehrlichman, so much so that he was intimately involved in most of the major domestic controversies of recent years—welfare reform, food stamps, busing, housing. He prefers to work behind the scenes. He is known in the bureaucracy as a moderate, one who favors moving from the specialized assistance programs to an income strategy, as exemplified by the family assistance plan offered in the first Nixon term and by housing allowances.

"Paul probably was the major influence in the President's decision to switch from the specialized housing assistance programs to a cash rent allowance for needy families, should further studies find the allowance method feasible," said a spokesman for urban interests. "He played a major part in the decision to terminate the old programs in January of 1973, and he more or less designed and supervised the study for alternatives carried out by (H.U.D. Secretary) James T. Lynn. He knew what they were going to come up with, and the President was presented with virtually a unanimous recommendation."

It is not unusual for O'Neill to negotiate directly with Congressional leaders in any of a number of areas, bypassing the department or agency that formerly would have been responsible. A few weeks ago, President Nixon announced through his spokesman, Gerald L. Warren, that he was giving in after a long fight with Congress and releasing more than $1-billion in impounded education funds. The key man in this, it appeared, was O'Neill, but few knew it. He declined an invitation by Warren to come to the press room and explain it, saying, "I have work to do, and if I had shown up I would have been asked about a lot of other programs."

Asked if the President had accepted his recommendation in the matter, O'Neill said, "I never say what I recommend to the President." Nevertheless, the overriding impression was that this decision came about as have many others these days: The course of action was decided down in the bureaucracy, bubbled up to the top and was given *pro forma* approval by a President preoccupied with his own troubles.

Another area, the overseeing of Federal-state relations and nurturing the New Federalism, a task that once was handled with considerable fanfare by Spiro Agnew and by a succession of Presidential aides, is now conducted ever so quietly, but enthusiastically, by a division of O.M.B. headed until recently by Frank G. Zarb. for example, Mr. Zarb met frequently with Massachusetts officials to find ways to alleviate unemployment caused by closure of the Boston Navy Yard. During the fall, he traveled the country meeting with local and regional Federal officials to coordinate grant programs, and he headed and organized an Administration-wide effort to persuade the bureaucracy to consolidate grants and leave more authority to the state and local governments. (Mr. Zarb was recently promoted to head the Division of Natural Resources, Energy and Science.)

The O.M.B. has taken some positive steps under the Nixon policy. The special division for drug enforcement set up within the O.M.B. brought about, for the sake of efficiency, a very difficult consolidation of agencies, reduced the flow of heroin into the United States through a stepped-up police effort and funneled limited resources into additional drug treatment centers. Anti-poverty programs that are wasteful have been abandoned for ones that are more helpful to the poor. Yet the thrust of O.M.B.'s actions has been toward a contraction of the role of the Federal bureaucracy, as seen in a wide range of program changes—education, housing, manpower training, health services, research and others. On a day-to-day basis, private enterprise is treated with deference: The agency blocked emergency use of military helicopters to fly injured motorists to the hospital on the grounds that the military might be competing with private ambulance services.

What the agency has accomplished in the past year demonstrates the true dimensions of the authority and reach of the American Presidency, no matter how crippled the President. Over the years, the enormous powers of the office have by necessity been invested to a large degree in an ever-growing Presidential staff that has taken on a life of its own. In recent months, those powers have been aggressively dispensed by the likes of Roy Ash, Fred Malek, Paul O'Neill and Frank Zarb—hardly household names. Indeed, they have left an impression that even the total political destruction of Richard Nixon would not be likely to diminish the authority that he invested in this largest of all White House offices.

In many ways, officials have evolved gradually into their positions of pre-eminence. I asked O'Neill how the agency had changed over the years. "To make that comparison, I think I would go back to Kennedy days," he said. "In looking back at the his-

torical files, you find that in the nineteen-fifties and nineteen-sixties the Bureau of the Budget in the health program area, for example, had a large staff, maybe 40 to 45 people. They had an architect on the staff, people who worried about how many square feet were in a Federal hospital and where the electrical outlets were located. Now we have, I suppose, seven people working on health programs. But they are not worried about the nitty-gritty of direct Federal hospital care. They are worried about the broader context of what the Federal finance system is doing to the national system of financing. They are worried about manpower questions and problems and construction problems. It is a completely different perspective. It is more of a national perspective of what the Federal role is, what is happening in the country, what the other levels of Government are doing, what the private institutions are doing. And what should we be doing and where should our legislative thrust be?" In other words, the agency is deep into policy. "If you are doing anything important," O'Neill said, "there is no way to stay away from policy."

And Malek is proud of his efforts to alter the operations of the agency in the most basic ways. "We've got the hottest group in town," he says during an interview in his spacious, high-ceilinged office with its yellow walls and parquet floors. "You see, what we have tried to do in this whole management area is change the focus from improving the administrative elements of a department to really getting down to how a department is run, how the goals are set, how the resources are allocated in the performance of these goals, what they actually do. . . . What we are after is not a system but kind of a way of life, where people take a look at their jobs and focus on the results they are going to achieve."

Furthermore, the O.M.B. chiefs demonstrate a resistance to any diminution of their authority. Ash forcefully argues against the idea that the director and his deputy should be subject to Senate confirmation. Such a step, he says, would be like "requiring confirmation of the left hand of the President."

"If the Government were very small, or if the President miraculously would not have 24 hours a day but would have 2,400 hours a day, then he would be doing the same thing that O.M.B. is doing," he says. "It is an extension of his office, operating under his authority, doing those things that he would do if we were a smaller Government or he had some special number of hours available to him each day."

This has caused concern among career people who are aware of the increasing politicization of the agency. This has taken several forms. The post of deputy director, which has wide authority, formerly was held by a succession of career men who resisted any suggestion of partisanship. Under Ash and Malek, the agency has acquired its own lobbyists. In Congress, the political appointees make deals that the career people have resisted for years—for example, the removal of the Rural Electrification Administration from the budget, accelerating the trend toward hiding Government expenditures and activities from the public.

It is true that in many ways the agency remains highly professional, and its best traditions have a way of infecting the political people. Malek seems more restrained, more academic since he joined the agency. Yet it is difficult not to be suspicious about some things. Why did Malek find a place in such a highly sensitive agency for the man who used to be H. R. Haldeman's deputy, Lawrence M. Higby? Although he was not one of those accused of criminal acts, he was Haldeman's right arm at the center of most of the intrigue. He was the writer of some overzealous memos recommending ways to do in the news media. He is now one of Malek's special assistants with a spacious office and a White House telephone number (everyone else except Ash is on a separate exchange). Five months after Haldeman resigned under pressure, he called Higby and instructed him on the removal of files, an order Higby dutifully carried out, according to his testimony before Judge John J. Sirica.

Malek said Higby was working on "various projects," one of which was "developing our concept of what ought to be in the State of the Union message." Higby tells inquirers he is acting as liaison between O.M.B. and the White House. All this may mean nothing more than the extraordinary insensitivity to appearances that the Nixon regime demonstrates from time to time, but it keeps feeding rumors that the remnants of the old Haldeman gang remain in influence and are staked out for a counterinsurgency.

When Samuel M. Cohen retired last May as assistant director for budget review, he was known as "Mr. Budget," a career man of brains and common sense and a devotion to the public interest. He had served under five Presidents and 16 directors when he finally tired of the hectic pace and became a consultant for Robert R. Nathan Associates here. He is impressed by the quality of the people Ash and Malek have brought in, but he does not like the changes that have taken place under Nixon. There is too much "layering in" and politicizing of the agency, he says.

In the old days, the President would meet from time to time with the top career people who kept their fingers on the pulse of the departments and agencies. That way a President could stay on top of what was going on. But that ended when Mr. Nixon reorganized the B.O.B. into the O.M.B. He would meet only with the director, who was once removed from the bureaucracy. When Ash came in, Cohen said, he added a layer of associate directors between the director and the people who measure the pulse. Even Malek hardly ever sees the President. If the agency is to function as a staff arm of the President, as intended, Cohen said, such "layering in" is not the best way to keep him informed.

Ash, Malek and others are sensitive to any suggestion that O.M.B. is in any way "running" the Government. What they are doing, in the broad sense, they say, is trying to provide management and policy oversight and direction that can be institutionalized and passed on to the next President, if he cares to use it. But they say it is too early to tell whether "management by objective" will be a long-range success.

Indeed, 1973 was not the best of years to put their plan to a test. Much of the executive branch has been in limbo because of Watergate, and the crippled White House has not overwhelmed the departments and agencies with initiatives and innovations. What has happened in the regular functions of government has been largely ignored as one scandal after another and the trauma they have generated have preoccupied the nation.

The outcries from the departments that frequently accompany an order for change from the top have not been heard. That, however, may be due to the preWatergate homogenization of the Cabinet and sub-Cabinet in the Nixon mold. Even crusty old Earl Butz at Agriculture, who frequently denounces the President's policies in speeches across the country, is the first to fall in line when it comes to the actual implementation of policy.

The management effort is being handled very delicately, to effect what the President wants without raising the hackles of agencies which in the past have aroused their own constituencies to protest whenever O.M.B. leaned too hard on their programs. "You've got to be tough but not arrogant," said John Hill, who set up the management division for natural resources. "Otherwise you will have doors shut in your face." Further, implementing the Nixon policies can have deep and troubling difficulties. The Nixon policy is to decentralize the Federal Government, giving more authority to regional offices while at the same time turning back Federal authority to state and local officials. What Hill found in the $5-billion-a-year grant program for sewage disposal plants was a horribly entangled administrative setup that invited waste and inequity, and regional directors of the Environmental Protection Agency heady with power as they found themselves with more money to hand out, frequently, than large-city mayors and governors.

Still, an indication of how President Nixon is succeeding in his policy efforts, even as he barely holds onto the Presidency, is apparent in the new budget for the fiscal year beginning next July 1. The percentage of the Gross National Product going into the Federal coffers has leveled off after increasing since World War II; the degree of dependency of state and local governments on Federal dollars is declining, while the percentage of Federal money going to those governments without strings attached is increasing. While some small concessions have been made to increasing social and economic programs, such as mass transit and housing, the big increases continue to be in areas such as national defense and Social Security, which carry specific Presidential approval. Every indication is that these trends will continue.

THE PROFIT SYSTEM AND AMERICA'S GROWTH

Mr. FANNIN. Mr. President, the free enterprise system has made America a prosperous Nation in which more people live better than in any other country in the world. Our economic system has encouraged the production of goods and services which have raised the standard of living rapidly.

It is somewhat astounding that in view of the great progress made under our free enterprise system, there are those who talk more and more about Government regulation and even nationalization of major industries. Why should anyone want to destroy the system which has responded so well to the needs of our people over the past two centuries?

The history of Government intervention in the economy has been a history of disaster. Our current problems of inflation and energy shortage are directly attributable to Government interference, interference which was either initiated by or sanctioned by Congress.

With the numerous examples of benefits from successful business enterprise, and with the unending list of Government failures to provide regulation or service to the people, it is simply incredible that we should consider extending the clumsy hand of the Federal Government.

Mr. President, the New York Times today carried an article of excerpted remarks by Richard C. Gerstenberg, chairman of the General Motors Corp. This article makes the point which I have cited often: Profitable business is essential if we are to gain the means to correct the social and economic problems we seek to solve as national goals. 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:

THE PROFIT SYSTEM AND AMERICA'S GROWTH

(By Richard C. Gerstenberg)

WARREN, MICH—As a nation we have launched ourselves on a most ambitious social agenda. We want to achieve even higher standards of education, health, and well-being for all our people. We want to abolish poverty. We want to rebuild our cities. We want to preserve and restore the beauty of our great resources; our land, our waters, and our skies. We want to give every American—of whatever color, religion, or background—an equal opportunity to become all he is capable of becoming. We aim for full employment, and even more—the full opportunity for everyone to participate in all that America has to offer.

These tasks are inherent and they are right—right for our country and for our time. But they are formidable, and sustained achievement will require a full committal of our moral and mental resources. Right now the hard fact is that the material resources essential to this task will simply not be available unless our economy stays healthy, and this is possible only if business remains profitable. Not one of our grand national goals—not one—can be accomplished unless business prospers. Profits, from which come all wages, taxes, and dividends, fuel the growth of our nation, and our future depends on the profitability of free enterprise.

Yet we are daily confronted with evidence that not enough Americans understand this. To them, the word "profit" has a grubby, selfish sound. The Vice President, Gerald Ford, noted recently, that many Americans consider a legitimate profit as a "rip-off, something that the bad guys steal from the good guys."

My concern today is heightened because so many of the most pressing issues confronting our nation are economic in nature. There are dollars-and-cents considerations, hard questions of profit and loss, in the energy situation, in housing, the deterioration of public transit, in the economic inequities between the recess. Yet most of our people are ill-equipped to recognize the economics in these issues, much less to recommend the economic remedies. This lack of public understanding seriously threatens the continuation of our competitive private enterprise system.

In America, public understanding is fundamental. The people still have the ultimate power. Nothing endures—not on Capitol Hill, not in Detroit, and not anywhere in our nation—except by the will and vote of the American people, however unwieldly, however imperfect, however capricious the democratic system may seem. In the last analysis, the people determine what regulations will govern our economy and the conduct of our business.

Remember when we used to say, "Fifty million Frenchmen can't be wrong." Now 200 million Americans can be wrong on balance if a growing number of them believe, as they seem to, that profits are too high, that more regulation is needed, and that big business is getting too big.

The opinion polls present a grim arithmetic. According to a recent survey, only 3 per cent of the American people think business as a whole is not making enough profit, while 35 per cent—or more than ten times as many—think busines is making too much profit. The latest public estimate of the average manufacturer's after-tax profit is 28 cents on the dollar, whereas actually he earns in the neighborhood of a nickel.

For the first time since World War II, a majority of Americans no longer thinks that companies should be allowed to make all the profits they can. The trend instead shows a growing public support for a government ceiling on profits. And it may be significant that this study was taken before the energy situation was brought to the forefront of public attention by the oil embargo.

The public is wrong. Dangerously wrong, because the typical corporation is not the insensitive, unchanging inaccessible giant that so many picture it to be. On the contrary, it is one of the most flexible and responsive of man's creations. It takes on the character of its times.

We in General Motors know there is no conflict between corporate profits and social progress. We know that each is necessary for the other. We expect that the American corporation wil continue to be one of the most effective and efficient assets to society that man has devised to achieve nis social and economic goals.

In addition to our efforts at General Motors to earn a profit, and largely because of our success in those efforts, we are helping to create a better balanced system of transportation in this country and throughout the world; to explore space; to cleanse our air and water; to develop new materials and means of manufacture; to recruit, hire, and advance minority employes and women; to foster minority enterpise; to support education and a wide range of other community and civic programs. In short, to help do what must be done if our country and the world are to become all that we want them to be.

In such ways a corporation—and remember that there are more than 1.6 million of them in the country today—can help swell the tide of social and economic advancement for all the people of this country, even as they seek a profit.

We make these contributions today because the people—that is, the society we serve—expect us to. In that light, these contributions make good business sense, indeed, the times allow no alternative. And we will continue to make such contributions for as long as our business remains profitable.

In the minds of many people, these social contributions are no longer understood as ancillary to a corporation's basic purpose; they are judged to be basic—responsibilities whose performance is even more essential, or at least more praiseworthy, than providing value for the customer, wages for employes, and a fair return on the stockholder's investment.

In many popular trends of thought, basics have been turned upside down. A private corporation is being confused with a public, tax-supported agency. Profits are not applauded; they are scorned. Business is not encouraged; it is regulated. Enterprise is not rewarded; it is questioned and regarded with suspicion.

This is a road down which we dare not travel. It is a road darkened by a lack of public appreciation of what makes a person willing to risk his capital or to work harder than the next fellow. It is a road which leads to the dead end of excessive and irrational Government regulation—and ultimately to the end of private enterprise.

This, I know is not what the American people want. But this is what we will all get unless more understanding is gained of the importance of profit. Somehow, we must convince people, more people than we have already, that a corporation—or any business for that matter—must first do well before it can do good. Better understanding of our institutions won't just happen. We must make it a goal, make it "happen."

BILINGUAL EDUCATION SURVEY AND REPORT

Mr. MONTOYA. Mr. President, the National Education Task Force de la Raza and the National Education Association were joint sponsors of the National Bilingual Bicultural Institute held at the University of New Mexico in Albuquerque. Participants came from 25 States and represented school administrators, project coordinators, teachers, university professors, students, and interested members of Government and the public. I was privileged to address the Institute and was very impressed with the high level of educated concern and interest in bilingual education among those attending.

In order to further assist participants at the institute, the National Education Task Force de la Raza has now compiled information obtained from two surveys taken during and at the end of the 4-day institute, and has released the evaluation of those surveys. They have also prepared a report of the final session of the institute, containing the recommendations of this distinguished group of educators for the future of bilingual-bicultural education in the United States. These two pieces of research effort will be released with the National Education Association as institute reports No. 2 and No. 3.

In addition, Dr. Henry J. Casso, executive director of the National Education Task Force de la Raza, Mr. Rodolfo Rodriquez, and Mr. Elias R. Bernal have prepared a preliminary study of the 5th year ESEA title VII bilingual bicultural programs, focusing especially on programs with a high concentration of Mexican American students. I believe this report will be of special interest to those of my colleagues who are currently assessing the final report of the Commission on Civil Rights Mexican American Education Study.

I wish to commend both organizations for their work on this project, and for the information contained in the three reports prepared and released at this time. Although I am sure those of my colleagues who are deeply concerned about advancing equal educational opportunity for all children in the Nation will want to study these documents in detail, I think it is worthwhile noting the following significant points in each report:

PRELIMINARY STUDY OF FIFTH YEAR ESEA TITLE VII BILINGUAL/BICULTURAL PROGRAMS

In the projects which responded to heavy concentration of Mexican-American students: 88 percent Mexican-American, 8 percent Anglo, and 3 percent black. Pupil teacher ratios varied widely, indicating a much better ratio at the high school level, although there are fewer programs at that level. Only 50 percent of the evaluators of the programs had a functional use of Spanish, and it is worth noting that those who did not speak Spanish had a much greater tendency to use standardized tests while Spanish-functional evaluators preferred criterion referenced tests, as do most bilingual-bicultural educators.

A very large percentage—87 percent—of the programs surveyed considered their program to be a language maintenance program rather than a transitional program. Although most projects reported good to high success in subject areas and in a wide variety of types of education systems used there was a clear need for bilingual teachers, with only 4 percent of those responding reporting a

complete staff of bilingual teachers. There was also an evident need to work with local teacher groups, with Federal and State legislators and with boards of education in order to establish a more positive attitude and better understanding of bilingual education. Finally, a significant need to involve parents in the education of their children and in local school government as well as State and Federal Government. Project directors generally expressed a need for continued funding of ESEA title VII projects, a strengthened Federal position on bilingual education, better State support for equal educational opportunity programs like bilingual education, and increased teacher training institutions.

EVALUATION OF THE NATIONAL BILINGUAL BICULTURAL INSTITUTE

This evaluation clearly showed that educators who attended the Institute overwhelmingly preferred language maintenance programs to transitional programs, that a very high percentage—89.5 percent—feel bilingual bicultural education should be a continuous program from preschool to high school, that a high priority exists in recruiting and hiring bilingual teachers, and that 95 percent of the participants feel a teacher's knowledge of the children and appreciation of the cultural environment is the most important element of preparation of teachers for bilingual programs. In addition, of course, 90 percent felt that the teacher should be bilingual.

REPORT OF THE FINAL SESSION OF THE INSTITUTE

This report includes many recommendations which should be considered carefully by educators and by Government. Briefly, it recommends: financial support for bilingual programs under title I of ESEA, improved funding practices for Migrant Education Act, revision of the May 25 memorandum concerning the civil rights of the linguistically and culturally distinct child, special attention to bilingual programs in career education, the establishment of a "Mesa Directiva" to assist the Office of Education in review of programs, position papers, goals, and other matters relating to bilingual needs, better representation of Mexican-Americans in staff positions at the Office of Education, NIE, and other Federal agencies which deal with minority problems, increased teacher-training emphasis in bilingual bicultural Federal programs, and greatly increased funding for research and developmental models for both teacher-training and bilingual bicultural programs.

Mr. President, I urge those Senators who are concerned for equality of education secure and read these reports in detail.

I congratulate the men and women who participated in the institute and especially those who have spent long hours analyzing in detail the surveys taken, the recommendations made, and the plans generated.

Mr. Thomas Villarreal and Dr. Henry J. Casso, institute cochairmen, stated in their final report:

It is the intention of the Institute that its work contribute significantly toward the creation of a truly democratic, multicultural society founded on a solid base of cultural pluralism through the promotion of a viable education strategy—bilingual bicultural education.

I feel that intention has been amply fulfilled, and offer my thanks to the dedicated educators who have made this material available to all of us.

THE INEQUITY OF GAS RATIONING

Mr. BROCK. Mr. President, I think by this time we may all agree that gasoline rationing is not economically efficient. What we are now beginning to realize is that rationing is also inequitable. This point is illustrated with stark clarity by the distinguished economist Milton Friedman. Dr. Friedman's distinguished colleague in writing for Newsweek, Henry Wallich, also opposes rationing. Mr. President, I ask unanimous consent to have printed in the RECORD the articles by Dr. Friedman and Dr. Wallich.

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

THE INEQUITY OF GAS RATIONING

(By Milton Friedman)

There is wide agreement that the most efficient solution for the energy-and-oil crisis is to let the free market reign—to let prices rise to whatever level is necessary to equate the amount people want to buy with the amount available. Higher prices would give each of us a private incentive to conserve energy, would give producers an incentive to add to the supply, and would assure that energy was used for purposes valued most highly by purchasers.

The one argument against this traditional free-market solution is that it is "inequitable." Any solution requires that we use less energy than we would like to use at present prices—that is precisely why we have a crisis. Any solution will therefore "hurt" all of us. But it is maintained that the free market imposes the burden disproportionately on the poor, that government rationing would avoid this "inequity" and hence should be adopted, despite all its defects—waste, bureaucracy, black markets and corruption.

The argument has a strong emotional appeal. But it has no rational basis.

THE ARITHMETRIC OF RATIONING

Consider one scheme for rationing gasoline that has been proposed: give each family coupons entitling it to purchase a specified number of gallons a week at present prices, but then permit it to purchase additional gasoline at free-market prices. Since my concern is with equity, let me waive all questions about the feasibility of assuring that coupons would be honored and about the effects on production incentive. Suppose the allotment per family is 15 gallons per week, that every family uses its allotment, that the fixed price is 45 cents a gallon and that the free-market price, in the absence of rationing, would be 75 cents a gallon *for the same total amount of gasoline* (I shall discuss below the reason for this condition). The scheme is then precisely equivalent to sending each family in the United States a check for $4.50 a week (30 cents times 15 gallons), financing the payment by a tax on the oil industry, and letting the free market distribute the gasoline. Is there anyone who would favor such a national dividend, distributed regardless of need? If there be such a person, would even he favor having its size determined solely by the price of gasoline? If the scheme is bad when stated in its naked form, how can concealing it in ration coupons make it good?

Or consider another varient: distribute coupons covering all gasoline that will be available (say 20 gallons per week), fix the price at 45 cents a gallon, but permit the coupons to be held in a "white" market. Assuming the same facts as in the preceding paragraph, the price of the coupons would be 30 cents a gallon. The scheme would be precisely equivalent to imposing a tax of 30 cents per gallon on gasoline and using the proceeds to send each family in the United States a check for $6 a week (30 cents times 20 gallons). Again, stated nakedly in that way, does the scheme really have any appeal?

Note that I have considered the least inequitable schemes. Alternatives that would prohibit the sale of coupons or that would allocate coupons on the basis of number of cars or "normal" mileage driven rather than equally to all families are equivalent to sending *larger* checks to high-income than low-income families.

THE ECONOMICS OF THE MARKET

Because of my emphasis on "equity," I have omitted a major defect of these rationing schemes—the defect that required me to assume *the same amount of gasoline*. Both schemes would reduce the incentive of producers to add to the supply and would therefore mean less gasoline than under the free market.

The effect on production is important both in the current emergency and in the longer run. Suppose that shortages in any commodity or service are always met by taxes designed to absorb the increase in price. What incentive would that give private enterprise to provide excess capacity to meet such a possibility. As it is, the prospect of occasional bonanzas makes it profitable for enterprises to maintain greater productive capacity and larger inventories than are required under normal circumstances. With that prospect eliminated, the government would itself have to provide such reserves—a task it has hardly demonstrated the competence to perform.

The free-market solution is not only more efficient, it is also more equitable. True "equity" calls for making provision for special hardship cases. It does not call for raining government checks on all and sundry.

THE BIG DECISIONS

(By Henry C. Wallich)

The last tanker may be in by now.

Once the Arabian oil flow has stopped, the crisis will be entering upon a new phase. The scene is like a man being hit on slow-motion camera: the blow travels slowly, but the man can't get out of the way.

When a crisis has long been building up, as this one has, it tends to follow a typical pattern. It begins with scattered warnings which many sensible people write off to Cassandraism and wolf crying. Gradually the storm signals attract wider attention. A point is reached where everybody is talking about the problem. Then it tends to become exaggerated.

The oil crisis now seems to be entering this last stage. The principal decision now to be made concerns rationing. Fuel oil will probably be rationed informally by the distributors. The government allocates oil to them, and they will have to dole it out among their customers. This raises the dangers of favoritism, injustice, and hardship cases. But it will probably work well enough to make formal rationing to householders unnecessary. Falling oil-tank gauges will be the best inducement to turn down thermostats. A higher price will supply added persuasion power.

NO GAS RATIONING

Gasoline is different. Rationing gas is very difficult, although it may come to that. But we do know that, rationed or not, the price

of gas will have to rise. Everybody by now pretty well understands—or at least has had every chance to find out—that the oil crisis is not just the result of the Arab boycott. It is the result, more fundamentally, of the Arab price squeeze, which is likely to get tougher. Whether we try to continue importing Arab oil, or develop alternative domestic sources of energy, the price must go up.

Rationing therefore makes no sense if it serves only to postpone a rise in gas prices that cannot long be avoided anyway. It would make sense only if needed to avoid drastic disruptions of supply. Letting people queue up at empty filling stations, as they probably will, may be as traumatic as subjecting them to the injustices and inconveniences of rationing. But a stiff price hike may keep people away from the filling stations.

A good part of this price increase should take the form of a tax. The profits of the oil companies need not go up. The Federal government could use the tax proceeds to cut the income tax in the lower brackets to compensate for the rise in living costs.

The rise in living costs would be painful, but not unbearable. A doubling of the price of gas—which surely is at the pessimistic end of any scale of possibilities—would hurt substantially less than the recent rise in food prices did. With gasoline amounting to about 2.7 per cent of the typical family budget, doubling the price of gas would add that percentage to the cost of living. We did not ration food recently when its average cost rose by about one-fifth. Food amounts to 22 per cent in the typical family budget. And higher food prices held out little promise of bringing in additional supplies. Why then ration gas when a higher price is required anyhow to get substitute supplies? Only dire emergency can justify rationing.

CONSUMERS VERSUS INDUSTRY

Our second big decision will be how much of the shortage to take out on the consumer, and how much on industry. Uneasy estimates are making the rounds about the drop in GNP that the oil crisis will bring. This is very much up to Washington. The amount of oil directly essential to production is not large. An optimistic but well-informed estimate puts it at 20 per cent of total supplies. The rest can be trimmed down, causing hardship and inconvenience but not stoppages.

The political temptation will be to visit the cuts upon industry, because the consumer has more votes. If such a policy produces a loss of output, that loss would have been avoidable. By focusing on the consumer, production and jobs can be safeguarded. This will mean somewhat colder homes this winter. But a nation whose men, when fashion demanded it, were prepared to go hatless in the winter, while its women survive in miniskirts regardless of weather, cannot be overly sensitive to cold. The U.S. has been enormously wasteful of energy while it was cheap. These days may be gone. But the legacy they left will at least have the advantage of making our fuel needs easily compressible. By merely cutting out what we do not seriously need, we can probably get through this crisis. We may also be able to adjust more easily to a permanently tighter energy situation.

THE NATIONAL ARTHRITIS ACT

Mr. DOMENICI. Mr. President, no other disorder causes more prolonged misery to a greater number of people in the United States than do the arthritic and rheumatic diseases. Arthritis is the Nation's number one crippler; each year various forms of arthritic conditions cause unemployment equivalent to nearly half a million people and cost the country approximately $4 billion.

No price tag, however, can be placed on the untold suffering, pain, invalidism, and mental anguish which these disorders impose on individuals and their families. Over 17 million people in the United States, young and old, afflicted with arthritis look to research for a means to relieve their suffering. It is my hope that through the National Arthritis Act, S. 2854, a bill which I recently cosponsored, arthritis research will be given the high priority that it necessitates.

Through the proposed National Arthritis Act, arthritis research and demonstration centers will be established across the country. These centers will serve both as academic settings for intensive, interdisciplinary arthritis research, and as regional headquarters for training in, and demonstration of, diagnostic, prevention, and treatment methods of arthritis.

To provide for the development of the research and demonstration centers, the proposed legislation authorizes the appropriation of $10 million for fiscal year 1975, $15 million for fiscal year 1976, and $25 million for fiscal year 1977.

It is with great vigor that I endorse this strong emphasis on research activities, both basic and clinical. Medical research can be a slow and painstaking process—but, through the establishment of arthritis research centers, a broader, more extensive program could be launched with available resources channeled into select centers where arthritis was top priority. In addition, researchers could be actively encouraged to work in this field, and additional qualified researchers could be trained if an adequate number was not available.

In my own State, the University of New Mexico has spearheaded a highly successful arthritis research program. Centers such as this one could be extended to the further benefit of New Mexicans as well as all Americans.

A second strong point of the act is the establishment of arthritis screening, detection, and control programs. The early detection and diagnosis of arthritis could mean a normal life free from pain and disability for a potential arthritis sufferer. In the proposed legislation, the early detection, screening, and control programs, carried out through the research and demonstration centers, will concentrate on several areas of arthritis prevention and control. Included in these activities may be programs for the early detection of arthritis victims, programs to develop effective and reliable screening procedures for arthritis, and educational programs to provide information on the current care and treatment of arthritis patients.

To carry out these prevention and control programs the National Arthritis Act authorizes to be appropriated $10 million for fiscal year 1975, $15 million for fiscal year 1976, and $20 million for fiscal year 1977.

It is the intention of this act that the funds which it authorizes for research in the detection, treatment, and rehabilitation of arthritis victims be in addition to those sums presently earmarked for arthritis research through the National Institute of Arthritis Metabolism and Digestive Diseases appropriations. Indeed, it is the purpose of the National Arthritis Act to expand the existing authority of the National Institute of Arthritis, Metabolism, and Digestive Diseases in order to more effectively advance a national campaign against arthritis.

Almost everyone, if he lives long enough, will develop some arthritis. It is estimated that 97 percent of all individuals over the age of 60 have enough arthritis so that it can be seen in X-ray film. Too often it is this very segment of our population which is overlooked in our health legislation. My strong support of S. 2854 stems from my deep and abiding concern for the well-being of our senior citizens, although they are not the only ones hit by the disease. We are, however, greatly indebted to those in this country who have contributed so much to our Nation's past, and we must show our awareness and concern for their health needs by uniting in a national commitment against this crippling disease.

I feel this commitment must take the form of a substantially stepped-up research program within the National Institutes of Health; a commitment aimed at combating this disease and, hopefully, leading to its eventual elimination. I believe that the mysteries of arthritis must be examined with all the energy that our Nation's health resources will allow.

The National Arthritis Act provides the tools for our national commitment. It offers the most effective means of tapping the enormous potential of our health resources in fighting arthritis. I urge its immediate adoption.

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, I was disappointed that the Senate was unable to invoke cloture on the Genocide Convention debate several weeks ago. However, I intend to continue speaking on this matter every day, as a reminder that ratification of the Genocide Convention deserves our consideration without delay.

When will we put aside our petty fears and give this document the endorsement it deserves? It is simply a matter of decency and commonsense involved here. By ratifying this treaty, we are reaffirming our own commitment, firmly rooted in our traditions and our Constitution, to individual rights; and we are joining in the condemnation of any who would violate those rights in such a horrible, despicable fashion.

Mr. President, I hope that conscience and reason will ultimately prevail here, and that we will once again demonstrate our dedication to justice and liberty. For the longer we postpone consideration of the Genocide Convention, the more that dedication can be held in doubt.

STANDING FIRM

Mr. BROCK. Mr. President, William Safire recently wrote a brilliant column in defense of our free market system and the need to stand fast by its ability to

deal with shortages. Though I have spoken many times on my abhorrence of economic controls, and their inevitable effect on supplies, Mr. Safire's wit and descriptive abilities cannot be excelled. For the benefit of my colleagues who missed the column. I ask unanimous consent that it be printed in the RECORD, along with a Chicago Tribune editorial on the same subject.

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

DO NOT DO SOMETHING—STAND THERE

(By William Safire)

WASHINGTON.—Confronting the demon of economic downturn, President Nixon extended his arms, flashed the ancient thumbs-up sign, and pronounced the mystic incantation: "There will be no recession."

Doing their bits to shoo out the dybbuk, advisers like Treasury Secretary George Shultz allowed as how the bedeviled President prophecy would self-fulfill, provided one accepts the Nixon definition of a recession. And economist Herbert Stein sturdily agreed, adding under his breath, "But we're sure gonna have the littlest boom you ever saw."

What must disturb these two believers in economic freedom is the President's willingness to make economic decisions for political reasons—that is, to listen to the populist demand to "do something!"

Last summer, popularity economics called for a wrongheaded price freeze; by satisfying the demogogic lust to "do something," the President—overruling Shultz and Stein—succeeded only in creating shortages and confusion.

This year, popularity economics calls for an evasion of recession at any cost, in a perversion of Keynesianism that says "inflation irritates, but recession infuriates." Some recession is surely necessary to restrain inflation and improve productivity, but the natural downturn would not help the President's plan for political survival.

When his back is to the wall, Nixon tends to adopt the economic suggestions of his Democratic opponents, and with a vengeance: Taking "bold action" to freeze prices, or crack down on profits, or throw federal money at a possible recession. This frenetic activity gives the illusion of leadership and temporarily answers the demands that he "do something."

But when Sen. William Proxmire ladled out the usual pap about "lack of vigorous, forceful economic leadership" to Shultz last week at a congressional hearing, the mild-mannered witness did not grin and bear it. To everyone's surprise, Shultz banged the table and exploded: "I do not see why you just keep saying, saying, saying something that is not true . . . In the stampede for 'action, action, do something,' you find yourself doing the wrong thing."

Shultz, a free-market man who fought against the kind of "vigorous, forceful leadership" that caved in years ago to the clamor for controls—and turned out to be right—denounced the senator's do-something fulminations as "a gross misrepresentation and I'm frankly tired of it."

Proxmire, ashamed at being caught in a demogogic posture by an economist he admires, said "So am I" and backed off.

What brings about this lust for government intervention, this dosomethingism, on the part of those who simultaneously decry excessive presidential power? Why can't "forceful leadership" ever be equated with unpopular self-restraint? Think of the economic mischief that could be avoided if voters were to say to elected officials: "Don't just do something—stand there."

For example, part of Proxmire's complaint was with the way the independent truckers' strike had not been personally handled by the President. Presumably, the senator would have preferred the Lyndon Johnson method, with all-night bargaining sessions in the White House showing the President's personal concern.

That sort of stunting would have undermined the professional mediation which brought about a sensible settlement. It has taken five years to wean disputants away from Oval Office maternal care—and, of course, had the President injected himself into the settlement, the do something set would promptly have berated him for grandstanding.

At a time when the President is especially tempted to take "the popular course," a special responsibility falls on those who airily call on him to "do something" about avoiding a recession and—in the same breath—demand he "do something" about rising prices, and "do something" about shortages induced by price controls.

Such demogogic demands can no longer be made with impunity: The President is now all too likely to respond to them. (I had a small dog which, secure in the belief that my leash would restrain him, loved to lunge and snarl at a huge St. Bernard; one day I dropped his leash and the little dog looked at me as if I had lost my mind.)

Controls have failed; let's admit it. Heavy federal spending and a tax cut could avert a recession—let's admit that, too—but at a cost in inflated prices and reduced real earnings that make it something that is wrong to do.

Instead, let's consider a capitalist's manifesto:

Laissez-faires of the world, unite! You have nothing to lose but your Keynes.

CONTROLS CLOSE-OUT PRAISED

CHICAGO.—The Nixon administration has decided to dismantle virtually all wage and price controls by May 1, but it wants to keep the Cost of Living Council alive to monitor inflation and perhaps to "jawbone" those industries and unions that seek excessive price or wage increases under the restored freedom of the marketplace.

We can understand the administration's desire to retain controls on petroleum prices, health care, and perhaps one or two other inflation-prone areas, but would prefer to see the expiration of the Economic Stabilization Act on April 30 used as an occasion to get government entirely out of the business of trying to manipulate the economy artificially.

Unlike controls and government intervention, the pricing mechanism of the free market has a proven record of long standing of being able to allocate scarce resources. Many of the shortages that now plague the economy can be traced directly to the control program.

True, prices and wages are likely to rise after controls are ended. But this is the price we must all pay for having succumbed to controls and for the economic distortions created by them. Once these distortions are gone, the marketplace can settle down to pricing goods and services according to supply and demand. No act of Congress can repeal this economic law.

LAW OF THE SEA CONFERENCE

Mr. PELL. Mr. President, many usually well informed people are unaware that the Third United Nations Conference on the Law of the Sea has actually begun. It was initiated by an organization session held at United Nations Headquarters in New York in December. At the session, partial agreement was reached on the rules of procedure for considering crucial substantive issues at the next meeting of the Conference at Caracas in July and August.

The conference is now in an interim but critical period similar to that tricky stage before the starting gun of a sailing race, when the boats are maneuvering for the best position to cross the line.

Even though this stage of the conference does not command great public attention, the need for the successful outcome of the conference in resolving urgent issues is of mounting importance. To cite several examples, there is the need to accelerate the exploitation of offshore gas and petroleum resources but not at the expense of significant pollution of ocean space, there is the need of effective coastal state management of fisheries to prevent irreversible depletion of food fish stocks, there is the need of preserving the traditional freedom of civilian and naval navigation.

Elizabeth Mann Borgese, to whose spendid work in connection with Pacem in Maribus III I referred in a statement last December, CONGRESSIONAL RECORD, December 13, 1973, has recently described how circumstances surrounding these issues have changed so rapidly as to necessitate, in her opinion, revision of the U.S. draft treaty proposed in 1970 for consideration at the Law of the Sea Conference.

Essential to the sucess of the conference is well-informed public and congressional understanding of the basic issues at stake. This is an educational task that both official and public-interest groups are devoting themselves to, in a highly commendable fashion.

The innovative establishment by the Department of State of the Advisory Committee to the U.S. Law of the Sea Delegation has opened up a unique two-way channel of ideas and information between the executive branch and both the private sector and the Congress.

Pacem in Maribus at the Center for the Study of Democratic Institutions has been the source of much creative thinking and public education.

Max Stanley's Foundation has contributed enormously to this educative process in a series of seminars on the Law of the Sea. The latest one held in January at Airlie House in conjunction with a useful panel discussion of Members of Congress for Peace through Law, was devoted to informing members of Congress and their staffs of where we stand on the conference and soliciting their views on what we should be doing as we maneuver into place for the starting gun.

Knowledgeable writers have also been publishing articles useful in creating wider and clearer appreciation of the essentiality of establishing an orderly regime to assure that ocean space is a lasting source of benefit and harmony for the people of the world.

I commend particularly an article by Prof. Richard N. Gardner of Columbia University entitled "It is Time to Consider the Fish's Point of View." Although a teacher of international law, Dick

Gardner is not held captive of abstruse legal theory in a statutory tower. He made an outstanding record as Deputy Assistant Secretary of State from 1961 to 1965. He energetically wrestles with the practical problems of our times in his concern for a sane future for mankind. The Law of the Sea Advisory Committee is a beneficiary of his membership, which fortunately will also permit him to participate at the Caracas Conference.

I ask unanimous consent that "Statement on the Law of the Sea Conference" by Elizabeth Mann Borgese of the Center for the Study of Democratic Institutions and Professor Gardner's article be printed in the RECORD.

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

STATEMENT ON THE LAW OF THE SEA CONFERENCE

(By Elisabeth Mann Borgese)

The Conference on the Law of the Sea will take up its substantial work this summer. The outcome of this conference is doubly important. It will determine the fate of the oceans which cover over 70 percent of the earth's surface and on which all life on earth depends. And it may create a new type of international organization apt to enhance development and peace.

The United States has submitted a working paper, UN doc. A/AC 138/25, presenting a Draft U.N. Convention on the International Sea-bed Area. This will be one of the basic working papers for the Conference. When the paper was first submitted, it initiated a new phase of work in the preparation of the Conference. It generated a number of alternative drafts and added both vision and concreteness to the discussions. A number of its features, such as the proposed Ocean Tribunal, are of lasting value. It is to be hoped that they will find their way into the text of the final Treaty.

The U.S. * * * on scientific research—which are of varying degree of interest to the international community. The revised Fisheries Draft Article (August, 1972) is probably the most rational and advanced proposal in this area now before the U.N.

It is my submission, however, that the basic document, A/C 138/25, is obsolete, and that the piece-meal approach to problems which are interdependent and interacting, is inadequate. I would hope the U.S. Government would revise its basic document, extend its function from the management of the seabed and its resources to the management of ocean space and resources, and incorporate its various sectorial or partial proposals in one comprehensive Treaty.

The reason why the basic document A/C 138/25 is obsolete are manifold. Undoubtedly, technology has advanced much faster than anticipated. The fate of the oceans is endangered by a proliferation of such technologies, intensifying traditional uses of ocean space and resources and introducing many new ones. The oceans' living resources, whose renewal in the past was keeping pace with artisan methods of fishing, are beginning to fall behind in the race with new, industrialized methods of exploitation. The maximum sustainable yield is being reached much sooner than had been anticipated even a few years ago. The last few years have registered a decline in the world's total fish catch, and this at a time when the world's population is fast growing and especially the poorer nations depend on the productivity of the oceans for by far the largest part of their animal protein requirements.

Shipping has increased both in size and number of vessels. Freighters and tankers, carrying half a million of deadweight and more, are crowding international waterways and straits. Collisions and groundings are on the order of the day, releasing vast quantities of pollutants into the ocean. Underwater storage tanks and floating superports are built to accommodate this novel kind of maritime traffic. All these installations are prone to accidents, vulnerable to sabotage and, at any rate, designed for a certain percentage of regular loss and waste, accumulating in the oceans as pollution.

We are at the beginning of a revolution in mineral mining in which the oceans are playing an eminent role. Offshore oil production today accounts for about 20 percent of the world's total oil production. It is estimated that this will rise to about 50 percent over the next two decades. The recovery of manganese nodules from the deep ocean floor of the Pacific and the industrial processing of manganese, nickel, cobalt, and other metals in practically unlimited quantities, is just beginning. The ecological consequences of the extraction and processing of these metals are not known at present.

Urbanization and industrialization of the coasts, discharging huge amounts of organic and inorganic waste into the oceans through rivers and pipelines; the industrialization of agriculture, generating run-offs of chemical fertilizers and the discharge of DDT which reaches the oceans through the atmosphere; the swelling of tourism and the recreational uses of ocean space; the use of the oceans for human habitats, whether under water or on artificial islands—all contribute to an alteration of the balance between land and sea. Factories are being moved out to sea; oil refineries are placed on offshore platforms; airports are put on artificial islands. New energy resources and technologies, fueling a hydrogen economy, will be ocean-based rather than land-based.

The military are moving into the oceans. Strategic weapons systems, easily targetable on land by high flying spy planes or satellites, become invulnerable under the protection of the opaqueness of the seas and with the added advantage of mobility. The "second strike capacity" of the great powers resides today in the oceans.

Ocean science, finally, has been developing at a spectacular rate. The discovery of sea-floor spreading and continental drift has added new dimensions to our understanding of the history and nature of our planet. The impact of this science both on industrial and military uses of the oceans is ever increasing.

There is at present no law, national or international, to regulate these new and challenging uses of the oceans. Existing international machinery is totally inadequate. The American Draft Treaty falls short of meeting most of the problems.

If unregulated, the intensification of old uses and the addition of so many new uses of the oceans will engender conflict and waste on a scale unknown in the past: problems which affect the health of the oceans and the survival of man. Problems exasperated by the so-called energy crisis and the ensuing worldwide mood of national retrenchment and short-sighted scramble for resources.

Problems which, in turn, are transnational in scope and must be solved internationally.

A revised U.S. Draft, in my opinion, should:

Give legal and economic content to the concept of the common heritage of mankind;

Ensure the conservation of the common heritage for future generations;

Ensure the full participation of the developing nations in the management of the common heritage and in the benefits derived therefrom;

Harmonize global, regional, and national interests in ocean space and resources;

Reconcile and balance the multiple peaceful uses of ocean space and resources;

Develop a disarmament and arms control apt to bridge the gap between science, economy, and politics; and

Develop a disarmament and arms control policy for the oceans, benefiting from the awareness that many of the technologies and institutional arrangements needed to monitor and control pollution in the oceans have also an arms control effect.

[From the New York Times, Dec. 30, 1973]

REGULATING USE OF THE OCEANS—IT IS TIME TO CONSIDER THE FISH'S POINT OF VIEW

(By Richard N. Gardner)

When the American humorist Robert Benchley was an undergraduate at Harvard, he had to answer an examination question in international law on the Northwest Atlantic fisheries dispute. Finding himself unprepared on the issues, he began: "Some people may care to discuss this case from the point of view of England, others from the point of view of the United States, but I shall discuss it from the point of view of the fish."

The story is now almost forgotten vintage Benchley. But the question of "the point of view of the fish"—to put it more broadly, the protection of marine resources and the rational management of the oceans that cover 70 per cent of the earth's surface—has become one of the most pressing on the diplomatic agenda for 1974. In Caracas, Venezuela, June 20 to August 29, 150 countries will participate in the largest conference ever held under United Nations auspices, the third U.N. Conference on the Law of the Sea.

NEW LAW NEEDED

The law of the sea has appropriately been called "the heart of international law." From the 17th century through the early part of the 20th, countries bordering the oceans generally agreed on what was essentially a strategic definition: territorial waters were limited to three miles, the distance a 17th-century land-based cannon could shoot. The high seas beyond were free for the use of all.

The old consensus was broken by a combination of economic and social factors. As world food needs have grown, improved fishing technologies have created competition between coastal and distant-water fishing nations for marine protein supplies. Energy-hungry developed countries have turned to new deep-sea drilling techniques to explore and tap undersea oil and natural gas deposits. The rising tide of nationalism has led some less developed countries to assert exclusive claims on their offshore resources, while others not endowed with rich offshore assets want to share in the benefits of seabed exploitation.

And meanwhile scientists have issued urgent warnings: the unregulated plunder of the deep, they say, cannot continue. While more sophisticated fishing techniques, including electronic hunting devices that pinpoint schools of fish, are being used by many fleets, there are simply fewer fish to be caught. In Icelandic waters, for example, the combined British-Icelandic haddock catch was 110,000 tons in 1961. Now it is just over 40,000 tons. The "cod war" between Iceland and Britain dramatized the fisheries problem in the North Atlantic but similar situations exist worldwide.

International pollution control, many scientists say, is even more critical. To land-based pollution sources, such as open sewer and industrial waste, and the threat from ocean-going shipping, especially from oil-spillage, have been added the side effects of undersea exploitation.

The search for energy is now under way on the seabed off 100 countries. Three American companies—including one owned by Howard Hughes—are waiting to dredge nodules rich

in manganese, nickel, copper and cobalt from the Pacific floor. Failure to impose pollution controls, scientific evidence suggests, may result in the death of all ocean life.

Some marine biologists have gone even further: Since marine organisms supply 70 per cent of the world's oxygen, the death of sea life might mean the death of all biological life.

TRILLION DOLLAR CHANCE

One law of the sea expert, contemplating the vast potential of the world's oceans, has called next year's Law of the Sea conference "the trillion dollar opportunity."

The open question is whether it will be taken. It is all too clear from the recent preparatory sessions here that the 150 participating countries seek a law that will serve immediate national interests. Agreement was not possible even on procedures. Balancing "high seas" freedoms major maritime powers consider essential for security and commerce with justifiable sovereignty in and under territorial waters—all under an effective system of international regulation and benefit-sharing—will take a "quasi-miracle," according to one diplomat.

One example of the intensity of feelings and interests surrounding these questions was the all-out battle required to secure seats for the United States on the steering and drafting committees that will set the Caracas agenda. "Things have come to a pretty pass," the diplomat complained, "when the developing countries don't want to find one place for the United States on a committee of 48."

IS AGREEMENT POSSIBLE

There now seems a fair chance of compromise on a 12-mile territorial sea, which coastal states could treat as national territory subject to the right of "innocent passage" for foreign vessels. But the key to this compromise is satisfactory settlement of a series of related issues. Here is a look at the status of only a few.

Free Transit: The United States and other maritime powers currently hold to the old three-mile limit. But they have indicated a willingness to go to 12 miles provided "free transit" is assured through the approximately 100 international straits. Those straits are between 6 and 24 miles in width. and some of them, such as Gibraltar, Malacca (between Malaysia and Indonesia) and Bab el-Mandeb (controlling the entrance to the Red Sea) are vital for international navigation.

STRATEGIC ISSUES

What the maritime powers want to avoid is the creation of a series of "Berlin corridors" around the world in which political leaders in countries controlling key straits might be tempted to stop traffic. If passage through the Strait of Malacca were restricted, for example, tankers carrying oil from the Middle East to Japan might have to travel an extra thousand miles. And American nuclear submarines could lose much of their mobility.

In return for international guarantees of free transit, international regulations to protect the straits countries from pollution and maritime accidents, are being proposed.

Special coastal rights: Latin-American countries such as Peru and Ecuador now claim a 200-mile territorial sea and other developing countries claim exclusive rights to manage all resources within a 200-mile zone. But these nations may accept a 12-mile limit if they are satisfied on the protection of their vital interests between 12 and 200 miles.

The maritime powers seem prepared to accept the concept of special coastal state rights within a 200-mile zone, again provided international pollution standards are accepted and "high seas" freedoms observed.

COMMERCE, TOO

Commercial issues are also critical here: it is estimated that 61 of the 119 coastal states (the two Germanys, Italy, Korea, and Panama are examples) have other countries' 200-mile zones between themselves and the high seas.

Fisheries: There is a growing consensus that coastal states should have special rights in coastal species of fish and possibly also in "anadromous" fish. One example is salmon, which spawn in streams but roam through the high seas before returning. The toughest fishery issue is that of the migratory species. The United States and others argue that catch quotas should be established set by international agencies for fish like tuna.

Benefit-Sharing: In the summer of 1970, the United States presented a seabed treaty providing that coastal states should turn over to international development agencies a substantial portion of the revenues from seabed exploitation between 200 meters and the continental margain. But developing countries with abundant offshore resources showed little interest then.

At this point, revenue sharing seems possible only on resources developed beyond continental margin, such as managnese nodules. To make the system work, an international supervisory authority would have to be established. And here a hard question to resolve will be the balance of decision-making power between countries with the capacity for seabed exploitation and the rest.

Regulation: The United States and other maritime powers have indicated that some kind of law of the sea tribunal is an essential element of any final package, particularly in view of the practical problems of balancing coastal state and international interests between 12 and 200 miles. The traditional resistance to compulsory dispute settlement by Communist countries and many developing nations suggests that this may be the toughest issue of all.

TRANSPORTATION NEEDS FOR THE ELDERLY

Mr. DOMENICI. Mr. President, the Special Committee on Aging is now in the process of holding hearings dealing with transporation and the elderly: problems and progress. I am a member of that committee and am most concerned with those matters of interest to the elderly. Transportation for the older Americans has been a problem in the past—and is certainly one today during the present energy crisis which affects us all.

This morning I appeared as a witness before the committee to discuss the problem as I see it in my own State of New Mexico, and I ask unanmious consent that my prepared text be printed in the RECORD.

Attached to my statement are comments presented by Mr. A. T. Arroyos, director of the Senior Center of Santa Fe County, before the Area Agency on Aging Task Force in Santa Fe, N. Mex., on November 8, 1973. I ask unanimous consent that my comments be printed in the RECORD at the conclusion of my prepared statement.

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

STATEMENT ON TRANSPORTATION NEEDS FOR THE ELDERLY

Mr. Chairman, I welcome this opportunity to speak before your committee on a vital and pressing matter—the transportation problems facing older people.

Inadequate transportation systems intensify other severe problems confronting the elderly. Low-income people suffer most, but individuals with low and median fixed retirement incomes also suffer when suitable transportation is not available. Many are forced into isolation because they are unable to meet with family and friends, participate in community projects or even make a trip to their doctor when the need arises.

Transportation, especially in my rural State of New Mexico, is a constant problem to the senior citizen. Many of our senior citizens cannot take advantage of the services available to them because of the lack of transportation. The 1971 White House Conference on Aging has pointed out rural transportation problems must be solved before there can be effective solutions to rural health, income, employment, and housing difficulties faced by the elderly.

In recent years serious attention has been given to resolving these problems. Through Title III of the Older Americans Act, funds have been made available for various types of transportation services in our communities. The Title VII nutrition program under the Older Americans' Act emphasizes a major component of the program—transportation to and from the project site. The 1973 amendments to the Older Americans Act authorize a special transportation study and demonstration project so we may learn the best ways to furnish adequate transportation to older persons in rural and urban areas. In addition, the Federal Highway Act of 1973 authorizes funds for programs and activities designed to meet the special transportation needs of elderly and handicapped individuals.

Numerous nonprofit organizations are providing transportation services for the elderly such as mini-bus services, meals-on-wheels, dial-a-bus projects, and other services especially designed to serve the special needs of the elderly in a particular locality. Moreover, more than 60 cities throughout the country offer reduced fares or do not accept fares from the elderly on public transportation facilities during nonrush hours.

These are meritous achievements, but they fall desparately short of what we will finally need. These beginnings are a step in the right direction—a step, I may add, being sharply curtailed by the present energy crisis. Although the crisis affects all individuals no matter what age, it is especially burdensome for the elderly whose current problems are apt to plunge into new depths of severity.

The gasoline scarcity and resulting gas prices directly affect the low-income elderly who already feel the impact of rising food costs, housing costs and medical care costs. Those in small communities or rural areas, such as those in New Mexico, rely on gas to travel 10 to 15 miles so they may purchase necessary groceries and supplies. With gasoline so expensive and often times inaccessible many are apt to do without necessities. Elderly individuals are often reluctant to ask friends or relatives for rides when gas is scarce and costly.

The fuel shortage also threatens social service programs designed for the physical and mental well-being of the elderly. Many of these service programs such as the foster grandparent program, senior center progams and nutrition programs provide free transportation services supplied by volunteers. Many volunteers who also face the shortage and are burdened by rising prices will be forced to reestablish priorities and forego their service in favor of pressing personal needs. Volunteers who drive to an elderly person's home to provide services such as Outreach are also apt to forego such service because of the current crisis.

Remedies to transportation problems confronting the elderly must be considered in

light of the energy crisis. Elderly individuals must receive their fair share of gasoline and special consideration must be given to volunteers who serve them. For many older people, these services mean the difference between independence and institutionalization. At the same time, we must continue our efforts to ensure that mass transportation systems are designed to meet the needs of older people and special transportation services are provided for individuals unable to use public facilities.

I believe senior citizens have earned the right to a comfortable and secure old age. I believe their talents and abilities—acquired during a lifetime of work—should not go to waste, but should be used to benefit their communities.

I believe senior citizens must not be isolated from the mainstream of American life. They must not be shuffled off to nursing homes, herded into sterile housing developments and abandoned to a lonely and depressing old age.

This country needs their talents, their abilities, their wisdom more than ever. We have to make sure we hold the advances we have made in terms of the health and happiness of older Americans, and continue in the direction of resolving transportation problems faced by the elderly.

Mr. Chairman, I would like at this point to have inserted in the hearings record a statement made by Mr. A. T. Arroyos, Director of the Senior Center of Santa Fe County, New Mexico, given before the Area Agency on Aging Task Forces in Santa Fe on November 8, 1973. In this statement, Mr. Arroyos succinctly points out the many difficult areas which I believe should be considered by this Committee. If there are no objections, I would like his statement inserted now.

SENIOR CENTER OF SANTA FE COUNTY,
Santa Fe, N. Mex.

TESTIMONY BEFORE THE AREA AGENCY ON AGING TASK FORCES, SANTA FE, N. MEX., NOVEMBER 8, 1973

TRANSPORTATION

Today we are a society dependent on wheels.

The automobile has moved in status from a luxury item to common property of every family. Motor vehicle transportation is the mode of personal travel, and a focal point of our participation in the mainstream of society.

Motor vehicle transportation is so common that it is taken for granted by all of us as long as we have a vehicle and can drive.

As we approach a certain age, the private means of transportation on which we have relied on is no longer available because of either economic or physical reasons. We find in some communities that alternative ways of going where we want to go are not available.

The need for transportation also changes in that transportation is not needed to go and from work but rather to and from doctors visits, social services or contacts with associates, friends and relatives.

Concerns of this nature make transportation for senior citizens an issue of serious consideration.

Priority needs expressed by senior citizens I have come in contact with are as follows:

(1) Income;
(2) Health; and
(3) Transportation.

Immobility breeds isolation. Senior citizens must continue to participate in community affairs and therefore they must have transportation.

The elderly like every other age group depend on the ability to travel for shopping, to buy clothing, food and for medical purposes.

Travel is necessary for spiritual, cultural, recreational, and social activities. Where there is not the availability of transportation for the elderly you will find isolation of individuals from the social mainstream and denial of the elderly from a meaningful community life.

Studies and plans of the transportation needs of the elderly is essential to establishing a most worthy transportation system. However, the elderly cannot wait for continuous studies.

The problem is acute and immediate action is needed.

Areas of consideration in establishing transportation for the elderly are the problems the elderly may have such as:

(1) Lack of money for transportation;
(2) Lack of available services to places they need to go and want to go;
(3) Safety, comfort and convenience;
(4) Insurance;
(5) Reliability; and
(6) Restrictions.

The following represent recommendations on how to be able to implement transportation for the elderly:

(1) Seek a coordination of effort to assure maximum use of vehicles from other resources such as: government passenger vehicles, school buses, vans etc.

(2) Seek government assistance (State Commission on Aging under title III, Older Americans Act). A program could be developed by your local government in match funding with the State.

(3) Voluntary community action.

Consideration should be given to:

(a) Driver licensing;
(b) Insurance;
(c) Safety standards;
(d) Volunteer driver insurance; and
(e) Comfort, convenience and reliability.

Transportation should be provided the elderly to and from:

(1) Shopping trips;
(2) Doctors appointments;
(3) Paying of bills;
(4) Laundromats;
(5) Beauty shops;
(6) Food establishments;
(7) Hospitals;
(8) Nursing homes;
(9) Buying of food stamps;
(10) Religious activities;
(11) Social activities;
(12) Cultural activities;
(13) Educational activities;
(14) Employment;
(15) Picnics;
(16) Fishing trips; and
(17) Possibly out of State trips.

Finally, the main concern is eliminating the transportation problems faced by the elderly in their day to day existence.

Should a senior citizens program develop, transportation should be of great concern and included in overall planning of programs for the elderly.

Notwithstanding the many problems the elderly have, transportation is certainly a priority need.

THE DISMAL SCIENCE IS GIVING US DISMAL ADVICE

Mr. PROXMIRE. Mr. President, after 3 weeks of hearings by the Joint Economic Committee, of which I am vice chairman on the President's Economic Report, I am led unalterably to the conclusion that economics and economists are in a state of utter chaos and disarray. They have no acceptable answers to the twin economic problem we face today; namely, inflation and stagnation at the same time, or what is now called "stagflation."

In the 19th century Thomas Carlyle called economics the "dismal science." Economics and economists have never been more dismal than today.

Conservative economists, with their eye on skyrocketing prices and roaring inflation can only propose two unacceptable economic policies—more unemployment and higher interest rates as a means of combating the zooming wholesale and retail price indexes.

Liberal and Keynesian economists—including the otherwise conservative Nixon budget officials—are either proposing or proclaiming an equally unacceptable policy. The doxology of the left is to "spend, spend, spend" at a time of rampaging inflation.

IMPOSSIBLE ADVICE

The economists are giving us impossible advice. They have no good answers. The conventional wisdom of the economists—both conservatives and liberals—is bankrupt in the face of this modern phenomenon. The advice we get is either the orthodoxy of the right or the orthodoxy of the left, both of which are unacceptable.

If economists could jar themselves out of their ideological framework and their preconceived notions, I believe there are policies which could combat stag-flation without either increasing inflation or pushing the unemployment rate to higher and higher levels. Consider these.

ATTACK FOOD AND ENERGY PRICES

The two key elements in inflation are energy and food prices.

On the energy front the Federal Energy Office has the legal authority to base the price of both old and new oil on actual costs plus a fair return. They have not done this. They have made no effort to do it. Such action could reduce the price of gas, oil, and fuel products by significant amounts.

Second. On the food front, the tremendous demand abroad has been a major factor in the increase in price. As a minimum the United States should gather the statistical and factual information on which intelligent decisions on food exports can be based. Such knowledge would have prevented the Russian wheat fiasco. But the Secretary of the Treasury Mr. George P. Shultz, himself an economist, testifying before our committee, refused even to consider the establishment of such an early warning system for food.

REORDER BUDGET—PUSH JOB PRODUCING PROGRAMS, CUT INFLATIONARY SPENDING

We should cut the Federal budget significantly and reorder spending priorities.

This budget includes the biggest peacetime increase in the history of the country—a $30 billion increase. It also includes stepped up spending for the military which is probably the single most inflationary spending in the budget—it produces no consumer goods, satisfies no needs, nor increases the supply of goods like housing, food, or energy in great demand. It also produces fewer jobs for the dollar spent than any other major activity.

By cutting back on inflationary spending—the military, space, highways, public works and the pork barrel—and substituting even small amounts to stimu-

late housing, provide public service jobs, provide for health needs where shortages have driven up prices, and increase funds for education which provides more jobs per dollar spent than almost any other spending, we could make a real contribution to both combatting inflation and providing jobs.

Instead of inflating the economy by increasing spending above the proposed $304 billion level, we should cut spending by $9 billion, and concentrate the remaining $295 billion budget as strongly as possible in job producing work.

The cruel fact is that this country is in for both a serious inflation and a recession in any event. The way to meet this twin disaster is first to honestly recognize it as a fact. And then to take the painful steps necessary to meet it.

SENATOR ROBERT C. BYRD COMMENDED AS A "MODERN-DAY STATESMAN" BY WTRF

Mr. RANDOLPH. Mr. President, it is gratifying to again focus attention on our able majority whip, ROBERT C. BYRD of West Virginia. WTRF television and radio in Wheeling, through a timely and accurate editorial by Robert Ferguson, executive vice president and general manager, commends Senator BYRD as a "modern-day statesman of the highest order."

Increasingly, the citizens of the United States are coming to know what West Virginians have long apprecriated, as to the record and respect in which BOB BYRD is held. His incisive answers in yesterday's "Meet the Press" interview is further proof of his leadership.

Mr. President, I ask unanimous consent to include, at this point in my remarks, the WTRF editorial.

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

West Virginians long ago became weary of the stereotyped image of the shoeless mountaineer packing a long rifle and a jug of mountain dew. Despite the State's motto, "Mountaineers are always free," the typical hillbilly picture of the people of the State somehow was not complimentary.

Fortunately the image has been dispelled with some sucess over the years. One man who has done much to give the rest of the nation a more positive picture of the mountain state has been Senator Robert Byrd.

Truly a self-made man, Senator Byrd's rise from an energetic boy from Sophia, West Virginia to majority whip in the U.S. Senate has been steady, but not spectacular. One of the most respected men in the U.S. Congress today, Senator Byrd possesses an enviable attendance record. During 1973, the first session of the 93rd Congress, the Senator missed only one of the 594 roll call votes, an attendance of 99.8%. But his devotion to the job goes back even further. From 1959 through 1973 Senator Byrd amassed an amazing percentage of attendance for roll call votes of 96.7%.

So, despite the Senator's busy agenda with key committees, plus his job as majority whip, he has diligently devoted time to the job he was elected to do. West Virginians in particular, in fact, all Americans have reason to be proud of Senator Robert Byrd, a modern-day statesman of the highest order!

ROBERT W. FERGUSON,
Executive Vice President
and General Manager.

THE MIDDLE-CLASS AMERICAN'S DREAM

Mr. McCLELLAN. Mr. President, I recently received a communication from a constituent, Mr. Peter Verbeck, of Heber Springs, Ark., which I would like to share with the Members of this body.

"The Middle Class American's Dream" written by Mr. Verbeck, is I believe, an eloquent statement of the viewpoint of most Americans—the so-called "silent majority."

They do not engage in unruly demonstrations or seek special advantages but work hard, pay their taxes and raise their children with a respect for the law and the traditions that made our Nation great. In these times of crisis and uncertainty, I believe that we would do well to ponder Mr. Verbeck's words and to put them into action.

I ask unanimous consent that Mr. Verbeck's "The Middle Class American's Dream" be printed in the RECORD.

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

THE MIDDLE-CLASS AMERICAN'S DREAM

As a hard working middle class American tax payer believing in the great men and great deeds that made our country strong, it is my dream that I might see the following wishes come true which would return might and power to our country.

I WISH THAT I COULD SEE

The government providing an income to fewer individuals who are too lazy to get out and work hard for a living;
The government providing fewer subsidies to people or professions who could make it on their own;
The government providing less housing and other facilities to people who ruin and abuse them because they have little or no stake in them;
More of our professional politicians caring about the American people and the American ideal and less about power, status and money;
Honest and sincere politicians at all levels of government;
The middle class bearing less of a tax burden and the wealthy people and corporations paying their fair share;
More criminals in jail rather than walking the streets because of "technicalities" and "loop holes" in our laws discovered by unscrupulous lawyers;
More criminals receiving proper sentences for their crimes;
Less money and aid leaving this country for other countries who sneer at us behind our backs; and
America returning to itself, to its people and to God, the reason for which this country was founded.

SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1973

Mr. FANNIN. Mr. President, Arizona is blessed with abundant sunshine which has given the State a great climate. This climate has been viewed over the years as an asset for many reasons, not the least of which was its quality as a tourist attraction. In these days we are looking upon the sunshine as an even more important resource, solar energy.

It is only fitting that two of the world's leading solar experts should reside in Arizona. They are Dr. Aden Meinel and his wife Marjorie. These are truly an amazing people. He is currently professor of astronomy and optical sciences at the University of Arizona. He has held many important positions over the years including director of Steward Observatory and the first director of Kitt Peak National Observatory.

She also is an astronomer who has raised a family of seven children and been active in teaching and research. They are the authors of many scientific papers.

Last Monday the Meinels appeared before the Senate Committee on Aeronautical and Space Sciences to testify concerning S. 2658, the Solar Heating and Cooling Demonstration Act of 1973. They said that at this time residential use of solar energy on a large scale appears impractical, but it has practical application for larger commercial buildings, and the prospect for electrical power production is good.

Mr. President, I ask that the testimony from these two outstanding scientists be printed in the RECORD.

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

TESTIMONY ON SENATE BILL S. 2658 "SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1973"

(By Marjorie Meinel)

Thank you for your invitation to give testimony with regard to this milestone bill.

We began our solar energy work in the area of electrical power, but in the past year we have shifted emphasis to what appears to be an important and more immediate application of solar energy: heating and cooling.

As some of you in the Senate remember, solar energy in the mid 50's was widely hailed as something important. Yet as late as 1970 there was still little to be seen. We remembered these grand predictions of the 50's and when the opportunity came for us in 1970 to look at the energy future of the United States we decided to take a new look at solar energy.

Our starting point in 1970 was to review the literature to see why solar energy had fallen short of its great goals, and whether there were some lessons to be learned to avoid disappointment now that a new surge of interest is at hand. We think the field of home applications of solar energy is especially susceptible to disappointment, and our personal experience with home solar heating systems reinforces these apprehensions.

Solar space heating is not a stand-alone system. Considerable apparatus and controls are required to properly interface a solar unit with existing heating and cooling installations. It is one thing to have this amount of apparatus at a research station but quite another to have it in your own home. The average home owner can hardly be counted on to change the filter in the furnace often enough to keep its efficiency high, let alone tend the solar heating and cooling system.

The basic social problem faced in successful introduction of solar heating and cooling comes right down to the matter of the family budget and costs. A solar house needs a backup unit to provide energy during periods when solar energy is not available. This means some duplication of cost on top of a very expensive installation.

The economics of the choice of the home owner is as follows: He can either have a solar heating and cooling system; or a conventional system plus two extra rooms in the house; or a larger piece of property. When he

can sign up at a very nominal cost with the local utility for energy, why should he spend that extra money for the solar unit? Even if the original cost were largely subsidized by the federal government he is faced with the prospects of expensive service and maintenance of the unit. No major appliance has an infinite lifetime, especially when every effort is made by the manufacturer to minimize first costs to the customer.

An example is afforded by "heat pumps" a popular form of heating and cooling in the Phoenix area. In current new subdivision installations the average lifetime to failure of a major component, either the pump or the motor, is now only 18 months. Solar installations, being highly capital intensive, will have even greater pressures to reduce initial cost at the expense of lifetime.

We wonder then if the present act has any provision for covering major contingencies in regard to expensive repairs or revision of a customer's system to correct serious problems?

We recently built two different types of solar heaters for our home in Tucson. One used water as the working fluid and the other air. The water system gave us much trouble. After a few weeks it began leaking at joints because of the daily thermal cycling of the piping. Also on cold nights, even in the desert, it froze up. Air in the lines from small leaks further blocks the automatic pumping. Each of these problems can be solved with appropriate changes to the system, but they all tend to drive up the cost.

The second system, using hot air, gave better performance, even though the absolute efficiency was somewhat lower. It was better adapted to the design of our house and to its forced-air heating and cooling system. A thermal storage bin was constructed behind an adobe wall below the bank of solar collectors.

When you get a solar unit you quickly know that it requires a rather complicated set of controls in addition to the wall thermostat in the house. It must instruct the proper part of the system what to do: whether to draw heat directly from the collector, or to put unwanted heat into storage; to draw heat from storage; or as a last resort, to turn on the house heating system.

The cost of the collector, the point on which most people focus their attention, is only a minor part of the total cost of adding such a system. The collector is about ⅓, the thermal storage ⅓, and the balance divided between the logic unit, ducting controls, and modifications to the house. Our unit satisfies us, but may be too expensive for the average home owner.

In looking at a number of homes in Arizona where the owner was interested in solar energy we were surprised to see how few existing homes meet the requirements for a successful solar installation. Problems include: too many trees, the wrong orientation of the house, poor roof shapes, etc. We suspect that these factors will apply even more extensively in other parts of the country. New homes and new subdivisions offer better chances for successful solar installations.

It is our opinion that solar heating and cooling for individual homes is not going to be widely successful. People who like gadgets may find them interesting and satisfactory. Most people will not want to be bothered with them. Some who get them may be distinctly unhappy, feeling that they were the victims of oversell.

We think that solar installations will be far more successful for apartments, condominiums and commercial businesses. The larger units required will be supported by more sophisticated money management by the owner and by better maintenance. The units might be large enough to encourage operation by a utility. We hope that Congress and the administrators of this act will be cautious about over-emphasis on the apparent "glamour" of home heating and cooling and will concentrate effort on commercial applications where the probability of success is higher.

Thank you.

(By Aden Meinel)

The application of solar energy to heating and cooling of commercial buildings is promising, but the economics of the first costs are crucial to success. One basic contributor to lowered costs is that most businesses have flat roofs. This means that solar collectors can be inconspicuously placed, and where the installation is designed for maximum convenience for maintenance and replacement.

We have recently designed a type of installation for use at a nearby military installation and for some commercial buildings in Tucson. They generally look like this model, designed under the GAP program (gas augmentation program) done cooperatively between Helio Associates and Tucson Gas and Electric Company. Such units could significantly reduce natural gas consumption by these businesses.

There is guarded interest in the operation and/or leasing of such units by the local utility to these businesses. It is guarded not as much from questions of operational performance as it is from the multitude of legal, building code, zoning and union questions. The utility is also concerned about first costs and how to convince the customer to use solar energy.

I would like to focus your attention on what we have assessed as the key thing that blocks the market for commercial uses of solar energy. The introductory costs of a new technology are high, and first units will cost much more than later ones when the market volume gets to be significant. Your bill addresses only part of the problem, since the volume of production will still be hardly out of the "custom built" class at the end of the program.

The key action would be the authorization, starting with Congress and extending in turn down to the level of state utility rate commissions, to extend the principle of comingling to include heat therms. This policy already applies to electricity and to pipeline gas, so that regardless of the unit costs from the various sources of energy feeding the electrical power line or gas line, the cost to the consumer is equalized. If this principle were applied to heat therms then each utility could spread the introductory costs of solar heating and cooling to all its customers. The higher costs of solar would scarcely affect the rate paid by customers during the transition from high initial costs to low large-volume costs.

The policy of comingling heat therms could even be used as a gentle way of convincing businesses to transition. If a business could get slightly lower rates per therm for his energy from solar than his competitor could who elected to stay on natural gas, the swing to solar could be dramatic and accomplish the goals envisioned in this act.

We hope that an appropriate amendment to this act can be written to lead the way to the extension of the policy of comingling to include heat therms by the rate commissions of the states.

In conclusion, we would like to direct your attention to where solar energy may ultimately have its greatest impact and benefit for this country: electrical power production. People already use electrical energy for a vast array of needs and luxuries. If costs can be reduced for solar power it will be the ultimate answer of how to use solar energy. Solar power farms in regions away from the load centers will deliver clean energy into the electrical power grid, delivering energy with almost no perturbation of the way people live and think. The necessary technology is at hand but untested. The first demonstration units could be built within 2 or 3 years and a diligent effort would see the first commercial solar power farm in operation within a decade.

Thank you for your interest.

INFLATION—THE NO. 1 FOE

Mr. PROXMIRE. Mr. President, in the New York Times for Sunday, February 24, there is an article by Mr. Thomas E. Mullaney which makes a great deal of sense.

Mr. Mullaney tells us, quite rightly, that inflation is our No. 1 economic foe. But unlike many others, who wear blinders, he calls for firmness, action, and policies which while meeting inflation do not ignore the highly important questions of economic stagnation and rising unemployment.

This is a thoughtful analysis because we are getting contradictory advice from most economists. Some, fearing inflation above all else, are advocating programs which will attempt to check it through policies which would bring economic disaster and massive unemployment.

Others, more concerned about the slowdown and rising unemployment, are in effect proposing policies which would do little more than feed the raging fires of inflation.

Both advice is not worth taking. We must be more intelligent and more sophisticated than to take that either/or advice.

Mr. Mullaney's analysis is several times better than most of what we have seen and read and a great deal better than the recent advice we have been getting. I ask unanimous consent that it be printed in the RECORD.

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

[From the New York Times, Feb. 24, 1974]

INFLATION, THE NO. 1 FOE

(By Thomas E. Mullaney)

There is a growing sense of unease, tension and discontent throughout the land over the state of the nation's economy that seems hardly warranted by its over-all performance and prospects. What certainly is justified, however, is grave concern over the horrendous pattern of the various price indexes.

At the midpoint of the year's first quarter, it was apparent that the economy was displaying some schizophrenic traits—bright in many ways but sharply depressed in others—and was generally proceeding in line with the expectations of a few months ago.

Heavy industry and most consumer lines, with the exception of housing and autos, are moving ahead rather strongly. Housing now seems to have turned upward again, and the auto-sales plunge may soon be bottoming out. Meanwhile, the nation's foreign trade position remains quite favorable.

Short-term interest rates have been dropping from historic highs, with the prime rate now down to 8¾ per cent, while long-term rates continue firm and elevated in an obvious response to inflation fears. At the same time, the cautious public seems to be building up its savings.

Somewhat surprisingly, the stock market has remained rather serene in this confusing atmosphere and has not lost its balance so far. While it has not mounted any rousing rally nor generated any enthusiastic following, it has held much steadier than it normally would in the face of so many domestic and international question marks.

It is true that the market has declined fairly sharply since the start of the Mideast war last October, but not precipitously, and it has moved essentially sideways for the last two months.

Perhaps the market is looking hopefully beyond the rocky road of today to a smoother course soon ahead, but the key to the future lies in the decision of big institutional investors as to what the economic and corporate outlook is. The coming weeks may reveal their thinking.

Without question, there are ample reasons for public concern these days in view of such mammoth problems as inflation, incipient recession and strained international relationships. But the depth of the gloom that seems to abound almost everywhere in the United States seems to be somewhat excessive.

What's wrong? In a philosophical talk before a blue-ribbon audience of businessmen in New York last week, Secretary of the Treasury George P. Shultz sought to analyze the reasons for the current malaise and its origins.

Essentially, he concluded that the United States has been confronted with changes on six major issues in recent years that have created "a sense of unease and confusion." He listed them: the effort at détente with the Communist world, the change in the international role of the dollar, civil rights, environmental problems, the inflation issue and the energy situation.

"We have let go of old ways of thinking on these questions and haven't yet found the new moorings to sustain us," Mr. Shultz said.

He made a plea for constructive leadership and for "followship" when someone comes up with some good ideas, no matter what the source. "It is much easier to be critical than constructive," he said.

The Secretary's thoughtful analysis might have been very apt, but he did not seem to assign enough importance in his talk to the impact and the divisive effects on the nation of the rampant inflation that has afflicted the United States in recent years. It has been building up since the middle of the last decade. And the influence of the Watergate episode in dampening public confidence should not be dismissed either.

The shopper in the supermarket, the banker and the businessman in the boardroom, the politician at the podium, the Government official appearing before a Congressional committee, the economist drafting his next forecast and the investor in stocks, commodities or bonds contemplating his choices are all addressing themselves to one overwhelming subject these days: the threat of even further inflation.

In some parts of the country, the energy shortage and the high cost of fuels might be a dominant topic of discussion, but the effect of spreading inflation is the common denominator of concern throughout the country and the world. And, unfortunately, it may remain so for some time yet.

The sharp escalation of the price level, arising from expansive fiscal and monetary policies as well as greatly accelerated demand for food, fuel and commodities of all kinds, is the root of so many of the world's economic ills and a serious threat to world trade, prosperity, order and progress.

It may be small consolation that, even though the United States is now enduring its worst inflation in almost three decades, the problem here is less forboding than it is in many other parts of the globe. Unhappily, inflation signals from the commodity futures and bullion markets are not false or transitory, it threatens to get much worse before it gets better.

Many coomodities are at record levels, gold shot up $14 an ounce last week to a new peak at $163, and silver went above $6 an ounce for the first time.

Moreover, revised data last week from the Commerce Department disclosed that inflation ran at an 8.8 per cent annual rate in the fourth quarter of 1973, the highest in a quarter of a century—much worse than the worrisome 7.9 per cent rate previously reported in the preliminary estimate. A year earlier the rate had been 3.3 per cent, representing a startling jump in a short period.

The wholesale price index, usually a precursor of trends in consumer prices, provides another worry. It showed a devastating rise of 3.1 per cent for the single month of January. That gain, the second largest on record, was topped only by the 6.2 per cent spurt last August after the Administration had ended much of its summer freeze on food prices. And on Friday, word came that consumer prices were up 1 per cent in January.

If the elevated price trend of the fourth quarter continues, as well as the January pattern in wholesale and consumer prices, the United States will be a little better off in the inflation picture than many of the leading industrial countries of the world, which have also been experiencing unusually sharp upward thrusts in their price levels.

Recent reports indicated that inflation is running about 10 per cent in Germany and France and 15 per cent in Italy and Japan.

While most economists expect a better price performance in this country during the later part of the year, it is by no means assured, particularly in view of the militant soundings on wage demands coming from labor sources.

Arthur F. Burns, chairman of the Federal Reserve Board, had some disconcerting words on that subject in Congressional testimony last week. He warned that, if the Government engages in "overstimulation" of the economy through a tax cut or "substantially enlarged [budget] expenditures," the nation will see an inflation rate "in two-digit figures—in other words, we will move toward a Latin-American standard."

It will be important as well that other nations similarly come to grips with their serious inflation problems lest another worldwide "boom and bust" cycle be created. The stark reality is the fact that the American economy cannot long be effectively isolated and insulated from runaway inflation, recession or depression, if they develop, elsewhere.

The United States, as the world's largest and most resourceful economy, is in a unique position to show the way to other nations in fighting this pernicious disease, but it will require a firmness of purpose in resisting the temptation to ignore this fire while tending the two other potentially critical problems of the day: economic stagnation and rising unemployment.

Unabated inflation would worsen those problems because the erosion of real incomes of the people can only lead to a crisis of confidence that cuts spending and, ultimately, production and employment.

The first priority in the battle against further inflation for the United States is to work hard to expand supplies of goods—food, fuel and a host of other materials in short supply here and elsewhere—rather than trying to pump up demand through excessive Government spending or overliberal monetary policy. Inflation must remain Public Enemy No. 1.

SCHOOLBUS SAFETY: THE DEATHS THEY FORGOT TO COUNT

Mr. PERCY. Mr. President, I reported recently to the Senate on an investigation conducted by the National Transportation Safety Board of a most disastrous motor accident involving a schoolbus near Blythe, Calif. Nineteen persons were killed and 29 injured. The NTSB report in large part blamed a faulty seat anchorage system in the bus and its inadequate escape exits for the tragic results.

Subsequently, I requested the NTSB to forward to me the preliminary investigatory report of another serious schoolbus accident. On December 26, 1972, while crossing a narrow two-lane bridge, a tractor semitrailer collided with the bridge railing and jackknifed into the path of an oncoming schoolbus. The accident occurred 8 miles west of Fort Sumner, N. Mex.

The bus carried children of school age but not schoolchildren in that they were not on their way to school. It was chartered, instead, to transport 35 teenagers and their chaperons from Austin, Tex., to a Baptist Church camp near Santa Fe, N. Mex.

Nineteen occupants died and 17, including the driver, were injured. But check the Government statistics for persons injured and killed in schoolbus accidents in 1972. These figures are not included in the results. Technically, this was not deemed a schoolbus accident since the vehicle was not on the way to or from school. How many other schoolbus casualties are omitted from Government figures, I wonder?

As in the Blythe crash, structural deficiencies of the bus were largely responsible for the extent of injuries and loss of lives in the Fort Sumner accident. Specifically, 19 of 22 passenger seats were uprooted as a result of the collision. As in the bus involved in the Blythe crash, the seat anchorage screws did not firmly engage the floor.

Upon impact, the body of the bus was separated from the bus frame. The exterior of the bus virtually collapsed. Capt. A. C. Jones of the New Mexico State Police remarked that the truck and bus looked as if "they had just melted together."

Like the Blythe crash, the Fort Sumner incident is a case in which a schoolbus was used for a purpose other than the transport of schoolchildren. The bus was not classified as a schoolbus. Thus, present schoolbus safety standard, which are minimal and sorely inadequate, did not even govern the operation of the bus.

Of the accident, Kyle Russ, an ambulance driver, said:

> I wouldn't want to see anything like that again. There were bodies lying around and the inside of the bus looked real bad. I just wouldn't want to see anything like that again.

I believe that a priority of government must be to insure, to as great an extent as is possible, that nothing like this tragic crash is seen again.

The enormous shortcomings that exist in present schoolbus safety regulations are all too apparent.

On the Federal level, it is the National Highway Traffic Safety Administration which must bear primary responsibility. The bureaucratic shuffling of the agency has produced more promised rulemakings than real, effective standards; more protracted research than results. Unfortunately, promises do not prevent highway injury and death.

One thing is clear: time is of the essence. Each day of delay means more children being maimed and killed needlessly.

Thus, I again call on the National Highway Traffic Safety Administration to take prompt action. Comprehensive safety standards must be promulgated—and promulgated soon—to govern the manufacture and operation of schoolbuses, whomever they carry and whatever their destination.

IS THERE A WHEAT SHORTAGE?

Mr. MATHIAS. Mr. President, there has been much discussion in the Nation's newspapers and among the general public about rumors that there could be a serious shortage of wheat by the beginning of the summer. Some have said America will witness "$1-a-loaf" bread; some say the shortage will be so severe that there will be no bread at all. Others, including the U.S. Department of Agriculture, report that there will be no shortage of wheat, but rather a modest surplus.

It is important that the Congress establish the truth about this situation at once, and that we publicize the right facts. Last year, Americans experienced an appalling rate of inflation—close to 9 percent—and about one-half of that inflation was caused by increases in the price of food. Now we may be faced with another new round of food price increases. We in the Congress have the responsibility for learning what the facts are and for taking the actions necessary, on the basis of those facts, to avert a shortage.

Mr. President, I have written Secretary Butz asking for further information on this matter, including his estimate of the effect of wheat price increases on products, such as bread, which are made from wheat. I have, in addition, asked citizens in Maryland to keep me informed as to the rise of wheat and bread prices in the State. I shall be pleased to share this information with my colleagues. But it seems clear to me that there should be no inconsistency between giving wheat farmers a fair return on their investments and providing reasonably priced wheat for the consuming public.

WAYNE WILHELM AWARDED

Mr. MATHIAS. Mr. President, I know my colleagues in the Senate would want to join me in commendation of a 12-year-old boy in Maryland City, Md., who recently received the Boy Scout Medal of Merit for saving a drowning child. Wayne Wilhelm, by his act of courage, not only saved a life; he also demonstrated that courage itself is an integral quality of American character. The News-Leader, a newspaper published in Laurel, Md., reported in its January 3 issue on Wayne Wilhelm and the story behind his award. 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:

MARYLAND CITY YOUTH HONORED FOR LIFE-SAVING ACTIONS

Twelve-year-old Wayne Wilhelm, a member of Maryland City Boy Scout Troop 939, received the Boy Scout Medal of Merit at a recent awards ceremony for his actions in saving a drowning child last summer.

The award was presented on behalf of the National Boy Scout Court of Honor by Charles Dunmire and Jim Kirk of the Baltimore Area Council Advancement Committee.

The citation accompanying the medal read:

"While wading in the murky waters of Tom's Cove in Chincoteague Bay, Virginia, on June 2, 1973, Laura Clark, about six years old, stepped into a deep hole and began floundering in eight foot deep water. Nearby was First Class Scout Wayne Wilhelm, 12, holder of the Swimming Merit Badge. Wayne swam 40 feet to reach Laura, who was submerging and surfacing in panic. Wayne overcame her struggle and panic and towed her to shallow water. His courage, determination, and skill saved her life and exemplified the Scout tradition.

CONSUMER ENERGY BILL—AN ALTERNATIVE

Mr. McGOVERN. Mr. President, a number of our colleagues have joined Senators STEVENSON and MAGNUSON in the development of a comprehensive Consumer Energy Act which, I believe, can be the basis for congressional action to put us on the road to energy policy which will serve the public interest.

A leading rural publication in my State, the East River Guardian, published by the East River Electric Power Cooperative, recently discussed the Consumer Energy Act. I ask unanimous consent that the article by Loren Zingmark, general manager of the cooperative, discussing the Consumer Energy Act, along with an article from the Los Angeles Times, by former FPC Chairman, Lee C. White, discussing one of the components of the act, be printed in the RECORD.

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

THE WAY IT IS

(By Loren Zingmark)

The winter of 1973–74 may not go down in history as the coldest winter, weather wise, but you can bet that people are going to be telling stories to their children and grandchildren for a long time about the high prices and short supplies of fuel we have experienced this year.

We have all heard many speeches and read news stories about the fuel crisis and it seems that more confusion than fact is the order of the day. In my column last month I said that Congress is going to have to take the leadership role in creating order out of chaos if the country's economy is to survive.

By this time it seems that every senator and congressman has his name as a sponsor on one of several of the many energy bills introduced in Congress to help solve the problem.

Sen. Adlai E. Stevenson (D-Ill.) and Sen. Warren Magnuson (D-Wash.) are chief sponsors of a comprehensive Consumer Energy Act which is going to get much support in Congress and deserves a close look by all citizens.

The eight-point program proposed in this bill includes a rollback of prices on domestic crude oil and petroleum products and is designed to be "fair to both the public and the oil industry," Stevenson says.

In addition to rolling back petroleum prices to Dec. 1, 1973, levels, the legislation drafted by Magnuson and Stevenson includes the following provisions:

Creation of a federal Oil and Gas Corporation to develop oil and gas resources on public lands and serve as a yardstick against which to measure the production costs of private oil companies.

Regulatory reforms designed to revive competition in the marketplace and "protect the consumer from price gouging."

Divestiture of pipelines now controlled by the major oil companies.

Revision of the bidding system for oil and shale leases on federal lands.

Reform of the franchise system to protect independent gasoline dealers.

Revision of rate structures that encourage waste in industrial use of natural gas at the expense of residential consumers.

Complete public disclosure of information on petroleum supplies and reserves, exports and imports, corporate taxes, etc., and ample investigative authority to enable the Federal Trade Commission to obtain such information.

This bill, while comprehensive, is going to be viciously attacked by the big, effective and well-financed oil lobby in Washington, but remember, many of the great programs like TVA and rural electrification were brought into being and survived the massive lobbying efforts to kill them.

It seems to me that our federal government is going to have to institute some sort of "yardstick" mechanism against which to measure the production costs of private oil companies. This would be the same type of "yardstick" by which TVA and the rural electrification program have served to measure the costs of electric production against those of the private investor-owned electric companies of this country. It's a "yardstick" that has worked well to keep electric rates at levels which the consumer can afford and at the same time be consistent with good business practice.

The pendulum of power and influence has swung much too far in favor of the major oil companies. As Sen. Stevenson says, "The American people, to put it bluntly, are being ripped off."

The oil monopoly power structure cannot continue unchecked. This year, 1974, is a year of decision for Congress and the administration to get the fuel situation in line. If it doesn't happen, and quickly, we have only seen the "tip of the iceberg" of havoc that will be wreaked upon the economy and our people.

[From the Los Angeles Times, Feb. 3, 1974]

A TVA-TYPE COMPETITOR FOR PETROLEUM INDUSTRY

(By Lee C. White)

The Tennessee Valley Authority, launched 40 years ago, has demonstrated that the federal government can operate efficiently in the energy field without destroying or weakening private enterprise in that industry. This country needs a counterpart of the TVA in finding, producing and managing oil and gas deposits on behalf of the people who own them. It is an idea whose time has come.

Geologists believe that 60% to 75% of all oil and gas yet to be discovered in the United States is on publicly owned land. There is no reason why at least part of these valuable resources should not be discovered and developed by a government corporation for use by their owners—the citizens.

Until now, the government has permitted privately owned corporations to exploit these resources by bidding for the right to go on public lands and explore for petroleum. Less than 5% of the petroleum areas on public lands has been thus leased.

Unfortunately, the administration of this program has been wretched. Leases requiring

prompt development have been so loosely enforced that in the Gulf of Mexico there are tracts for which bidders paid the government more than $750 million, but from which not a drop of fuel has been marketed even though oil and gas in commercial quantities have been found.

A Federal Oil and Gas Corp., while no panacea, would make a significant contribution to easing our basic and continuing energy problem. Nor is the idea as novel as it seems: The United States is the only major industrial nation that leaves all the handling of petroleum to privately owned corporations, whose management must be responsive to stockholder, as distinguished from national, priorities.

A Federal Oil and Gas Corp. as proposed in pending legislation, would:

—Explore for and develop petroleum resources to meet national needs, not to maximize profits.

—Develop and use the most advanced methods to minimize damage to the environment in all phases of the petroleum process.

—Provide, for the first time in our history, complete and accurate information for public and government on the costs of producing oil and gas, as well as other data on the petroleum business.

—Manage discovered reserves to reduce U.S. reliance on foreign petroleum sources.

—Sell petroleum in a way that insures that a fair share goes to independent refiners and distributors, thus promoting a truly competitive industry.

—Provide a competitive spur to the privately owned oil industry.

There was comparatively little need to consider major alternatives to our privately operated petroleum industry as long as the country's needs were being met. However, when things go wrong, as they obviously have recently, the system must be reexamined.

The advantages of government oil corporation are many. Energy shortages may exist for decades. In this situation, there should be an energy-producing organization motivated not by profits, but by national needs. There is nothing inherently wrong with the profit incentive, but where the product is as essential to national well-being and security as energy, at least part of the country's effort to provide it ought to be motivated by America's security, and the needs of the public.

Environmentally, a government corporation would help assure that trimming or delaying our goals is done in the most acceptable way. Residents along the Atlantic and Pacific coasts, where offshore drilling probably will be stepped up, should have more confidence in the operations of a public corporation required by law to use the most advanced protective techniques than in those of a profit-making company.

Protecting independents in the oil business could be insured by requiring the federal corporation to allocate a fair share of its crude oil to them. Private companies naturally find it difficult to do this themselves. As one oil executive said, "There's no place in our corporate charter, the Constitution, the law, or the Bible where it says we majors must protect and preserve our competitors." He's probably right, but Congress ought to change things so the independents can stay in business as competitors of the majors.

There undoubtedly will be opposition from the oil industry to the proposed government corporation. But the industry ought to welcome the competition and the chance to show it can do a better job than a government agency. This competitive spur to the oil industry may be the best feature of a government oil corporation.

WE CAN NO LONGER BE TOTALLY DEPENDENT ON PRIVATE INDUSTRY

Objections include the assertion that the Postal Service and Amtrak do not augur well for another big government corporation. Apart from the merits of that argument, the TVA is a closer analogy. Though still somewhat controversial, TVA has long since ended any dispute over its electric generating operations. It is among the country's leaders, and has worked harmoniously with private, municipal, and cooperatively owned utilities. The Bonneville Power Administration is another example of an efficient energy agency run by government. I am confident that a federal oil corporation could be as successful as TVA and Bonneville.

Nor would such a public corporation be the first step toward nationalizing the oil industry, any more than TVA meant the end of the private electric utility industry as predicted by some in the 1930s.

No one can claim that creation of a Federal Oil and Gas Corp. is the single, dramatic solution to this country's energy needs for the next 20 years. But I think it is a minimal step that should be taken without delay.

We can no longer permit ourselves to be totally dependent for basic energy supplies on private industry that has failed to develop our resources in a way that meets national needs and protects consumers.

THE ETHICS MOVEMENT

Mr. BROCK. Mr. President, the concept of businesses and professions adopting ethical conduct codes to improve their image is gaining backers, and prominent ones at that. Allan Otten, writing in the February 14 Wall Street Journal, notes that Nobel Prize winning economist Kenneth J. Arrow has embraced the concept publicly several times.

Mr. Arrow's proposition is similar to one advanced by Ivan Hill and the nonprofit American Viewpoint, Inc. in a full-page advertisement last December. Government regulations cannot deal with the whole range of possible harms or social costs that a business might impose on an unsuspecting public. Nor can Government do anything to improve the generally negative image that the sleezy ethics of a few has brought on the business and professional community. So why not ethical codes—"Some generally understood definition of appropriate behavior?" asks Mr. Arrow.

Why not indeed. The Congress is wrestling with reforms to its modes of conduct, including election procedures. But the Congress is not the only institution which has slipped in the eyes of the public over the past several years. It seems to me that the only way for these institutions to regain their lost respect is to earn it. I can think of no better way than for each profession to define ethical conduct as it effects its members, thereby bringing social pressure on their less scrupulous rivals. I ask unanimous consent that Mr. Otten's fine article be printed in the RECORD.

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

POLITICS AND PEOPLE

(By Alan L. Otten)

GOLDEN RULES

Late last year, a full-page ad in this newspaper proclaimed the need to "start working for better ethics in America."

The advertiser, a Carolina-based, nonprofit group called American Viewpoint Inc., deplored the way dishonesty and "sleezy ethics" had permeated business and government. To reverse this situation, it proposed a mass media campaign spotlighting dishonest firms and individuals, new high school and college courses in ethical principles, and that corporations and labor unions develop and enforce codes of ethics.

The ad brought to mind a proposition advanced somewhat earlier by Harvard economist Kenneth J. Arrow. Mr. Arrow is one of four Americans to have won the Nobel Prize for Economics, and therefore even his casual speculations might merit some attention. Yet his suggestion that businesses and professions consider adopting well-defined codes of ethical behavior—an idea broached in a university speech and then developed in an article in a learned journal—was completely ignored.

"I didn't expect an instant national debate," he says, "but I did think I might get a letter or two."

The idea isn't all that revolutionary, either. Doctors and lawyers have long had ethical codes of sorts. Drug firms have set forth proper advertising rules. Some industries have specified minimum quality standards. But many of these codes are generally disregarded and most industries have none at all.

Mr. Arrow rejects the Milton Friedman argument that businesses have no social obligations—that each firm should aim only to maximize its profits. This notion makes good economic sense in many instances, he agrees, but in many other situations "profit maximization is not socially desirable."

A business may harm or impose special costs on the public; it pollutes the local air or water, or increases congestion in one part of town. The seller of a product may know far more about its quality or safety than the buyer does, and so the buyer may need special protection. The average person buying a car or hiring a lawyer or architect is far less able to judge the true value of what he is getting than is the large auto manufacturer buying steel or building a new plant.

Government control is one way to create or enforce social responsibility on business, but Mr. Arrow finds this a slow and inflexible solution. Tax policy can deal with some problems—extra taxes on polluting firms, for example—but Mr. Arrow can't see its application to product safety or product quality. Damage suits and other legal actions tend to be costly control devices, often with all-or-nothing outcomes.

So why not ethical codes—"some generally-understood definition of appropriate behavior"? Writing in Public Policy, Mr. Arrow admits "this may seem to be a strange possibility for an economist to raise," but argues that "when there is a wide difference in knowledge between the two sides of the market, recognized ethical codes can be . . . a great contribution to economic efficiency."

For example, the medical profession's code of ethics may not be universally followed, but it is practiced widely enough to create a popular presumption that each doctor acts with the patient's welfare in mind—that he will not, say, order unnecessary tests or operations. The code protects patients, to be sure, but it also benefits doctors by maintaining the public's trust in the entire profession.

An ordinary car buyer, unable to distinguish between two used cars of substantially different quality, might be willing to pay the same for each. But if the quality differences were made clear, one buyer might prefer a cheaper car with defects—he might be planning to drive it only a short while—while another buyer, planning longer use, might prefer to spend more for a car with fewer defects. From an overall economic point of view, Mr. Arrow contends, this situation is far more intelligent.

So he would have industry explore codes that require certain information to be provided on product safety, or even set mini-

mum safety standards. On product quality, he'd stick with full disclosure, rather than minimum standards; "there's plenty of room in our economy for inferior merchandise at low prices," he states, "so long as people know what they're getting for their money." Codes for professionals might set out liability for faulty performance, or require advance notice to the client of likely costs.

Mr. Arrow isn't so ivory-towered that he doesn't see all the hurdles—the public skepticism, the industry resistance, the unethical firm that doesn't abide by the code. But he doesn't think the scheme is so wildly impractical, either.

"A close look reveals that a great deal of economic life depends for its viability on a certain limited degree of ethical commitment," he writes. "There is almost invariably some element of trust and confidence." Much business is still done verbally, without written contracts; deliveries are made presently, with payment later.

The fact that so many industries now consist mainly of a few large firms makes ethical codes more feasible, he says. Most of these firms are honorable and well-intentioned, and so should see real benefit in such codes; protection against less-ethical competitors, and a means to build public confidence in the industry in general.

Moreover, he points out, it would then be "clearly in the interest of those who are obeying the codes to enforce them, to call attention to violations, to use the ethical and social pressures of the society at large against their less scrupulous rivals."

Some industries might see another benefit from workable, widely-accepted codes. Though Mr. Arrow insists the codes wouldn't rule out occasional resort to government regulation, penalty taxes, or private legal action, the codes might actually work out that way much of the time, helping businesses to stave off tough government control or damage suits.

"One must not expect miraculous transformations in human behavior," economist Arrow concedes. But he obviously believes that ethical codes for business require no great miracle, but only some thoughtful, unemotional consideration.

THE ADMINISTRATION JOINS IN THE DEBATE OVER NATIONAL HEALTH INSURANCE

Mr. CRANSTON. Mr. President, the Federal Government will someday soon—I am convinced—guarantee decent health care to all its citizens as a matter of right.

The public, fed up with the high costs and poor availability of health care in this country, wants and needs a workable, comprehensive national health insurance plan.

In response, President Nixon, in his state of the Union address, refurbished his administration's national health insurance proposal and is working hard to sell it to the people. And Congress has before it a half-dozen different health insurance bills.

The question is: what kind of national health insurance program will come closest to providing decent health care at a reasonable cost to all Americans?

President Nixon's newest health insurance proposal is a significant advance over his first proposal 2 years ago.

The basic benefits are decidedly improved over those he first proposed, and his new plan would extend coverage to many segments of the population excluded under his previous proposal.

However, the administration's proposal would require middle and marginal low-income families to make excessive payments which would deter their receiving comprehensive and preventative health care. I am also most concerned that the average illness would then turn out to cost more out-of-pocket to the medicare beneficiary than at present under medicare. In its analysis of the Nixon proposal, the National Council of Senior Citizens has estimated that the out-of-pocket cost under the plan of the average 12-day hospital stay for medicare beneficiaries would be quadrupled—rising from the present $84 to $342.

In addition, some services now provided under medicaid for indigent persons would be acquired to pay for a portion of basic services now provided to them at no cost. The preventive health care benefits presently available to medicaid beneficiaries up to the age of 18 would be limited and would apply only to individuals up to the age of 13.

Another sleeper in the Nixon plan would deny the right to medical care at Federal expense—historically mandated for American merchant seamen since the first days of the Republic—by authorizing the Secretary of HEW for the first time, to charge for such services.

I do not think we should give the health insurance industry a major responsibility in administering reimbursement with almost no Federal regulatory standards or procedures.

I also do not think Mr. Nixon—or whoever put together his proposal—gave enough consideration to the errors of the original medicare program, where there were insufficient procedures to control overall health care costs—especially during hospitalization—or to provide incentives for the more efficient and effective use of expensive medical resources.

Senator KENNEDY'S Health Security Act, S. 3, of which I am an original cosponsor, offers by far the most comprehensive benefits and farsighted plan to deal with the health crisis in our country.

A national health system under our proposal, S. 3, would address these concerns through a more equitable payment system, through a comprehensive benefit package stressing preventive care, with no copayments or deductibles; through advance reimbursement of health providers as an incentive to provide care in the most economic manner; and through the establishment of a resource development fund to support innovative health systems, train needed health personnel, and substantially expand the availability of services in local communities.

I will be actively participating in the deliberations on all the pending national health insurance legislation, and will try hard to see to it that a proposal is enacted which will give all necessary protection to the right of every individual to receive full health care, and will improve the accessibility, availability, and acceptability of comprehensive preventive health care without skyrocketing costs, and with a full range of choice for the patient.

THE ENERGY CRISIS AND THE TRANSPORTATION PROBLEM

Mr. COTTON. Mr. President, the Honorable Meldrim Thomson, Jr., Governor of New Hampshire, is not only a man of strong convictions but is extremely articulate in presenting them. I recently received a copy of a telegram he sent to President Nixon concerning the present energy crisis with particular reference to the transportation problem.

The telegram is not unfriendly to the President; indeed, Governor Thomson is one of the President's strongest supporters. Nevertheless he is not one to mince words and I believe that his forthright approach to the present domestic situation merits the attention of the Congress.

Therefore, 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 sent to President Nixon, February 6, 1974]

FEBRUARY 6, 1974.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As a strong supporter of you and your administration, I would respectfully urge your firm and constructive leadership in the domestic problems of the nation, and especially the current independent truckers' strike.

Freezing fuel prices at the nozzel for the rest of the month is no more the answer to the truckers' problems than a pail of water would be for a raging fire.

Silly talk from your new Attorney General implying that governors lack guts in handling violence only adds gas to the flames. I believe that most governors will stand on their constitutional oaths to enforce their laws fairly and firmly, as I did last Monday when truckers surrounded our State House with their rigs.

The real problem is that we have allowed our rail system to deteriorate to the point of vanishing usefulness.

Trucks on highways, especially using the excellent network of Interstate Highways begun by Republican President Eisenhower, constitute the only economical, speedy and practical way to move goods for America from source to consumer.

Trucks are the nations' bloodstream running through the arteries of commerce.

Without the smooth pulse beat of loaded trucks humming over our highways day and night we would quickly become a sick and even dying nation.

I have talked with representatives of our New Hampshire independent truckers and also members of the steering committee of independent truckers who met over the weekend in Washington. I believe that these truckers have serious and legitimate gripes. The most important of these include—

a. Uncertainty of fuel supplies when moving across the nation.

b. Spiraling costs of fuel, tires, and parts which have neither been checked nor allowed to be passed on to the consumer.

c. Archaic I.C.C. and other federal regulations drawn in bygone years when railroads dominated commerce, which complicate and make inefficient the free flow of goods by trucks.

d. Failure to compensate for the slower highway speeds by allowing heavier and longer load limits.

While these problems have not all grown out of energy crisis, they have certainly been spotlighted by it.

As you know, the great majority of truckers are responsible, patriotic Americans. They need help to help America.

An immediate response to these critical problems, both short term and long term, is essential.

I would rspectfully urge for your careful consideration the following action.

1. The immediate appointment of a director of truck transportation in the Federal Energy Office, subordinate to Mr. Simon, but with full power to get truck traffic flowing at once. This will require iron-clad assurances to the truckers that fuel will be available, increased costs will not rest on the truckers thus forcing them into bankruptcy, ancient unworkable regulations will be revised, and uniform national load and dimension limitations will be improved.

2. The appointment at once of a director of energy production, under Mr. Simon, who will have full power to encourage and direct the rapid development of all forms of energy.

We in New Hampshire are trying to build a refinery and a nuclear plant and are having even at this late hour as much trouble with the mass of environmental red tape as the nation had with the Alaska pipe line.

3. A strong appeal by you to the nation to respond to constructive presidential leadership. This appeal must be made over and over again to the people. They must know what you are doing and what you want them to do about an energy crisis which could become a national calamity unless we act more imaginatively and aggressively than we have thus far.

We must lay aside old ways and old habits or we shall quickly become an old, tired and declining nation like Britain.

Rationing, striking and price controls must never be America's mate answer to economic woes.

America's material greatness sprang from a free enterprise system that challenged every man to do his best for the highest possible reward.

We need your positive leadership to see that that great system is promptly relieved of the stiffling web of bureaucratic restrictions.

Your prompt and constructive action in solving these domestic problems will bury the tribulations of Watergate in the strong tide of a leadership to which all America can and will respond.

Respectfully,

MELDRIM THOMSON, Jr.

ANNALS OF INDUSTRY—CASUALTIES OF THE WORKPLACE

Mr. MONDALE. Mr. President, the October 29, 1973 issue of New Yorker magazine contains an article by Paul Brodeur entitled "Annals of Industry: Casualties of the Workplace." The article is the first of a five part series dealing with the hazards of asbestos manufacture. I feel that the article is noteworthy and deserves the attention of my colleagues for it is a most appalling expose of the lax enforcement of, and industrial disrespect for, governmental health and safety regulations.

Mr. Brodeur reviews the history of asbestos manufacture and medical research related to asbestos. He states that, of all the industrial hazards, none is considered more serious than occupational exposure to asbestos. Indeed, 1 out of every 5 deaths among asbestos insulation workers in the United States is due to lung cancer; almost 1 out of every 10 deaths among these workers is due to mesothelioma, an invariably fatal tumor of the linings of the chest or abdomen which rarely occurs without some exposure to asbestos; another 1 out of every 10 deaths among these workers is due to asbestosis, scarring of the lungs resulting from inhalation of asbestos fibers; and almost half of the asbestos workers are dying of some form of asbestos disease.

These frightening statistics were uncovered through the tireless research of Dr. Irving J. Selikoff, the director of Mount Sinai School of Medicine's Environmental Sciences Laboratory, and Dr. E. Cuyler Hammond, vice president for Epidemiology and statistics of the American Cancer Society. Both men have been active in asbestos research for many years and have advised numerous commissions designed to investigate the health hazards of the asbestos industry.

The author observes that, despite these tragic findings, there has been a sorry lack of Government concern for occupational exposure to asbestos. The article furnishes an alarming picture of the medical-industrial disregard for the health of the asbestos worker and of the gross inadequacies of the Government's enforcement of health safety regulations in the asbestos industry.

Mr. President, I ask unamious consent that the article entitled "Annals of Industry: Casualties of the Workplace," by Mr. Paul Brodeur from the October 29, 1973 issue of New Yorker be printed in the RECORD.

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

ANNALS OF INDUSTRY: CASUALTIES OF THE WORKPLACE

I—SOME NONSERIOUS VIOLATIONS

A year ago last winter, a flurry of unusual activity accompanied the closing of a factory owned by the Pittsburgh Corning Corporation in Tyler, Texas, a city of sixty thousand about a hundred miles east of Dallas. Production stopped on February 3, 1972, and then the factory, which for more than seventeen years had been manufacturing asbestos insulation, was subjected to a cleanup of prodigious scope and intensity. Under the scrutiny of armed Pinkerton guards, who had been hired by the company to keep unauthorized persons away from the plant and its nearby dumps, sixty-two employees spent a week scraping asbestos waste from machinery and other equipment, and removing and burying truckload after truckload of asbestos scrap that had accumulated in the plant.

This work force was laid off permanently on February 11th, and a crew of four maintenance men spent the next two weeks washing down ceilings and walls and steam-cleaning every piece of machinery in sight. Meanwhile, thirty-five thousand burlap sacks, in which amosite asbestos had been shipped to the factory from mines in South Africa, and which, once emptied, had been sold for a nickel apiece to some of the rose nurseries for which the Dallas-Tyler area is famous, were repurchased by Pittsburgh Corning at double the price, brought back to the plant in trucks, and buried at one of the factory's dumps.

Toward the end of February, the skeleton crew, using acetylene torches, cut up three one-hundred-and-fifty-foot-long chain conveyor belts, three five-hundred-pound cyclone machines, and hundreds of feet of ventilation pipe, all of which were then taken outside and buried in a dump. Other pieces of heavy equipment, including eight twelve-foot-high feeding machines, three one-hundred-foot-long drying ovens, and a dozen dust collectors, were cut up and sold for junk, and still other items, such as saws, an asbestos-scrap grinder, and the draw works and gears for the ovens, were shipped by rail to Pittsburgh Corning's home office, in Pittsburgh. By the end of March, the Pinkertons were no longer needed—there being very little left on the Tyler plant for any trespasser to see—and by the end of April practically nothing remained of the factory except two dilapidated wooden buildings, which had once been warehouses at Camp Fannin, a Second World War training center and P.O.W. camp. One of them—the production building—was virtually empty; the other, the factory's storage area, was half filled with sacks of amosite-asbestos fibre, which the company had not used before shutting the plant.

Although Pittsburgh Corning never gave any official reason for the drastic tidying up that accompanied the closing of its Tyler plant, an explanation of the shutdown itself was made two weeks before by E. W. Holman, the corporations vice-president in charge of manufacturing and technology. In an interview published in the Tyler Courier-Times on January 19th, Holman said that increased costs of buying amosite-asbestos fibre and transporting it from South Africa, plus the fact that his company was finding it more and more difficult to market its finished product because of competition, had brought about a decision to cease operations at the Tyler plant and at a Pittsburgh Corning plant in Port Allegany, Pennsylvania. He remarked that "new clean-air restrictions" had also played a role in "speeding up" the closing of the two factories, since the restrictions would have forced his company to install costly filtering equipment in order to bring the level of asbestos dust in the factories down to lawful limits. According to the Courier-Times, Holman acknowledged that asbestos fibres posed a health hazard, but added that he knew of no specific Pittsburgh Corning employee who was suffering from significant illness as a result of working with the product.

Three weeks after Holman's remarks were published a somewhat different version of the situation at the Tyler plant was given by Anthony Mazzocchi, the director of the Legislative Department of the Oil, Chemical, and Atomic Workers International Union, which had represented employees at the factory since 1962. Speaking at a press conference in Washington, D.C., on February 10th, Mazzocchi disclosed that a government survey had shown major industrial-hygiene deficiencies in the operation of the plant, including a grossly inadequate ventilation system, which had resulted in airborne-asbestos levels constituting a critical occupational health hazard. According to Mazzocchi, the survey had determined that seven of the eighteen workers who had been employed at the factory for ten years or more showed symptoms of asbestosis—scarring of the lungs caused by inhalation of asbestos fibres—which is a significant illness by almost any standard, in that it is irreversible, untreatable, often disabling, and frequently fatal.

Pointing out that asbestos has also been proved to be a potent carcinogen, Mazzocchi voiced the fear that many of the men who had worked in the factory would one day be afflicted with lung cancer or other malignant tumors. Moreover, he indicated that a health hazard might extend far beyond the plant, because the company had sold tens of thousands of burlap sacks contaminated with asbestos dust to nurserymen, who used them to wrap evergreens and other stock for shipment to retailers and gardeners throughout the nation.

For its part, Pittsburgh Corning made a public response only to the last of Mazzocchi's disclosures. On February 16th, a spokesman for the company admitted to a

reporter for the Tyler Morning Telegraph that thirty-five thousand burlap bags had been recalled from the Dallas-Tyler area, but he denied that there was any reason to consider them a health hazard. The apparent contradiction in this statement was not resolved by the manager of the Tyler plant, who was quoted at the same time as defying anyone to find any of the bags in question. "We've hired bulldozers to put all those bags underground," he said, making an assertion that would soon apply to much of the factory equipment as well. By then, however, word had got out that considerably more of the Tyler plant was buried than burlap bags and cut-up machinery.

In a sense, the story of the Tyler plant begins with the founding of the Union Asbestos & Rubber Company, in Chicago, in 1918. According to the United States Bureau of Labor Statistics, American and Canadian insurance companies were even then generally declining to insure asbestos workers because of the assumed hazardous conditions of the asbestos industry. Union Asbestos started out as a jobber of railway supplies and an assembler of finished asbestos and rubber products. Business expanded rapidly, thanks to the development of a flexible asbestos tape, which achieved wide use for insulating pipes in steam locomotives, and in 1926 Union Asbestos built a factory in Cicero, Illinois, to manufacture asbestos textiles, insulation materials, packings, brake linings, and gaskets, and a variety of rubber products. Another leap forward took place in the mid-thirties, when the company developed an amosite-asbestos pipe insulation for the Navy. Amosite is a variety of asbestos found in large deposits in the Transvaal region of South Africa, and it had never been used before in the United States, where most asbestos products had been (and continue to be) made of chrysotile, a variety of the mineral that exists in vast deposits in Canada and the Soviet Union, and accounts for ninety-five per cent of the world's production. Because it is as heat-resistant as chrysotile, and can be purchased more cheaply, amosite was chosen for insulating the pipes, turbines, and boilers of modern warships, and by 1940 the Navy's demands for amosite pipe insulation were such that Union Asbestos—or UNARCO, as it had come to be known—started a plant in Paterson, New Jersey. During the war years, the UNARCO plants in Cicero and Paterson churned out amosite pipe covering for the Navy around the clock, winning numerous Army-Navy "E" awards. Such insulation continued to be much in demand in the postwar period, and in 1949 the company set up a third plant to manufacture it, in McGregor, Texas. Then, in November of 1954, as part of a consolidation program, the company shut the McGregor and Paterson factories, and opened the factory at Tyler, Texas.

Little was known about the Tyler plant except that it was set up to operate generally like the factory in Patterson. However, some information that would one day impart tremendous medical significance to this similarity was just then beginning to be developed by Dr. Irving J. Selikoff, a chest physician, who is head of the Division of Environmental Medicine at the Mount Sinai School of Medicine of the City University of New York, director of its Environmental Sciences Laboratory, and a pioneer in the field of asbestos epidemiology. A native of New York City, Dr. Selikoff interned at the Beth Israel Hospital in Newark; did his pathology work at Mount Sinai, where he has been a member of the staff since 1947; and became a chest physician at the Sea View Hospital, on Staten Island, specializing in tuberculosis. In 1951, he participated in the basic research on isoniazid—the antibiotic drug that, by effectively killing tubercle bacilli, has provided a cure for tuberculosis—and in 1953 he founded a medical clinic in Paterson, where, by chance, seventeen of his early patients were men who worked in the nearby UNARCO plant.

At the time, fifteen of the men showed some evidence of pulmonary defects resulting from the inhalation of asbestos. When the Paterson factory closed, they went into other work, and at that point Dr. Selikoff decided to continue his observation of them with X-ray examinations and lung-function tests to determine the history and the natural course of asbestos in men who would not be further exposed, but in whose tissues the previously inhaled fibres would remain. This was the start of a long journey of discovery for Dr. Selikoff, who would eventually help to demonstrate that asbestos is one of the major industrial causes of cancer. At the time, he was interested chiefly in asbestos, because he was not convinced that the relationship between asbestos and cancer, which had previously been suggested by a number of medical authorities, would prove to be a serious problem. As things turned out, he changed his mind. In 1954, all seventeen men from the Paterson factory were working and apparently able-bodied.

Today, only two of them are alive. Of the fifteen who died, seven were victims of lung cancer, two of cancer of the stomach, four of asbestos, and one of malignant mesothelioma—an invariably fatal tumor of the pleura, the membrane that encases the lung, or of the peritoneum, a similar membrane that lines the abdominal cavity—which rarely occurs without some exposure to asbestos. (One of the fifteen deaths was of heart disease.) As early as 1961, by which time six of the seventeen had died, Dr. Selikoff began to suspect the worst for men who were occupationally exposed to the mineral. At that time, he wrote to Edwin E. Hokin, the president of UNARCO, asking him to make employment records available, so that he could undertake a survey of all the men who had worked in the Paterson factory. Hokin turned the request down, saying the records were not available, but he was surely aware that men who had worked in the Paterson factory might be having medical problems, for during the nineteen-fifties the company had paid out substantial amounts of money to employees of the plant who had become disabled with asbestos.

Dr. Selikoff then wrote to several other large asbestos manufacturers in the United States to ask about the health experience in their plants, and was unable to obtain information from any of them. Meanwhile, he and Dr. Jacob Churg, the chief pathologist at Barnett Memorial Hospital, in Paterson, who had himself been finding asbestosis and lung cancer in a large number of workers from the Paterson factory, took their data to Dr. Roscoe P. Kandle, the Commissioner of the New Jersey State Department of Health. Concerned about the situation, Dr. Kandle applied to the United States Public Health Service for funds to undertake a study of the Paterson plant and to make a statewide survey to determine how many people were being occupationally exposed to asbestos. However, the request was denied, lack of resources being given as the reason.

Since Dr. Selikoff already knew that men who had worked in a insulation factory were dying of asbestosis or cancer at an alarming rate, he felt that men who were installing such materials might also risk disease, and early in 1962 he made contact with officials of New York Local 12 and Newark Local 32 of the International Association of Heat and Frost Insulators and Asbestos Workers. The asbestos insulators had been trying for years without success to interest doctors and various government agencies in their medical problems, so they were only too glad to cooperate, and they urged Dr. Selikoff to study the effects of asbestos exposure among their members. He accepted the responsibility, and, though continuing to monitor those of his original seventeen patients who had survived, temporarily abandoned his project to study the other men who had worked in the Paterson factory. At the time, he did not know of the existence of the UNARCO plant in Tyler, Texas.

The Tyler plant was then thriving but was about to change hands. UNARCO held a large contract with the Navy to provide pipe covering for atomic submarines, and the factory was also producing insulation for the chemical-processing industry on the nearby Gulf Coast, which was growing rapidly. Over the years, however, the company had acquired half a dozen plants for the manufacture of various products unrelated to asbestos, and this diversification had altered the objectives of its managers, who decided to quit the asbestos business altogether. As a result, the company sold the Tyler plant in 1962 to the Pittsburgh Corning Corporation—a joint venture of the Pittsburgh Plate Glass Company (now call PPG Industries) and the Corning Glass Works—and the production of amosite-asbestos pipe covering continued as before. By the summer of 1963, however, the new owners were apparently entertaining some misgivings about working conditions in the factory, for at that time they asked the Industrial Hygiene Foundation of America to evaluate the asbestos-dust hazard there. The foundation, which is in Pittsburgh, describes itself as "an association of industries for the advancement of healthful working conditions," and it is financed entirely by industry. It sent industrial-hygiene engineers to the Tyler plant in July and August to review the potential health hazards of handling asbestos and to take samples of airborne asbestos-dust concentrations.

In its report to Pittsburgh Corning, the foundation made no mention of any health hazard, and assured the company that, except in a few areas, the number of asbestos fibres found in the air of the Tyler plant was well below the threshold limit value of five million particles per cubic foot of air—a safety standard for dust in asbestos factories that had been adopted in 1946 by the American Conference of Governmental Industrial Hygienists, which, despite its imposing title, is not a government agency but a voluntary organization with members from various groups, including industry, and with the self-imposed task of recommending safety standards for hazardous substances in industry. Incredibly, the authors of the foundation's report appear to have based their judgment on the assumption that the threshold limit value of five million particles per cubic foot meant five million asbestos fibres, whereas the proponents of the threshold limit value had intended it to apply to *all* the particular matter—fibrous and nonfibrous—in a given cubic foot of air. To understand the magnitude of this error, it should be noted that the study upon which the standard was based had been made in the winter of 1935–36 in four asbestos-textile plants where asbestos fibres were found to constitute about ten per cent of the total amount of airborne dust. The asbestos fibres in the airborne dust measured in the Tyler plant by engineers of the Industrial Hygiene Foundation ranged from a low of twenty-nine per cent to a high of fifty-six per cent. The foundation, however, reported the percentages as if they were of little or no consequence, and contended itself with making recommendations for better housekeeping, better ventilation equipment, and improved maintenance of the ventilation system.

These measures were desperately needed, but there is little evidence to suggest that Pittsburgh Corning felt compelled to initiate them, for when the next survey of the plant was made, more than three years later, conditions were even worse. By that time, the company had acquired a new medical consultant- Dr. Lee B. Grant, a retired colonel,

who had been Chief of Aerospace Medicine for the United States Air Force Logistics Command, and who had become medical director of one of Pittsburgh Corning's parent corporations, the Pittsburgh Plate Glass Company, in 1965. At Dr. Grant's request, a survey of the Tyler plant was conducted in November of 1966 by J. T. Destefano, safety and industrial-hygiene engineer for the glass division of Pittsburgh Plate Glass, to see if there had been any significant change in the levels of airborne-asbestos dust since the 1963 survey. After analyzing samples of air from sixteen different areas of the plant, Destefano subsequently reported that asbestos-fibre counts exceeded the threshold limit value in seven instances and that in three of the samples the count was twenty million or more fibres per cubic foot of air. Destefano was, apparently, making the same erroneous assumption about the meaning of the threshold limit value which had been made three years before by engineers of the Industrial Hygiene Foundation. As a result, though he also suggested better ventilation equipment and improved maintenance of the ventilation system, his report did not mention that workers at the Tyler plant were breathing concentrations of asbestos fibres ten times greater than those of the recommended safety standard that was supposed to protect them from disease.

During the span from 1963 to 1966, a tremendous amount of new information concerning the biological effects of asbestos had been developed and was being circulated through the medical and industrial communities. Perhaps the most important study of the period was the one that Dr. Selikoff conducted of the asbestos insulators. As asbestos workers go, these men had comparatively light and intermittent exposure: they often worked out-of-doors on construction projects; they spent half their time working with materials other than asbestos; and most of the asbestos materials they used had an asbestos content of less than fifteen per cent. (The men at the Tyler plant worked in a confined, far dustier atmosphere, and manufactured a product that had an asbestos content of almost ninety per cent.) In spite of this relatively light exposure, however, Dr. Selikoff found radiological evidence of fibrosis of the lungs—that is, scarring of the lungs—in fully half of eleven hundred and seventeen members of the two locals of the Heat and Frost Insulators and Asbestos Workers. Moreover, among three hundred and ninety-two men with more than twenty years of experience in the trade, he found that three hundred and thirty-nine had deveolped asbestosis, and that the disease had by then become moderate or extensive in more than fifty per cent of the cases.

Even more alarming were the results of a mortality study of workers in the two locals. During the early part of 1962, Dr. Selikoff and his administrative assistant, Mrs. Janet S. Kaffenburgh, pored over the union records and compiled a list of the names and addresses of all the six hundred and thirty-two men who had been members of the locals on December 31, 1942, and of the eight hundred and ninety men who had joined between then and December 31, 1962. From the union employment records, they obtained detailed work histories of the total membership of fifteen hundred and twenty-two men, including data on the men's leaving work for other employment, war service, illness, or retirement. This enabled them to calculate the onset and duration of exposure to asbestos for each worker. Records of the union health-and-welfare funds provided them with the dates and places of death of two hundred and sixty-two workers who had died between 1942 and 1963, and copies of the death certificates of all but one of them were obtained. In addition, autopsy protocols, histological specimens, and hospital records were reviewed by Dr. Selikoff and Dr. Churg, the Paterson pathologist, in those deaths (approximately half the total) which occurred in hospitals.

In the next phase of the study, Dr. Selikoff and Dr. Churg were joined by Dr. E. Cuyler Hammond, vice-president of epidemiology and statistics of the American Cancer Society, who had participated in an analysis of the medical effects of the atomic explosions that devastated Hiroshima and Nagasaki in 1945, and whose large-scale epidemiological studies of more than a million men and women provided a major basis for the conclusions drawn in the 1964 Surgeon General's report on the effects of cigarette smoking. Since previous studies had suggested that lung cancer associated with asbestosis seldom develops until twenty years after initial exposure to asbestos dust, Dr. Selikoff and Dr. Hammond decided to limit their first analysis to the six hundred and thirty-two men who were on the union rolls as of December 31, 1942. Taking the men's ages into consideration, Dr. Selikoff and Dr. Hammond then set about comparing the number and causes of death among them with those of the general male population in the United States. The results were depressing. According to the standard mortality tables, two hundred and three deaths could have been expected among the six hundred and thirty-two workers. Instead, there were two hundred and fifty-five, not counting seven men who had died before incurring twenty years of exposure—an excess of twenty-five per cent.

The reason for the excess was not hard to find. The fact that twelve of the deaths were attributed to asbestosis was not particularly surprising, but where six or seven deaths from cancer of the lung, pleura, or trachea were to be expected, there were actually forty-five. And where nine or ten gastrointestinal cancers were to be expected, there were twenty-nine. Since the death rate from lung cancer was known to be more than ten times as high among cigarette smokers as among nonsmokers, Dr. Selikoff and Dr. Hammond realized that they would have to take the smoking habits of the asbestos-insulation workers into account if their findings were to have solid validity. It was, of course, impossible for them to ascertain this information with accuracy in the cases of the two hundred and fifty-five men who had died, so, for purposes of calculation, they assumed that all six hundred and thirty-two men had smoked a pack or more of cigarettes each day, and they demonstrated that even if this had been the case it would have produced a lung-cancer death rate only three and a half times that of the general male population. Cigarette smoking, therefore, could not explain the fact that in this group of asbestos-insulation workers the rate of death from lung cancer was seven times the expected rate.

Because of this study's objectivity, its scope, and its thoroughness, it had a great impact on the medical community. The findings were reported to the annual convention of the American Medical Association in June of 1963—a month before the Industrial Hygiene Foundation began its survey of the Tyler plant—and they were published in the spring of 1964 in the *Journal of the American Medical Association*. It was the first study ever made that had taken a large enough group of asbestos workers from a point far enough back in time and followed them long enough to determine unequivocally what their health experience had been. Unlike almost all the previous investigations, which indicated simply that there was a connection between asbestos and various kinds of cancer, it was based upon the incidence of disease within a defined population, and thus answered a fundamental epidemiological question of how many cancers had developed among how many persons exposed. In doing so, it furnished the first incontrovertible evidence that industrial exposure to asbestos was hazardous; it established sound methodology for future studies; and it marked a turning point in the views held by doctors and health officials around the world.

In October of 1964, in order to review the data that had already been collected and to discuss the problems awaiting solution, the New York Academy of Sciences sponsored an international Conference on the Biological Effects of Asbestos, which was held at the Waldorf-Astoria and was attended by more than four hundred scientists. In addition to the statistics provided by Dr. Selikoff and Dr. Hammond on the incidence of asbestosis and cancer in the insulation workers, there were dozens of reports on the occurrence of disease in people exposed to asbestos. Some of the most alarming information was provided by Dr. J. G. Thomson, of South Africa, who reported finding what appeared to be asbestos bodies—inhaled fibres that have been altered by the reaction of lung tissue, and coated with a colloidal substance rich in iron—in the lungs of one in four people coming to autopsy at random in Capetown. Although asbestos bodies are regularly seen in the lungs of asbestos workers, this discovery indicated that asbestos was becoming a common contaminant in the community at large. There was also a report that mesothelioma was afflicting people who had had only minor exposure to asbestos. This tumor, which takes from twenty to forty years to develop, was previously so rare that it was known to occur in only about one in ten thousand deaths in the general population.

By the time of the international conference, however, it was being found increasingly—not only in people who were exposed to asbestos in their work but also in people who lived in the vicinity of asbestos mines and dumps, or factories where asbestos products were manufactured, or who simply lived in the same house with workers who came home with asbestos dust on their clothes. Perhaps the most striking confirmation of this came from London, where Dr. Muriel L. Newhouse, of the Department of Occupational Health at the London School of Hygiene and Tropical Medicine, investigated seventy-six cases of mesothelioma that had been ascertained by autopsy or biopsy in the London Hospital. To no one's surprise, thirty-one of the seventy-six patients had worked with asbestos, but, in addition, eleven of the forty-five who had not worked with asbestos had simply lived within half a mile of an asbestos factory, and nine others—seven women and two men—were relatives of asbestos workers.

Most of these women had washed their husbands' work clothes regularly. Both of the men in this group, when they were boys of eight or nine, had had sisters who worked in asbestos-textile factories. One of the sisters had been employed as a spinner from 1925 to 1936, and had died of asbestosis in 1947, at which time it was determined at an inquest that "she used to return from work with dust on her clothes." Her brother, who had apparently had no other sustained exposure to asbestos in his lifetime, died in 1956 of a pleural mesothelioma.

Subsequently, in the United States, there were similar findings in a number of places. For example, the proprietor of a junk yard next to the UNARCO factory in Paterson died of mesothelioma, and so did the engineer who first developed the amosite pipe covering manufactured by the company for the Navy, as did his daughter, whose only known exposure to the mineral was that she sometimes played with samples of asbestos products her father brought home for his family to examine. As a result of such incidents, scientists were forced to revise their idea that asbestos was only an industrial hazard, and to give serious consideration to Dr. Thomson's pre-

diction of danger to untold numbers of people in the general community.

Such consideration proved to be well founded, for since then the presence of asbestos bodies in the lungs of ordinary urban dwellers has been confirmed by studies made in Miami, London, Belfast, Pittsburgh, and New York City, where, in a recent investigation conducted by Dr. Arthur M. Langer, the chief mineralogist at the Mount Sinai Environmental Sciences Laboratory, electron-microscope examination of representative samples of tissue showed chrysotile asbestos to be present in the lungs of a hundred and four out of a hundred and twenty-eight people coming to autopsy at random in three city hospitals.

The attitude of the asbestos industry at this time can perhaps be best illustrated by a cautionary letter that was sent to Mrs. Eunice Thomas Miner, the executive director of the New York Academy of Sciences, on October 26, 1964, just after the Conference on the Biological Effects of Asbestos ended, by lawyers representing the Asbestos Textile Institute—an association of asbestos manufacturers that includes the Johns-Manville Corporation, Raybestos-Manhattan, Inc., and Uniroyal, Inc. The letter began by stating that all member companies of the institute shared a grave concern over recent articles carried in local and national newspapers concerning mesothelioma. It went on to say that "innocent but unwise treatment of research data in public discussions, or leaving it to laymen to appreciate the carefully phrased limitations and qualifications, can cause reactions that are not justified by the state of scientific knowledge," and it urged caution in the discussion of medical research into asbestos disease, "to avoid providing the basis for possibly damaging and misleading news stories." It concluded by warning the New York Academy of Sciences that although the right to discuss these subjects was clear, "the gravity of the subject matter and the consequences implicitly involved impose upon any who exercise those rights a very high degree of responsibility for their actions."

During 1966, the Academy sent out thousands of copies of its report of the conference to doctors, officials of state and federal health agencies, and custodians of medical libraries all over the country, and from 1965 on there were many articles in leading medical journals and dozens of newspaper stories concerning new and alarming data that had been developed about the perils of inhaling asbestos. As a result, it seems highly probable that by late 1967 the industrial-health officer of any responsible company engaged in the manufacture of asbestos products would have been given pause by the kind of report that Dr. Grant received from Destefano in September of that year concerning the levels of asbestos dust in the Tyler factory. In fact, considering Dr. Grant's credentials, any other response would have been astonishing, for in addition to being medical director of the Pittsburgh Plate Glass Company and medical consultant to Pittsburgh Corning, he was a member of the American Medical Association, the American Industrial Hygiene Association, and the American Academy of Occupational Medicine, and would one day become president of the American College of Preventive Medicine.

In any case, in December of 1966 Dr. Grant paid a visit to Dr. George A. Hurst, clinical director of the East Texas State Department of Health that happens to be in Tyler—and asked him to conduct a medical survey of the workers at the Pittsburgh Corning plant to determine if they were encountering health problems as a result of their exposure to asbestos. Dr. Hurst immediately set about designing a study of the workers, which included physical examinations, questionnaires, X-rays, and pulmonary-function tests. On February 3, 1967, having received approval from his superiors at the Texas State Department of Health, in Austin, he wrote Dr. Grant that the study could be conducted at a cost to Pittsburgh Corning of forty-two hundred dollars, and that, upon Dr. Grant's approval, it would be started by the first of May and completed as soon as possible.

On March 7th, however, Dr. Grant wrote a letter informing Dr. Hurst that Pittsburgh Corning had decided to forgo the proposed study in favor of some studies that would be conducted by Dr. Lewis J. Cralley, who was associate program chief for field studies and epidemiology in the Public Health Service's Division of Occupational Health, in Cincinnati. Dr. Grant explained that the Public Health Service had been interested for some time in doing environmental and medical studies of the asbestos-products industry, and had recently agreed to include Pittsburgh Corning's plants in Tyler and Port Allegany in the environmental study. According to Dr. Grant, the Public Health Service did not then have sufficient funds to perform the medical study but hoped to receive additional money for that purpose in July. "For this reason, I would like to hold off until July an making a final decision on your proposed medical study," he wrote Dr. Hurst. "Our management is vitally interested in accomplishing the medical study but would like the U.S.P.H.S. to accomplish it as part of their total study. If U.S.P.H.S. can't do the medical study, they would like to consider your proposal further."

An environmental survey of the Tyler plant, which consisted of taking eighty-two samples of air in the factory, was conducted on March 20, 1967, by engineers sent there by Dr. Cralley. However, more than a year passed before Dr. Cralley's people got around to informing Pittsburgh Corning of the results of the survey. The report was dated March 27, 1968, and it was sent to J. W. McMillan, the works manager of the Tyler plant, with copies to Dr. Grant and Dr. Cralley. In many respects, McMillan must have found it a baffling document. On the one hand, it informed him that when twenty-seven of the air samples collected in his factory were analyzed by a standard method, dust concentrations exceeded the threshold limit value of five million particles per cubic foot "in a number of locations." On the other hand, it indicated that when the air samples were analyzed by a new method in use in Great Britain (and soon afterward adopted in the United States), asbestos-fibre counts were considered high in forty-four of the fifty-five other samples. (The fact was that in five of the samples the asbestos-fibre count was twenty to thirty times the range that was considered high by the British Occupational Hygiene Society. Moreover, with the exception of Pittsburgh Corning's plant in Port Allegany, where asbestos-dust levels were also very high, the over-all asbestos-fibre counts in the Tyler factory were far greater than those measured in any of some thirty other asbestos-products factories that had been surveyed by the Division of Occupational Health during the previous three years.) In spite of this, the report made no mention that a health hazard might exist at the Tyler plant, nor did it advise the works manager of the factory to improve the ventilation system or to institute better housekeeping practices—or, indeed, to correct any condition that might have led to the excessive fibre counts it described. Instead, the report concluded by telling him that "your cooperation in this study is sincerely appreciated and the data gained from your plant are of considerable value." It is not known whether the works manager had the benefit of any medical interpretation of the report. Nor is it known whether he had any other way of ascertaining the dimensions of the health hazard that existed in his factory. It is known, however, that two years later he died of mesothelioma.

Since the primary responsibility of the Division of Occupational Health was to protect workers from occupational disease, the omission from its report of any concern for the health of the workers at the Tyler plant seems puzzling, to say the least. Part of the trouble undoubtedly stemmed from the roundabout manner in which the Occupational Health people had to go about their business, for at the time they had no legal authority to enter and inspect factories and no enforcement power of their own. To gain access to factories, they had to be expressly invited by state departments of labor, or by the few state departments of health that had rights of access, or, as in the case of Pittsburgh Corning's Tyler plant and the other asbestos plants they were studying, by the companies that owned the factories. Since the Occupational Health people usually had to go hat in hand to industry in order to initiate their asbestos field studies, they appear to have felt a certain constraint about using the information they gathered. For example, in making arrangements to gain access to plants and take air samples, field-studies engineers invariably gave oral assurance to plant management that the identity of individual factories would be kept confidential and would be released only to the appropriate state agencies. In practice, however, the Division of Occupational Health almost never forwarded interpretations of the health consequences of its findings to state agencies, and in most cases it didn't even send them the sampling data—the report on the Tyler plant being no exception—and that, in effect, prevented any possibility of action to remedy any health hazards. The pledge of confidentiality, of course, precluded any possibility that the data collected in the surveys would be made known to the workers whose health was being affected or to the unions representing them. Moreover, in order not to embarrass management or make workers apprehensive, the government engineers who took air samples during the environmental surveys not only were forbidden to discuss the nature of their activities with any workers they encountered but were also instructed not to wear respirators, which would have afforded them some protection against the hazard of inhaling asbestos dust. As a further extension of this solicitous policy toward industry, the Occupational Health people were careful not to alarm management by reporting in writing the existence of health hazards in any of the asbestos factories they surveyed or by recommending improvements in ventilation equipment and housekeeping procedures to reduce the levels of asbestos dust. In short, they simply took air samples, analyzed them, and reported fibre counts, without drawing any inference as to what the fibre counts might mean in terms of the health and well-being of the men who were exposed to them.

In order to understand more fully what lay behind this practice, it might be helpful to examine the attitude toward asbestos disease held by the people who were in charge of the asbestos field studies at that time. As it happens, I spent several hours one afternoon in March of 1968—a week or so before the report on the Tyler plant was sent out—discussing the asbestos problem with Dr. Cralley and some of his associates in the Division of Occupational Health. At the time, I was looking into the biological effects of asbestos, and I had flown out to Cincinnati to see Dr. Cralley at the suggestion of Dr. Murray C. Brown, who was then chief of the Division of Occupational Health, with offices in Washington, D.C. Dr. Cralley, who received a Ph.D. in industrial hygiene from the State University of Iowa, had joined the Public Health Service in 1941. At the time of our meeting, he had been in charge of epidemiology and field studies for the Division of Occupational Health for nearly four years. He was a fellow of the American Public Health Association, a past

chairman of its Occupational Health Section, a past chairman of the American Conference of Governmental Industrial Hygienists, a member of the Committee on Asbestosis and Cancer of the International Union Against Cancer, and an adjunct assistant professor of environmental health at the University of Cincinnati.

At the beginning of our conversation, Dr. Cralley explained that the asbestos-field-studies program had two components—an environmental team, which has been taking dust counts in asbestos-textile and friction-materials plants since 1964, and a medical-epidemiological team, which would soon begin to give X-ray examinations, pulmonary-function tests, and blood tests to five thousand men who worked in these factories. He did not tell me that his engineers had already conducted environmental surveys of Pittsburgh Corning's insulation plants in Tyler and Port Allegany, perhaps because the initial focus of the field-studies program was into other areas of the asbestos-products industry, and these two surveys were exceptions. According to Dr. Cralley, the purpose of the field-studies program was to establish criteria for a possible lowering of the threshold limit value for asbestos. It would take many years to develop these criteria, however, for Dr. Cralley's medical studies of the asbestos-factory workers were designed to proceed from the time of first examination, rather than to reconstruct the events of the past, as Dr. Selikoff's and Dr. Hammond's study of the asbestos-insulation workers had done. Dr. Cralley explained that it would take from two to four years to complete the first medical examinations of the five thousand men he proposed to study, and that if funds were available the men would be reëxamined every five years thereafter. "By following these men for the next fifteen or twenty years, we hope to establish a dose-response relationship for asbestossis," he told me. "Then we'll try to determine what level of exposure carries with it no discernible health hazard."

When I asked Dr. Cralley if this twenty-year-from-now evaluation would take into consideration the development of lung cancer and mesothelioma, he replied that it would not—that he was interested only in asbestosis. I then asked him about the medical studies indicating that mesothelioma could occur with minor exposure to asbestos, and he shrugged and replied that in his opinion the association between mesothelioma and asbestos was not proved.

At this point, Dr. William S. Lainhart, assistant chief of field studies in charge of the medical-environmental team, who was sitting in on our talk, explained that since the main purpose of the program was to trace the natural history of asbestos disease, little would be known about the incidence of lung cancer or mesothelioma until the five thousand men under study were reëxamined in future years. "Ideally, we'd like to take a bunch of twenty-year-olds, put them into an asbestos plant where we know the exact dust levels, and observe them for the next fifty years, or until they die," he said. "Of course, we can't do that. We have to devise studies that are practical. For this reason, we estimate that it will take us from fifteen to twenty years to evaluate with any accuracy the medical effects of today's environment in the asbestos industry."

When I asked about the high rate of asbestosis, lung cancer, and mesothelioma that was already afflicting workers in the asbestos industry, Dr. Cralley told me that such diseases were the result of exposures sustained over the past twenty years or so, and that because great improvements had been made in ventilation systems and industrial-hygiene procedures in the meantime, he expected to find much less disease in the future. When I asked him what he would consider a high rate of disease in the men he proposed to examine, he replied that he would not care to estimate. "We'll have to come to that when we come to it," he said. "Remember that practically everyone is susceptible to chest disease to some extent, and that you can get chest disease even from digging in your garden. With the means we now have at hand, we can only *assume* that asbestosis and other diseases are related to asbestos exposure. Our first priority, therefore, is to study over five thousand men over a long period, and use our observations of what happens to them as the criteria for developing a new standard."

At the close of our meeting, I asked Dr. Cralley why, in view of the fact that asbestosis and cancer had afflicted great numbers of asbestos workers since the turn of the century, it had taken so long for the government to begin studying asbestos in earnest. Dr. Cralley said he didn't know. "All I know is that the first real interest came from industry," he told me. "They asked for our help back in 1964, and they have cooperated with us magnificently."

Since it was my understanding that the asbestos industry had never been particularly eager to have its operations scrutinized, I was surprised to hear this, and asked Dr. Cralley what segment of the industry had made the request for help and cooperated so magnificently. "The Asbestos Textile Institute," he replied.

Whatever interpretation one wishes to place upon the rather leisurely approach to the problem of asbestos disease by the administrators of the asbestos-field-studies program, the fact remains that during the first seven years of its existence the program placed no emphasis at all upon control of dust levels in asbestos factors, or upon preventive measures for the workers who were exposed to the dust. Indeed, almost all the meaningful data about dust levels in asbestos factories which were acquired by the program between 1964 and 1971 simply accumulated in the files of its Cincinnati offices, as did all the data on the medical examinations of asbestos workers it conducted after 1968. For its part, the asbestos industry seems to have been quite content with this quiet state of affairs. On the one hand, it could state publicly that, with its assistance, the United States Public Health Service was investigating the possible hazards of industrial exposure to asbestos. On the other hand, it could rest assured privately that, because of the long-term nature of these studies, no information would be forthcoming for many years, and that, because of the pledge of confidentiality, none of it would find its way into the hands of anyone who might seek to remedy any hazards that were found in the meantime.

As for the Tyler plant, it seems to have been considered a kind of fluke by almost everyone concerned. By March of 1968, the medical study of the workers in which Pittsburgh Corning was supposed to be vitally interested was either forgotten or held in abeyance. Dr. Grant never did anything further about the study that Dr. Hurst had designed, and Dr. Cralley and his associates in the Division of Occupational Health never got around to conducting their study. Meanwhile, as the health situation at the Tyler plant was going from bad to worse to appalling, a parade of government inspectors continued to troop through the place without any apparent awareness of the hazards that were staring them in the face. On February 13, 1969, still another safety-and-health inspection of the factory was conducted, this time by industrial-hygiene engineers from the Dallas regional office of the United States Department of Labor's Wage and Labor Standards Administration. The Department of Labor inspectors were authorized to enforce the industrial-health regulations of the Walsh-Healy Act of June 30, 1936, which had been amended to apply to companies holding federal contracts in excess of ten thousand dollars. They found a number of unsatisfactory conditions in the plant, including, again, a substandard ventilation system and inconsistent use of respirators by the workers, and they proceeded to take air samples in six areas of the plant to determine the asbestos-dust levels. By that time, in spite of the foot-dragging of the Division of Occupational Health, the American Conference of Governmental Industrial Hygienists had proposed that the threshold limit value be lowered from five million particles per cubic foot (the standard that had been in effect for more than twenty years) to two million particles per cubic foot, the first of a series of downward revisions they were to consider—each an admission that previously recommended guidelines had allowed workers to inhale concentrations of dust now deemed harmful. (The two million particles were considered the equivalent of twelve asbestos fibres longer than five microns per cubic centimetre of air—five microns being one-five-thousandth of an inch, and a cubic centimetre of air being an amount equal to what might be contained in a small thimble.) The Department of Labor inspectors, however, not only had no equipment to measure asbestos-fibre counts in terms of the proposed conference standard but analyzed the air samples they took in terms of a standard applicable not to asbestos, a known carcinogen, but, rather, to nontoxic nuisance dusts, such as wood dust and chalk powder. As a result, they failed to realize that even the new standard for asbestos was being exceeded dozens of times over in the Tyler plant, and contended themselves with recommending that Pittsburgh Corning issue respirators to employees working in dusty areas of the plant. What seems especially ironic about this is that back in the forties, when UNARCO was operating its Paterson factory—the one upon which the Tyler plant was modelled—not only had it paid its employees five cents extra an hour to wear respirators, which they were obliged to do by insurance underwriters anyway, but it had also repeatedly pointed out to the workers that wearing respirators was a precaution that should always be taken in any absestos factory, and had threatened to fire men who refused to wear them.

As for the inadequate ventilation system, the Department of Labor inspectors recommended in their report (which was sent to James H. Bierer, the president of Pittsburgh Corning, and to Charles E. Van Horne, who had recently become the manager of the Tyler plant) that the company "make a study of the present system with professional advisers and come up to standard, or present qualified proof that the present system is operating, within the minimum specified ventilating range." Instead of reinspecting the Tyler plant to make certain that the company had complied with these recommendations, however, the Department of Labor people simply took Pittsburgh Corning's word that approved respirators would be issued to its employees and that the ventilation system would be improved. Indeed, nobody from the Department of Labor visited the factory again until November of 1971.

For its part, Pittsburgh Corning asserts that by May of 1969 the wearing of approved respirators was required for all employees in the Tyler plant—an assertion that is denied by most of the men who worked there—and that the ventilation system had been duly studied with an eye to improving it. During 1969, the company did indeed engage the services of Dr. Morton Corn, professor of occupational health at the Graduate School of Public Health of the University of Pittsburgh, who visited the Tyler and Port Allegany plants and proposed some engineering controls to bring asbestos-dust levels in

them down to recommended limits. But if any significant improvements were made in the ventilation system of the Tyler plant, they were clearly not sufficient to bring the dust levels within such limits. In January of 1970, engineers from Dr. Cralley's group at the Division of Occupational Health—which by then had become the Bureau of Occupational Safety and Health—returned to the factory and took seventeen air samples, and these showed the average airborne-asbestos level to be more than double the proposed twelve-fibre standard. In keeping with earlier practice, however, the engineers chose not to point out the existence of any possible health hazard in their report to Pittsburgh Corning, or to make any recommendations for lowering asbestos-dust levels in the Tyler plant. Nor did they forward their findings to the Texas State Department of Health or to any other agency with enforcement powers. Thus did the Bureau of Occupational Safety and Health add to the series of virtually meaningless surveys that had begun back in July of 1963, when Pittsburgh Corning engaged the Industrial Hygiene Foundation of America to evaluate the asbestos-dust hazard in the Tyler plant. During those six and a half years, five separate studies and inspections of the factory had been conducted, and more than a hundred samples of air had been gathered and transported to laboratories in various parts of the country, where they had been counted, weighed, assayed, and painstakingly analyzed by industrial hygienists, who, depending on what standard they were using, had reported their findings in terms of dust particles per cubic foot or dust weight per cubic metre or fibre counts per cubic centimetre but in terms of what the dust and fibres that the workers were inhaling might be doing to their health.

By this time, however, some preliminary data concerning the mortality experience of the men who had worked in the UNARCO factory in Paterson were being developed, and what the data revealed might have led one to anticipate a most unhappy fate for many of the workers at the Tyler plant. With the aid of a grant from the National Institute of Environmental Health Sciences, which had become concerned about the potential asbestos hazard to the general public, and wanted accurate data concerning it, Dr. Selikoff set up an asbestos-control program in Paterson in 1968, and had begun to trace the sixteen hundred and sixty-four men who had been employed at the Paterson plant between 1941, when it opened, and 1954, when Union Asbestos closed it and transferred its operations to Tyler. This was a laborious process, for Dr. Selikoff and Dr. Hammond had only the names of the men to go on, and addresses for them that were from fourteen to twenty-seven years old. By January of 1970 they had managed to trace most of the nine hundred and thirty-three men who had worked at the factory for at least a year between 1941 and 1945, and who if they were still alive had passed the twenty-year mark since their initial exposure to asbestos dust. They were also able to collect death certificates for almost all of the four hundred of these men who had died. As in the case of the insulation workers in New York Local 12 and Newark, for, even though the study was incomplete, the death certificates showed an extraordinarily high frequency of death resulting from asbestosis, lung cancer, gastro-intestinal cancer, and mesothelioma.

Meanwhile, Dr. Selikoff had continued to maintain a close watch on the insulation workers' health, paying particular attention to those men with more than twenty years' experience, whom he examined once or twice a year. He was thus able to detect symptoms of illness in many of these men * * * way of emphasizing this possibilty, he pointed out that among the insulation workers there were as many excess deaths resulting from mesothelioma as from asbestosis, and twice as many excess deaths resulting from lung cancer. In spite of the alarming data supporting Dr. Selikoff's recommendation for a lower level, the bureau's asbestos experts appear to have been unconvinced that such action was necessary. A year later, when the bureau finally got around to proposing a standard for asbestos, it settled upon the twelve-fibre standard. As usual, the Bureau of Occupational Safety and Health was lagging far behind, for by this time—the autumn of 1970—the Conference of Hygienists had proposed lowering the level for asbestos to five fibres.

To more fully comprehend the absurdity of such proposals and recommendations, one should know that there are always many fibres smaller than five microns in length in any amount of air containing asbestos dust. In fact, most experts in the field readily acknowledge that there may be hundreds, if not thousands, of these smaller fibres, or fibrils—tinier particles into which asbestos fibres readily fragment—simultaneously present for each one longer than five microns. (Indeed, if it were not for the electron microscope, the extent to which asbestos is fibrous would be difficult to believe, for approximately a million individual fibrils can lie side by side in a linear inch of chrysotile asbestos, whereas about four thousand glass fibres—such as those found in various insulation materials—or six hundred human hairs can be aligned along the same distance.) Little is known about the disease potential of fibres smaller than five microns in length; nor does anyone know how many asbestos fibres of any length must be inhaled in order to induce scarring of the lungs, cancer, and mesothelioma. Why count only fibres longer than five microns—which, in effect, constitute only a tiny portion of the total? The reason is simply that the average industrial-hygiene laboratory is equipped with an ordinary phase-contrast optical microscope, capable of resolving only relatively large particles, whereas most particles smaller than five microns can often be seen only by electron microscopy, which is expensive and not readily available. Hence, even though recommended standards of two, five, or twelve fibres greater than five microns in length per cubic centimetre, or thimbleful, of air might actually reflect a hundred, or even a thousand, asbestos fibres per thimbleful, such standards have continually been justified on the basis of economic feasibility, sheer convenience, and wishful thinking—in other words, in the hope that counting only the larger particles would at least serve as an index for measuring the contamination of the air being studied. As for how these patently and admittedly inaccurate counts of fibres per thimbleful can be translated in terms of the lungs of asbestos workers, it should be pointed out that in a normal eight-hour working day a normal worker will breathe in and out about eight cubic metres of air. Since each cubic metre contains a million cubic centimetres, or a million thimblefuls, the worker is breathing in and out eight million thimblefuls of air each day. Thus, an asbestos worker toiling in an environment that is supposed to contain, say, only two fibres greater than five microns in length per thimbleful of air can in fact be inhaling anywhere from eight hundred million to eight billion asbestos fibres and fibrils of all sizes each day.

No one knows for sure how many of these inhaled particles may subsequently be exhaled, but recent studies of the aerodynamics of asbesto fibres suggest that as many as fifty per cent of the fibres may well be retained in the lungs. Not that anyone needs aerodynamic studies to prove that the lungs will retain vast numbers of asbestos fibres. That has been proved beyond a doubt by Dr. Lanber, of the Mount Sinai Environmental Sciences Laboratory, who, using electron microscopy to analyze lung-tissue specimens in autopsies of asbestos workers, has been able to calculate that as many as a hundred thousand billion to a million billion asbestos fibres and fibrils had accumulated over the years in the lungs of some of them. However, even as late as the autumn of 1970, no one in the Bureau of Occupational Safety and Health or, for that matter, in the independent medical community (let alone in the boardrooms of the asbestos industry) was talking about the hazard in terms of human lungfuls of literally billions upon billions of asbestos fibres. Everyone was talking about it, as almost everyone still is, in the euphemistic terms of thimblefuls of air containing two, five, or, at the very most, a dozen fibres. In this way did a few needles become the metaphor for—indeed, the medically and scientifically accepted definition of—a whole haystack.

At the end of 1970, however, an event occurred that showed some promise of overcoming the ignorance, laxity, and confusion that had so long enveloped the asbestos problem and other occupational-health problems. On December 29th, after two years of prodding from industrial unions, led by the United Steelworkers of America and the Industrial Union Department of the A.F.L.-C.I.O., Congress passed Public Law 91-596—the first comprehensive occupational-health legislation it had enacted since the Walsh-Healey Act of 1936. Known as the Occupational Safety and Health Act of 1970, Public Law 91-596 sought to "assure safe and healthful working conditions for working men and women," and under its terms the federal government was authorized to develop and set mandatory occupational-safety-and health standards applicable to any business that engaged in interstate commerce. The Secretary of Labor was given the authority to promulgate improved standards, and to enforce them by conducting inspections of factories and other workplaces and by issuing citations and imposing penalties if the standards were violated. The Department of Health, Education, and Welfare was made responsible for developing criteria for the establishment of the safety and health standards, including regulations for dealing with toxic materials and harmful physical agents and for instituting education and training programs to produce an adequate supply of manpower to carry out the provisions of the Act. So that the department could perform these functions, the Act provided for a National Institute for Occupational Safety and Health, called NIOSH, which replaced the Bureau of Occupational Safety and Health, and which was also given authority to enter factories for inspections and investigations, but, since the Act did not go into effect until April 28, 1971, and since NIOSH did not begin its operations until June 30th of that year, little or nothing was done during the next few months to resolve the problem of industrial exposure to asbestos. This delay was disheartening to many trade-union people and to independent medical researchers, who had hoped for quick action on a new asbestos standard. However, the business-as-usual attitude that had characterized government policy toward the operations of the asbestos industry for so long was about to be shattered by a series of disclosures that, fittingly, would have their apotheosis in the revelation of the atrocious working conditions that had prevailed through the years at the Tyler plant.

The new turn of events got started on May 20, 1971, when industrial hygienists from the Meadville office of the Pennsylvania Department of Environmental Resources sent Pittsburgh Corning a report on some recent inspections they had made at the company's insulation plant at Port Allegany, a small town in the northwestern part of the state. The Commonwealth of Pennsylvania had not yet adopted the standard of twelve fibres

per cubic centimetre, so the hygienists who inspected the Port Allegany plant were using the long-outmoded standard of five million particles per cubic foot, which is roughly the equivalent of thirty fibres cubic centimetre. Even though Pittsburgh Corning had installed some new ventilating equipment in the factory during the previous two years, the inspectors found that dust levels exceeded the old standard in five of twenty-five air samples. In one of the samples, the count was more than twenty-six million particles, which meant that there may have been approximately a hundred and fifty fibres per cubic centimetre of air in that location—five times the outdated standard. Such dust levels—and even higher ones—had, of course, been found and ignored in the Tyler plant for years, and the management of Pittsburgh Corning may well have come to expect this process to be repeated elsewhere. The Pennsylvania inspectors, however, gave the company sixty days to improve the ventilation system and institute better housekeeping practices to reduce dust levels at the factory.

While Pittsburgh Corning's managers were mulling over this unexpected situation, some personnel changes were taking place at NIOSH that would soon cause them additional problems. Having reached retirement age, Dr. Cralley was about to leave the Division of Epidemiology and Special Services, which was being reorganized into the Division of Field Studies and Clinical Investigations. A number of positions in the new division had opened up, among them that of chief medical officer, and it was filled on July 1st, with the appointment of a thirty-year-old doctor named William M. Johnson. A native of Olean, New York, Dr. Johnson was brought up in Saranac Lake, graduated from the Stanford University School of Medicine in 1968, interned at the State University of New York at Buffalo, and had just completed a two-year training program in occupational health at the Harvard School of Public Health. He had decided to fulfill his military obligation by putting in a two-year stint with the United States Public Health Service, and, as things turned out, it did not take him long to become immersed in his job there. Within a few days of Dr. Johnson's arrival at the NIOSH offices in Cincinnati, one of the engineers who had been conducting field studies under Dr. Cralley told him about the environmental surveys of asbestos factories that had been in the files for several years. "That engineer was particularly concerned about the situation at the Tyler plant," Dr. Johnson has recalled. "And when I started digging through the files myself, I realized he had good reason to be, for it was plain as day that there was an incredibly serious health problem down there. At that point, I went to Dr. Cralley and asked him whom I should see about the situation. He suggested that I get in touch with Dr. Grant, Pittsburgh Corning's medical consultant. However, when I called Dr. Grant, on July 13th, he told me there really wasn't much of a health problem at the Tyler plant, because the place was so dusty that people didn't stay around there long enough to get sick. He also told me that there were no plans to improve the factory's ventilation system, and that the company planned to convert from asbestos to mineral wool in the near future."

Since Dr. Johnson had received considerable instruction at Harvard in the effects of asbestos exposure, he was less than reassured by his conversation with Dr. Grant. During the next two weeks, he gathered as much information as he could about conditions at Tyler and Port Allegany; then he discussed the situation thoroughly with Dr. Joseph K. Wagoner, who had arrived at NIOSH on August 1st to replace Dr. Cralley as director of the new Division of Field Studies and Clinical Investigations. Dr. Wagoner had received his Doctor of Science degree in epidemiology and bio-statistics from the Harvard School of Public Health in 1970, and had spent ten years as an epidemiologist with the Public Health Service's National Cancer Institute, where he was instrumental in the long struggle to develop and institute standards for the protection of uranium miners, who were occupationally exposed to radioactive dust. He was as seriously disturbed about the potential health hazard at Tyler as Dr. Johnson was, and together the two men decided to make it and other asbestos-products factories their first order of business.

In the meantime, pressed by the deadline given by the Pennsylvania state inspectors for cleaning up the Port Allegany plant, and aware of Dr. Johnson's concern about conditions at the Tyler factory, Pittsburgh Corning made a move to head off some of the pressures that were building up against its asbestos operations. On August 3rd, the company filed an application for a variance from occupational-safety-and-health standards with the Assistant Secretary for Occupational Safety and Health of the Department of Labor, in Washington. Under the terms of the Occupational Safety and Health Act of 1970, the Secretary of Labor could grant a variance to an employer if he determined that the employer "has demonstrated by a preponderance of the evidence that the conditions, practices, means, methods, operations, or processes used or proposed to be used by an employer will provide employment and places of employment to his employees which are as safe and healthful as those which would prevail if he complied with the standard." Pittsburgh Corning's application for a variance was signed and submitted by E. W. Holman, the vice-president in charge of manufacturing and technology—who told the Tyler *Courier-Times* that he knew of no specific Pittsburgh Corning employee suffering from significant illness as a result of working with asbestos. In the application, Holman stated that the threshold limit value for asbestos was exceeded in some areas of the company's Tyler and Port Allegany plants, that the company had been unable to comply with the required standard because of the unavailability of effective ventilation equipment, and that the ineffectiveness of the available equipment had become particularly significant since the reduction of the standard for asbestos from twelve fibres per cubic centimetres to five. The fact that such a reduction in the official standard had not taken place but had only been published as a proposed change by the Conference of Hygienists suggests that Pittsburgh Corning's managers either were afflicted with a bad case of nerves or were trying to obscure the fact that neither factory was in compliance even with the obsolete standard of five million particles per cubic foot, let alone the twelve-fibre standard itself.

The application for a variance went on to say that as of June, 1971, the company had spent nearly two hundred thousand dollars for research and development of a mineral-wool substitute for asbestos, that it would begin to use mineral wool in some of its operations in August, and that it hoped to make a complete conversion to mineral wool at the Port Allegany and Tyler plants by the middle of 1972. As for the steps the company had taken to provide working conditions as safe and healthful as those which would prevail if the government standard for asbestos had been complied with, Holman stated that Pittsburgh Corning had supplied approved respirators and had required workers to use them; that it had also purchased and was experimenting with new respirators; that it had provided dust-collection and ventilation apparatus; that it had expanded its program of periodic medical examinations; that it had improved housekeeping procedures by the more frequent use of vacuum cleaners; and that it had "provided and will continue to provide health education programs that fully explain to its employees the health hazards associated with asbestos exposure and how they can protect themselves." In a sworn affidavit attached to the application for a variance, Dr. Grant stated that he had knowledge of the matter set forth in the application "so far as said application states that the applicant has provided for its employees health education programs that explain to said employees the health hazards associated with asbestos exposure and how they can protect themselves."

Back at the Division of Field Studies and Clinical Investigations, in Cincinnati, several weeks were to pass before Dr. Johnson and Dr. Wagoner would learn of Pittsburgh Corning's application for a variance. Meanwhile, on August 9th, Dr. Johnson called Horace Adrian, chief of the industrial-hygiene program of the Texas State Department of Health, in Austin, and told him of the extraordinarily high dust levels that had been found in the Tyler plant. Adrian told Dr. Johnson that he had never seen copies of any inspection of the Tyler plant—indeed, he gave Dr. Johnson the impression that he did not know the factory existed—and he would look into the situation as quickly as possible. A week later, Adrian informed Dr. Johnson that he was going to Tyler the next day, August 17th, to conduct a walk-through survey of the factory and to meet Dr. Grant, who also planned to be there. (As it turned out, the purpose of Dr. Grant's visit to Tyler on August 17th was to give the workers there an educational talk on the health hazards of asbestos exposure, which Pittsburgh Corning had already claimed to have done in its application for a variance, filed two weeks before.) On August 24th, Dr. Johnson telephoned Dr. Grant in Pittsburgh, to tell him that the Division of Field Studies and Clinical Investigations wanted to examine the workers at the Tyler plant. Dr. Grant replied that Dr. Hurst, of the East Texas Chest Hospital, had just finished giving the Tyler workers medical examinations, including X-rays and pulmonary-function tests, and he suggested that NIOSH might wish to defer its study of the men until the results of Dr. Hurst's tests could be made available.

In the light of this development, Dr. Johnson and Dr. Wagoner decided to hold off for the time being on their examination of the Tyler workers, and to conduct a medical survey of the men in the Port Allegany plant. (At that point, they had no idea that almost five years before Dr. Hurst had outlined a proposed—and rejected—medical study of the Tyler workers for Pittsburgh Corning.) On September 7th, in order to make arrangements for the survey of the Port Allegany workers, Dr. Johnson went to the plant, where he met Dr. Grant for the first time, and heard him give a talk to the workers on the health hazards associated with asbestos. According to Dr. Johnson, Dr. Grant indicated in his talk that the levels of asbestos dust at Port Allegany were not high enough to be considered dangerous to health. Dr. Grant also claimed that the dust levels were considerably lower than the ones that the insulation workers studied by Dr. Selikoff had been exposed to. (Actually, Dr. Selikoff had demonstrated that the insulation workers were exposed to levels of asbestos dust far below the twelve-fibre standard.) In addition, Dr. Grant implied that cigarette smoking was an important factor in the development of asbestosis, although such few data as are available indicate a very limited effect of cigarette smoking on lung scarring. (Dr. Grant may have misinterpreted some studies conducted by Dr. Selikoff and Dr. Hammond, which showed that asbestos workers who smoke cigarettes run eight times the risk of dying of lung cancer as cigarette smokers in general, and ninety-two times the risk of men

who neither work with asbestos nor smoke.) But what Dr. Johnson found most disturbing of all was Dr. Grant's assertion that, in addition to smoking cigarettes, a man would have to undergo from twenty to thirty years of exposure to asbestos before experiencing any adverse effects. Later that day, Dr. Johnson made a point of telling Dr. Grant, in the presence of union officials, that radiological evidence of pulmonary fibrosis had been found in men with less than ten years' exposure, and that there was strong medical evidence to support the belief that lung cancer and mesothelioma could occur at exposure levels far below those that could cause asbestosis. This encounter with Dr. Grant seems to have marked a turning point in Dr. Johnson's dealings with Pittsburgh Corning, for, he has explained, "I came away from it feeling that Dr. Grant had grossly minimized the hazard of working with asbestos, and I assumed that he had probably done the same thing at Tyler on August 17." Dr. Johnson's mistrust of the company's intentions was heightened a few days after this, when he discovered that Pittsburgh Corning had filed the application for a variance with the Occupational Safety and Health Administration; he believed the application to be not only self-serving but downright false in its claim that the company had undertaken to inform its employees adequately about the hazards of working with asbestos.

In addition, Dr. Johnson and Dr. Wagoner had other reasons to fear that no immediate action would be taken to reduce the health hazard at Tyler and Port Allegany. In the middle of August, they had prepared a memorandum expressing their concern about conditions at the two plants (it also included data from Dr. Cralley's files about excess mortality among workers in several large asbestos-textile factories) and sent it to Dr. Marcus M. Key, the director of NIOSH, which had set up its headquarters in Rockville, Maryland. During August and September, as it happened, there were huge internal problems at NIOSH headquarters about how the institute should carry out its role under the Occupational Safety and Health Act and how it should coordinate its activities with those of the Department of Labor's Occupational Safety and Health Administration, which had been given responsibility for enforcing health standards under the Act. An administrative crisis ensured, with the result that no one at NIOSH headquarters could give Dr. Johnson or Dr. Wagoner any assurance that something would be done to alleviate the conditions at the Tyler and Port Allegany plants. Feeling increasingly frustrated, Dr. Johnson and Dr. Wagoner decided after the encounter with Dr. Grant that the situation was serious enough to warrant their taking matters into their own hands. The following week, Dr. Johnson telephoned Steven Wodka, the legislative aide for the Oil, Chemical, and Atomic Workers International Union, and told him about the environmental studies of dust levels in the factory which he had found buried in the files. (The two men had met previously to discuss the problem of workers exposed to beryllium at the Kawecki Berylco Industries plant, in Hazleton, Pennsylvania, where, as in the case of Tyler, the Bureau of Occupational Safety and Health had gathered data about health hazards associated with a substance that the workers were exposed to but had for a number of years neglected to inform the workers of the dangers involved.) Upon learning of the situation at Tyler, Wodka immediately sent Dr. Johnson a letter requesting that he make the environmental data available, and, on September 24th, Dr. Johnson sent them off to the union's Legislative Department, in Washington, D.C.

When Wodka discussed the Tyler situation with his boss, Anthony Mazzocchi, the director of the Legislative Department, Mazzocchi remembered Dr. Selikoff's telling him about a study that he, Dr. Hammond, and Dr. Churg were conducting of the mortality experience of the men who had been employed at the Paterson plant. Mazzocchi quickly got in touch with Dr. Selikoff, who, as it turned out, had completed the first part of the study a week or two before, and was about to present his data at the Fourth International Pneumoconiosis Conference of the International Labor Office, in Bucharest, on September 29th. When Mazzocchi told him about the environmental data on the Tyler plant that Dr. Johnson was making available to the union, Dr. Selikoff sent Mazzocchi the results of his study of the Paterson workers.

They were as alarming as the mortality data on the asbestos insulators. Of three hundred and thirty-three men who had been employed at the Paterson factory for a year or more between 1941 and 1945, eighty-eight had died by December 31, 1959, and fifteen could not be traced. However, Dr. Selikoff, Dr. Hammond, and their associates had managed to trace every one of the remaining two hundred and thirty men who were alive on January 1, 1960, and had studied their experience up to June 30, 1971. Using the standard mortality tables, Dr. Hammond calculated that no more than forty-seven deaths would normally have been expected to occur among these men during that eleven-and-one-half-year period. Instead, there were a hundred and five. Fourteen of the deaths were caused by asbestosis, and, as with the insulation workers, a large majority of the excess deaths were caused by cancer. Two or three lung cancers would have been normal, but twenty-five occurred, and deaths from cancer of the stomach, the colon, and the rectum were three times what the standard mortality tables predicted. In addition, although none would normally have been expected, there were five deaths from mesothelioma.

Mazzocchi and Wodka were profoundly disturbed at the results of the Paterson study, for they could only conclude that the similarity of operations in the two factories meant that much the same thing would happen to the men at Tyler. Meanwhile, as they were trying to decide what to do, Pittsburgh Corning was informed by the Department of Labor that no action would be taken on its application for a variance from occupational-safety-and-health standards until after a public hearing, and that no hearing could be held until the spring of 1972. Since this meant that the company would be forced to comply with existing health standards until then, and since the company had failed to prove that mineral wool could be successfully substituted for asbestos in high-temperature pipe covering, the Pittsburgh Corning people found themselves in a bind. In the early part of October, therefore, they told representatives of Local 4–202, in Tyler, with whom they were negotiating a new contract, that they might have to shut the plant, but said that they wished to consider the local union's proposals on wages, health, and safety before making a final decision. When Mazzocchi and Wodka learned of the company's action, they suspected that Pittsburgh Corning was using the threat of a shutdown to force the local union to minimize its demands for improved working conditions at the Tyler plant. After consulting with representatives of Local 4–202, the two men determined that a strict-compliance program should become part of the union's contract proposal on safety and health. They then submitted a formal request to Dr. Johnson, at NIOSH, on October 7, 1971, for a comprehensive industrial-hygiene study of the Tyler factory and a medical survey of the men who were working there. Upon receiving this request, Dr. Johnson made the necessary arrangements with Pittsburgh Corning and with the Texas State Department of Health, which had previously offered to cooperate, and a survey of the plant was scheduled for the last week of the month.

As things turned out, the NIOSH inspection of the Tyler plant coincided with a crescendo of protest that had been building up for many months over the plight of tens of thousands of workers throughout the country who were being exposed to excessive concentrations of asbestos dust. On August 3rd—the day Pittsburgh Corning filed its application for a variance—Dr. Selikoff wrote to James D. Hodgson, the Secretary of Labor, making carbon copies for leading officials of six labor unions whose members worked with asbestos, and for Dr. Key, at NIOSH. His letter said:

DEAR MR. HODGSON:

Your department has published initial standards in the Federal Register, in accordance with the Occupational Safety and Health Act of 1970. I understand that these are "initial" and that modifications may be expected as a result of research criteria being developed by the National Institute for Occupational Safety and Health.

One "standard" in the published list is so wrong, and represents such serious hazard to workmen, that I advise its urgent revision.

I refer to the standard for asbestos, which would allow workmen to be exposed to environments containing as many as twelve fibres per cubic centimeter of air. Our research in one asbestos trade—insulation work—demonstrates that work in the past in areas with levels of two to three fibres per cubic centimeter of air has resulted in a very great increase of death due to cancer and to asbestosis. Just how serious this has been may be appreciated from current statistics: at present, one in every five deaths among insulation workers is due to lung cancer, one in ten to cancer of the pleura or peritoneum, one in ten to scarred lungs or asbestosis.

The proposed level is much higher than actually *now* exists. It is so high as to make totally ineffective current efforts by both industry and labor to control this unhappy occupational health hazard.

In Great Britain, the approved level is *less than* one-fifth the standard here proposed and levels of twelve fibres per cubic centimeter for more than even ten minutes would be sufficient to require that the workman wear protective clothing and use an efficient respirator.

Mr. Albert E. Hutchinson, President of the International Association of Heat and Frost Insulators and Asbestos Workers, AFL-CIO, has calculated that there are approximately one hundred thousand men employed doing asbestos insulation work in the United States, in various unions and in various industries. Utilizing statistical calculations by Dr. E. Cuyler Hammond, director of the Department of Statistics of the American Cancer Society, it may be predicted that, if the situation remains the same and does not improve, there will be more than seventeen thousand excess deaths of lung cancer among these men, as well as almost ten thousand unnecessary deaths of cancer of the pleura or peritoneum, ten thousand wholly preventable deaths of asbestosis, and many thousand other cancer deaths, in this one trade alone. Thousands of deaths will occur in other industries, to add to the unhappy toll of this serious error.

I urge you, then, to recall this standard, and substitute one that will help protect workingmen forced to work with this dangerous material.

Although Dr. Selikoff's letter did not engender any immediate response from Secretary Hodgson, it did evoke profound concern among the union officials to whom he sent carbon copies. When Dr. Selikoff returned to New York from Bucharest, Sheldon W. Samuels, the Director of Occupational Health, Safety, and Environmental Affairs for the A.F.L.-C.I.O.'s Industrial Union Department, invited him to attend a meeting

of the I.U.D.'s ad-hoc Committee on the Asbestos Hazard, in Washington, on October 18th, so that he might present additional information, which the union people hoped would enable them to get some effective action from the Department of Labor on the problem of occupational exposure to asbestos. Meanwhile, having discovered additional reports in the old Bureau of Occupational Safety and Health files which showed excessive dust counts in a dozen more asbestos factories (there was also an incomplete study of mortality among employees of those factories, which showed an extraordinary number of deaths resulting from asbestosis among men in their forties and fifties), Dr. Johnson and Dr. Wagoner continued to express concern about the asbestos problem to their superiors at NIOSH, who they hoped would take a firm stand in advising the Secretary of Labor to promulgate a tough emergency standard for asbestos. On October 4th, feeling that the situation was getting out of hand, Dr. Johnson and Dr. Wagoner visited Dr. Selikoff in New York to exchange information about the asbestos problem in general and, in particular, about Johns-Manville's asbestos-textile factory in Manville, New Jersey, where that corporation has owned and operated the largest complex as asbestos-products factories in the world for more than fifty years. Dr. Cralley's files had yielded up several environmental studies showing that excessive dust levels had existed in the Manville asbestos-textile factory at least since 1965, when the first study was made; a 1969 medical survey showing findings consistent with asbestosis in thirty-one of a hundred and seventy-nine chest X-rays of the factory employees; and an incomplete mortality study showing, on preliminary analysis, four deaths from mesothelioma and at least ten other asbestos-related deaths among a hundred and eighty asbestos-textile workers. Indeed, the situation at Manville appeared to be similar to the one at Tyler, and on a larger scale. In 1967, engineers from Dr. Cralley's office—now the Department of Field Studies and Epidemiology—had taken air samples that were not analyzed for asbestos fibres until September of 1971, when Dr. Johnson discovered the data in the files. That September, too, Dr. Johnson had fibre counts completed on over a hundred air samples that engineers from Dr. Cralley's division had taken at the Manville asbestos-textile plant during the spring of 1971. The fibre counts showed that even then there were as many as twenty fibres per cubic centimetre of air in some operations of the plant.

Dr. Johnson and Dr. Wagoner believed these data to demonstrate a serious and persistent health hazard at the Johns-Manville factory, and they were anxious to know if Dr. Selikoff could give them any additional information, particularly with regard to other cases of mesothelioma that might have occurred in Manville. As it happened, Local 800 of the United Papermakers and Paperworkers Union, which represented the company's production workers, had provided Dr. Selikoff with a roster of its membership several months before, and he, Dr. Hammond, and one of their associates at Mount Sinai, Dr. William J. Nicholson, had just begun a mortality study of the Johns-Manville employees, so Dr. Selikoff was able to give his visitors details on about a dozen deaths among the workers which had been caused by mesothelioma.

On October 5th, Dr. Johnson and Dr. Wagoner went to Trenton, where they met with the commissioner of the New Jersey Department of Labor and Industry and the deputy commissioner of the state's Department of Health, and told them of the health hazard that they believed to exist at the Johns-Manville plant. When they asked these officials to investigate the situation, however, they learned that the state considered it to be a federal problem and, in any case, did not possess modern fibre-counting equipment for such a task. The following day, the two men took the data they had compiled on the Johns-Manville textile factory to the New York Regional Office of the Occupational Safety and Health Administration, in New York City, only to discover that the people there did not possess adequate fibre-counting equipment, or even know how to use such equipment properly. With that, they flew back to Cincinnati and got in touch with officials of the United Papermakers and paperworkers Union. A few weeks later, they learned something from the union people that the commissioner of the New Jersey Department of Labor and Industry had known for more than a year—that in 1969 alone the Johns-Manville Corporation had paid out $887,341 in workmen's compensation to two hundred and eighty-five employees of the Manville plant who had become disabled with asbestosis.

At his meeting with union leaders in Washington on October 18th, Dr. Selikoff documented his contention that the Department of Labor should establish a standard for occupational exposure to asbestos to replace the current twelve-fibre standard. At the same time, he stressed the fact that any standard for asbestos exposure could be concerned only with the prevention of pulmonary fibrosis, and that little was known as to how low a standard might have to be in order to prevent asbestos-related cancer, which had accounted for fully three-quarters of the excess deaths among the insulation workers.

On November 4, 1971, the Industrial Union Department transmitted through George Taylor, the executive secretary of the A.F.L.-C.I.O.'s standing committee on safety and occupational health, a letter urgently requesting Secretary Hodges to use the power granted him by the Occupational Safety and Health Act of 1970 to declare an emergency standard governing the industrial use of asbestos. The letter declared that the existing twelve-fibre standard constituted "a license to jeopardize without effective restraint the lives of millions of workers," and urged the Secretary to declare an emergency standard of two fibres per cubic centimetre and to issue a bulletin prescribing that an appropriate label be affixed to each container of asbestos and asbestos products, warning workers of danger. In addition, the letter asked the Secretary to get in touch with the administrator of the Environmental Protection Agency "to enable him to investigate the necessity for invoking the imminent-danger provisions of the Clean Air Act, as amended in 1970, to protect our families and communities from the effects of ambient asbestos that escapes from the workplace."

As might be supposed, the Industrial Union Department's letter placed considerable pressure upon Secretary Hodges to take some kind of action. When he did so, however, on December 7th, he declared an emergency standard for asbestos of five fibres longer than five microns per cubic centimetre of air. This, of course, was an emergency standard only in the eyes of the Department of Labor, since it was two and a half times as great as the standard requested by the Industrial Union Department, and since the Conference of Hygienists had already published it as a proposed change. It is not known what, if any, medical data prompted the Secretary of Labor to select the five-fibre standard, or why he chose to disregard the data indicating that asbestos diseases could occur at this level of exposure. Perhaps he was seeking a middle ground that he hoped would be satisfactory both to industry and to the union people. If so, he was neglecting the responsibility placed upon him by the Occupational Safety and Health Act for promulgating standards that, even if they entailed conflict, would assure "the greatest protection of the safety or health of the affected employees." In any case, it is a pity that he was not aware of the NIOSH report on Pittsburgh Corning's Tyler plant, which was then slowly making its way through the bureaucratic labyrinth, for the story of the plant constituted incontrovertible evidence of the sorry tangle of ignorance, laxity, and lack of communication that had from the very beginning characterized government policy toward occupational exposure to asbestos. The story of Tyler also made a mockery of one of the basic assumptions behind this policy: that the government could and would force industry to abide by a numerical fibre standard, and, in so doing, could insure healthful working conditions in asbestos factories.

The NIOSH inspection, which was conducted between October 26th and October 29th, included an industrial-hygiene survey, carried out by engineers from NIOSH's Division of Technical Services, and a medical survey, performed by a three-man team from the Division of Field Studies and Clinical Investigations. The medical team was headed by Dr. Johnson, who has a vivid memory of his first look at the Tyler plant. "Two carloads of us drove in from Dallas late on the afternoon of the twenty-sixth," he recalls. "The factory was situated in an industrial district on the outskirts of town, and it consisted of a pair of wood-shell buildings, each of which was about a thousand feet long, fifty feet wide, and thirty feet high. When we arrived, we were met in the front office by Mr. Charles E. Van Horne, the plant manager, and since it was late in the day, there was just time for a quick preliminary walk-through. The place was an unholy mess. Why, compared with it, the Port Allegany plant looked like a hospital operating room! A thick layer of dust coated everything—from floors, ceiling, and rafters to drinking fountains. As we walked through the interior, we saw men forking asbestos fibre into a feeding machine as if it were hay. They obviously had no idea of the hazard involved. Further down the line, we came upon some fellows with respirators hanging around their necks, who were sitting in an open doorway eating watermelon. I hate to think of the fibre counts on those slices of watermelon. I remember turning to Dr. Richard Spiegel, one of my assistants. 'This is intolerable,' I told him. He was as shocked as I was."

It did not take Dr. Johnson and his associates from NIOSH long to realize that at virtually every stage of the manufacturing process enormous quantities of asbestos dust were being spewed out into the factory. In addition to poor housekeeping procedures, the chief cause was a grossly inadequate ventilation system. Other aspects of the plant's operation were found to be equally hazardous. The scrap-grinding machine, where refuse from various operations was made reusable. was extremely dusty and lacked sufficient ventilation equipment, and a fan near the feed hoppers simply contributed turbulence that redispersed dust into the working environment.

Moreover, both the scrap grinder and the feeding machines relied on a dust-collection system that consisted of canvas bags inside the plant, beneath the roof. These bags were periodically emptied by mechanical shaking, and when this happened huge amounts of asbestos dust were released into the air; then, after it had settled, instead of being vacuumed the dust was swept into piles with push brooms. The ventilation equipment on the saws in the finishing department was also found to be inadequate; excessive amounts of asbestos dust were escaping into the air there as well.

Because of Pittsburgh Corning's application for a variance, the NIOSH inspectors learned, the wearing of respirators had been mandatory in all areas of the plant since

August. However, instead of being used for emergency or backup protection, as industrial-hygiene standards prescribed, the respirators were obviously being employed in the Tyler plant as substitutes for an adequate dust-control system and for proper housekeeping. Nor did the company have any adequate program for selecting, fitting, cleaning, and maintaining the respirators worn by its employees, and many of the men were wearing them improperly. In addition to noting these hazards, the inspectors saw that the factory's lunchroom was within fifty feet of one of the dustiest operations in the plant, and that workers were allowed to enter it wearing clothes that were contaminated with asbestos. The NIOSH men also discovered that compressed-air outlets throughout the plant were being used to blow excess dust off the employees—a practice that simply reintroduced asbestos fibres into the working environment.

As a result of these multiple deficiencies in the ventilation system and in the operating procedures of the Tyler plant, Dr. Johnson and his associates were not surprised to find that, of a hundred and thirty-eight air samples taken at different locations in the factory, a hundred and seventeen exceeded the recommended five-fiber standard. (Of course, even if the Tyler plant *had* observed that standard, workers not wearing respirators would still have been inhaling at least forty million asbestos fibres in an eight-hour working day.) What astonished them, however, was how *much* the levels exceeded the recommended standard, at almost every step in the manufacturing process. In the mixing department, where the feed hoppers and the scrap grinder were situated the maximum concentration was a hundred and eighty-nine fibres per cubic centimetre of air, and the average was seventy-five. In the forming department, where the material was rolled on mandrels, the maximum concentration was a hundred and thirty-four fibres per cubic centimetre, and the average was thirty-nine.

In the finishing department, where pipe covering was trimmed and sawed, the maximum concentration was two hundred and eight fibres per cubic centimetre—an approximation, for the air sample was actually too dusty to permit an exact count under a microscope—and the average was forty-one. Even in the inspection and packing department, where the finished product was weighed, boxed, and shipped, the maximum concentration was ninety-two fibres per cubic centimetre, and the average was twenty-three—nearly double the interim standard of the Department of Labor, nearly five times the standard recommended by the hygienists, and ten times the level of exposure that Dr. Selikoff and other epidemiologists had found to be responsible for the extraordinary number of excess deaths among the insulation workers. But the true intensity of the exposure of the Tyler workers can only be appreciated when one recognizes that such concentrations of long asbestos fibres per thimbleful of air really meant that, before they were required to wear respirators in August, some of these men were inhaling up to a billion of the longer fibres each working day, and many more of the shorter ones, which were not being counted by the engineers.

Since asbestos-induced cancers generally take at least twenty years to develop, and the Tyler plant had been in operation for only seventeen years, Dr. Johnson and his associates did not yet expect to find neoplasms among the sixty-three men working there. However, in order to complement the X-rays and pulmonary-function tests that had been performed in August by Dr. Hurst, they examined the employees for rales—crackling sounds in the chest which can occur with asbestosis—and for finger clubbing, a thickening of tissue at the fingertips which often occurs with asbestosis. After comparing notes with Dr. Hurst, they determined—even without the benefit of the X-rays, which they were not allowed to see—that seven of the eighteen workers with more than ten years of employment at the factory met at least three of four criteria for asbestosis. (These criteria included, besides rales and finger clubbing, dyspnea, which is shortness of breath, and marked reduction of forced vital capacity, which is an inability to take sufficient air into the lungs because of pulmonary fibrosis.) Reduced pulmonary function was also observed in some workers who had been employed at the plant for less than five years. Because of these findings, Dr. Johnson and his associates concluded that the health of the sixty-three employees at the Tyler plant had been gravely jeopardized, but they wished to have the X-rays reviewed by an expert panel of radiologists before making a definitive diagnosis of asbestosis on an individual basis. As things turned out, however, they were seeing only the tip of the iceberg, for when they got around to examining the company's employment records they discovered that a total of eight hundred and ninety-five men had worked in the plant at one time or another. Considering the disastrous mortality figures of the men who had worked at the Paterson factory between 1941 and 1945, this was disturbing news, to say the least. It also provided a chilling corollary to Dr. Johnson's first conversation with Dr. Grant, back in July, when Dr. Grant had suggested that there wasn't much of a health problem at the Tyler plant, because people didn't work there long enough to get sick.

The preliminary report of the NIOSH survey, declaring that an extremely serious occupational-health situation existed at the Tyler plant, was sent, on November 16th, to Dr. James E. Peavy, the commissioner of the Texas State Department of Health, and copies went to a number of other officials, including Dr. Key, Dr. Grant, Van Horne, and John K. Barto, the regional administrator for the Occupational Safety and Health Administration, in Dallas. Barto received the report on November 18th, and acted quickly on it, for he was aware that industrial hygienists from the Department of Labor's Dallas office had inspected the Tyler plant nearly three years before, and, even though they had found an inadequate ventilation system and faulty respiratory protection, had not taken any effective action to remedy the situation, or even reinspected the factory to see whether Pittsburgh Corning had corrected the defects. On November 23rd, Barto sent his assistant, Clarence R. Holder, and John P. Boyle, an industrial hygienist, to conduct still another inspection of the Tyler plant. As might be expected, their findings simply substantiated those of the survey conducted by NIOSH. On December 1st, Holder and Boyle informed Van Horne that violations of occupational-safety-and-health regulations found in the plant included not only improper wearing of respirators but failure to examine workers to determine whether they had the physical capacity for wearing respirators, inadequate housekeeping, and insufficient dust control. They also told the plant manager that citations would be issued and penalties imposed, and that the violations would require immediate corrective action—except extensive improvements in ventilation and dust equipment, for which a later date would be set. Holder and Boyle then returned to Dallas, where in the next two weeks, as they awaited analysis of air samples they had taken, they wrote up a lengthy report of their inspection, which was sent to Holman, the corporation's vice-president in charge of manufacturing and technology, at Pittsburgh Corning's home office, on December 16th. In the meantime, Secretary Hodgson had declared the emergency five-fibre standard for asbestos, but since the inspectors for the Occupational Safety and Health Administration had surveyed the factory under the twelve-fibre standard published in the *Federal Register* of May 29th, they decided it would be unjust to apply the new regulation *ex post facto* to the situation at Tyler. As things turned out, their sense of fair play made little difference, for the obsolete twleve-fibre standard was exceeded—in some instances, ten times over—in forty-two of the forty-four air samples they had taken at the plant. Even so, the Occupational Safety and Health people failed to cite Pittsburgh Corning for violating any fibre standard, or even to list, in the citation for insufficient dust control, the specific dust levels they had found. Moreover, although their *Compliance Operations Manual* clearly compelled them to follow Section 17 (k) of the Occupational Safety and Health Act, which states that "a serious violation shall be deemed to exist in a place of employment if there is a substantial probability that death or serious physical harm could result from a condition which exists . . . unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of the violation," the inspectors listed the conditions they had discovered at the Tyler plant not under the heading of "Serious Violations" but under the heading of "Nonserious (Other) Violations," which, according to their manual, applied to situations "where an incident or occupational illness resulting from violation of a standard would probably not cause death or serious physical harm." If the violations had been considered serious, the Administration could have assessed Pittsburgh Corning as much as a thousand dollars for each one. For nonserious violations, the Occupational Safety and Health Administration could have assessed a penalty of anywhere from a thousand dollars each to no penalty at all, depending upon the inspector's judgment of "the severity of the injury or disease most likely to result." Given this latitude, the Administration people undertook to grant Pittsburgh Corning the benefit of every doubt. For three violations—improper wearing of respirators, failure to examine the workers to see if they could wear respirators, and inadequate housekeeping—they proposed a fine of twenty-five dollars each. For insufficient dust control, they proposed a fine of a hundred and thirty-five dollars. The total came to two hundred and ten dollars.

—PAUL BRODEUR.

IS ENERGY BILL REALLY A GIVEAWAY?

Mr. BROCK. Mr. President, since I became a Member of this esteemed body, many times my colleagues have heard me comment on the need for the Congress to regain its ability to act as a coequal branch of Government. Recently, columnist Vic Gold wrote an article on this very fact which I found intriguing, and I would like to share it with my colleagues. I ask unanimous consent that Mr. Gold's article be printed in the RECORD.

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

IS ENERGY BILL REALLY A GIVEAWAY?

Have you heard about the infamous Ziegler Memorandum—the White House master-plan to establish instant dictatorship?

It seems that a national capital monthly now on the newsstands features a fictitious communication from Ron Ziegler to his boss. In a parody of White House memorandese, the press secretary purportedly recommends that Nixon end all this Watergate nonsense by making full use of presidential powers already at his disposal.

For example, think how this could put certain hostile segments of the press in their place. The country has a newsprint shortage, right? Well, the memorandum suggests strict application of available executive authority to allocate strategic material in critical supply.

Get it? No newsprint, no New York Times! Funny? Okay, it may not play in Peoria. But it sure goes over in Georgetown.

The Ziegler memorandum is spurious in detail. But it nevertheless contains a central truth that such disparate libertarian spirits as the American Civil Liberties Union and Sen. James Buckley of New York find disturbing about the pending Energy Emergency Act.

The ACLU recently wrote Sen. Henry Jackson and Congressman Harley Staggers, co-chairmen of the joint Senate-House conference committee now considering the Energy bill. In some detail, the organization raised serious questions regarding the comprehensive powers given the executive branch by the proposed act. Buckley and a handful of his colleagues pressed similar questions when the bill was first debated in the Senate. They were overwhelmingly squelched.

Odd, isn't it? What they keep telling us on Capitol Hill is that Congress means to reassert its authority as a balancing force against an executive branch grown too powerful. But comes an energy crunch—the most serious domestic issue facing the country in four decades—and a legislative body that began copping out on its regulatory responsibility in March 1933 finds the habit hard to break.

Consider the fundamental issues involved in the pending bill to manage national fuel use. Here we have a proposal which would establish a massive new federal bureaucracy with unprecedented peacetime authority to manage practically every facet of national life.

The implications of such broad-gauge legislation are ominous. What about the effect of possible Sunday travel clubs on freedom of religion? Could home use of television and radio be restricted in the name of "energy conservation"?

To date, however, a liberal Democrat-controlled legislative branch, philosophically housetrained to accept the idea of an all-powerful executive, hasn't overly concerned itself with such esoteric matters.

Oh, it's concerned about the possibility of windfall giveaways to oil companies under the Energy Act, all right. But the threat of the biggest giveaway of all—that of vast authority to an already bloated bureaucracy—somehow fails to dent the carapace grown by years of congressional indifference to White House power grabs.

Bringing up the point: If what the country needs is sick satire about the making of American president-dictators, why go to the trouble of conjuring up imaginary memoranda from White House aides? Just take a hard look at what that great bulwark against executive department usurpation, the U.S. Congress, has accomplished in that direction in years past—and is doing even at this late date.

OLDER AMERICANS AND THE INCOME TAX

Mr. KENNEDY. Mr. President, more than 9 million persons 65 or older will be filing tax returns this year. Many of them will be paying more than their fair share.

The Senate Committee on Aging has held hearings into the special difficulties that an elderly person must overcome to discover what deductions he is eligible for and to take advantage of those difficulties.

The vast majority of the elderly do not have highly paid tax consultants to assist them in the job of preparing their tax returns. For them, the process of filling out the tax forms, of deciding whether to take standard deductions or to itemize their deductions, and of deciding what deductions they are eligible for is a time-consuming and often frustrating task.

In the end, many overpay their taxes because they are unaware of the relief measures which have been passed into law.

Although there is legislation pending which would provide tax assistance and counseling to the elderly, it is not likely that there will be action on this proposal before April 15.

Therefore, the Committee on Aging has prepared a checklist of possible deductions as well as a list of special provisions affecting the elderly.

Because these lists would be of great value to elderly taxpayers, as well as to others, I would ask unanimous consent that they be printed in the RECORD.

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

CHECKLIST OF ITEMIZED DEDUCTIONS FOR SCHEDULE A (FORM 1040)

MEDICAL AND DENTAL EXPENSES

Medical and dental expenses are deductible to the extent that they exceed 3% of a taxpayer's adjusted gross income (line 15, Form 1040).

INSURANCE PREMIUMS

One-half of medical, hospital or health insurance premiums are deductible (up to $150) without regard to the 3% limitation for other medical expenses. The remainder of these premiums can be deducted, but is subject to the 3% rule.

DRUGS AND MEDICINES

Included in medical expenses (subject to 3% rule) but only to extent exceeding 1% of adjusted gross income (line 15, Form 1040).

OTHER MEDICAL EXPENSES

Other allowable medical and dental expense (subject to 3% limitation):

Abdominal supports.
Ambulance hire.
Anesthetist.
Arch supports.
Artificial limbs and teeth.
Back Supports.
Braces.
Capital expenditures for medical purposes (e.g., elevator for persons with a heart ailment)—deductible to the extent that the cost of the capital expenditure exceeds the increase in value to your home because of the capital expenditure. Taxpayer should have an independent appraisal made to reflect clearly the increase in value.
Cardiographs.
Chiropodist.
Chiropractor.
Christian science practitioner, authorized.
Convalescent home (for medical treatment only).
Crutches.
Dental services (e.g., cleaning teeth, X-rays, filling teeth).
Dentures.
Dermatologist.
Eyeglasses.
Gynecologist.
Hearing aids and batteries.
Hospital expenses.
Insulin treatment.
Invalid chair.
Lab tests.
Lip reading lessons (designed to overcome a handicap).
Neurologist.
Nursing services (for medical care).
Ophthalmologist.
Optician
Optometrist.
Oral surgery.
Osteopath, licensed.
Pediatrician.
Physical examinations.
Physician.
Physiotherapist.
Podiatrist.
Psychiatrist.
Psychoanalyst.
Psychologist.
Psychotherapy.
Radium Therapy.
Sacroiliac belt.
Seeing-eye dog and maintenance.
Splints.
Supplementary Medical Insurance (Part B) under Medicare.
Surgeon.
Transportation expenses for medical purposes (6¢ per mile plus parking and tolls or actual fares for taxi, buses, etc.).
Vaccines.
Vitamins prescribed by a doctor (but not taken as a food supplement or to preserve general health).
Wheelchairs.
Whirlpool baths for medical purposes.
X-rays.

TAXES

Real estate.
State and local gasoline.
General sales.
State and local income.
Personal property.

If sales tax tables are used in arriving at your deduction, you may add to the amount shown in the tax tables only the sales tax paid on the purchase of 5 classes of items: automobiles, airplanes, boats, mobile homes and materials used to build a new home when you are your own contractor.

When using the sales tax tables, add to your adjusted gross income any nontaxable income (e.g., Social Security or Railroad Retirement Annuities.)

CONTRIBUTIONS

In general, contributions may be deducted up to 50 percent of your adjusted gross income (line 15, Form 1040). However, contributions to certain private nonprofit foundations, veterans organizations, or fraternal societies are limited to 20 percent of adjusted gross income.

Cash contributions to qualified organizations for (1) religious, charitable, scientific, literary or educational purposes, (2) prevention of cruelty to children or animals, or (3) Federal, state or local governmental units (tuition for children attending parochial schools is not deductible). Fair market value of property (e.g. clothing, books, equipment, furniture) for charitable purposes. (For gifts of appreciated property, special rules apply. Contact local IRS office.)

Travel expenses (actual or 6¢ per mile plus parking and tolls) for charitable purposes (may not deduct insurance or depreciation in either case).

Cost and upkeep of uniforms used in charitable activities (e.g., scoutmaster).

Purchase of goods or tickets from charitable organizations (excess of amount paid over the fair market value of the goods or services).

Out-of-pocket expenses (e.g. postage, stationery, phone calls) while rendering services for charitable organizations.

Care of unrelated student in taxpayer's home under a written agreement with a qualifying organization (deduction is limited to $50 per month).

INTEREST

Home mortgage.
Auto loan.

Installment purchases (television, washer, dryer, etc.).

Bank credit card—can deduct the finance charge as interest if no part is for service charges or loan fees, credit investigation reports. If classified as service charge, may still deduct 6 percent of the average monthly balance (average monthly balance equals the total of the unpaid balances for all 12 months, divided by 12) limited to the portion of the total fee or service charge allocable to the year.

Points—deductible as interest by buyer where financing agreement provides that they are to be paid for use of lender's money. Not deductible if points represents charges for services rendered by the lending institution (e.g. VA loan points are service charges and are not deductible as interest). Not deductible if paid by seller (are treated as selling expenses and represent a reduction of amount realized).

Penalty for prepayment of mortgage—deductible as interest.

Revolving charge accounts—may deduct the "finance charge" if the charges are based on your unpaid balance and computed monthly.

CASUALTY OR THEFT LOSSES

Casualty (e.g. tornado, flood, storm, fire, or auto accident provided not caused by a willful act or willful negligence) or theft losses to nonbusiness property—the amount of your casualty loss deduction is generally the lesser of (1) the decrease in fair market value of the property as a result of the casualty, or (2) your adjusted basis in the property. This amount must be further reduced by any insurance or other recovery, and, in the case of property held for personal use, by the $100 limitation. You may use Form 4684 for computing your personal casualty loss.

CHILD AND DISABLED DEPENDENT CARE EXPENSES

The deduction for child dependent care expenses for employment related purposes has been expanded substantially. Now a taxpayer who maintains a household may claim a deduction for employment-related expenses incurred in obtaining care for a (1) dependent who is under 15, (2) physically or mentally disabled dependent, or (3) disabled spouse. The maximum allowable deduction is $400 a month ($4,800 a year). As a general rule, employment-related expenses are deductible only if incurred for services for a qualifying individual in the taxpayer's household. However, an exception exists for child care expenses (as distinguished from a disabled dependent or a disabled spouse). In this case, expenses outside the household (e.g., day care expenditures) are deductible, but the maximum deduction is $200 per month for one child, $300 per month for 2 children, and $400 per month for 3 or more children.

When a taxpayer's adjusted gross income (line 15, Form 1040) exceeds $18,000, his deduction is reduced by $1 for each $2 of income above this amount. For further information about child and dependent care deductions, see Publication 503, Child Care and Disabled Dependent Care, available free at Internal Revenue offices.

MISCELLANEOUS

Alimony and separate maintenance (periodic payments).

Appraisal fees for casualty loss or to determine the fair market value of charitable contributions.

Campaign contributions (up to $100 for joint returns and $50 for single persons).

Union dues.

Cost of preparation of income tax return.

Cost of tools for employee (depreciated over the useful life of the tools).

Dues for Chamber of Commerce (if as a business expense).

Rental cost of a safe-deposit box for income producing property.

Fees paid to investment counselors.

Subscriptions to business publications.

Telephone and postage in connection with investments.

Uniforms required for employment and not generally wearable off the job.

Maintenance of uniforms required for employment.

Special safety apparel (e.g., steel toe safety shoes or helmets worn by construction workers; special masks worn by welders).

Business entertainment expenses.

Business gift expenses not exceeding $25 per recipient.

Employment agency fees for securing employment.

Cost of a periodic physical examination if required by employer.

Cost of installation and maintenance of a telephone required by the taxpayer's employment (deduction based on business use).

Cost of bond if required for employment.

Expenses of an office in your home if employment requires it.

Payments made by a teacher to a substitute.

Educational expenses required by your employer to maintain your position or for maintaining or sharpening your skills for your employment.

Political Campaign Contributions: Taxpayers may now claim either a deduction (line 33, Schedule A. Form 1040) or a credit (line 52, Form 1040), for campaign contributions to an individual who is a candidate for nomination or election to any Federal, State or local office in any primary, general or special election. The deduction or credit is also applicable for any (1) committee supporting a candidate for Federal, State, or local elective public office, (2) national committee of a national political party, (3) state committee of a national political party, or (4) local committee of a national political party. The maximum deduction is $50 ($100 for couples filing jointly). The amount of the tax credit is one-half of the political contribution, with a $12.50 ceiling ($25 for couples filing jointly).

Presidential Election Campaign Fund: Additionally, taxpayers may voluntarily earmark $1 of their taxes ($2 on joint returns) to help defray the costs of the 1976 presidential election campaign. If you failed to earmark $1 of your 1972 taxes ($2 on joint returns) to help defray the cost of the 1976 presidential election campaign, you may do so in the space provided above the signature line on your 1973 tax return.

For any questions concerning any of these items, contact your local IRS office. You may also obtain helpful publications and additional forms by contracting your local IRS office.

OTHER TAX RELIEF MEASURES FOR OLDER AMERICANS

Required to file a tax return if gross income is at least

Filing status:	
Single (under age 65)	$2,050
Single (age 65 or older)	2,800
Married couple (both spouses under 65) filing jointly	2,800
Married couple (1 spouse 65 or older) filing jointly	3,550
Married couple (both spouses 65 or older) filing jointly	4,300
Married filing separately	750

Additional Personal Exemption for Age: In addition to the regular $750 exemption allowed a taxpayer, a husband and wife who are 65 or older on the last day of the taxable year are each entitled to an additional exemption of $750 because of age. You are considered 65 on the day before your 65th birthday. Thus, if your 65th birthday is on January 1, 1974, you will be entitled to the additional $750 personal exemption because of age for your 1973 Federal income tax return.

Multiple Support Agreement: In general, a person may be claimed as a dependent of another taxpayer, provided five tests are met: (1) Support, (2) Gross Income, (3) Member of Household or Relationship, (4) Citizenship, and (5) Separate Return. But in some cases, two or more individuals provide support for an individual, and no one has contributed more than half the person's support.

However, it still may be possible for one of the individuals to be entitled to a $750 dependency if the following requirements are met for multiple support:

1. Two or more persons—any one of whom could claim the person as a dependent if it were not for the support test—together contribute more than half of the dependent's support.

2. Any one of those who individually contribute more than 10 percent of the mutual dependent's support, *but only one of them,* may claim the dependency deduction.

3. Each of the others must file a written statement that he will not claim the dependency deduction for that year. The statement must be filed with the income tax return of the person who claims the dependency deduction. Form 2120 (Multiple Support Declaration) may be used for this purpose.

Sale of Personal Residence by Elderly Taxpayers: A taxpayer may elect to exclude from gross income part, or, under certain circumstances, all of the gain from the sale of his personal residence, provided:

1. He was 65 or older before the date of the sale, and

2. He owned and occupied the property as his personal residence for a period totaling at least five years within the eight-year period ending on the date of the sale.

Taxpayers meeting these two requirements may elect to exclude the entire gain from gross income if the adjusted sales price of their residence is $20,000 or less. (This election can only be made once during a taxpayer's lifetime.) If the adjusted sales price exceeds $20,000, an election may be made to exclude part of the gain based on a ratio of $20,000 over the adjusted sales price of the residence. Form 2119 (Sale or Exchange of Personal Residence) is helpful in determining what gain, if any, may be excluded by an elderly taxpayer when he sells his home.

Additionally, a taxpayer may elect to defer reporting the gain on the sale of his personal residence if within one year before or one year after the sale he buys and occupies another residence, the cost of which equals or exceeds the adjusted sales price of the old residence. Additional time is allowed if (1) you construct the new residence or (2) you were on active duty in the U.S. Armed Forces. Publication 523 (Tax Information on Selling Your Home) may also be helpful.

Retirement Income Credit: To qualify for the retirement income credit, you must (a) be a U.S. citizen or resident, (b) have received earned income in excess of $600 in each of any 10 calendar years before 1973, and (c) have certain types of qualifying "retirement income". Five types of income—pensions, annuities, interest, and dividends included on line 15, Form 1040, and gross rents from Schedule E, Part II, column (b)—qualify for the retirement income credit.

The credit is 15 percent of the lesser of:

1. A taxpayer's qualifying retirement income, or

2. $1,524 ($2,286 for a joint return where both taxpayers are 65 or older) minus the total of nontaxable pensions (such as Social Security benefits or Railroad Retirement annuities) and earned income (depending upon the taxpayer's age and the amount of any earnings he may have).

If the taxpayer is under 62, he must reduce the $1,524 figure by the amount of earned income in excess of $900. For persons at least 62 years old but less than 72, this

amount is reduced by one-half of the earned income in excess of $1,200 up to $1,700, plus the total amount over $1,700. Persons 72 and over are not subject to the earned income limitation.

Schedule R is used for taxpayers who claim the retirement income credit.

The Internal Revenue Service will also compute the retirement income credit for a taxpayer if he has requested that IRS compute his tax and he answers the questions for Columns A and B and completes lines 2 and 5 on Schedule R—relating to the amount of his Social Security benefits, Railroad Retirement annuities, earned income, and qualifying retirement income (pensions, annuities, interest, dividends, and rents). The taxpayer should also write "RIC" on line 17, Form 1040.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to U.S. Census Bureau approximations, the total population of the United States as of March 1, 1974, is 211,809,165. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,429,005 since March 1 of last year. It also represents an increase of 50,063 since February 1, 1974—that is, in just the last month.

Over the year, therefore, we have added enough people to fill two cities the size of Milwaukee, Wis. And in just 1 short month, we have added enough additional people for another Danbury, Conn.

REFORM OF CAMPAIGN FINANCING

Mr. MATHIAS. Mr. President, the Senate will soon begin debate on a bill to fundamentally reform the method by which political campaigns for Federal offices are conducted. This reform is sorely needed. It is unfortunate that we have not moved far sooner to exercise this evil, but I am still hopeful that we can enact a major bill this year.

In anticipation of the Senate's action, Mr. Alfred R. Hunt has written an analysis of the current public financing proposals. Mr. Hunt is member of the Washington bureau of the Wall Street Journal, and his article appeared in that newspaper on February 20, 1974. I believe it is a fair picture of the situation which confronts us, and so I am pleased to call it to the attention of my colleagues.

I therefore ask unanimous consent that it be printed in the RECORD.

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

CONGRESS WEIGHS CAMPAIGN FINANCING

(By Alfred R. Hunt)

WASHINGTON.—The issue of who should foot the bill for federal elections—the taxpayers or the fat cats—is about to make its umpteenth reappearance on the congressional stage. This time, however, it may be resolved for real.

This matter, of course, has been debated for decades, and with escalating rhetoric since the revelations of Watergate. Even so, foes of public financing have been able to stave off any radical change in the present private funding of elections.

Now their defeat seems to be drawing near. The Senate Rules Committee recently cleared a measure providing for sweeping public financing of all federal elections, and it is likely to attract broad support on the Senate floor within the next month. The House has been the major obstacle to any campaign financing overhaul but now the House Administration Committee is committed to approving legislation within the next few weeks which certainly will include some form of public financing.

To be sure, the issue of whether public financing should be applied to congressional campaigns—and if so, how and when—is still far from settled. But the general outlines of a public financing plan for the 1976 presidential election already are clear. This is certain to revive all the old arguments against the concept, and so it's worthwhile examining some of them now.

THE CHECK-OFF PROVISION

Already on the books is a provision which allows single taxpayers to earmark $1 of their tax returns, and couples $2, for a presidential campaign financing fund. The new legislation would build on this plan by doubling the check-off amount, placing tighter restrictions on private contributions to politicians and spelling out the rules under which federal cash would be doled out. It would further stipulate that if the tax check-off didn't raise enough dough, Congress could appropriate supplemental funds to make up the difference.

Under the Senate Rules Committee bill, as in a bill that passed the Senate, but not the House last year, both presidential primaries and general elections would be covered. In primaries, any Republican or Democratic hopeful would have to raise $250,000 in contributions of $250 or less to qualify for federal largesse.

Once this criterion had been met, primary candidates would receive $1 of federal money for each dollar raised in private contributions of less than $250. This would include the initial $250,000 of small donations raised, and there'd be an overall spending limit of around $16 million for the entire series of primaries. There'd be a fairly generous limit, too, on spending in any one primary.

In general elections, the Democratic and Republican candidates could spend up to $24 million a piece, using any mix of public and private donations they desire. Candidates of minor parties which got at least 5% of the vote in the previous election would qualify for a sum of federal money proportionate to their party's relative showing. If a party failed to achieve 5% of the vote in the earlier race, its candidate still could get some federal money after the election, this reimbursement based on the percentage of votes the candidate received.

For both primaries and general elections, there'd be a fairly loophole-free ceiling of $3,000 placed on the private contributions of any one donor. This, it's widely agreed, would make private fund-raising a lot harder.

The complaints against this proposal are numerous. The fear is it will produce a plethora of frivolous primary candidates who will only run because of the availability of federal money. Sen. James Allen (D., Ala.), for one, suggests there are apt to be 25 or 30 candidates contesting for each major party's nomination. Moreover, some analysts say, this kind of free-for-all could produce a winner with strong emotional appeal to a narrow group but little broad backing.

Upon closer examination, however, these fears seem misplaced. It's very difficult to imagine a totally frivolous candidate raising $250,000 in small contributions. Further, the amount of federal money a candidate drew for his primary campaign would be dependent upon the amount he raised in small contributions, thus pretty safely ruling out the prospects of a Sam Yorty or Hardold Stassen dipping heavily into the federal till.

It is true that candidates with particularly strong emotional appeals often find it easier to attract small contributions, whether it be Barry Goldwater in 1964 or George McGovern in 1972. But often these candidates are better heeled financially than more middle-of-the-road opponents anyway, so it's hard to see how public financing would give them any added advantage.

There are similar fears about the effect upon general election campaigns. Some Senators have worried that the lure of federal funds would prove irresistible to any minor party candidate who dreamed of getting a 5% to 10% vote. This might result in multicandidate fields, endangering a strong two-party system, it's charged.

Here again, the danger seems more apparent than real. No minor party candidate would get any federal money until he displayed an ability to get at least 5% of the vote. Thus any candidate who dreamed of tapping federal support to push some far-out schemes would only be deluding himself.

A more serious problem, seemingly, would be the exact opposite: Third-or fourth-party candidates could be eliminated from running for the presidency. This is because any candidate whose party didn't receive at least 5% of the vote in the previous election couldn't get any federal money until after the current campaign had ended—and with the $3,000 limit on individual contributions, it would be tough to raise a campaign war chest privately.

On the other hand: since the major-party nominees probably would be relying almost solely on public money, there would at least be more private money lying around. "It would be tough for a minor party candidate to raise money, but the fact that there wouldn't be as much competition for this money is a compensating factor," contends a lawyer for Common Cause, the self-described citizens lobbying group and a major advocate of public financing.

In any event, serious third-party candidates have been terribly uncommon in recent American history. Since Robert LaFollette ran 50 years ago, the only minor party figure to get more than 5% of the vote was George Wallace in 1968, who got 14%. (If he were to do that well in 1976, under the formula in the Senate Rules Committee's bill, Gov. Wallace would be reimbursed with about $7 million of federal money.)

Another fear is that public financing would mean some federal control over elections, and that the party in power could change the ground rules in order to gain advantage. Sen. Lowell Weicker (R., Conn.) has worried this might create a situation like South Vietnam "where, after the election is over, the winner goes around and starts enforcing the law, nailing the losing candidates."

There's no iron-clad guarantee that such tinkering mightn't be possible. But if fairly tight, self-executing standards are devised, it surely would be politically perilous to try to alter them in mid-stream.

WEAKENING THE PARTIES?

It may be that the most serious problem, which has been raised by such thoughtful observers as Washington Post political analyst David Broder, is that public financing would severely weaken political parties. A candidate with government funds would be less dependent upon, and less accountable to, his party.

However, even under public financing, most candidates still would count on the party apparatus to provide much-needed foot soldiers. And under the Senate Rules Committee bill, the national parties and all the state parties combined would be permitted to spend $3.2 million apiece in election campaigns.

Anyway, does the present system really bolster the parties? It's pretty tough, for instance, to find a Republican politician these days who thinks the 1972 Committee to Reelect the President (CREEP) contributed much strength or solidarity to the GOP as a party.

All of this, of course, doesn't dent the very real philosophical arguments that many advance against tapping the taxpayers to support politicians. But chances are these people are fighting a rear guard action. One almost certain byproduct of Watergate will be some public financing of the 1976 presidential race.

Only time will tell whether this proves desirable. Nevertheless, it seems very doubtful that such a plan really would wreak havoc upon this nation's political party and electoral system—and doubly doubtful that it would generate the kind of cynicism and suspicion that have arisen out of Watergate and the misuse of the present system that Watergate symbolizes.

FIREARMS VIOLENCE

Mr. KENNEDY. Mr. President, I would like to enter in the RECORD articles from two national magazines concerning firearms violence.

An editorial in the February issue of Encore magazine clearly expresses the growing demand for nationwide controls that will effectively reduce the deaths and injuries that guns cause.

Newsweek magazine, in its February 11 issue plainly describes the many needless dangers posed by the possession of millions of privately owned guns.

Dr. Thomas E. Deiker, of the Central Louisiana State Hospital, writes about his fears as a homeowner whose neighbors are armed for self protection. Yet, as Dr. Deiker explicitly illustrates, his neighbors are much more likely to wound or kill a loved one, or another neighbor than to actually fend off intruders.

Both of these articulate treatments set forth the growing dangers from the gun crisis in America. Effectively enforced gun legislation is demanded if we are to reduce the fear, the violence and tragedies that gun abuse generates. It is my hope that Senators who read these accounts will be impressed with the public demand and with our legislative responsibility to enact stiff gun laws.

Mr. President, I request unanimous consent to print both of these articles in the RECORD.

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

MY NEIGHBOR IS GOING TO KILL ME

(By Dr. Thomas E. Deiker)

My neighbor has a gun. In fact, not having the good fortune to live in the last house on a dead-end street, I am surrounded by neighbors with guns. My situation is hardly novel, since most American households own at least one weapon. We now have stockpiled enough privately owned guns to arm nearly every man, woman and child in the country. And some of those children are not just hypothetical gun users, as recent homicide trends indicate.

My neighbors' guns make me nervous; I'm afraid that they might go off at the wrong time and pointed in the wrong direction. I've asked why such dangerous items are allowed to clutter up the house. I've gotten several answers, from constitutional rights to the innocent sport of blasting birds out of the skies. I'd like to focus on just one of these reasons—for which social scientists are currently assembling enough data to take the issue out of the realm of speculation.

My neighbor tells me that curling up at night with his gun nearby makes him feel safer. Safer from what? A raving maniac out to better the going entry in the "Guinness Book of World Records" for a homicidal atrocity? My neighbor faces far less danger from the "mentally deranged" killer, who fortunately is extremely rare, than he does from my other neighbor who also has a gun. Contrary to the public myth, mental patients have crime rates far below those of my neighbor or me, for all categories of crime and for homicide in particular. One of the few safe places left to live in this pistol-packing country is on the grounds of your local mental hospital, where the residents are far less aggressive than my neighbor and guns are checked in at the gate.

Safer from some prowler in the night seeking to deprive his wife of her virtue or him of his new color television? According to best available estimates, my neighbor's odds of doing himself in accidentally with his own gun are about five times higher than his odds of being done in by some intruder. Professional breakers and enterers have long since adjusted their techniques to the annoying rise in home guns, with an increase in death rates more detrimental to my neighbor than to his attacker. Burglars and robbers have a clear edge in any encounter with my sleeping neighbor. In our best privately armed city, Detroit, robbers and burglars are currently winning the home shoot-outs at the rate of better than 2 to 1. As a gun owner, my neighbor would be better advised to invest his money in locks and a loud dog.

No, the prowler in the night accounts for fewer than 3 per cent of our gun deaths. The bulk comes from perfectly law-abiding, but gun-toting, people like my neighbor, who kill each other, themselves, or me. Of course, it is this last likelihood that worries me personally. I will grant my neighbor the constitutional right to run a greater risk of accidentally killing himself than of having it done for him by our hypothetical prowler in the night. But the risk of my losing my life is astonishingly higher. My greatest danger of dying of an unnatural cause off the highway comes from inadvertently stepping on my neighbor's marigolds, willfully winking at his wife, or foolishly arguing gun-control laws with him. If it's of any interest to my neighbor, the odds of his killing himself are even higher than of his killing me—if he happens to be subject to fits of depression about the condition of his flowers, the fidelity of his wife or the status of his ego after losing an argument.

NATIONAL DEFENSE

If my neighbor feels safer with a gun under his pillow because of some concern for an internal or external national threat, he has even less cause for serenity. We have managed to kill each other with our guns on an informal, neighborly basis with far greater efficiency than all our organized enemies in this nation's glorious war history. In that regard we exceed by more than 30 times our closest national rival in the developed world. My neighbor should not be obsessed with the likelihood of fighting foreign enemies house-to-house with a Saturday-night special, as romantic as that notion might seem to him. He should rather take comfort in the thought that his country is a really Big Neighbor who carries really Big Guns. My neighbor's peashooter will be superfluous to the contingencies we have planned for a foreign enemy who gets close enough to set foot on our soil.

Perhaps, on the other hand, my neighbor needs reassurance about his constitutional right to mount his horse with gun-carrying neighbors and march on the White House to wrest power back from the hands of a monarchical President with visions of a coronation. Our country has neither the history, temperament or political structure to make guerrilla warfare a viable alternative in the foreseeable future. We don't even have the geography any longer: the only possible stages on which that constitutional drama could be played out have long since been made into National Parks. Should it come to that, the IRA or Black September will forward my neighbor the appropriate handbooks on the extralegal amassing of arms. He could readily run his own gun and ammunition factory with a good furnace, scrap metal, some discrete mining, and formulas found in any high-school chemistry book.

Like most beliefs, my neighbor's concern has a real basis in fact. He does indeed have good reason to worry about his safety at night. With all of us now armed, we are the first nation to move into the realm of intranational overkill: if the only answer to my concerns about a neighbor's potential armed aggression is to acquire a gun, then my only "safety" lies in acquiring a bigger and better gun. The rise in privately owned machine guns and even more deadly devices in recent years points directly to such a grisly possibility.

THE DIFFERENCE

The incredible fact is that recent polls (after the Kennedys and King, but before Wallace and Stennis) show that two-thirds of our citizens favor stricter gun-control laws. If Congress genuinely voiced the will of the people, that would be enough support even to override a veto. The difference lies, we rabid pacifists suspect, in the vigor of the relevant lobbying groups. Although I am guaranteed by my Constitution the right to bear arms, I don't know how much longer I can bear my neighbors' arms.

FREEDOM TO KILL

(By Archibald Holland)

As a Black American you've got a right to kill, the same as any other American. It's in the Constitution—the Fifth Amendment, to be precise. It was passed in 1767, and we've been killing each other with gusto ever since.

Blacks kill Blacks. Blacks kill Whites. Whites kill Blacks, Whites kill each other, and likewise for all shades of color in between, Sweethearts kill lovers, parents kill children, brothers kill sisters, friends kill friends, workers kill bosses. And, occasionally, someone gets around to killing an enemy. The police, of course, kill anything that's Black and moves, including other policemen.

The small percentage of killings left over are done by criminals—some 20 percent, according to the FBI's Unified Crime Reports.

All of these killings are done by Americans, in America. The victims are usually American.

According to the FBI, 17,630 Americans were murdered in 1971. Of this total, 11,459 were killed by guns alone. At this rate, over the next five years roughly 85,000 Americans will be murdered in cold blood—85,000 in addition to those killed in whatever legitimate or illegitimate war we become involved in.

Since the year 1900, 800,000 Americans have been murdered by firearms. This figure represents over 200,000 more people than have been killed in all the wars since and including the American Revolution.

Let's check the record of other countries. In England, an average of 40 people yearly are killed by handguns. In Canada, 90. And in the Netherlands, yearly gun murders number less than 20. The total is even smaller for Iron Curtain countries. The reason is clear: the handgun is impossible to obtain in most of these countries. In England a gun is relatively unobtainable except on the black market, where the price is $1,000 for a single pistol. The average British citizen will never be able to afford the price of a gun in his lifetime. But guns are readily available to Americans by cash purchase or mail order, for as little as $10 for a Saturday Night Special.

Opponents of gun control say such restrictions won't work in this country. They use the time-worn argument that the criminal will be able to get a gun anyway. But since the criminal is only responsible for 20 percent of the killing, even a total war on

crime would solve 20 percent of the problem. The question is what to do about the apparently normal Americans who commit the other 80 percent of the total homicides.

In 1966, Charles Whitman climbed a tower at the University of Texas and knocked off 16 of his fellow citizens at one sitting. In Chicago, a few months later, Richard Speck blindfolded eight nurses and put a bullet in each one's brain. In one week four innocent bystanders were shot by an enraged gunman in Central Park. More recently, we have been shocked by the Muslim killings in New Orleans and New York City. None of the principals was a hardened criminal.

In the past ten years we have lost some of the most dedicated leaders in American history: John and Robert Kennedy, Martin Luther King, Malcolm X, Medgar Evers. Except for these planned assassinations, 80 percent of all murders are crimes of rage and passion. It is logical to conclude that had these ordinary people been unable to obtain guns, possibly *no crimes would have occurred.*

Despite all this premeditated violence, the fight to place even a modest control over the sale of guns has failed, except in a few selected areas. The firearms industry booms on. According to the President's Crime Commission, over 50 million Americans own guns. And guns are the cause of 60 percent of all homicides.

How long will Americans permit their sons and daughters to be slaughtered at the rate of 17,000 per year?

One man's freedom to kill means denial of another man's right to live. If we can permit 17,000 people per year to die in unorganized murder, is there any wonder no one listens to those of us who complain about the organized, systematic killings of Auschwitz, Dachau, Bergen, Belsen, Buchenwald and Vietnam?

We owe it to ourselves, our loved ones, and our hope for a long life to insist that our legislators prepare and support laws that ban the sale of all firearms, for whatever purpose. We should provide mandatory burglar insurance and burglar-proof protective devices for all shopowners. And we must give policemen more scientific and less lethal ways of halting criminals. These are essential steps toward creating a society that is safe enough for Americans to live in.

NATIONAL NUTRITION WEEK

Mr. PERCY. Mr. President, this is National Nutrition Week.

I am pleased that the Senate of the United States recognized the crucial importance of good nutrition by passing the resolution I authored, calling on the President officially to proclaim the week of March 3 through 10 as National Nutrition Week.

Unfortunately, the House of Representatives did not complete action on the resolution. Last year, the reverse was true. Perhaps next year both Chambers will complete action before the beginning of the first full week in March.

But the absence of an official proclamation does not diminish the importance or significance of good nutrition to the health and well-being of the American people.

The American Dietetic Association, the originator and organizer of National Nutrition Week, has chosen a most appropriate theme for this year's activities: "Nutrition Saves Dollars."

At a time when food prices are skyrocketing and food shortages are threatening, it is useful to remind ourselves and the American people of the need for a balanced diet to maintain good health and productivity.

In the context of 1974, the phrase "Nutrition Saves Dollars" underscores three important points. First, we need to be even more cautious and selective in the supermarket than ever before if we are to eat correctly. Second, we can obtain a nutritious, balanced, and savory diet without breaking the family's budget. And third, a small investment in good nutrition for the whole family can mean a significant saving in health care costs and an even more significant increase in the productivity of parents and children alike.

I congratulate the American Dietetic Association for mobilizing its members across the country in an effort to focus the public's attention on food and nutrition. It is but one example of the ADA's dedication to educating the public about the ways to achieve good nutrition and to enjoy good health.

It is altogether fitting that another group of dedicated professionals from the food and nutrition field should be holding a legislative workshop here in Washington during National Nutrition Week. I am speaking, of course, of the men and women of the American School Food Service Association.

I salute my friends of the ASFSA who have contributed so very much to the success of our child nutrition programs, most particularly, the school lunch program.

As the ranking Republican member of the Select Committee on Nutrition and Human Needs, I would also like to take this opportunity to salute all those persons who have aided the committee over the years in its efforts to end hunger and malnutrition in this country.

THE DETERIORATING POSTING OF THE U.S. MEN'S AND BOYS' TAILORED CLOTHING INDUSTRY

Mr. HUGH SCOTT. Mr. President, the men's and boys' tailored clothing industry which produces suits, overcoats, topcoats, raincoats, sport coats, and trousers, made from cotton, wool, and manmade fiber, is confronted with a serious threat to its continued existence. Production and employment have been declining, and profits, which have been significantly lower than those for the apparel industry as a whole, were negative in 1973 for the first time in the industry's history and this situation is continuing in 1974.

With the exception of men's sport coats, domestic production of the major categories of men's and boys' tailored clothing declined markedly from 1969 to 1972. During this period, production of men's suits declined by 14 percent, boy's suits by 20 percent, boys' sport coats by 31 percent, and boys' trousers by 13 percent. Similar dramatic production declines were registered in 1973.

This fall off in production has had a devastating effect upon the employment rolls. Between 1969 and 1973, employment dropped 21 percent to 103,900 workers and more cuts will result in 1974 as sales and production drop further.

The decreases in sales and production has, of course, affected profits. The clothing industry experienced a loss of 0.5 percent in 1973. Because of this industry's low profit margin, the reduction in sales volume has caused the liquidation of 108 tailored clothing manufacturers in the past 3 years.

At the same time, imports of products competing with those of the domestic clothing industry are continuing to grow, creating severe disruption of the domestic clothing market. For example, imports of men's and boys' suits increased fourfold between 1968 and 1972; men's and boys' sport coats and jackets tripled during this period. Japan, Hong Kong, Taiwan, and Korea have been and remain the major suppliers, by far, of imported tailored clothing, accounting for 70 percent of total suit imports, 57 percent of sport coat and jacket imports, 80 percent of trouser imports, and 56 percent of outercoat and raincoat imports. The percentage of the domestic market consumed by tailored clothing imports rises substantially each year.

The most significant aspect of this growth of imports of tailored clothing from the four Far Eastern countries is that these imports are continuing to grow despite an overall 18 percent drop in textile and apparel imports and the restrictions under bilateral agreements with these countries covering cotton, wool, and manmade fiber textile products. It is essential that the U.S. endeavor to negotiate reductions in allowable exports to the United States of the key items of men's and boys' tailored clothing. Reduction of exports of these products to the United States—this year—will produce a renewed ability on the part of the domestic tailored clothing industry to increase output and employment and, thus, to face its future with confidence.

CHARLES GREELY ABBOT

Mr. MATHIAS. Mr. President, the death of Charles Greely Abbot on December 17, 1973 at the age of 101 marked the end of a unique career and the departure of one of the elders of the Nation. Mr. Abbot was one of the most distinguished and esteemed citizens of our country and of Maryland. The legacy of his abundant lifespan is a rich one for all of us, particularly in this time of an energy crisis. In 1943, while Mr. Abbot was Secretary of the Smithsonian Institution, a position he held from 1928 to 1944, he stated:

> When our present supply of coal and oil is exhausted, the daily ration of solar energy will represent almost the entire means of livelihood.

Mr. Abbot's work in the field of solar energy is widely respected and will be long remembered and his valuable contributions toward finding alternate sources of energy have assumed new significance as we mourn his passing.

PRICE SUPPORT PROGRAM FOR MILK

Mr. TALMADGE. Mr. President, the following are the data, views, and rec-

ommendations of the National Milk Producers Federation relative to the terms and conditions of the price support program for milk for the marketing year beginning April 1, 1974. I ask unanimous consent that it be printed in the RECORD.

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

NATIONAL MILK PRODUCERS FEDERATION,
Washington, D.C., February 19, 1974.

Re Notice in Federal Register, Volume 39, No. 12, January 17, 1974, Requesting Data, Views and Recommendations Relative to Terms and Conditions of Price Support Program for Milk for Marketing Year Beginning April 1, 1974.

DIRECTOR,
Commodity Operations Division, ACSC, U.S. Department of Agriculture, Washington, D.C.

DEAR SIR: This is in response to notice in the Federal Register, January 17, 1974, requesting data, views and recommendations relative to terms and conditions of price support for milk for the marketing year beginning April 1, 1974.

The views of the National Milk Producers Federation are the nationwide expression of dairy farmers and of their cooperative marketing associations which do business throughout the 50 states of the Union. These cooperative marketing associations represent the great majority of all milk produced and marketed within the United States. A great number of such associations process milk into butter, nonfat dry milk, and cheddar cheese.

In addition to the interest of cooperative associations in prices paid farmers for milk, they also are deeply concerned with impacts of the Price Support Program on milk plants making butter, nonfat dry milk, and cheese. It is estimated that 75 percent of the butter, more than 75 percent of the nonfat dry milk, and approximately one-half of the cheddar cheese is made in plants of cooperative associations of dairy farmers.

RECOMMENDATIONS

1. The price support level for milk should be established at 90 percent of the parity equivalent price for manufacturing milk as of April 1, 1974. Such price should be announced at the earliest possible date, not later than March 1, 1974.

2. Announcement should be made of intent to periodically adjust the support price upward during the 1974–75 marketing year, as a means of assuring farmers of the 90 percent of parity price support level throughout the marketing year.

3. The CCC purchase prices should be established at levels which will, on the average, enable processing plants making butter and nonfat dry milk, as well as processing plants making cheese, to pay farmers the announced price support level for milk.

In making adjustments from present CCC purchase prices of butter (62 cents New York) and nonfat dry milk (41.40 cents) necessary to reflect the 90 percent of parity price support level for milk, 30 percent of the milk price adjustment (from that currently obtainable from the CCC purchase prices of butter and nonfat dry milk, respectively) should be allocated to butter and 70 percent to nonfat dry milk.

4. As an adjunct to the price support announcement, announcement should be made that the Price Support Program and the market price structure for milk and dairy products will not be adversely affected by additional authorizations to import dairy products by Presidential Proclamations under Section 22 of the Agricultural Adjustment Act. (The legality of using the emergency provisions of the Act to *increase* import quotas, rather than to curtail the importation of dairy products, is now in litigation.)

5. The announcement of the price support level should be accompanied by a detailed formal finding of fact supporting the decision.

CRITERIA FOR ESTABLISHING PRICE SUPPORT LEVEL

Section 201(c) of the Agricultural Act of 1949, as amended including the Agricultural and Consumer Protection Act of 1973, provides that the price of milk shall be supported at such level not in excess of 90 percentum nor less than 80 percentum of the parity price therefor as the Secretary determines in order to:

(1) *assure an adequate supply of pure and wholesome milk to meet current needs;*

(2) *reflect changes in the cost of production; and*

(3) *assure a level of farm income adequate to maintain production capacity sufficient to meet anticipated needs.* (Numerical sequence, emphasis, and inset format added.)

PRICE SUPPORT AT 90 PERCENT OF PARITY REQUIRED

An adequate supply of milk to meet current needs (for the 1974–75 marketing year) cannot be assured at a price support level less than 90 percent of parity

Assurance of an adequate milk supply will require increased production of about 3 billion pounds in Calendar 1974 over the 115.6 billion pounds reported by USDA for Calendar 1973. See Table, page 3.

CALCULATION OF NEEDED MILK PRODUCTION, 1974, COMPARED WITH 1973

[Billion pounds]

	Milk equivalent of butterfat	
	1973	1974
U.S. disappearance, including commercial exports of 0.6 billion pounds [1]	118.6	119.5
Less imports	[2] 4.0	[2] 2.7
	114.6	116.8
Beginning stocks	[4] 5.6	[5] 5.0
Ending stocks	[5] 5.0	[6] 5.0
Reduction in stocks	.6	0
Market requirements from U.S. production	114.0	116.8
Fed to calves and other animals on farms where produced	[7] 1.6	[7] 1.6
Milk production	115.6	118.4

[1] Derived for 1973, and increased for 1974, assuming no change in per capita use and 0.8 percent population growth.
[2] Milk equivalent of butterfat.
[3] Milk equivalent of butterfat, assuming 1972 level of imports plus 100,000,000 lb additional cheese authorized to be imported by Mar. 31, 1974.
[4] Milk equivalent of butterfat in butter, cheese, and evaporated milk stocks, Cold Storage Report, USDA, and Dairy Products, USDA.
[5] Same as footnote 4 plus estimated milk equivalent of ½ (421,000,000 lb) butteroil imported but not used by Dec. 31, 1973.
[6] Estimated.
[7] Assumes no change from 1972 as reported in Milk, Production Disposition and Income.

The attainment of 3 billion more pounds of milk will require reversal of the Calendar 1973 downward trend.

Beginning in October 1972, and continuing throughout January 1974, milk production each month fell below that of the corresponding month of the preceding year; and, in total, showed a reduction from 119.9 billion pounds to 115.6 billion pounds, or 3.6 percent. This data is reported by USDA/SRS in Milk Production.

On a per capita per day basis, U.S. milk production for Calendar 1973 showed a larger decrease from Calendar 1972—1.569 pounds to 1.506 pounds, or 4 percent.

The residual supply of milk is now used primarily in the production of butter and nonfat dry milk. Because of the strong demand for cheese, which prevailed throughout 1973, total cheese production exceeded that of 1972, as reported by USDA/SRS in Dairy Products. The same publication discloses that butter production declined 16.3 percent and nonfat dry milk 22.0 percent.

The decline in milk production reflects an exodus of farmers from the milk production business, heavy culling of dairy cattle, and a reduction in milk production per cow.

The exodus of dairy farmers from the milk production business is vividly illustrated by the month-to-month declines in the number of producers delivering milk to handlers regulated by Federal milk marketing orders, as reported by USDA/AMS in Federal Milk Order Market Statistics.

In November 1973, a total of 127,887 producers delivered milk to handlers regulated by 59 marketing orders. This was a reduction of 5,840 producers or 4.4 percent from the number reported for November 1972. The exodus from dairy farming is greater among those delivering milk of manufacturing grade, according to records of member cooperative associations.

In 1973 USDA/SRS, in Milk Production, reported that the number of milk cows on farms for the year was 2.4 percent less than for 1972, and in the last quarter of the year, the number was about 3 percent below the third quarter of 1972.

Another indication of the reduction in cow numbers is expressed by the number slaughtered, as reported by USDA/SRS in Livestock Slaughter. For November 1973, commercial cow slaughterings were 12½ percent over the corresponding month of the previous year, and higher than reported for the previous year in each month of 1973, with the exception of June.

Milk production per cow in 1973 failed to meet the level established in 1972 by 1.2 percent, as reported by USDA/SRS in Milk Production. This marked the first reduction in milk production per cow in 30 years. In view of the heavy rate of culling (presumably of cows producing the least milk), the average production per cow of those remaining in herds should have shown a substantial increase. The decrease is largely explained by reduced rates of high protein concentrate feeding due to its extremely high cost.

The reduction in milk production in 1973 occurred despite market prices in excess of the level of price support. USDA/SRS, in *Agricultural Prices*, reported that prices received by farmers for all milk averaged $7.17, and $6.24 for manufacturing milk in Calendar 1973, as compared to the present price support level of $5.61.

The basic reason for the decline in milk production was that prices received by farmers for milk were too low relative to production costs and returns from dairy farming too low relative to alternatives available to many farmers.

Still another contributing factor was a loss of confidence on the part of dairy farmers by a series of Governmental announcements which they considered as ominous portents for the future of the dairy business; actions which they considered adverse to their interests; and Government failure to act in other instances, when there was sound economic justification for doing so to relieve pressures on rising costs. Among them were:

1. "The Flanigan Report" relative to the U.S. position in the forthcoming GATT negotiations; denial that such report existed; and later, evidence that it did represent Administration philosophy. "The Atlantic Council Report" reflected a similar position.

2. Establishment of the price support level at the minimum required by law on March 15, 1973, and again on August 10, 1973, even though it was plainly evident that higher prices to farmers were necessary to meet rising costs of production and to stem the downward trend in milk production.

3. Establishment of CCC purchase prices at levels which would deny farmers the op-

portunity to obtain the announced price support level if they supplied milk to plants making butter and nonfat dry milk. Many of these plants were cooperative associations owned by farmers.

4. Announcement of intent to increase import quotas for cheese for the purpose of increasing supplies and reducing market prices at almost the same time the price support announcement was made establishing the support level at 75 percent of parity and declaring that such price would assure an adequate supply.

5. A series of seven actions increasing import quotas on dairy products during 1973 and through March 1974, all of which served to depress market prices when higher prices to farmers were urgently needed. Additionally, the Tariff Commission in December 1973 recommended that the import quota on nonfat dry milk be increased by another 265 million pounds for Calendar 1974. Nearly 2 billion pounds of milk would be utilized to produce this quantity of nonfat dry milk.

6. Failure to collect countervailing duties on dairy product imports for which export subsidy payments were publicly announced, in disregard of the express language of the countervailing duty statute.

7. Allowing the importation of dairy products made in plants or from milk not subject to the same sanitary requirements, quality regulations, environmental control measures, livestock disease control measures, and other factors which add to the cost of producing milk in the United States.

8. Effective freezing of prices paid farmers for milk in July by precluding resale price adjustments reflecting increases in raw product costs, even though the price freeze announcement stated that farm prices were not to be frozen.

9. Failure to make needed adjustments in class prices under the marketing order program.

As discussed above, milk production in 1973 declined, while the requirements of consumers for milk and dairy products increased. The upward trend in requirements is shown in Table 1, and expressed differently in Table 12, page 23, of the USDA/ERS Dairy Situation for November 1973. There is every reason to believe that the per capita use of milk for dairy products will hold in 1974, but that total requirements will increase with our growing population. The Bureau of Census predicts a population growth of 0.8 percent for 1974; or 212.2 million by July 1, 1974, as compared to 210.4 a year earlier. This is equivalent to the addition of two cities the size of Washington, D.C.

CCC acquired negligible quantities of dairy products under the Price Support Program in Calendar 1973, and none for the July–December 1973 period. It has been necessary for USDA to severely curtail donations to the authorized outlets, such as the School Lunch Program.

In summary, milk production is not keeping pace with the requirements of the market. The downward trend in milk production which began in November 1972 must be reversed. This can only be done by encouraging farmers to remain in the milk production business, reduce the rate of culling and to feed for maximum milk production. An adequate supply of milk for the 1974–75 marketing year as required by the statute will necessitate a price support level not less than 90 percent of parity.

90 percent of parity required to reflect changes in the cost of production for the 1974–75 marketing year

Although the index of "Prices Paid by Farmers for Commodities and Services, Interest, Taxes, and Farm Wage Rates", as published by USDA/SRS in Agricultural Prices, is reflected in the parity formula, this index does not adequately reflect changes in the cost of producing milk.

Feed accounts for approximately one-half the cost of producing milk, whereas it is a minor component in the index.

Feed prices increased substantially during Calendar 1973. High feed prices relative to milk prices, coupled with strong slaughter cow prices encouraged heavy culling of dairy cattle. That feed costs were high relative to prices received by farmers is demonstrated by the milk-feed ratio, which is published by USDA/SRS in Agricultural Prices. The milk-feed ratio averaged 1.44 in 1973, as compared to 1.72 for the preceding year. The milk-feed ratio, moreover, was the least favorable for milk in 18 years.

Among the feeds commonly relied upon by dairy farmers are: corn, soybean meal, commercial mixes and alfalfa hay. Examples of price quotations for these feeds are shown below and on page 8:

CORN: PRICES RECEIVED BY FARMERS BY MONTHS 1973 TO DATE, AND CHANGE FROM SAME MONTH OF PREVIOUS YEAR

	1973–74, dollars per bushel	Percent change from same month a year ago
1973:		
January	1.39	+27.5
February	1.35	+23.8
March	1.37	+24.5
April	1.42	+25.7
May	1.61	+40.0
June	1.99	+76.1
July	2.03	+78.1
August	2.68	+133.0
September	2.15	+76.2
October	2.17	+82.4
November	2.18	+81.7
December	2.39	+68.3
Average	1.89	+46.5
1974: January	1.94	+86.3

SOYBEAN MEAL: PRICES PAID BY FARMERS FOR 44 PERCENT BY MONTHS 1973 TO DATE AND CHANGE FROM SAME MONTH OF PREVIOUS YEAR

	1973–74, dollars per 100 lb	Percent change from same month a year ago
1973:		
January	10.40	+81.2
February	11.50	+98.6
March	12.60	+112.1
April	12.10	+97.1
May	15.40	+145.6
June	19.60	+210.1
July	17.00	+160.3
August	18.60	+179.7
September	14.90	+119.1
October	13.30	+92.5
November	11.20	+51.6
December	11.90	+33.0
Average	14.00	+111.5
1974: January	11.90	+14.4

PROTEIN DAIRY FEED, 16 PERCENT: PRICES PAID BY FARMERS BY MONTHS 1973 TO DATE, AND CHANGE FROM PREVIOUS YEAR

	1973–74 dollars per ton	Percent change from same month a year ago
1973:		
January	100	+28.2
February	100	+29.9
March	101	+29.5
April	98	+25.6
May	105	+34.6
June	112	+43.6
July	110	+41.0
August	126	+59.5
September	120	+48.1
October	123	+50.0
November	124	+45.9
December	132	+41.9
Average	113	+41.2
1974: January	135	+35.0

PROTEIN DAIRY FEED, 32 PERCENT: PRICES PAID BY FARMERS BY MONTHS 1973 TO DATE, AND CHANGE FROM PREVIOUS YEAR

	1973–74 dollars per ton	Percent change from same month a year ago
1973:		
January	148	+35.8
February	154	+41.3
March	165	+47.3
April	162	+43.4
May	180	+57.9
June	213	+86.8
July	193	+69.3
August	205	+76.7
September	188	+59.3
October	183	+52.5
November	174	+38.1
December	186	+37.8
Average	179	+53.0
1974: January	191	+29.0

DIRECTOR, COMMODITY OPERATIONS DIVISION, FEB. 19, 1974

PROTEIN DAIRY FEED, 40 PERCENT AND OVER: PRICES PAID BY FARMERS BY MONTHS 1973 TO DATE, AND CHANGE FROM PREVIOUS YEAR

	1973–74, dollars per ton	Percent change from same month a year ago
1973:		
January	161	+35.3
February	171	+43.7
March	181	+49.6
April	177	+45.1
May	196	+59.3
June	241	+94.4
July	217	+72.2
August	227	+80.2
September	208	+62.5
October	201	+52.3
November	191	+40.4
December	207	+39.9
Average	198	+55.9
1974: January	208	+29.2

Source: USDA/SRS Agricultural Prices.

ALFALFA HAY, BALED: PRICES PAID BY FARMERS BY MONTHS 1973 TO DATE, AND CHANGE FROM PREVIOUS YEAR

	1973–74, dollars per ton	Percent change from same month a year ago
1973:		
January	45.80	+14.5
February	46.90	+13.3
March	48.70	+18.5
April	47.70	+17.2
May	45.60	+13.4
June	45.20	+15.6
July	48.10	+26.6
August	51.70	+35.7
September	55.50	+40.9
October	59.10	+49.2
November	62.60	+53.8
December	62.90	+44.6
Average	51.70	+28.6
1974: January	65.20	+42.4

There is every indication that the cost of feed fed dairy cattle will remain at high, if not record, levels throughout the 1974–75 marketing year. This is brought about by the stocks relative to the demand for feed grains on a world-wide basis. Contributing to high prices for feed will be the competition for supplies to feed beef cattle, hogs, poultry and other livestock. There is every indication that prices of meat will be high throughout the 1974–75 marketing year.

The future market for corn, wheat, soy-

beans, soybean meal, and oats indicate that high feed grain prices will persist. The high feed costs will contribute toward the high cost of milk production and to the cost of replacement dairy cattle, whether purchased from other farmers or raised on dairy farms.

Farm to market hauling is another cost which is particularly significant to the marketing of milk. The price of motor fuel increased substantially in recent months, and will be reflected in higher hauling rates in the 1974–75 marketing year.

Another cost faced by farmers is that of complying with newly established environmental control measures.

In the 1974–75 marketing year, dairy farmers will be faced with additional costs for meeting requirements of the Environmental Protection Agency. They will be deciding whether or not to make the investment necessary to comply with the EPA regulations on the horizon, or abandon the milk production business. Thus dairy farmers need assurance that prospective milk prices will keep pace with their rising costs and that they will be compensated for making additional investments as may be required by EPA, and that there returns will be sufficiently high to overcome the burdens imposed by an additional regulatory agency.

Thus a price support level at 90 percent of parity is required to reflect changes in the cost of production for the 1974–75 marketing year.

90 percent of parity required to assure a level of farm income adequate to maintain sufficient production to meet anticipated needs

By any measurement, the anticipated needs of U.S. consumers will be for more milk than was produced in 1973. Factors supporting this view are the probability of further increases in population, an increase in the proportion of the population represented by children and young adults, prospective increases in real income on the part of wage earners and growing recognition of the nutritional value of milk and dairy products in the diet.

As pointed out earlier, U.S. milk production receded in 1973 and failed to meet the requirements of the market. This trend must be reversed and, to do so, prices paid farmers for milk must be reflective of rising costs which persisted throughout 1973, and which are in prospect for 1974 and beyond.

Proposed regulations of the Environmental Protection Agency will bring dairy farmers face to face with new costs of a substantial nature and with regulations which will encourage the liquidation of additional dairy herds.

A National Waste Discharge Permit Program was first initiated in 1970, which required a dairy farmer to apply for a Federal permit if he owned a confined feeding operation involving 700 or more dairy cows and discharged waste into a navigable waterway or tributary. The new proposal will extend the permit program to point source operations even where runoff results from rainfall. The proposed standards would ban all discharge of waste water from any dairy feedlot by July 1, 1977. The impact of this proposal if adopted will be to require all dairy farmers, irrespective of herd size, to construct by July 1, 1977, diversion and runoff collection ponds or lagoons capable of containing all waste water in addition to the run-off from the highest 24-hour rainfall in a 10-year period. Additionally, all new facilities immediately would be required to comply with a 24-hour runoff for a 25-year period.

Bringing matters to a head, faster than originally planned, was a suit filed by the National Resources Defense Council, Inc., an environmental group, against the EPA. The suit, which is in the Federal courts takes issue with the current EPA exemption for the smaller farm operations on the grounds that the pollution control legislation excuses no one from responsibility to prevent the discharging of wastes.

Compounding the problem further is that individual States can administer EPA regulations within their own boundaries and can insist on more stringent standards than those required by Federal law.

The EPA regulations, therefore, must be given serious consideration in establishing the level of price support for the 1974–75 marketing year and 90 percent of parity will be required to offer some glimmer of hope for the milk production business.

Without considering the new EPA regulations, dairy farmers have been abandoning the milk production business at an alarming rate. A great number are disposing of dairy cattle at favorable prices and turning their energies to other lines of agriculture, which are less demanding and which do not require close attention seven days per week.

Others are liquidating dairy cattle and selling their farms because, at current rates, they can realize more by investing the money in high grade bonds, savings and loan associations, or for other purposes than they can realize by milking cows.

A dairy farmer, once he abandons the milk production business seldom re-enters it. The investment is such as to discourage entry by young farmers.

Insofar as dairy cattle are concerned, it must be kept in mind that once a cow goes to slaughter, she, too, is difficult to replace. From the time a calf is born until it can be brought into milk production requires two years. One-half of all calves born are bulls, and all heifer calves are not brought to maturity.

Furthermore, with the reduction in cow numbers which has occurred, the number of heifer calves born is substantially less than in years past.

The rebuilding of milk production capacity to a level sufficient to meet anticipated needs cannot be achieved at a price support level less than 90 percent of parity for the 1974–75 marketing year.

PRICE SUPPORT LEVEL SHOULD BE ADJUSTED PERIODICALLY DURING THE 1974–75 MARKETING YEAR

All prices have been advancing at an accelerating rate in Calendar 1973, and there is evidence that this trend will continue throughout the 1974–75 marketing year.

The Price Support Program must assure dairy farmers that their prices will advance with the trends taking place in the economy, and particularly prices having a specific bearing on milk production, such as the cost of feed, buildings, equipment, farm to market hauling, labor, and interest rates. Milk prices must be sufficient to offset factors which encourage the liquidation of dairy herds, such as prices paid for cull cattle and other alternatives for farmers to gain a livelihood.

On March 15, 1973, the price support level was established at $5.29 or 75 percent of parity. Because of changes in prices paid by farmers for commodities and services, interest, taxes and wage rates, the $5.29 represented only 66 percent of parity by January 1, 1974. Even though the price support level was increased to $5.61 per hundredweight August 10, 1973, to reflect 80 percent of parity as required by the Agricultural and Consumer Protection Act of 1973, this price reflected only 70 percent of parity by January 1974. On both occasions, the CCC purchase prices for butter and nonfat dry milk, when considered together, would not return the announced price support level for milk.

Experience in the 1973–74 marketing year conclusively demonstrated the need for a periodic price support adjustment to encourage dairy farmers to stay in the milk production business, reduce the rate of culling, and feed for maximum milk production.

Announcement at this time that the price support level will be maintained at 90 percent of parity throughout the marketing year would restore confidence on the part of dairy farmers and would contribute toward a needed upturn in milk production to meet current and prospective needs.

ADJUSTMENTS IN CCC PURCHASE PRICES

Butter

Presently the CCC purchase price for Grade A (92-score) butter is 62 cents per pound, New York. Determination of this price assumes a yield of 4.48 pounds of butter.

An increase in the support price for milk used in the production of butter and nonfat dry milk should be accompanied by an upward adjustment in the purchase price of butter in an amount reflecting 30 percent of the price increase for milk from the level currently obtainable from the CCC purchase prices of butter and nonfat dry milk, respectively.

We are of the opinion that an increase in the purchase price for butter will be necessary to avoid increasing the purchase price of nonfat dry milk to a level which would adversely affect its sales position. It is our judgment that a higher price for butter will not adversely affect butter consumption or the consumption of butterfat in other products.

Nonfat Dry Milk

Presently the CCC purchase price for nonfat dry milk is 41.40 cents per pound. Determination of this price assumes a yield of 8.13 pounds nonfat dry milk.

An increase in the price support for milk used in the production of butter and nonfat dry milk should be accompanied by an upward adjustment in the purchase price of nonfat dry milk in an amount reflecting 70 percent of the price increase for milk from the level currently obtainable from the CCC purchase prices of butter and nonfat dry milk respectively.

The increase suggested in the purchase price of butter will result in less of an increase in the purchase price of nonfat dry milk than would be necessary if the CCC purchase price for butter remained at its present level of 62 cents.

The increase suggested in the butter price will enable nonfat dry milk to be priced at a level so that it can compete on the most favorable terms while, at the same time, providing farmers the opportunity to realize the same price support level from milk made into butter and nonfat dry milk as from milk made into cheese.

Cheese

Presently the CCC purchase price for cheddar cheese is 65 cents per pound. Determination of this price assumes a yield of 10.1 pounds of cheese and recovery of ¼ pound butterfat from 100 pounds of milk.

MARKET PRICE STRUCTURE AND PRICE SUPPORT PROGRAM SHOULD NOT BE UNDERMINED BY IMPORTS

The Administration has strongly advocated that farmers place more reliance for prices on the market and less on Government.

Prices received by farmers for milk during the 1973–74 marketing year have been well above the minimum prices established by the Price Support Program, albeit too low relative to the cost of production and to the requirements of the market for milk and dairy products.

Seven times the Government, itself, has intervened in the operations of the milk market by authorizing additional supplies from abroad, of butter, nonfat dry milk, and cheese with the intended purpose of placing a restraint on prices.

During Calendar 1973, approximately 4 billion pounds of milk (on a butterfat equivalent basis) was imported into the U.S. market. Such imports were effective in holding farm milk prices below levels which otherwise would have prevailed. Such price depressing actions are not in the best interests of either dairy farmers or consumers, since they only prolong the current production downtrend and increase consumers' dependence on foreign sources for their supplies of products vital to their nutritional welfare.

The authority for additional imports not only added to the supply side of the equation, but disrupted the market by disturbing the delicately balanced price relationships among the products made from milk.

Dairy farmers viewed the future as encouraging until their confidence was destroyed by the influx of imports authorized by Presidential Proclamation. They are not confident that a policy, such as suggested by the "Flanigan Report" and the "Atlantic Report" would be in the best interests of the American public, but they are convinced it would not be in the best interests of dairy farmers.

The American public cannot look to foreign markets for dependable supplies of milk and dairy products. Although sizable quantities of dairy products have been available from foreign sources to supplement domestic production, there is no assurance that the quantities necessary and prices more favorable than obtainable in the domestic market would prevail once the U.S. dairy industry were crippled.

The fluctuations in dairy products available from the EEC should be sufficient warning. Furthermore, the record of EEC clearly indicates that export subsidies on such would not be paid even though they had surplus production, if the products could be sold without such subsidies. There is no reason why consumers in the EEC should pay more for dairy products than would be paid by U.S. consumers, if the U.S. relied on the same source of supply. And, although there has been a great deal written relative to the comparative advantage held by Western Europe, and certain other countries, over the U.S. relative to the production of milk and dairy products, there has been no showing that the U.S. could obtain a sufficient supply of dairy products at lower prices from foreign sources than are obtainable from domestic production.

In the public interest, the U.S. should no more rely on foreign sources for vital food needs than for its energy. The results of a miscalculation could be extremely costly. In this regard, it must be remembered that dairy farmers, once they abandon the milk production business, seldom re-enter and that young men without sufficient incentive will not enter the dairy production business when other alternatives are brighter.

ANNOUNCEMENT OF PRICE SUPPORT LEVEL SHOULD BE ACCOMPANIED BY DETAILED FINDING OF FACT SUPPORTING THE DECISION

A detailed explanation of the Department's reasoning and factual basis for determining the announced level of price support and CCC purchases prices for butter, nonfat dry milk and cheese would be of great value to the industry and to others with an interest in the Program. This should include the Department's estimate of prospective supplies from domestic sources and market requirements for milk and dairy products. It should include the Department's plans relative to the quantity, timing, and designation of individual dairy products which may be imported during the marketing year.

The finding should explain the Department's concept of an "adequate supply".

The statement should include estimates of production costs and projection of such costs through the marketing year.

The method and rationale for determining CCC purchase prices for butter, nonfat dry milk, and cheddar cheese relative to the announced level of price support should be explained.

A full explanation of the manner in which the Department of Agriculture views the operations of the Price Support Program for the 1974–75 marketing year should contribute toward more stable marketing conditions and be in the public interest.

Announcement of the price support level and of the CCC prices no later than March 1 is urgent so that the industry can make necessary adjustments to the new market situation before the seasonal period of flush milk production.

Sincerely,

PATRICK B. HEALY, *Secretary.*

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Heiting, one of his secretaries, and he announced that on March 2, 1974 the President had approved and signed the following act:

S. 37. An act to amend the Budget and Accounting Act, 1921, to require the advice and consent of the Senate for future appointments to the offices of Director and Deputy Director of the Office of Management and Budget, and for other purposes.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HUDDLESTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

DISAPPROVAL OF PAY RECOMMENDATIONS OF THE PRESIDENT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of Senate Resolution 293, which the clerk will state.

The legislative clerk read as follows:

A resolution (S. Res. 293) to disapprove pay recommendations of the President with respect to rates of pay for Members of Congress.

The text of the resolution is as follows:

Resolved, That the Senate disapproves the recommendations of the President with respect to rates of pay for the offices referred to in section 225(f)(A) of the Federal Salary Act of 1967 (relating to Members of Congress), transmitted to the Congress on February 4, 1974, pursuant to section 225(h) of that Act.

The ACTING PRESIDENT pro tempore. Under the unanimous-consent agreement, there will be 2 hours for debate on an amendment by the Senator from Wyoming (Mr. MCGEE), with the time to be equally divided between and controlled by the Senator from Wyoming and the Senator from Idaho.

The clerk will state the amendment.

Mr. McGEE. Mr. President, I send the amendment to the desk.

The legislative clerk read the amendment as follows:

Beginning with "for" after "rates of pay", strike out through the comma following "Congress)", and insert in lieu thereof the following: "recommended for 1974 under section 225(h) of the Federal Salary Act of 1967, that portion of each rate for an office or position which exceeds 105.5 percent of the rate in effect for that office or position immediately prior to the date this resolution is agreed to; disapproves with respect to rates of pay so recommended for 1975 for offices and positions under level I of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code, for the Chief Justice of the United States, and for the Associate Justices of the Supreme Court, that portion of each rate which exceeds 105.5 percent of the rate in effect for that office or position immediately prior to the date this resolution is agreed to; and disapproves all other rates of pay so recommended for 1975 and all rates of pay so recommended for 1976; such recommendations having been".

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. McGEE. Mr. President, I yield myself such time as may be required.

At the outset, I ask unanimous consent to have the following staff members present on the floor during the debate on the pending matters: Rod Crowlie, Dick Fuller, Dan Doherty, Larry Monaco, and Tom Ebzery.

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

Mr. McGEE. Mr. President, the plight in which we find ourselves, legislatively, here this morning is one that derives from two quite separate circumstances. The first is a nearly 12-year-long effort on the part of the responsible committee of this body, the Post Office and Civil Service Committee, to provide for the salary structuring of all Federal employees. This was attempted in the first instance in 1962, when we legislated comparability as a basic salary factor ingredient. It meant comparability with the private sector for equal responsibility at the same levels, achieving roughly the same pay.

We have supported that principle vigorously in the 11 years, following the enactment of that law, and in a very broad sense, below the subcabinet level and the upper reaches of the general schedule we have achieved comparability for statutory Federal employees.

But in a separate category, in 1967 we made another effort in the structuring of Federal pay levels, and that was at the Cabinet and subcabinet levels, levels 1 through 5; justices and judges of the Federal judiciary, and Members of Congress.

The formula for that legislation, the Federal Salary Act of 1967, was to call upon a public commission appointed by the President to examine the pay question for these three groups every 4 years and make a recommendation to the President. Such a recommendation, modified by the President if he so chose, then

would automatically go into effect, unless disallowed by the Congress itself.

The purpose of that measure, of course, was to try to be as objective as possible about the relative structures that should emerge at these levels of responsibility, without having to go up and down the scales of emotion in terms of whether such a measure would be popular, in contrast with whether such a requirement were necessary, if we were to sustain a sense of administrative responsibility in the public interest.

The first of those efforts to be put into effect was in 1969, at which time the pay levels were adjusted upward. The original proposal had recommended $200,000 a year for the Office of the President of the United States, $62,500 a year for the Vice President, and $60,000 a year for Cabinet members. It also recommended approximately $50,000 for the Members of Congress, and proportionately scaled salaries beneath that level.

But at that moment the Congress decided that it would be more appropriate to set a lower figure than $50,000, and the figure that was agreed upon by the leadership on both sides was $42,500.

I take the time to make that point because, as we started in the restructuring in 1969, we began by distorting this relative status. As it turned out, those who were concerned about voters' flak on the 1969 proposal have since confessed, in hindsight for the most part, that there would have been no more flak on accepting the $50,000 than on accepting the $42,500.

But the bad judgment of the Congress was not only in the decision to cut back to $42,500, but in failing to cut back the pay of others in related pay categories in proportion in order to retain the relationship that the President's Pay Commission had recommended.

So what I am saying, in effect, is that because of the sensitivity in this body and in the other body, there was already a warping of the original intent in terms of the relative responsibilities and relative pay, starting at the top, with the presidency of the United States, and descending through the appropriate levels.

A second factor likewise has overtaken us, in the last few years, a factor that we failed to take into account when we enacted the law in 1967. We were focusing entirely in that new law on the structuring of pay schedules so that a Cabinet or subcabinet member would have a sufficient amount of compensation over those who were working for him. This relationship is an understandable and honorable part of the so-called free enterprise system. But in doing that, we made no allowance for the fact that the subordinates' pay would be increased annually, while the pay of Cabinet and subcabinet members would be considered only every 4 years.

In 1967, comparability pay increases were not quite as consciously appreciated as a rising factor. The inflationary forces that flowed preponderantly from the war in Southeast Asia and the circumstances that required mobilization in regard to that conflict set loose the larger forces that produced the kind of runaway inflation we have been experiencing in the 7 or 8 years since then. But the cost of living's impact upon comparability as not calculated.

So, as a consequence, even as we sit here today and contemplate on the judgment and recommendations made by Congress in 1969, we have been caught up in a cost-of-living rise that, I must say, is devastating across the board. Since 1969, when the Members of Congress last received their pay adjustment, the cost-of-living allowances have risen in all other segments of the Nation's economy very materially.

To summarize them rather than to take the detailed time necessary to spell them out, between 1967 when the law was passed and 1971—nearly 3 years ago now—the pay of the Governors of 15 of our larger States has increased on an average by almost 25 percent. Other State officials in that same interval of time had their pay increased by an average of nearly 30 percent.

I am not arguing that that should not have been. I think that those increases were long overdue. What I am saying is that as the cost of living was going up other public administrators were receiving adjustments that paralleled, at least in part, the speed of that rise. And in the non-Federal realm between 1967 and 1972, that same interval, the white collar and blue collar pay in the private sector increased by over 30 percent, nearly 31 percent.

In organized labor, between 1969 and last year, 1973, the percentage increases of wages, negotiated substantially on the grounds that they were necessary to cover the increase in the cost of living, totalled over 44 percent.

This is simply by way of suggesting, Mr. President, that the cost of living cranked into the economy of everyone and the problems attendant thereto are very understandable and constitute a very grinding factor, whether one is a Senator, a Representative, a bureau administrator, or an undersecretary in the Government, as much so as at any other level in the economy. And it is for that reason that the efforts of the committee today are to at least take a modest step toward redressing this rather conspicuous inequity.

In fact, it is my own view that there may be some difficulty in trying to achieve both of these levels of salary adjustment in the same piece of legislation.

I for one am willing to do something about this. The distinguished ranking minority member of the Post Office and Civil Service Committee, the Senator from Hawaii, and I have already introduced legislation that would deal with the inequities, largely caused by explosive inflation, that have arisen since 1969. There is a basic ingredient involved in the cost-of-living increases at all levels and in a constant way. And so, the bill that will be reviewed by the committee and the hearings that will be held in order to refine those limits in order to project its proposed mechanism, will be a top factor for the committee's deliberations in the upcoming year.

Surely a second area of deliberation will have to be reviewed, and a reassessment of the procedures is outlined in the law of 1967 affecting Cabinet and subcabinet levels. For what we are now in the midst of is the chaotic consequences of what we in the trade call compression of salaries. What this means is that even as the lower grades of Federal employment have achieved comparability increases at regular intervals over the past 5 years, those who have the responsibility for administering them—their bosses, those who have to make the decisions—have received not a nickel.

And as a consequence, those below have come up in pay as those at the Cabinet and subcabinet level have been held constant since 1969.

The price we are already paying for that is present in many ways. A man who has been at grade 16 in the civil service is now at the ceiling imposed by the law, $36,000. So are the men above him, at all steps of grade 17 and at all steps of grade 18. All of the steps for promotion and increase in wages for those grades are frozen at the same level, the figure of $36,000. And to make matters worse, 4 percent of grade 15 at the top step are also up to that ceiling level.

The utter ridiculousness of this compression ought to be weighed carefully by every Member of the Senate because it means that we have permitted to be wiped out by our own reluctance to come to grips with this basic question, the process of 11 years of legislative endeavor to secure meaningfully and with equity comparability increases at all levels of Federal pay in relations to each grade and in relation to the level of responsibility involved.

This alone suggests that down the road ahead it is not going to get any easier. This condition is going to be much worse if we wait until next year. And it will get increasingly worse, and the gap will be that much larger each month and each year we put it off. Unless we wipe out everything and start all over and forfeit the years of experience and cumulative assessment that have gone into this, we will have to face up to it.

When the President sent up his recommendation for a 7.5-percent increase this year, next year, and the next year, it was a compromise effort to avoid biting the bullet. Biting the bullet would require that we accept the salary commission's recommendations to catch up at least with the cost of living since 1969. That would have been a 25-percent salary increase in one chunk.

This is what the reading called for. I am mindful of, if not the ugliness, at least the unpopularity of the timing.

I would think that it is important to recognize that the Members of this body are paid to stand up and be counted, if we are going to follow through our legislative responsibility. That is the reason for the committee's determination to make this presentation at this time.

I know that we have many colleagues who are up for reelection, and that this is a sensitive thing, but if my recollection of the Constitution is accurate at all, two-thirds of the Members of this body ought to be statesmen. They are not up for reelection this year, and they ought to at least stand up for what they say

privately and, I believe, know privately is equitable. That is why it is the committee's position that it is important that we act responsibly today.

I personally believe that we should have accepted the President's total recommendation right across the board. Even that was shortened. Even that was a compromise. Even that failed to seize the whole question and try to resolve it.

But, Mr. President, all of us in this body have long since learned that we must strive to act affirmatively and that what ought to be done is sometimes a little beyond what it is possible to mobilize 51 votes for, and so we have learned to settle for half a loaf rather than none, for a quarter of a loaf if that is not possible, or, as in this case, for a crumb from the loaf, rather than nothing, in order to try to realize at least some small measure of what responsibility would seem to call for.

When it became impossible to vote out of the committee—the votes were 5 to 4 in nearly all instances—the President's recommendation, in a desperate effort to submit a view, the committee receded, one step at a time, by 5-to-4 votes, until we voted out a simple proposal to allow the proposed increment for everyone except the Members of Congress. Congress was exempted. I did not approve of that. I do not approve of it now. I believe it demeans the Congress.

I beseech my colleagues—were more of them only here to listen—to put the office of U.S. Senator and the office of Member of the House of Representatives on the line, and to let the voters decide. If I am not worth that kind of a salary in the Senate, then my constituents ought to pick somebody who is worth it. It is the office that requires it.

Mr. President, we are required to administer a budget of $300 billion a year, and it is hoped that we administer it with responsibility. We are required to sort out massive quantities of social and economic legislation that will set the lines of our country's history and the level of our country's living for the next generation at least, That takes a high measure of responsibility.

It is well enough to say that we ought to have dedication, and that you do all of this in a spirit of dedication. But, Mr. President, try to cash in a certificate of dedication at the supermarket on Saturday, and see how many groceries you get. Try to cash in a certificate of dedication on any other material matter that you would like to accommodate yourself to. Dedication is great, and we have a great many people who are dedicated. Curiously enough, a great many of those same people have other means of income, which may strengthen their backbone of dedication. But I say that if we have to fill this body with individuals who first must have established an outside source of income before they can serve in the Senate, or who have had the wisdom to marry into great wealth in addition to marrying for love only, as some of us did, we ought to make that a new requirement for election to this body.

Maybe we ought to turn the Senate into a House of Lords, and know what we are getting. Or maybe we should require professors who come to the Senate, and who were shortsighted enough to put their money primarily into books and college degrees, only to discover that neither one is worth a nickel anymore, to try to deliver lectures where they can, to make up some of the difference outside.

That is fine with me. I happen to enjoy speaking if anyone will listen. I always have. I have lectured professionally for 24 years. But I say that ought not to be a condition of my being able to stay in the Senate. We ought to make sure that the office of U.S. Senator or a Member of the House of Representatives requires no dependence upon any outside income. The office itself ought to determine the level of remuneration and the equitability of the proposed salary adjustment.

Every time we cave in, every time we bend under the pressures, every time we crack under the stress, we are lowering by one more notch the high office which we are expected to fill with responsibility. If there is anyone in this body who thinks he is not worth it, he ought to get out; and if the voters think he is not worth it they ought to throw him out on the next election, and they ought to stand on that. It is important that we as legislators contribute to the sense of fair compensation commensurate with responsibility, and that we tell our constituents, "If you want good and responsible government, you are going to have to pay for it."

That is the way we brag about our private sector; that is the way we pledge ourselves to the American way. That is how the top executive of General Motors manage to squeeze by on $300,000, $500,000, or $750,000 a year. I do not deplore that they receive that. If their directors believe they are worth it, they ought to have it, in order to administer a $15 or $20 billion business.

But what, then, is a board of directors worth, Mr. President, when they have to administer a $300 billion business? What is it worth, Mr. President, when in all truth the fate of the world depends on the kinds of decisions that come out of this Government? What is it worth, Mr. President, when the level of hope for people everywhere hangs on the delicate balance of the kind of a decision that is made in the Government of the United States?

I say in conclusion that a year from now it is going to be worse than at present. A year from then it will be very much worse.

I personally pledge that the Post Office and Civil Service Committee will, indeed, devote the year ahead to a review of the whole thing. That is the very least we can do under the circumstances. In the meantime, let us not make it worse than it is. It is bad enough right now.

Mr. President, that completes my informal and off-the-cuff remarks. My formal statement is as follows:

Mr. President, the Post Office and Civil Service Committee has reported to the Senate by a vote of 6 to 3 a resolution altering the President's pay recommendations by deleting from his schedule of pay increases three annual 7½ percent increases for the Members of Congress. The committee resolution would allow all other pay increases proposed by the President to become effective, as he recommended, in 1974, 1975, and 1976.

I voted in favor of the committee resolution, not because I believe it is the best, the fairest, and most equitable solution to the problem, but, having confidence in the committee system, I believe that, whenever possible, the Senate should work its will upon a recommendation made by a duly appointed committee. In other words, it is my view that the committee resolution will serve as a suitable vehicle for appropriate amendment.

I intend to offer a perfecting amendment reducing the percentage figure to 5.5 percent for 1 year only and including Members of Congress. I recognize the general reluctance of many Members to provide any pay increase whatsoever for Members of Congress, but I believe it is demeaning to Congress to single out that body as the one which does not merit or should not have, for whatever reason, a modest pay increase proposed for officials of all three branches who fall within related pay brackets.

The three annual 7½-percent pay adjustments recommended by the President constitute in my view an extremely modest proposal. The Pay Commission upon whose advice the President based his recommendations argued in its report to him that there ought to be an immediate 25-percent pay increase for those officials involved simply as a matter of equity to make up for the decrease in purchasing power which they suffered because of the 30-percent increase in the Consumer Price Index over the last 5 years. Remember they have had no pay consideration since March 1969. Apparently aware of the chronic indisposition on the part of some Members of Congress to approve pay increases for themselves, the President substantially reduced in his recommendation the 25-percent increase proposed by him by the Commission. As you know, he proposes three annual 7½-percent increases. His proposal was indeed modest. The General Accounting Office reports that his current salary recommendations fall far short of matching the cost-of-living increases since 1969.

Mr. President, the amendment which I offer is not a solution which I would choose were the choice mine alone. If the President's proposal "falls far short," the provisions of my amendment also must be considered far from adequate. Nevertheless, I offer this amendment because I do not believe that the Congress should be excluded and because I believe that the amendment may represent a compromise which will be acceptable to a majority of the Senate. As you know, the House Post Office and Civil Service Committee has reported out a resolution denying the President's proposal across the board. Unless the Senate acts affirmatively today—and I hope that it will act affirmatively on my amendment—it is my belief that the President's recommendation will be entirely washed out.

The amendment that I offer provides for a 5.5 percent pay increase in 1974 for all officials in the three branches for

whom the President recommended a 1974 increase. Cabinet members and justices of the Supreme Court under my amendment would receive a 5.5-percent pay increase in 1975 only, postponing the 1974 increase for them in accordance with the timing of the President's proposal. Although the 5.5-percent increase for 1 year is small, it is easily recognizable as being a cost-of-living increase. It is the Cost of Living Council's current cost-of-living guideline established for pay increases. It is a percentage figure which I believe the people of the United States will recognize and approve because it is the kind of cost-of-living increase which in these inflationary times the ordinary citizen is accustomed to receiving himself. Working men, white collar business executives, retirees, social security recipients—all will, I believe, accept and approve this percentage figure. A 5.5-percent increase now can also be construed as representing approximately a 1.1-percent annual increase over the past 5 years.

Mr. President, the General Accounting Office reports also that effective, long-term reforms appear essential to prevent the recurrence of the pay problems we face today. On February 25, Senator FONG and I introduced a bill which represents a first step in bringing about these reforms. I personally am deeply concerned over the possibility that the Senate and House may in time become rich men's clubs. I hope I never see that day, and I can pledge to the Senate my continuing efforts to promote the enactment of legislation to provide for a reconciliation between the existing two separate procedures for setting pay—a reconciliation needed to deal with pay inequities now plaguing the three branches of Government.

Leaving aside the highly charged question of congressional compensation, let us consider for a moment a far more urgent issue involved, and that is the pay of officials in the executive and judicial branches who sorely need the encouragement which affirmative Senate action on my amendment would provide them. We are dealing today with public policy—policy which has a direct influence upon the efficient operation of the executive branch and upon the continuing fair and equitable administration of justice in the Federal courts. Involved is the question of whether or not we are willing to give any kind of assent whatsoever to a principle firmly established in law and relied upon as a condition of employment by Federal employees everywhere. That is the pay-comparability principle laid down unequivocally in the Salary Reform Act of 1962. That principle promises equal pay for equal work, a policy holding that Federal pay rates shall be comparable with private-enterprise pay. My amendment would fall far short of implementing that policy, but it would represent a step in the right direction.

More specifically, we are asked to decide whether or not we shall deny a pay adjustment at all to key officials in the three branches of Government who have had no pay raise in 5 years, during which the Consumer Price Index has gone up by nearly 30 percent. These are the justices and judges of the Federal judiciary and their staffs, cabinet and subcabinet members and the career executives subordinate to them, and Members of Congress.

The executive branch is losing some of its most able decisionmakers to retirement and to private industry. Some Federal judges are tempted by the emoluments of private practice as the disparity between the pay of a judge and that of a good lawyer increases. Many others are hopeful that a pay increase for them, long past due, will not be delayed.

Our attempts to maintain a reasonable and equitable pay structure have been thwarted because career employees every year receive pay increases related to those outside Government, while the top salaries of the executive, legislative, and judicial branches are adjusted only once every 4 years. These 4-year adjustments have the static effect of putting a ceiling on the salaries of career employees. Perhaps our procedures would be workable if there were no inflation. But the upward inflationary pressure of salary rates outside Government has built up compression between the pay of many of our most responsible career executives and the pay of subcabinet members.

Perhaps it would be helpful to review the steps which brought the President's pay recommendation to Congress. Under the Federal Salary Act of 1967, a nine-member nonpartisan Salary Commission is appointed by the President every 4 years to study the pay levels involved and to file its independent recommendations with the President. The usual 4-year period was temporarily extended to 5 years in 1973 when the President waited until December 1972 to appoint his Commission—too late for them to conclude a review and formulate a report to the President so that this matter could be taken up last year. The President has assessed the Commission's report and has substantially scaled down its proposed increases. The Commission's recommended 25-percent increase this year was to restore the lost purchasing power of officials in the executive salary schedule and positions at the same pay level in the legislative and judicial branches. Smaller percentage increases were recommended, as I have noted, for Cabinet Secretaries and Justices of the Supreme Court. The President's Commission considered its 25-percent proposal to be moderate. The Commission wrote:

> In view of the obvious need for moderation implicit in the present economic environment, the Commission decided to limit its salary-increase recommendation to the rise in the cost of living. It appeared to us that simple equity required the restoration of the lost purchasing power of these public servants.

The largest single group of Federal employees are 1.3 million career employees whose annual payroll is $17 billion. Their pay follows the pay of similar positions in private industry in accordance with the principle of equal pay for equal work. Each spring the Bureau of Labor Statistics conducts comparability surveys in the private sector. Data from these surveys are used as the basis for recommendations to the President for pay adjustments. By law, his proposals to the Congress become effective in October of each year unless Congress intervenes. Since 1969 there have been six of these adjustments, amounting to a 42.3 percent increase for all statutory employees except those for whom an increase would boost annual income above the $36,000 salary established for level V, the lowest subcabinet position. The result: all level V positions, all GS–18, all GS–17, 80 percent of GS–16, and 4 percent of GS–15 are receiving the single salary rate of $36,000.

Employees in GS–18, who have not had a pay increase since January 1971, are now working for $7,926 a year less than comparable positions outside Government.

If there is no increase before 1977, the compression effect will extend down to GS–14; and GS–18 will be nearly $15,000 a year below comparability.

We speak these days of the need for frugality and sacrifice. But in my view it is simply not fair to single out certain groups of Federal employees and say to them, "We have decided that it is you who must be frugal and make sacrifices. Everyone else gets pay raises." Inflation is a serious problem, perhaps the most serious problem facing the Nation today. But the pay of almost everyone in our society has been adjusted to keep pace with rising costs. Both blue-collar and white-collar pay has been increased pretty evenly as the cost of living has gone up. This is a necessary response to a difficult situation. Imagine the reaction of a labor leader if he were told that there was no relief in sight for his workers who had not had a pay raise in 5 years. It would probably be explosive. Yet Federal judges, Presidential appointees, Foreign Service officers and top civil service career officials have no redress. They can't even lobby. Chiefly, they must rely upon Congress. One thing they can do is retire as soon as they are eligible, denying to the Government the benefits of their experience and the ability which brought them to increasingly responsible positions.

The risk of losing some of our most able career executives increases each year. More than 1,000 top career officials are eligible to retire. From 400 to 500 more of them will become eligible in 1975. By remaining in Government, these executives are forgoing cost-of-living annuity increases they would have received if they had elected to retire. Annuities were raised more than 10 percent last year. Unless pay is increased, many a career official will undoubtedly be tempted to better himself by retiring on an annuity adjusted upward as the cost of living goes up and by accepting employment outside the Government.

Mr. President, the past few years have seen dramatic changes in the Federal judiciary. While cases have become more complex and more numerous, Federal judges, through the use of individual calendars, computerization, and new management procedures, are disposing of cases more rapidly than ever before. Last year District Courts disposed of more cases than were filed, and the per-

judge disposition of cases improved by 30 percent. At the same time, the compensation of lawyers has increased rapidly.

It is not unusual for a good trial lawyer to earn in excess of $100,000 a year, perhaps a lawyer pleading a case before a circuit court judge making $42,500 a year. Since 1967 when one Federal judge resigned, four additional judges, all in 1973, have announced their resignations. Recently, 12 different lawyers turned down feelers for a Federal judgeship. Recently, the Chief Justice of the United States, in response to my query, wrote:

It is surely not in the public interest to have some of the best qualified lawyers resigning or declining appointment because of inequitable and inadequate compensation.

Involved here are men who stand as the central figure in the administration of justice in this country. The opinions of a Federal judge are not averaged out; he is not a member of a committee. His decisions affect people's lives as he rules on intense and basic human conflicts; his decisions can involve millions of dollars in money or property.

The tradition of the Federal judiciary is an honorable one based upon public service. That tradition is being eroded as judges, under current compensation, are asked to make financial sacrifices—sacrifices which my amendment would ameliorate.

With regard to congressional pay, there have been six increases for Members of Congress in the last 100 years. During that period, the United States had gone through eras of inflation and deflation, increased economic productivity and decreased productivity, depressions, recessions, and growing prosperity. There is no sign that congressional compensation has had any effect whatever upon the fluctuating economic fortunes of this country.

Mr. President, I urge Members to accept this compromise amendment. It will show those executive and legislative branch officials involved that Congress has considered their need and responded to correct an inequity, and it will give them reason to hope that Congress will, in the months ahead, resolve the anomalies that brought us to today's compromise.

Mr. President, I would yield the floor now if the Senator from Hawaii (Mr. FONG) is prepared to submit his amendment which I understand, by agreement, will follow.

The ACTING PRESIDENT pro tempore. The Chair would advise that the amendment is not in order until the time is used or yielded back.

Mr. McGEE. All right. Reserving my right to the floor, I would ask unanimous consent that I may continue to be recognized for a moment to suggest the absence of a quorum.

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

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. McGEE. Mr. President, I ask unanimous consent to have printed in the RECORD relevant tables that spell out the list of steady cost-of-living increases and wage adjustments for all segments of work in our country over the past several years.

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

APPENDIX D-VIII

TABLE VIII.—CHANGES IN THE DIRECT SALARIES OF GOVERNORS IN 15 LARGE STATES (1967-71)

[Ranked by number of State employees]

State	Number of employees, October 1970	Governor's salary, 1967	Governor's salary, 1971	4-year percent change
California	239,353	$44,100	$49,100	11.3
New York	201,214	50,000	85,000	70.0
Texas	133,067	40,000	58,500	46.3
Illinois	132,243	30,000	45,000	50.0
Pennsylvania	131,730	45,000	45,000	
Michigan	120,906	40,000	45,000	12.5
Ohio	106,558	40,000	40,000	
Florida	78,638	36,000	36,000	
Virginia	74,491	30,000	35,000	16.7
North Carolina [1]	71,238	25,000	35,000	40.0
Indiana [2]	70,450	$25,000	$25,000	
Massachusetts	66,998	35,000	40,000	14.3
Washington	65,770	32,500	32,500	
New Jersey	64,950	35,000	50,000	42.9
Louisiana	64,544	20,000	28,374	41.9
Total	1,623,150	527,600	649,474	
Average	108,210	35,173	43,298	23.1
Median	78,638	35,000	40,000	14.3

[1] Effective Jan. 1, 1973, the Governor's salary increased to $38,500.
[2] Effective Jan. 1, 1973, the Governor's salary increased to $36,000.

Source: "Book of the States, Council of State Governments," 1968-69 edition and 1972-73 edition.

APPENDIX D-IX

TABLE IX.—CHANGES IN SALARIES OF 5 TOP ADMINISTRATIVE OFFICIALS IN 15 LARGE STATES (1967-71)

[Ranked by number of State employees]

State	Number of State employees	Average salary of 5 administrative officials [1] 1967	Average salary of 5 administrative officials [1] 1971	4-year percent change
California	239,353	$26,764	$38,000	42.0
New York [2]	201,214	35,359	44,085	24.7
Texas	133,067	25,900	30,100	16.2
Illinois	132,243	28,500	31,000	8.8
Pennsylvania	131,730	25,500	25,500	
Michigan	120,906	27,900	33,500	20.1
Ohio	106,558	24,984	24,984	
Florida	78,638	[3]31,395	33,600	7.0
Virginia	74,491	18,500	26,782	44.8
North Carolina	71,238	$20,100	$29,643	47.5
Indiana	70,450	19,450	26,016	33.3
Massachusetts	66,998	21,600	27,604	27.8
Washington	65,770	20,500	21,900	6.8
New Jersey [4]	64,950	24,100	37,570	55.9
Louisiana	64,544	17,640	26,918	52.6
Average		24,551	30,480	24.1
Median		24,984	29,643	18.6

[1] Secretary of State, Attorney General, Treasurer, Finance or Administration, Health.
[2] Secretary of State, Attorney General, Controller, Budget, Health.
[3] Effective July 1968, in lieu of finance or administration, includes controller.
[4] In lieu of finance or administration, includes budget.

Source: "Book of the States, Council of State Governments," 1968-69 edition and 1972-73 edition.

NOTES ON PAY

State Governors: Between 1967 and 1971, the pay of the Governors of 15 large States increased, on the average, by 23.1 percent.

State officials: Between 1967 and 1971, the pay of State officials (in Employment Security, Public Welfare, Public Health, Civil Defense, etc.) increased by an average 29 percent.

Non Federal: Between 1967 and 1972 white-collar and blue-collar pay in the private sector increased by an average 30.8 percent.

Labor: Between 1969 and 1973 the percentage increases in wages negotiated by collective bargaining agreements were as follows:

	Percent
1969	8.2
1970	11.9
1971	11.6
1972	7.3
1973	5.3
Total	44.3

PRIVATE SECTOR EXECUTIVES

Of the 774 chief executive officers whose companies rank high revenues, net profits, total assets and stock market value, 770 executives had total compensation in 1971 of over $48,000 with an overall range of $812,000 to $30,000. Six hundred and two executives earned in excess of $100,000 with the range of years served as chief executive going from one to 44 years.

APPENDIX D-II

TABLE II.—PERCENTAGE CHANGES IN TOTAL COMPENSATION PAID TO TOP EXECUTIVES BY INDUSTRY (1967-71)

Industry	Percent increase in total compensation over previous year				4-yr percent change 1968-71
	1968	1969	1970	1971	
Manufacturing:					
Durable goods	3.8	5.3	6.8	0.7	17.6
Nondurable goods	2.2	5.1	5.4	5.2	19.1
Petroleum and natural gas	2.8	6.6	5.9	5.3	22.2
Wholesale and retail trade	3.5	3.7	8.2	3.9	20.7
Utilities	3.9	6.3	7.4	6.2	26.0
Construction	3.8	—.7	1.7	—1.1	3.7
Finance and insurance	4.4	5.7	8.5	5.5	26.3
Billion dollar companies	1.4	5.3	5.7	3.0	16.3
Average weighted by number of companies in surveys	3.4	5.2	6.6	3.7	20.3

Note: Total compensation is defined as the sum of salary and bonus.

Sources: 19th-22d editions, 1968-71, Top Management Report, Executive Compensation Service, American Management Association.

Mr. McGEE. Mr. President, I am prepared to yield the floor. I think the Senator from Idaho is ready to proceed.

Mr. CHURCH. Mr. President, first I wish to yield such time as he may require to the distinguished Senator from Virginia (Mr. WILLIAM L. SCOTT).

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WILLIAM L. SCOTT. Mr. President, I appreciate the courtesy of the Senator from Idaho but will only speak briefly at this time on the proposal before the Senate.

Frankly, I am concerned about the recommendation of the Committee on Post Office and Civil Service. I know there were a series of votes and amendments, but they finally agreed to recommend that everyone under the executive pay system receive an increase in pay except Members of Congress. I do not believe that a fair-minded individual would come to such a conclusion. I believe that since we are considering a political and emotionally charged measure, it might be well for us to go back to the history of the salary commission.

We know that as part of the general pay bill for Government employees we had under consideration the establishment of a commission to fix the pay of the top executives of Government. When we talk about executive pay sometimes in the media and perhaps in the general public mind people think of it only as a pay raise for Members of Congress; yet we have more than 10,000 people in the executive branch of Government subject to this system—those in the super grades, grades 16, 17, and 18, and in the excepted positions not subject to the Classification Act.

When the commission was established I was a member of the Post Office and Civil Service Committee of the House, and opposed the establishment of the commission in the first instance. Then, on the floor of the House a motion to recommit was offered which would have deleted that portion of the pay bill relating to the establishment of a pay commission. I voted in favor of deleting the commission, the thought being that Members of Congress ought to vote on their own pay raises or pay adjustments, whether it be an increase in pay or a decrease in pay, and back during the depression there was a decrease in pay. Nevertheless, the majority prevailed and the commission was established. When established the commission recommended, as I recall, that Members of Congress receive a salary of $50,000 a year, that members of the Cabinet receive $60,000 a year, and members of the Supreme Court also receive $60,000 a year. Even at those high figures it does not seem reasonable to place members of the legislative branch in level 2 while members of the judicial and executive branch were placed in level one.

We speak of reclaiming the prerogatives of Congress and we speak of the three coequal branches of Government. Yet we recognized a difference in standing by saying that Cabinet officers, who incidentally do not have to stand for election in that they are appointed by the President with the advice and consent of the Senate, and members of the Supreme Court appointed for life, who also receive lifetime annuities without making any contribution, receive $60,000 a year as salary and congressmen receive $42,500.

I am not suggesting that Members of Congress should receive pay of $60,000. I do not suggest that for a moment. I am suggesting there is something basically wrong with members of the legislative branch receiving less pay than members of the executive branch and the judicial branch of our Government.

When the commission made its recommendation of $50,000, there were Members of Congress who were concerned that the people of the country would object to large congressional pay raises. They requested informally, of the President—and I speak of some of the leadership on our Post Office and Civil Service Committees of the two bodies of Congress—that the amount be reduced and at their suggestion the President reduced the recommended salary to $42,500. But he kept Cabinet officers and members of the judiciary at $60,000 a year.

Now, we have our Committee on Post Office and Civil Service saying, "Go ahead with the pay raises for others but not for Congress." I think this argument aggravates the inequities. I have a table before me which shows that by 1976 those in level 1 would be increased to $64,500 a year. If the recommendations of the committee were to prevail, Members of Congress would still make $42,500, and members of the President's Cabinet and members of the Supreme Court would get $64,500—a difference there of $22,000 in their pay.

How can we reclaim the rights of Congress as a coequal branch unless we recognize pay at least as a part of the criteria in establishing the prestige and relative standing of Government officials. Under the committee proposal some workers in GS-15, who have been with the Government for a long period of time, would be paid more than Members of Congress.

We would have such people as the Public Printer, the Architect of the Capitol, the General Counsel of the General Accounting Office, making higher salaries than Members of Congress. In fact, the Deputy Public Printer, the Deputy Librarian of the Congress, the Assistant Architect of the Capitol would have salaries above those of Members of Congress.

So I would say that to accept the recommendations of the committee would throw the pay scales further out of kilter. We would have judges of general jurisdiction, district court judges receiving higher salaries. Judges of the court of appeals and the Deputy Director of the Administrative Office of the U.S. Courts receiving higher salaries than Members of Congress. Commissioners of the Court of Claims and referees in bankruptcy would also have a maximum pay in excess of that of Members of Congress.

So I am suggesting that, in whatever action we take, we do what is fair and right insofar as the coordinate branches of Government are concerned, and what is fair and right insofar as the taxpayer is concerned.

Long ago the Government accepted the policy of comparability for Federal salaries; that the pay of all officers and employees of the Government should be comparable to that paid in private industry. I think to an extent that should be true of Members of Congress.

Yet we realize the Government cannot pay a Member of Congress the pay that the head of a large corporation would make in private industry. Some downward adjustment must be made. We have people in private industry with no greater ability or burden on them than Members of Congress, but who receive pay 10 times as much in compensation than Members of Congress.

I do not believe we would have much difficulty documenting the fact that that would not be fair to the American taxpayer.

Yet, it seems reasonable to look at the

overall question of pay for top executives in a fair and impartial manner. In my opinion we are not fair and reasonable when we say, "Go ahead and adjust pay upward for members of the court, for members of the Cabinet, but let us not do anything insofar as the legislative branch is concerned."

If the Congress is to retain the standing it has among the three coordinate branches, I believe pay must be a factor that has to be considered.

I would like to take time later to comment on other phases of this matter and on various proposals that will be offered. I know the distinguished Senator from Hawaii has an amendment he proposes to offer, at an appropriate time, that will delay the raises until next year. I can understand that the political situation may dictate the action he advocates. It might seem reasonable not to raise our pay, insofar as the Senators who are up for election this year are concerned, but to say to the people of the country, "This is the pay that whoever you elect to represent you beginning next January will receive," may be an entirely different manner than an immediate increase in pay for incumbents.

Having said the various things that have come to my mind over the past few moments, I believe we need always to recognize that Congress has not received an increase in pay for 5 years; that the cost of living has risen at approximately 30 percent during that period. If Congress each year had received an increase in pay of something like 5 percent, there would not have been the clamor we have had from the public with regard to pay adjustment.

The President has not attempted to follow the recommendations of the commission this time. He has again reduced it and suggested an increase of 7.5 percent for 3 successive years. I would hope we could support it, and that thereafter such adjustments as necessary can be made on an annual basis.

I appreciate the courtesy, once again, of the distinguished Senator from Idaho yielding this time to me.

Mr. STEVENS. Mr. President, will the Senator from Idaho yield to me for a unanimous-consent request?

Mr. CHURCH. I will yield, but first of all, I would like to say to the able Senator from Virginia that I agree wholeheartedly with the position he takes against the resolution recommended by the committee. Whatever we do with respect to the question of increasing the pay of the best-paid people in the Government, we ought to apply the standard adopted across the board and we should include the Congress in whatever action is finally taken.

The Senator makes a very strong point, which is quite irrefutable, when he takes exception to the committee's recommendation that all other pay raises should go forward while the pay of Congress should be excepted.

I agree with what the chairman of the committee said earlier in his original presentation, that such an action would be demeaning to the Congress and would conflict with the constitutional position of Congress as a coequal branch of the Government.

So I commend the Senator from Virginia very much for his contribution.

Mr. WILLIAM L. SCOTT. I thank the Senator.

Mr. CHURCH. Mr. President, now I am happy to yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that Wayne Sly, of the Post Office and Civil Service Committee staff, my administrative assistant, George Nethercutt, and my legislative assistant, Michael Spaan, may have access to the floor during consideration of the resolution pertaining to the pay raise.

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

Mr. CHURCH. Mr. President, I yield myself such time as these opening remarks may require.

At the outset, I want to commend the distinguished chairman of the Post Office and Civil Service Committee for having put forward an amendment to the President's recommended pay increases which is a distinct improvement; a proposal which I regard as far more palatable, under all existing circumstances, to the people of the United States. The Senator from Wyoming (Mr. McGEE) suggests a 5.5-percent increase in the pay of all top echelon officials in the three separate branches—executive, legislative, and judicial.

This would apply for the coming year, during which the committee would examine possible revisions in the law respecting future pay raises for top echelon officials.

Mr. President, I think this is a greatly improved suggestion as to how Congress should handle this very sensitive question. I certainly prefer it to President Nixon's proposal for a 7.5 percent increase for each of the next 3 years, for a total of 22.5 percent.

I listened with interest to the opening remarks of the Senator from Wyoming (Mr. McGEE). He said that the committee would consider the possibility of designating the Cost of Living Index as the standard to which all Federal pay increases might be related.

There is a good deal of commonsense in that suggestion. Already it applies in many places. In fact, it was written into law, when an amendment of mine was incorporated in the last comprehensive reform of social security, so that the beneficiaries under that program are now entitled to automatic cost-of-living raises, from time to time, as stipulated in the law. The same standard is often used with respect to other Federal salaries in the civil service system, particularly those salaries in the lower brackets.

The Cost of Living Index has thus become one of the key—and frequently the most important 'key—factors in determining what increase in pay should be recommended. In some cases with respect to certain Federal employees, the raises are automatic; in others, they come as recommendations to the Congress.

Mr. President, considering how far we have gone toward adopting the Cost of Living Index as a measurement for the adequacy of Federal pay, I certainly think that the committee should give close attention to the use of that particular method, when it undertakes, later this year, to consider revisions in the law. However, the question we now face is a different one. The question we now face is whether any pay raise at all can be justified at this time for the best-paid men and women in the Government.

First, let us ask how much the President's recommendations would cost, since it is yet to be determined whether Senator McGEE's substitute for those recommendations will be approved by the Senate as a whole.

The figures are available. For the Congress alone, the cost will be $6 million. When other top echelon officials included within the President's request are considered—those in the judicial and executive branches—the total direct and immediate cost of the President's recommendations for the coming year would amount to $34 million.

But does anyone really believe that these relatively moderate figures actually represent the true cost? Even those who have spoken for increased pay today acknowledge that one of the most pressing reasons for the increase is to take the lid off the whole Federal payroll. They speak of it in more technical terms. They speak of the "compression of salaries." However, what they mean is that we must take off the lid on the top salaries in Government in order that all the other salaries may rise. We are not really talking about a proposal that would cost $6 million or $34 million. We are talking about a proposal that will act like a rising tide which, as everyone knows, lifts all the boats.

We are talking about a proposal that will ultimately cost billions of dollars, once the effects have a chance to filter down through the whole of the Federal bureaucracy. I think that the argument of the proponents makes this proposition quite irrefutable.

So we should next examine the other side of the coin. Once we agree—and I think, as I have said, that there is no real basis for argument that raising the top salaries in Government will lead to a general increase of the entire Federal payroll, measured not in millions but in billions of dollars—then we should reverse the coin and ask if it is fair to withhold a general increase in the Federal salary level from top to bottom. Is it fair to draw the line at the top in order to better restrain the upward trend in Federal salaries as a whole?

First of all, we must recognize this technique is about the only way we will ever do it. I have never seen any disposition in Congress not to vote for civil service pay increases on a regular basis. I, myself, have felt they were justified and have voted for them. However, if we are ever going to restrain Federal pay raises, it is here at the top—where our own salaries are involved and that we will decide at this juncture that policy which is political sensitivities come into play—that it will be done. Nowhere else. No other way.

So, having turned the coin around and raised the question of basic equity, let us proceed to find an answer. Will holding the line on the salaries of Members of the Congress work any great hardship on them?

The Senator from Wyoming (Mr. McGEE) has quite properly pointed out that Senators are paid very modestly as compared to the presidents of General Motors, the ITT, Chrysler, Ford, United States Steel, and other large corporations in the country. I had not supposed that anyone thought that Senators should be paid as much as the best-paid corporate executives.

Nor, for that matter, should anyone else in Government. The clear implication of such an argument is that, in determining the size of our own salary, we should look at what Mr. Henry Ford is getting, or Mr. David Rockefeller, or any other chief executive of a large private corporation.

That is an astonishing proposition, Mr. President, made no less so by the argument that we exercise general oversight of a budget of $300 billion, which is far larger than the budget of any private company.

Yes, one might combine all of the budgets of the biggest companies, and they still would not equal the budget of the Government of the United States. But, really, is this the proper standard? Is there any efficacy at all to the argument that we should consider what the highest paid executives of the largest corporations receive and make that the index as to whether or not we are sufficiently well paid?

I submit, Mr. President, that such an argument is absurd. After all, private corporation executives are paid out of company profits. We are paid out of taxes. Nobody is forcing any consumer to buy a given product, but the laws of the country do compel all citizens to pay taxes.

Furthermore, Mr. President, if the size of Government salaries is to be determined by relating them to the highest paid executives in the private sector of our economy because the Government's budget is bigger than the budgets of those companies, then it would follow that Members of Congress should be paid hundreds of thousands of dollars each year, while the President should be paid millions of dollars.

Obviously, the motivation for men in Government service is not to secure salaries as large as the best-paid executives in private industry. The motivation for those who enter the civil service of the United States is not to get rich. We are comparing apples with peanuts. It is not a valid comparison, and we should dismiss it, once and for all, from our deliberations on this question.

Mr. President, it would make more sense to compare our salaries with what the average man in the street is earning. If there is any comparison to be drawn, it ought to be in that direction, not in the direction of the richest people in America.

I think it ought to be pointed up that even at our present salary, $42,500 a year, we have gone way beyond the average income in this country. Probably the gap between has already widened too far for any of us to appreciate, through our own experience, the problems of those who are trying to raise a family on less than $10,000 a year. But the figures are pretty poignant, and they ought to be pointed out to those who want to keep some perspective on the question we face.

Do you know what the median income is in the United States today? I take the figure from the U.S. Department of Commerce, from its most recent report, captioned "Current Population Report." The median income of families in this country in 1972 was $9,225. That is, you draw a line half way on what the people of the country are making, and half the families fall below that line.

I remember when I first came to the Senate, the question of congressional salaries arose one day in a Democratic caucus. A very distinguished Senator, whom all of us remember with fondness and respect, Senator Paul Douglas of Illinois, made this observation. He said no Member of Congress, in his opinion, should receive a salary so large as to break the linkage that connected him with the people he represented. Senator Douglas contended, and there is rudimentary wisdom in his position, that if the gap between what Members of Congress are paid and the average income of their constituents grows too large, Congressmen will lose touch with the people they represent; they will lose their feeling for what the average citizen is up against.

I suggest that Senator Douglas' standard is much more sensible than the one heretofore suggested; namely, that our salaries be compared with those of the top executives of the biggest corporations in the country.

Well, what about Members of Congress, who are now suffering so, if one were to believe the arguments of the proponents?

Admittedly, the salaries have not been adjusted since 1969, but even taking that into account, what is the position of Members of Congress today, on their $42,500 salary; how do they stand with reference to their constituents?

I will tell you where they stand, Mr. President. They stand in the top percentile. So far have we strayed from Senator Douglas' criterion. Here are the figures, taken from the same Bureau of the Census source. The survey, incidentally, covers the income of persons 14 years and older in the United States, a total of 121,916,000 persons. It shows, out of that population, only three-tenths of 1 percent received incomes of $50,000 or more, while 1.7 percent received incomes between $25,000 and $50,000.

Now I have to interpolate a little, but the proper interpolation of these two figures places the present salary of Congressmen in the top percentile of salaries being received by the population as a whole. So there is the stark comparison: A median salary of $9,225 in 1972 for American families, half of whom received even less, and the current salary for Members of Congress, well within the top first percentile of incomes of the Nation.

So, looking for equity in this matter, I must conclude that there will be no great hardship done to Members of Congress if the salary we presently receive is not increased this year. I think it would be hard to argue otherwise based on these general statistics.

The fact is that we are the best-paid legislators in the world, far above the level of salaries paid to any other legislative body, any other place. In this period of runaway inflation and continuing Federal deficits, in this period when the public has lost so much confidence in the Government and in the political leadership of the land, it would be salutary for Congress to say, "We will hold the line on the best-paid people in the Government, knowing that, in so doing, we may make a beginning toward balancing the budget and coping with an inflation now running out of control."

I say it would be salutary for us, for the way the public looks at us, but I can think of nothing that would do us more grievous harm in the eyes of the people than to raise the topmost Government salaries, across the board. For the American people as a whole, this would simply signal that Congress is no more willing to cope with the country's problems, no more willing to exercise a little self-restraint than anyone in this administration—from the President down. Their last shred of hope for a Government that is still sensitive to the problems of the people would then fade away.

It will be said, of course, that Members of Congress are a special breed; they come here of their own volition. For example, Mr. President, I have not known a Member of this body or the other body, who decided to resign from either House because of the inadequacy of the pay. If there have been any, I have yet to hear of them. They would be rare birds, indeed.

But it is true that we cannot measure the question exclusively in terms of the impact it has on Members of Congress. We should look more broadly to the impact it will have on the civil service as a whole. Again, if equity is to be done, we must ask the question: Will holding the line on the top-paid people in Government, thus imposing restraints on salary increases all the way down the Federal payroll, cause great hardship for Federal employees as a whole?

To answer that question, Mr. President, we must review what has been happening over the past 10 years. Are Federal civil service employees really deprived citizens?

What is the comparative justice in increasing their pay when related to the general situation faced by the American people as a whole?

We have an answer to that question and it is a very good one. It comes from a nongovernmental source, a private survey of what has been happening to Federal pay.

I quote first from the Washington Post which gives us a summary of this analysis in its February 24 edition. The summary published in the Post reads as follows:

FEDERAL PAY HAS DOUBLED IN 10 YEARS

NEW YORK, February 24.—Salaries for employees of the federal government have more than doubled in the past 10 years, rising faster than the rate of inflation, Tax Foundation, Inc., reported today.

Federal personnel costs are running at $64 billion a year and are expected to reach nearly $70 billion in the coming fiscal year, the foundation said.

That is an increase of almost $28 billion, or about 66 per cent in the past five years, despite drastic reductions in military personnel since the end of U.S. involvement in the Vietnam war.

The foundation traces the trend in increases to 1962, the year of the Salary Reform Act, aimed at keeping federal pay in line with what industry pays for similar jobs.

Since the bill was passed, the foundation said, average earnings of federal civilian employees have skyrocketed by 88 per cent, as compared to 66 per cent in the private sector and a 38 per cent rise in the consumer price index.

Well, Mr. President, these figures cannot be blinked away. Federal pay has been going up faster than inflation—markedly faster. Federal pay has been going up faster than that for comparable work outside the Government in the private sector of the economy. We cannot blink these figures away, convenient as it might be to ignore them.

Continuing to read:

This does not include the 1973 increases, which more than doubled average federal salaries since 1962.

In the 15 years before passage of the 1962 bill, the major Civil Service pay structure was increased six times. In the 11 years following the act, the pay has gone up 13 times.

In addition to basic salary increases, the foundation found a 147 per cent rise in benefits over the past five years and an upgrading in job classification known as "grade creep."

Jobs in the lowest five grades of the general pay schedule declined by 82,000, or 15 per cent, in the past five years, while positions in the top five categories went up by more than 14 per cent, or 55,200 more positions.

As recently as 1963 the study said, more than half of all General Scheduled employees made less than $8,000 a year and fewer than 2 per cent got $20,000 or more. But by 1973, only 23 per cent were making less than $8,000 and almost 12 per cent were making $20,000 or more.

The foundation, a nonprofit research group founded in 1937, agreed with the general principle that government pay should be comparable with that of private industry "to attract and retain capable people."

There, Mr. President, ends the article.

I ask unanimous consent that a similar article published in the Washington Star also be printed in the RECORD.

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

FEDERAL WORKER PAY DOUBLED IN 10 YEARS

NEW YORK.—A research group says that federal government salaries, rising faster than the rate of inflation, have more than doubled during the last 10 years to $84 billion annually.

Tax Foundation Inc., a nonprofit group founded in 1937, reported yesterday that federal personnel costs were expected to reach nearly $70 billion during the upcoming fiscal year. It cited an increase of nearly $28 billion, or about 88 percent, in the past five years, despite drastic military personnel reductions following U.S. withdrawal from South Vietnam.

In addition to salary increases, the foundation found, a 147 percent increase in benefits over the past five years, and a general upgrading in job classifications.

Jobs in the top five grades in the general pay schedule climbed more than 14 percent, or 55,200 employees. But positions in the lowest five grades declined by 15 percent, or 82,000 workers.

The foundation linked the trend of salary hikes to the Salary Reform Act of 1962, which sought to keep U.S. pay scales in line with private industry compensation. Since enactment, the group said, the average earnings of federal civilian employees have climbed 88 percent, compared with 66 percent in the private sector.

Mr. CHURCH. So here a group, friendly toward Federal employees as a whole, a group that believes that Federal salaries should be comparable with those in private industry, as I believe they should be. It is not a hostile group, not an anti-Government group, not a group that might be expected to issue a biased analysis of what has happened to Federal pay, but a friendly group, reminding us that Federal pay scales have gone up faster than the inflation and faster than comparable pay outside the Government. Indeed, today we face a situation in which Federal pay for most positions in the Government is substantially higher than for comparable work outside the Government.

In that situation, is it so unreasonable to suggest that in the interest of economy as a whole, in the interest of striving to achieve a balanced budget, in the interest of attempting to cope more effectively with runaway inflation, we might simply hold the line this year on further increases in Federal pay?

Again, the figures are here, the proof is here. The answer to the question is written plainly in the evidence.

So, Mr. President, having looked at both sides of this coin. I can only conclude that the Senate and it is the Senate which will have to decide, since the House of Representatives has elected to duck the issue—would do the country a great service by simply refusing the President's recommendation for any increase in the level of salaries for the best-paid men and women in Government at this time. That is what I argue for.

I know that my honored friend, one Senator who is sitting in the Chamber today, has suggested that there never will be a good time to raise the pay of Congress. He is right. There never will be a good time to do it. It is always a politically sensitive and difficult question. This Senator has challenged me to tell him and other Members of the Senate, when a good time might come, and I confess to him that, when measured by a political yardstick, there may never be a good time for increasing our salaries. But I do say to him that if I cannot define exactly when a good time may be, I can tell him for certain that this is not that time. This is the worst of all possible times to take such action. The evidence is written large in the newspapers every day.

The American people have seldom been more discouraged with their Government. This is borne out not simply by the feel that most of us get when we talk to our constituencies. It is borne out by scientific polls which show that the popular support for the Presidency is near an all-time low. But these polls also show that the popular respect and support for Congress is even lower. Let me quote from one of these recent polls in which the Presidency is compared with Congress. Following my reference to certain parts of this poll, I ask that the entire poll may appear in the RECORD.

Extracting from the poll, what was the overall job rating that the people gave to the Presidency? In this particular poll by Louis Harris, which was placed in the RECORD on February 12, 1974, the positive rating given to the Presidency was 30 percent, the negative rating 69 percent with 2 percent not sure. The positive rating given to Congress was only 21 percent, the negative rating 60 percent, with 10 percent not sure. The popular respect for Congress was even lower than that for the Presidency.

In the same poll, the people were asked to express their opinion as to how the Presidency and Congress were doing in keeping the economy healthy. The President received a 19-percent positive rating. against a 78-percent negative, with 3 percent undecided. Congress received only 10-percent positive, 82-percent negative, with 8 percent undecided.

The people were asked to compare the Presidency with Congress in the matter of handling the energy shortage. Twenty-two percent gave the Presidency a positive rating, 74 percent gave a negative rating, with 4 percent undecided. As for Congress, only 10 percent gave it a positive rating, 83 percent gave it a negative rating, while 7 percent were undecided.

In the matter of controlling inflation, which is so close to the pocketbooks of the people these days, the President received a 12-percent positive rating, as against 86-percent negative, with 2 percent undecided. Congress received only a 6-percent positive rating, with 88-percent negative, and 6 percent undecided. That is a failing report card from the American people.

Congress gets failing marks on all subjects, such a dismal report card, that the press itself was stirred to inquire as to what the reasons might be that Congress should be held in such low esteem.

Mr. President, I ask unanimous consent to have printed in the RECORD the Harris study poll to which I have referred.

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

THE HARRIS SURVEY: PUBLIC'S OPINION OF CONGRESS DECLINES TO 69-21 PERCENT NEGATIVE

(By Louis Harris)

The public's rating of Congress fell from 69 to 21 per cent negative in January, the lowest recorded by the Harris Survey. This is lower than the over-all job rating for President Nixon, also at its lowest point, 68 to 30 per cent negative.

Between Jan. 18 and 22, a cross section of 1,594 households across the country was asked:

"How do you rate the job Congress is doing—excellent, pretty good, only fair, or poor?"

[In percent]

	January 1974	February 1973
Positive (good-excellent)	21	38
Negative (only fair-poor)	69	45
Not sure	10	17

People were also asked:

"Now let me ask you some specific questions about Congress. How would you rate the job Congress has done on (read list)—excellent, pretty good, only fair, or poor?"

[In percent]

	Positive	Negative	Not sure
Handling the Watergate case	19	72	9
Keep the economy healthy	13	80	7
Handling impeachment proceedings against President Nixon	11	71	18
Handling relations with President Nixon	11	79	10
Inspiring confidence in government	10	82	8
Handling the energy shortage	10	82	8
Keeping spending under control	10	83	7
Controlling inflation	6	88	6

Earlier in January, the Harris Survey had tested public opinion on the President's handling of the same issues. Here is how Congress and the President compare:

[In percent]

	Positive	Negative	Not sure
Over-all job rating:			
Nixon	30	68	2
Congress	21	69	10
Handling Watergate case:			
Nixon	13	82	5
Congress	19	72	9
Keeping economy healthy:			
Nixon	19	78	3
Congress	13	80	7
Inspiring confidence in Government:			
Nixon	17	78	5
Congress	10	82	8
Handling energy shortage:			
Nixon	22	74	4
Congress	10	82	8
Keeping spending under control:			
Nixon	21	74	5
Congress	10	83	7
Controlling inflation:			
Nixon	12	86	2
Congress	6	88	6
Handling relations with (Congress/Nixon):			
Nixon	18	77	5
Congress	11	79	10

The man in charge of the energy situation, William E. Simon, was also rated by the public:

"How would you rate the job done by William E. Simon, the new energy chief—excellent, pretty good, only fair, or poor?"

[In percent]	Total public
Positive (good-excellent)	26
Negative (only fair-poor)	35
Not sure	39

Mr. CHURCH. Mr. President, an article on this subject appeared in Sunday's Washington Post, written by one of its most perceptive and knowledgeable reporters, Mr. Spencer Rich.

This is an interesting article. Mr. Rich asked various Members of Congress why this institution is presently held in such low regard. Various answers were given, none of which, in my opinion, really come to grips with the basic question. Some Members, in the article, suggested that it was because Congress had delegated too much authority to the executive, had passed the buck, so that, despite the poor record of the executive, at least the people had more respect for that branch of Government which had accepted the responsibility than it had for a Congress which had delegated it away. There is something to be said for that. Certainly it has been the policy, for the past 40 years, for Congress to delegate more and more authority to the Presidency.

I, along with other Senators, am doing what I can to retrieve this lost authority. Still, when it came to the inflation, there is no disposition in this body to try to deal with it. We threw up our hands, accepted the President's demands that full discretionary authority be delegated to him. Now we have been through phases I, II, III, and IV, all of them transparent failures, and we find ourselves caught up in the midst of the most devastating inflation in 25 years. Yet, I think that the public is right when it concludes that, as between the President, who has obviously failed, and a Congress that didn't try, that Congress should be given the lower mark.

There were others in this article who suggested that perhaps the reason for the bad public image of Congress had to do with the way we procrastinated, the length of time involved in getting to a decision. They believe the public feels that Congress simply debates interminably and then fails to take decisive action. There may be something to this argument too, although, as the sagacious Senator from Maryland (Mr. MATHIAS) wisely pointed out, the fastest decision he could remember around here was the passage of the Gulf of Tonkin resolution, and we might have been serving the public better if we had debated it at greater length.

Surely, it was meant to be part of the function of Congress under the Constitution to be the deliberative body, which was to look with care into all legislative proposals.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHURCH. Mr. President, may I take the remainder of my time from the time remaining on the bill? I understood there were 2 hours for both sides.

The PRESIDING OFFICER. That would take unanimous consent.

Mr. CHURCH. Mr. President, I ask unanimous consent.

Mr. McGEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGEE. Taking time from the bill at what stage? There is no time on the bill.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator from Wyoming has 6 minutes remaining.

Mr. CHURCH. Mr. President, if no more time remains on the bill, there must be time on the amendments. I desire a few more minutes of whatever time is available. I will borrow against my time on the next amendment.

The PRESIDING OFFICER. Does the Senator make that as a unanimous-consent request?

Mr. CHURCH. Mr. President, I ask unanimous consent that I may borrow ahead such time as I may need to complete my argument.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHURCH. Mr. President, I commend this particular article to the Senate. I ask unanimous consent that it may appear in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. CHURCH. Mr. President, this leaves one final question to be answered. I do not find convincing reasons in the article as to why the people hold Congress in such low esteem. The real answer is that people know we are not solving their problems. And they are right. Inflation continues to get worse with every passing week. The President's price controls are a shambles. But even though that may be true, the people are getting no relief from Congress.

Shortages become more serious every day. The President's allocation program has not eliminated the long lines at the gas stations. But the people do not see any action on the Hill to solve their problem.

Such small action as we have taken, involving a modest rollback of prices at the pumps, is now going to be vetoed by the President, and no one expects Congress to override that veto by a two-thirds vote.

The people hold us in low esteem because we are not functioning effectively. The people are finding no solutions anywhere in the Government—neither in the Nixon administration downtown, nor in Congress, up here on the Hill. That is why they hold Congress in low esteem. They will continue to do so as long as we continue to fail them.

Even in the matter of corruption, the only action that seems to be in the offing comes from the courts. A Federal grand jury has indicted seven highly placed lieutenants of the President who held the most powerful positions in the White House until a few months ago. But the people see no evidence of congressional action dealing with the problem of corruption, and they doubt very much whether Congress will find the will to press very far with impeachment proceedings. So there is a warranted disillusionment with Congress.

So when I am asked to say, When will be a good time to raise our pay? my answer is this: It will be a good time when we have come to grips with the problems that beset the people, and when we have solved them sufficiently well that the people begin to regain their confidence in the Government. It will be a good time when the record shows we have earned an increase in pay. Meanwhile, all the talk about hardship, all the talk about the necessity to face up in a statesmanlike manner to the need to increase our pay, just plain falls afoul the evidence I have presented in these remarks.

Yes, the good time to increase our pay will be when we have earned it. Then the American people will not begrudge it.

But until then, we should not hesitate to vote it down.

So I would hope that the Senate will turn down even the improved recommendation made by my friend, the able chairman of the Post Office and Civil Service Committee.

Later in this debate, once the vote has been taken upon the amendments offered by the Senator from Wyoming and the Senator from Hawaii (Mr. FONG), I will proceed, under the unanimous-consent agreement, to call up as the pending business, my resolution to reject the pay increase recommendation across-the-board, and I hope that the Senate will approve it.

Mr. President, I yield the floor.

EXHIBIT 1

CLOSE LOOK REVEALS WHY CONGRESS IS HELD IN LOW ESTEEM

(By Spencer Rich)

"When I first came here," said a northern Democratic senator who's been in Congress since the mid-1950s, "some senators used to go out and play golf whenever it was sunny, regardless of what was on the floor. Frank Lausche and George Smathers played golf whenever it was warm."

A Senate staff man elaborated: "We'd try to schedule maritime subsidy bills for sunny days in hope that Lausche, who opposed them, would stay out on the golf course."

Lausche (D-Ohio) and Smathers (D-Fla.) have long since departed the Senate and few people knew about their golfing habits.

But similar foibles or outright gross misconduct among present members of Congress were among the major reasons cited by senators, in a survey conducted by The Washington Post last week, to explain why Congress is held in such low public esteem.

Despite repeated assertions by Senate Majority Leader Mike Mansfield (D-Mont.) in recent weeks that the record of Congress over the last year is excellent—perhaps the best in recent memory—a Harris Poll conducted in January found that only 21 per cent felt Congress is doing a good job.

This was a lower rating than President Nixon's, despite his Watergate troubles.

Attempting to explain Congress' poor showing, 25 senators and top staffers, representing a cross-section of Senate opinion, cited these as the main reasons:

The public has become cynical because it sees that too many members of Congress are cowardly, politically opportunistic and willing to vote for anything that makes them look good at home, even if it wrecks the budget and is really of relatively low national priority. They often depend on the President to make the real hard decision on which program to cut back, then scream that the White House is usurping congressional power.

"The public is more discerning than members give them credit for," said freshman Sen. Jesse Helms (R-N.C.), one of those who cited congressional buckpassing and opportunism as the chief reason for public disillusionment. "They can recognize demagoguery, inaction, passing the buck, superficial political oratory . . . this is a bipartisan fault. Do things to make yourself look good and get re-elected . . . thinking of the next election instead of the next generation."

A recent example cited by several senators and staffers: despite cries that gasoline rationing is needed, when the issue came to the floor the Senate rejected mandatory rationing, but now many senators are calling on President Nixon to take the political risk of imposing it.

From Mansfield to Alan Cranston (D-Calif), to Charles McC. Mathias Jr. (R-Md.) and James A. McClure (R-Idaho), every senator and staffer interviewed agreed that there is an element of buckpassing and political showboating of the type described by Helms, and that it has some debilitating effects on Congress's status. But only Helms and McClure gave it the absolute number one rating. Others tended to see it as one of several factors, and perhaps not the most important.

A second major factor, the one most cited, is a general public misconception of how Congress works and should work. People just don't understand that, in a legislative body representing different sections and economic groups, it's natural for members to sharply disagree on issues, debate, squabble, soften their positions, move like lightning on some things and like glaciers on others, and only slowly reach the consensus that compromises their differences and allows a law to be enacted.

The result is that Congress, as compared with the President or a governor who can make decisions entirely on his own, appears unable to lead, or even to make up its mind—"appears ponderous and slow," as Mathias put it. "Congressional action is not a single sabre-stroke but a process of debate and study and more research. It seems exceedingly tedious, yet that is what constitutes the legislative process."

Mansfield points to "535 divergent characters on our side, versus one on the other (the President). When the President speaks, he speaks for the whole executive. When a senator speaks, he can speak only for himself. Perhaps the public has an exalted picture of a Congress which never existed and doesn't exist now."

Cranston heavily emphasized the same point, saying, "We fail to get across the point that we have a two-house legislature and you can expect them to disagree."

Cranston, as well as Mansfield, William Proxmire (D-Wis.) and several others, said Congress has repeatedly demonstrated the ability to lead on many issues, yet the public is unaware of it and Congress often doesn't get the credit.

Cranston cited as examples of congressional leadership: studies, hearings and legislative fights by the Senate Foreign Relations Committee which were a key factor in turning public opinion against the Vietnam war and thus creating the public pressure which caused successive presidents to seek an end to the conflict; the development of numerous health and welfare programs long before the executive branch; a legislated end to the Cambodia bombing, and the elevation of the Watergate issue to major national proportions by Senate creation of an investigative committee whose televised hearings brought the matter home to the public with terrific force.

Mansfield, Proxmire, Russell M. Long (D-La.), Cranston, Hubert H. Humphrey (D-Minn.) and others also cited public impatience with the whole government's apparent incapacity to deal with some immediately pressing problems. Mansfield said public anger at the White House for Watergate had splashed over all other governmental institutions, while the energy crisis was being blamed (rightly in his view) impartially on both the executive branch and Congress.

Humphrey said poor coordination of congressional activities, archaic institutions like overlapping committees, the lack of an overall budget review committee—all gave Congress a bad image.

Proxmire and Long added another explanation: while people like their own senators and representatives, Congress as an impersonal whole is in Proxmire's words, "such a good target."

"No one makes the effort to defend the institution as an institution—they all prefer to defend themselves," said Long. "Twenty-one per cent is not at all the rating the senators and representatives would get in their own districts—they'd all get 51 per cent or more, else they wouldn't be there. When you ask do you like Congress, the question is vague. People say, as a group I don't think highly of them but our own fellow is okay."

Another factor cited by senators is the unquestioned laziness, or dubious conduct, of what most call a relatively small percentage of members, which receives large publicity and discredits the whole institution.

Senators who play golf when they should be on the floor are one example. Here are some others:

A northern senator, presiding over the chamber before packed public galleries, who was so obviously drunk that he was gesticulating, yelling, talking irrationally and generally deeply embarrassing the members before the public.

This happened two years ago; the people watching were stunned.

Members of Congress who steal, misappropriate, appear to be in conflict of interest, or to excessively attend to personal business and pleasure while they should be working for the public.

For example, there have been several well-publicized examples of gross misconduct in recent years. Sen. Daniel Brewster (D-Md) was convicted of taking illegal payments from a mail-order house. Sen. Thomas J. Dodd (D-Conn.) was censured by the senate, 92 to 5, for using for personal expenses money which had been given to him as political campaign contributions. Robert G. (Bobby) Baker, the immensely influential one-time top legislative aide to Senate Majority Leader Lyndon B. Johnson (D-Texas), was convicted on several counts involving financial misconduct. House members have been convicted of bribery.

In addition, some senators said, even though it's legal, it doesn't help the reputation of the institution when members tour around the country picking up $2,500 or $5,000 at a clip for speeches while the Senate is meeting in Washington (Bob Dole earned $33,050 from speeches in 1972. Humphrey, $29,135; James Buckley, $25,105, for example) or when congressmen serving out their last few months before retiring, take government-paid overseas junkets after Congress has adjourned.

According to Congressional Quarterly, Democrats like Rep. Thomas G. Abernathy of Mississippi and Rep. Roman Pucinski of Illinois and Republicans like Sen. Gordon Allott of Colorado and Rep. J. Irving Whalley of Pennsylvania all took overseas junkets late in 1972 although they were retiring in January and Congress had already adjourned.

The public is suspicious enough of junkets by congressmen who are staying in Congress and presumably might make use of whatever they learn on the junkets for the public benefit, said one staff man. The bad image is quadrupled when the man is retiring and is just going out for a joy ride.

Nor does it help when the public discovers that Sen. James Eastland (D-Miss.), a member of the Agriculture Committee which writes the farm program laws, collected over $116,000 in government crop supports on his farm one year (1968), Eastland no longer gets such payments, but the publicity hurt him, Congress and the farm program. There have also been frequent revelations of members holding financial interests in businesses over which their committees had jurisdiction.

All this adds up to bad, bad image. Looking over the whole range of reasons why people give Congress a low rating, one Democratic aide said Congress doesn't deserve to be rated anywhere near that low, with all its faults.

"Maybe if Mike and Speaker Albert were better public relations types, the thing would look different," he said. "But Mike, Scott (Minority Leader Hugh Scott) and Albert are too mild and soft in the way they do things. This place hasn't had a decent image since Johnson and (Former House Speaker) Rayburn left."

The irony of Congress's low rating, many said, is that the factor that seems to contribute most toward the bad image isn't political timidity, laziness or occasional corruption.

It is the one thing for which Congress shouldn't be blamed: the fact that it is a legislative body which by its very nature operates through debate, dispute, delay and the slow grinding down of opposing views into a consensus.

Said Mathias, "People who'd like to see fastest action sometimes forget that the fastest thing we ever did was pass the Tonkin Gulf resolution getting us into the Indochina war."

Mr. McGEE. Mr. President, in the very few minutes that I have left, I would like to address myself to the much broader question; namely, the role of the Congress and the status of the Congress and the integrity of the Congress in Government.

We are all concerned about the question of a balanced budget, but I ask you, what kind of economics and what kind of economists can make that argument in terms of a cost-of-living adjustment that amounts to $34 million? What kind of ridiculous assertion can it be, Mr. President, that there is any meaningful input in that amount in the cost of balancing anything? It is a matter of trying to get justice and equity at a time of great economic bind and difficulty.

Mr. President, if we had not already gone through these steps of granting the private sector a whole series of wage increases that amounted to 44 percent or of increases to Federal employees amounting to 34 percent in the last few years, in defiance of the trend of events, when we should have been freezing and insisting on a freeze on wages and freezing interest rates, it might be different; but we did not do that.

Therefore, in the interest of fairness to the tiny group involved—and I say tiny group—that has been left unattended since 1969, if there is any great demand for equity, it is that we at least have the guts to adjust salaries to where we adjusted it for everybody else. I heard nary a strong voice of protest when those adjustments were made. Let us suggest it and then freeze the whole business. Let us stand up as we should.

But, indeed, the issue we are facing now is the role of the Congress and the status of the Congress, and if my friend from Idaho were here at this moment, I would ask him what kind of Congress is going to impress the people of this land if it rolls over and plays dead at a time when it is asked to stand up and be counted. I guess there are lots of people who think they get paid to hide, to duck, but I say it is time to lay it on the line and tell it like it is, and "like it is" is, are we going to wreck what it took us 11 years to establish, a structure to erase some inequities, and have it wiped out because some are afraid to be counted?

Mr. President, if I were not in violation of the rules, I could tick off names of people who came to the chairman and said, "Stay in there and fight because we need it. Sorry, I can't vote with you. Sorry about that." They know what the score is, and that is why I say some day one has to speak out to adjust that inequity.

Of course, we are concerned with the economy as a whole, and it is in a mess. But it is not in a mess because Congress was overpaid. It is not in a mess, because Congress was not tending to its responsibilities. It is in a mess, because of many things that can be spread from the Presidency to the legislature to the courts, who have made demands, likewise.

My petition here is that this body and our companion body stand up and protect the office of Senators and the office of House Members. Any Senator here who does not think he is worth that ought to get out, and if he is too cowardly to get out, his voters ought to take him out and send somebody that is worth it.

I would allude to the column which appeared in the Washington Post, by Spencer Rich. It is significant that the Senator lift out an important part of that column, and that important part is that voter assessments of the Senate and the House are far different from the voter ratings of the individual Members of the Senate and the House. For example, there are some 100 Senators who rate more than 50 percent on an individual rating by their voters. It is easy to be against an abstraction such as this body, but when voters have to put an X next to the name, everybody here gets more than half of the votes—60 percent, 80 percent, whatever it was.

I think it is interesting to note that in the polls that were taken, each in turn endorsed his own Senator and approved of him, said he was doing a great job. It was the body in general he was against. It may be important to point out that that 21 percent may be one of the highest ratings this body has received. Maybe it is getting better. They did not tell us what it was 10 or 15 or 20 years ago.

All we are being frightened by is evidence of total irritation. The fact that 70 percent of those polled also said they could not identify their own representative ought to tell us a little. I think it is important that we quit playing the numbers game that way and that we quit playing Halloween with scare polls. We are here to stand up and be counted. If the office of Senator is not worth this sum a year, then we ought to abolish it or send somebody down here who is worth it.

We are asked to vote on a $300 billion budget. We are asked to pass on policies that affect not only our Nation's destiny, but may hold in balance of future history of the world and of mankind. It is that kind of responsibility that separates this body from all other legislative bodies in the world in terms of responsibility. Of course, it is not quick and it is not incisive, but it arrives at usually sound decisions. It moves ahead. Even as we do so, it is important that, in that same context, we insist that now is the time to restore equity in the Federal salary structures.

The PRESIDING OFFICER. The time of the Senator from Wyoming has expired.

Mr. McGEE. Mr. President, I ask unanimous consent that I may have 30 seconds more out of the next hour, in order to complete this thought.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. McGEE. In that 30 seconds I will simply suggest that if we fail to do this today, I would hope that the Senator from Idaho and his colleagues will stand by us in a total restructuring in this whole effort in the next year ahead. I do not think they will, because every year it has been the same story. It happens over and over again, and whatever else we have learned, we have learned that there is no easier time. No moment is ever the moment, but now is the time to start redressing an imbalance in the inequities of the Federal pay structure system if we believe in responsible government. If we do not, let us turn it over to a one-man dictatorship.

The PRESIDING OFFICER. Under the previous order, the Senator from Hawaii is recognized for the purpose of calling up an amendment.

Mr. FONG. Mr. President, I have an amendment at the desk. I call up my amendment and ask to have it stated.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

In lieu of the matter proposed to be inserted in the text of the resolution, insert the following: "for 1974 for all offices and positions referred to in section 225(f) of the Federal Salary Act of 1967, such recommendations having been".

The PRESIDING OFFICER. The time is to be equally divided between the Senator from Hawaii and the Senator from Idaho (Mr. CHURCH).

Mr. FONG. Mr. President, I yield myself 30 minutes.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 30 minutes.

Mr. FONG. Mr. President, the amendment I offer to the amendment which was offered by the distinguished Senator from Wyoming (Mr. McGEE) would strike out the 7.5-percent pay increase for everyone this year—1974—and adds this 7.5 percent to the 7.5-percent pay increase recommended by the President for 1975, so that the pay increase for 1975 will be 15 percent.

For 1976, my amendment retains the President's recommendation for a 7.5-percent increase.

In an effort to end the 5-year freeze on salaries of Federal judges, Members of Congress, and upper-echelon officials in the judicial, legislative, and executive branches, the President whittled down from 25 to 22.5 percent, the increase recommended by the Second Commission on Executive, Legislative, and Judicial Salaries. In addition, the President stretched out the increase over 3 years, instead of making the entire amount available immediately, as the Commission recommended.

Although I strongly support the President's recommendation for a 7.5-percent increase for each of the 3 years of 1974, 1975, and 1976, I will introduce my amendment, because of a general feeling among my colleagues that no pay increase should be made this year for

Members of Congress or for Federal judges or for upper echelon officials in the executive and legislative branches. There are several reasons for this feeling, and I shall not attempt to elaborate on them. Suffice it to say, they are more political than logical.

By introducing my amendment which falls short of the President's recommendations, I have accepted the reality that the pay increase the President has proposed for this year cannot pass the Senate.

To understand fully the issue before us, we need to know the provisions of the two pay acts relating to salaries of Members of Congress and those top echelon Federal employees who will be affected by the action we take today. We need to know also how these two acts, the Salary Reform Act of 1962 and the Postal Revenue and Federal Salary Act of 1967 which contains the executive schedule of pay, relate to each other.

First, under the Salary Reform Act of 1962, pay rates for Federal white collar employees under statutory pay systems are subject to annual review and adjustment. These pay rates are based on comparability with pay rates in the private sector and are based upon Bureau of Labor statistics surveys. However, the law further provides that these pay rates may not exceed the rate paid for level V of the executive schedule.

In March 1969, when level V was set in the executive schedule at $36,000 annually, a GS–18 in the general schedule—one of the statutory pay systems—was set at $30,239. With the annual increases which have been made according to law during the past 5 years, the comparable pay for a GS–18 today with that paid in the private sector has pushed beyond the $36,000 pay rate ceiling of level V.

The top comparable rate for a GS–18 today is $43,926; for a GS–17 is $43,000; for a GS–16 is $41,550; and for a GS–15 is $36,741—all higher than the level V pay ceiling of $36,000. As of today, at least 85 percent of all supergrade employees—GS–16, 17, and 18—and 1,000 employees in GS–15 are being paid the ceiling rate of $36,000, less than what they are entitled to under the principle of comparability.

Second, under the Postal Revenue and Federal Salary Act of 1967, a Commission on Executive, Legislative and Judicial Salaries submits to the President of the United States, once every 4 years, recommendations on salaries for Members of Congress, Federal judges, Cabinet officers, and other agency heads and certain other officials in the executive, legislative, and judicial branches.

The act also requires that the President, in the budget next submitted by him after receipt of the report of the Commission, to set forth to Congress his recommendations for the adjustment of these salaries. Under the law, the President's recommendations become effective at the next pay period after 30 days following transmittal of the budget, unless in the meantime one House of Congress by resolution disapproves all or part of the recommendations.

Most of the executive positions whose salaries are set by this act are classified from top level I to level V. The level V pay rate was last increased in March 1969, from $28,000 to $36,000.

So we see the Salary Reform Act of 1962 is tied to the Postal Revenue and Federal Salary Act of 1967 by the provision that statutory pay rates cannot exceed the pay rate of level V. This is the provision which creates the problem of the compression of salaries in the statutory systems and denies comparable salary in excess of $36,000 annually for general schedule employees.

Mr. President, after long study and careful review of all of the statistical data, relevant information, and circumstances, I am strongly convinced that Congress, on the grounds of fairness, justice, reason, and sound and efficient government should support the President's recommendation.

These are the reasons which justify support of the President's recommendations:

First. No Federal judge, no Member of Congress, and no one of the 2,000 top executives in the Federal departments and agencies has received a salary increase since the last pay adjustment 5 years ago—March 1969. As a result, another 9,704 high-level Federal employees have had their pay frozen for several years as their salaries cannot exceed $36,000 a year.

Second. On the other hand, almost all other workers in America—yes, almost all other workers in America—have received an increase in pay at least once, if not several times during the past 5 years.

Third. Salaries of 1,300,000 Federal white-collar employees, on the average, have gone up 43 percent during the past 5 years.

Fourth. Salaries of 800,000 Federal blue-collar workers, on the average, have gone up over 45 percent during the past 5 years.

Fifth. Salaries of 3,000,000 military personnel, on the average, have gone up over 80 percent during the past 5 years.

Sixth. Average percentage increases in pay nationally in private industry from 1969 to 1972—4 years—compounded at 5.5 percent for the last 2 years were:

	Percent
Executives	29.1
Clerical	31.4
Junior professionals	30.7
Senior professionals	31.0
Production—manufacturing	33.0

Seventh. Salaries of State Governors, on the average, have gone up 26.5 percent during the past 5 years.

Eighth. Average hourly earnings for nonfarm workers have gone up 29.5 percent during the past 5 years.

Ninth. The Consumer Price Index—which measures the cost of food, durable goods, clothing, transportation, medical costs, and services—has gone up 29.3 percent during the past 5 years.

Tenth. Two hundred sixty-four State and local government officials are receiving salaries larger than the salary received by Members of Congress. This group includes 24 Governors, 11 State administrative and professional positions, 9 mayors or city or county managers, 7 superintendents of schools, officials, 91 other positions in institutions of higher education, 36 public corporation positions, and 54 judiciary members.

Eleventh. The morale of top administrators is low as hundreds of their subordinates with fewer responsibilities receive the same pay they do. For example, 50 employees in the Patent Office make as much as their boss, the Commissioner of Patents, $36,000 a year. Among these 50, some supervise others, yet they all draw identical pay.

In the Department of Defense, 1,262 employees receive the identical pay of $36,000, just as their bosses who are in executive level V.

Skill levels in some supergrade positions have fallen because on occasion, vacancies caused by early retirements must be filled by employees who have less experience and lower skills. The personnel director of a major Government commission in the Washington metropolitan area stated that his organization sometimes must promote relatively "green" GS–15 employees to fill GS–16 vacancies caused by retirements. Other personnel directors indicated similar experiences in their organizations.

Salary compression is making supergrade positions less attractive. Personnel officers have stated that some employees refuse to accept higher positions in the supergrade ranks, because of the absence of additional monetary rewards. Others have expressed unwillingness to make geographic moves to new work assignments even when promotions were involved.

Many such instances were cited. One case involved a GS–15—step 10—employee who was offered a GS–16 position in the personnel office of a major department. The employee would not accept the higher position, because of the added responsibilities and arduous work without additional income.

Some agencies report that they are experiencing increasing difficulty in hiring qualified personnel from outside the Government to fill senior level positions. This is particularly notable in the scientific, medical, and educational fields. Personnel directors said that individuals best qualified to fill supergrade positions often are refusing to accept Government employment because they would suffer a loss of income.

12. Highly qualified employees in the supergrades by the hundreds have retired and many have entered private industry, because their pay has been frozen for so long. More than 1,000 of those in supergrade positions are now eligible to retire. Another 400 to 500 become eligible each year. If salaries in these grades continue to be frozen another 4 years, the Federal Government will suffer a continuing exodus of its top managerial and administrative employees.

13. For many, early retirement is made more attractive. Under current economic conditions, continuation of the $36,000 salary ceiling will allow many employees to earn more retirement income by retiring early rather than continuing to work for the Government. They can then substantially better their current income by accepting non-Government employment.

In planning whether to continue a career or retire, an employee whose salary is at the ceiling must consider the relative financial benefits. For each additional year of work, the employee increases his annual retirement income by about $720—2 percent of $36,000—and contributes $2,520 to the civil service retirement fund. If the Consumer Price Index—CPI—rises and remains at the minimum of 3 percent during that year, it would be more advantageous for the employee to have retired since his annual annuity would have increased by about $810 and he would not have been required to make any additional contributions to the retirement fund. Civil service retirement annuities are adjusted on the first day of the third month that begins after the CPI has risen at least 3 percent from the last adjustment and remains at this higher level for 3 consecutive months. The annuity increase is equal to the highest percentage increase in the CPI during the 3 consecutive month period, plus 1 percent. During the past 3½ years, annuity payments to Government retirees increased 29.5 percent, or almost 10 percent a year.

The following hypothetical example involving a 55-year-old GS-18 employee within 30 years' service at December 31, 1973, illustrates why early retirement has become more attractive. Assuming 5.5 percent cost-of-living annuity increases at January 1 for each of the next 3 years, and the employee retired at December 31, 1973, the employee's annual annuity at January 1, 1977, would be $25,120. However, if the employee works the additional 3 years he would contribute an additional $7,560 to the retirement fund and would receive about $1,477 a year less in his retirement annuity for the rest of his life.

14. Already very highly qualified judges have submitted resignations, because of substantially higher salary offers in private practice, and more such resignations are expected if judges' pay continues to remain frozen.

The income of leading lawyers is 3 to 4 times the salary of Federal judges, and top law graduates are paid $20,000 a year. Judges who have resigned have cited insufficient remuneration as a prime factor.

Fifteen. Many competent attorneys have refused Federal judgeship appointments because of the inadequacy of judges' salaries.

Sixteen. Denying the increase to technicians and scientists and to top administrators in the GS-15, 16, 17, and 18 category would further erode the two fundamental principles of any enlightened pay system: higher pay for higher responsibility and equal pay for equal work.

The salary distinction among supergrade employees has become virtually meaningless. The fact is, three levels of supervision in a typical major division or bureau are earning the same salary, a condition which would be considered totally unacceptable in the private sector. Also the difference between the pay of senior employees and the pay of employees at lower levels has narrowed sharply.

In December 1969, when salaries were unaffected by the present ceiling, the differential between the pay of an employee in the first step of GS–12 and a GS–18 employee's pay was 150 percent. After the October 1973 pay increase, the differential had narrowed to 106 percent and it will continue to narrow if we deny this increase.

Seventeen. The principle of comparability of salary to private industry, which was enacted in 1962, will be almost wholly destroyed in the upper executive positions. In the next 4 years it will worsen and adversely affect additional thousands of employees further down the line.

Eighteen. Salaries of top executive in Government will continue to fall further and further behind industry executives in the next 4 years as industry will adjust salaries from time to time while top executive salary in Government will be frozen until the next quadrennial President's recommendation.

Nineteen. The salary recommended is less than that recommended by the majority of the Commission on Executive, Legislative, and Judicial Salaries.

The nine men of the Commission are knowledgeable men of experience and integrity. They are:

Appointed by the President: Arch Patton, Chairman, director, McKinsey & Co., Inc.; John H. Lyons, general president, International Association of Bridge, Structural & Ornamental Iron Workers; David Packard, chairman of the board, Hewlett-Packard Co.

Appointed by the President of the Senate: Joseph F. Meglen, lawyer, partner, Meglen & Bradley; Bernard G. Segal, lawyer, chairman, Schnader, Harrison, Segal & Lewis, and past president, American Bar Association.

Appointed by the Speaker of the House of Representatives: Edward H. Foley, lawyer, partner, Corcoran, Foley, Youngman, & Rowe, former Under Secretary of the Treasury; William Spoelhof, educator, president, Calvin College.

Appointed by the Chief Justice of the United States: Roger M. Blough, lawyer, partner, White & Case; William T. Gossett, lawyer, partner, Dykema, Gossett, Spencer, Goodnow & Trigg, and past president, American Bar Association.

Their recommendations are based on serious, detailed, and thorough study and are well documented. The Commission in its report said it approached "its task fully conscious of an important constraint upon its recommendations; namely, the need to act with due regard for the spirit of the phase II—5.5 percent—Salary Guideline of the Economic Stabilization Act. In addition we find that a substantial rise in living costs has eroded the purchasing power of salaries of top officials in the three branches of the Federal Government who have not had a pay increase since March 1969."

Seven of the nine Commissioners were convinced that simple equity demands that salaries be raised enough to at least offset the 5-year cost-of-living advance. A majority of the seven, in turn, felt that restoring the purchasing power of Federal officials—a 25-percent increase—would be fair and equitable and at the same time set an unmistakable example of restraint. In addition they felt that growing congressional recognition of the need for a biennial commission that would reassess salary levels in 1975 warranted taking a conservative posture at this point:

> And, three Commissioners voted for a 30 per cent salary increment. . . . Pay increases in other sectors of the economy do, indeed, support such an advance. A very important consideration in this minority view is the belief that judges—as career public servants—have been seriously disadvantaged by a lack of salary action since 1969. Other Commissioners share this concern regarding the Judicial Branch's ability to attract and retain outstanding judges.

Twenty. As a matter of fact, the salary received today by Federal judges and Members of Congress is less than what was recommended in 1968 by the first Commission on Executive, Legislative, and Judicial Salaries. The unanimous recommendations 5 years ago was for $50,000 a year for Members of Congress and appellate judges. By recommending $42,500 at that time, the President created a lag of $7,500 from private industry. The present recommendation compounds the lag.

Twenty-first. According to the law, the next recommendation will be made 4 years hence so adding 4 years more to the 5 years of no increase would make 9 years of no increase for judges, top executives, and Members of Congress.

Twenty-second. No increase for Members of Congress, which in turn, freezes executive pay, would perpetuate and worsen the very severe salary compression problem for the thousands of Federal employees in GS-15 through GS-18. GS-18's have not received any pay increase in 3 years. Right now all GS-18's, all GS-17's, 80 percent of GS-16's, and 4 percent of GS-15's are at the same salary rate of $36,000. It creates a very difficult situation when you cannot give an employee any pay increase at all when he is promoted, even though he is taking on a much more difficult job.

If the current ceiling continues until the next quadrennial review, another 21,000 general schedule employees will be added to those whose salaries would be limited to $36,000—including the top two steps of GS-14, most of those in GS-15, and all of those in GS-16, GS-17, and GS–18. There would then be almost 28,000 employees all earning the same pay, even though their responsibilities range from GS–14 through executive level V. This would mean that six levels of responsibilities would be earning the same pay. What a meaningless pay system this would be.

Twenty-third. The President's recommendation is consistent with the Cost of Living Council regulations. Where State or local government officials have not been allowed pay increases for several years, regulations allow multiplying the 5.5 percent annual guideline by the number of years since the last increase. As it has been 5 years since the last Federal adjustment the regulation would allow an immediate increase of 27.5 percent, plus 5.5 percent a year increase in subsequent years.

Twenty-fourth. The President's recommendation is already 1 year late as it should have been made last year according to law.

Twenty-fifth. The 7.5-percent increase recommended by the President will only cost $34 million a year, with $27 million of this for the executive branch. The bulk of this cost will come from the $2,700 increase in the ceiling on career employees' salaries. This is a tiny amount compared to the total budget of $304 billion.

Twenty-sixth. The $42,500 salary of today is the 1969 salary of $30,090 in purchasing power. Inflation has eroded the buying power of top Federal executives, judges, and congressional Members salaries by 30 percent since 1969. The increase recommended does not even offset the erosion of the last 5 years.

Twenty-seventh. The $42,500 salary of 1978—that is 4 years hence, when the Quadriennial Commission again looks at our salaries—if no pay increase is given now, would be the 1969 salary of $19,800 in purchasing power. This assumes inflation will be 6 percent per year. There are 4 more years of erosion before the next President's recommendation for an increase will be made under present law.

Twenty-eighth. The lag of 30 percent from 1969 to 1974 will increase to 54 percent in 1978 if no pay increase is given now.

Twenty-ninth. A GS–18 employee has already lost in salary for the past 3 years, 1971 through 1973, a total of $11,557, because we have denied him comparable pay according to the general schedule by limiting his pay to $36,000. This GS–18 is now $7,926 below comparability. If there is no increase by October 1976, a GS–18 will be nearly $15,000 below comparability.

Thirtieth. This same employee, if retired today, would suffer a loss of $44,100 in retirement annuity assuming a life expectancy of another 19.3 years beyond age 55.

Thirty-first. Even the modest pay increase recommended by the President—which this Congress will not accept—is far below pay received by industry executives. The average compensation for the three highest levels of executives in manufacturing industry in 1971 was $135,000, $98,000, and $80,000, respectively. In the retail industry, it was $125,000, $96,000, and $80,000 respectively.

Thirty-second. By denying the President's recommendation for pay increases for Members of Congress, we are disparaging ourselves. We are the managing directors of a $300 billion enterprise, the U.S. Government, an enterprise far larger and more complex than any private industry in America. And yet this $300 billion enterprise pays Members of Congress, Federal judges, and top-level executives, excepting only the President, much less than third-level executives average in private industry.

As Senators of the United States the responsibilities of this $300 billion Government rest upon our shoulders. If we must divide that responsibility by 100 Senators, the responsibility on each of us is a $3 billion portion—a portion larger than 99 percent of all the private corporations of America.

When I refer to a $3 billion separate responsibility and to a $300 billion collective responsibility, I am only referring to our financial responsibility to the Nation. On top of that are many other responsibilities on which we must legislate—in defense, in social welfare, in energy, in environment, and in all the other complex and vital areas of our Federal Government of 211 million people.

No director of a private corporation faces such a multitude of concerns and matters—concerns and matters involving the very security and well-being of our Nation and the freedom and liberty of our people.

So, I say to you my colleagues, do not disparage your responsibility as a Senator.

Is a 7.5-percent increase for this year and then another 7.5 percent for each of the 2 years thereafter too much to ask, when for the past 5 years your salary has eroded by 30 percent and you know that it will be eroded another 20 percent before the next quadrennial review by the President? I say and I repeat, "no, no, no."

So my colleagues:

First. Let us face up to the fact that Federal white-collar salaries have gone up 43 percent the past 5 years.

Mr. President, how much time have I got remaining?

The PRESIDING OFFICER (Mr. McCLURE). Of the 30 minutes, the Senator has 2 minutes remaining.

Mr. FONG. I yield myself another 5 minutes.

The PRESIDING OFFICER. The Senator may proceed for another 7 minutes.

Mr. FONG. Thank you, Mr. President.

Second. Let us face up to the fact that 3 million military personnel salaries have gone up 80.4 percent.

Third. Let us face up to the fact that blue-collar salaries have gone up 50 percent.

Fourth. Let us face up to the fact that now three levels—by 1978, six levels—of Government employees will be paid the same pay. In terms of pay, we will not know who is boss No. 1, boss No. 2, boss No. 3, boss No. 4, and boss No. 5.

Fifth. Let us face up to the fact that 10,000 General Schedule employees are now drawing the same pay and, by 1978, some 28,000 will be drawing that same pay.

Sixth. Let us face up to the fact that morale of top Government employees is low.

Seventh. Let us face up to the serious salary compression problem; let us provide equal pay for equal work and higher pay for higher responsibility.

Eighth. Let us face up to the fact that the appeal of supergrade positions is declining. Why should an employee take on greater responsibility at no greater pay?

Ninth. Let us face up to the fact that the Federal Government is losing its top echelon executive, legislative, and judicial officers, and is losing hundreds of supergrade employees, as it is harder to recruit and retain employees who have not had a pay increase for years, some as long as 5 years, and they cannot look forward to one for the next 4 years unless we grant the increase now.

Tenth. Let us face up to the fact that top officials can do better retirement-wise—receive the annuity they are entitled to now plus up to 10 percent in annual cost-of-living increases in their retirement annuities than to remain working, contributing 7 percent to the retirement fund, and earning only 2 percent more in their future annuity. Also, by private employment, they can exceed the pay they are now receiving in Federal service.

Eleventh. Let us face up to the fact that the Federal Government must compete with private industry for these employees, and private industry pay scales are far higher in the top echelon.

Twelfth. Let us face up to the fact that there has been no congressional, executive, and judicial pay raise for 5 years—a loss of 30 percent of buying power.

Thirteenth. Let us face up to the fact that the $42,500 salary of today has declined in purchasing power to the $30,000 pay of 1969 and, by 1978, will decline to $19,800.

Fourteenth. Let us face up to the fact that if we do not do something now, there will be 4 more years of no raise—a projected loss of 20 to 24 percent over the next 4 years.

Fifteenth. Let us face up to the fact that if we do not do anything now, by 1978, the salary of Government employees in top echelons would drop by 54 percent in purchasing power.

Sixteenth. Let us face up to the fact that just about everyone else in the Nation's work force has received pay raises in the past 5 years, averaging 30 percent.

Seventeenth. Let us face up to the fact that living costs have gone up 30 percent the last 5 years.

Eighteenth. Let us face up to the fact that the pay increase recommended is less than what was proposed by the Salary Survey Commission.

Nineteenth. Let us face up to the fact that the Federal Government is the largest business in the world—$304 billion—and it must be run by competent people.

Twentieth. Let us face up to the fact that the proposed pay raise only costs $34 million out of a budget of $304 billion.

Twenty-first. Let us face up to the fact that the recommended pay increase is already 1 year late.

Twenty-second. Let us face up to the responsibility that is Congress' and Congress alone—to Government employees, to ourselves, and to our country.

Twenty-third. Let us not shudder all over and shake in our boots at voting a pay raise after 5 years of inaction. If we are too afraid to give it to ourselves because we may not look good politically, let us do what is right, proper and fair and let the others get their amply justified pay increase, even if it means some will get more pay than we do.

Although the facts offer compelling evidence that the pay increase should be even larger than either the Commission or the President formally recommended, it is clear that Congress will not even approve these modest increases.

My amendment, therefore, is designed to remove the biggest impediment to equity and fair play for Federal Judges, executive level officials, and for the GS–

15–18 level employees whose pay is frozen as long as executive V level pay is frozen.

This impediment is a situation in which some of these officials would earn more than Members of Congress. Right now, some select few Government officials already earn more than individual Members of Congress. So we have already punched a hole through that ceiling. But I do not propose to make that hole any larger.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FONG. I ask for an additional 3 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FONG. My amendment proposes no pay increase this year whatsoever for any of the affected classes of employees or for Federal judges or for Members of Congress.

This will avoid any possible embarrassment for those Members of Congress who are up for reelection this coming November.

In 1975, however, the pay increase would go into effect—at a rate of 15 percent, which is composed of the 7.5 percent proposed by the President this year, plus the 7.5 percent for 1975. In 1976, the increase would be 7.5 percent.

Only Congress can break the logjam on upper echelon salaries that has built up over the past 5 years.

Unless Congress acts now, it will be another 4 years under present law before salary adjustments can be made.

Already the nearly 10,000 Federal employees caught in this salary logjam know they cannot receive one dime more than at present. And this would be true for the coming 4 years as well.

No matter how brilliantly they perform on the job, they cannot look forward to any merit increases. Neither can they look forward to any cost-of-living increases.

Furthermore, they are being deprived—cheated, really—of the higher retirement annuities for which they could qualify if their pay were at the higher level that comparability and job responsibility dictate.

Even if Congress accepted the 25 percent immediate increase recommended by the Commission, these Federal officials would not be made whole in terms of pay and retirement. Yet Congress will not even face up to its responsibility by accepting the President's proposal for 22.5 percent stretched out over 3 years.

My amendment to defer all pay increases until 1975 and 1976 is even more of a compromise with equity and justice.

But sometime, somehow, we in Congress must face up to the gross inequities we are perpetuating.

Sometime, somehow, we in Congress must begin to treat fairly the thousands of Federal employees at the managerial and executive level, as well as our judges.

If we are to attract and retain the skilled and capable people we need to manage and administer our evermore-complex Federal Government, we must accord them salaries commensurate with their duties and responsibilities.

If we are to attract and retain high-caliber people in our judiciary to handle the fast-growing caseload and the evermore-complex issues involved, we must provide appropriate salaries.

If we are to attract capable people to serve in Congress and handle the evermore-complex legislative agenda facing our Nation, we must have a pay level that does not require too much financial sacrifice on the part of those who serve. Otherwise, this legislative body will be open only to individuals with personal wealth.

So I call on my colleagues to join me and begin to rectify a situation that is now grossly unfair to more than 12,000 Federal officers and employees in the executive, legislative, and judicial branches.

Bad as the pay situation is now, it will only worsen in the next 4 years unless we in Congress have the courage to act now.

Mr. President, I urge approval of my amendment.

Mr. President, I was very amused and quite appalled to hear the arguments made by the Senator from Idaho. In his long talk on the Senate floor, he made five points.

His first point is that this is not a $34 million increase in salary, but an increase in salary amounting to billions of dollars.

The second point the Senator makes is that we have tried to compare the salaries of the Members of the Congress with those of executives in private corporations. Those salaries are very large indeed.

The third point the Senator makes is that Government employees have received more in salary increases in the last 5 years than have employees in the private sector.

His fourth point is that this is not the time for an increase in salary.

His fifth point is that the popularity of Congress is at an all-time low and that Congress is held in very low esteem.

Mr. President, the reason why the popularity of Congress is very low and why Congress is held in very low esteem is that the Members of Congress refuse to face up to their responsibilities.

Today we have a very flagrant example of Congress trying to duck its responsibility. We know that the cost of living has increased by 30 percent over the past 5 years. Yet, we are not facing up to our responsibility to meet this situation by giving an increase of 7.5 percent to Members of Congress and to the other top echelon officials of our Government. When we meet obligations such as this and face them squarely and responsibly, then Congress will experience a rise in its esteem.

The Senator from Idaho says that this is not the time to do this. I am amused that a Senator who introduced an amendment on the floor of the Senate to increase the social security payments by 20 percent—and that means an increase of billions of dollars—says that this is not the time to give an increase of 7.5 percent to the people who have not received cost-of-living increases for the past 5 years.

I say that this is the time for such an increase.

The distinguished Senator from Idaho says that the Government employees have received more in pay in the past 5 years than have the employees in the private sector. He says in one breath that he does not believe in the principle of comparability, because he says that the Senator from Wyoming was trying to relate the salaries of the Members of the Congress to those of the top officials of the largest corporations in the country. Next he says that he believes in the principle of comparability in salaries for Government employees.

I think that what the Senator means is that he believes in the principle of comparability for the majority of the Federal employees, those in the lower GS brackets. However, he does not believe in it for the higher echelon employees nor for the Members of the Congress, nor for the judges.

Mr. President, this takes me back to the Senator's first point, that this increase, instead of being an increase that would cost $34 million, will be an increase that will cost billions of dollars.

This shows that the distinguished Senator from Idaho does not realize or know how the pay schedule works.

Under the law, the employees in the General Schedule, the white-collar employees, get an annual comparability increase to that of the employees in the private sector. A Bureau of Labor Statistics survey is made every year. If that survey shows that employees in the private sector are 5 percent above Federal employees, then, the salaries for those Federal employees in the GS schedule are increased to those employed in private industry. The salary of Federal employees rises in accordance with the salary for comparable jobs paid in the private sector.

Mr. President, there are 88 million people employed in the United States. There are only 5 million employed in the Federal Government. So the salaries of the 5 million Federal Government employees follow those of the private sector. In other words, if 80 million people have their pay adjusted, then the 5 million Federal Government employees have their salaries made comparable to the salaries of those in the private sector.

A survey is made by the Bureau of Labor Statistics. Then a recommendation is made to the President. And if the President accepts the recommendation, it automatically goes into effect for the GS schedule, increasing the rates on a comparability basis to those of the private sector. That means that a GS–3, –4, –5, all the way up to GS–16 has an increase in pay to make his salary comparable to the salary in the private sector.

However, when we ask for an increase in pay for those in the GS–18, –17, –16, or even GS–15, who are at the ceiling because their comparability pay is not allowed to be comparable to those of the private sector, the Senator from Idaho says that he does not believe that the principle of comparability should apply. So, I do not believe the distinguished Senator from Idaho understands com-

parability when he says that he does not believe that these high echelon Federal employees and Members of Congress should be paid in accordance with comparable salaries received by those in private industry. He says in one breath that it should be and then says in another breath that it should not be.

We in Congress are not asking that our salaries be comparable to those who are employed in similar positions in private industry. We say that we should get a 7.5-percent increase in pay this year because for the past 5 years we have not received a single increase. Over the same period of time the cost of living has increased by 30 percent. The President has recommended this increase to the Congress. The President has not given us the full amount that should be given. However, he has recommended a 7.5-percent increase, and this is a very reasonable and modest amount.

When one understands how the salary schedule works, he will note that granting the $34 million in salary increases to the Members of the Congress and an increase to those at the level of GS–16, –17, and –18, and the other executive people from level 1 to level 5 will not increase the pay of all of the other employees.

The distinguished Senator from Idaho says that if we increase the salary in this instance, all of the other employees will receive a salary increase. That is not so.

Every year Federal salaries are reviewed. And the salaries are surveyed and compared with those employed in the private industry. Bureau of Labor Statistics surveys are made and if the salaries of the Federal employees are not comparable, they are increased. Yet, an increase is not given to the Members of Congress or those who are at the GS–16, –17, or –18 level. Right now they are all making the same amount, $36,000 a year. Pretty soon we will not know who is bossing whom. If this continues and we do not give an increase at this time there will be six levels of supervisory employees who will be receiving pay of $36,000. In other words, there will be boss No. 1, boss No. 2, boss No. 3, and boss No. 4 all receiving $36,000 a year.

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

Mr. FONG. I am happy to yield.

Mr. McGEE. Mr. President, I want to say to my colleague who serves on the Committee on Post Office and Civil Service that these courageous remarks he just shared with this body are hard-hitting and straightforward and they reflect that which is significant here; namely, that the Senator from Hawaii knows better than anyone else in this body the intricacies of the equities at stake in structuring a Federal pay scale and for that reason he understands the need to wipe out those 10 or 11 years to achieve those equities.

I commend him for his leadership in this matter and his courage in telling it like it is.

Mr. FONG. Mr. President, I thank the Senator, who is the chairman of our committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FONG. Mr. President, I ask unanimous consent that I may proceed for 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FONG. Mr. President, I have worked with the distinguished Senator from Wyoming on the Post Office and Civil Service Committee for 15 years. We have worked on the comparability statute together. We have prepared salary increase legislation for our statutory employees. We have prepared legislation for the executive, judicial, and legislative branches. We see how these two pay systems conflict with each other in the top grades, grades 15, 16, 17, and 18. All we are saying here today is that we must do something to lift that ceiling so that we do not have this compression and lose the good people we have in Government.

If we want efficient government, competent government, and good government it is important that the employees be paid salaries comparable to salaries paid in private industry. We have established through action by the Congress that salaries in the Federal Government should follow those in the private sector. We have followed that principle. It is only fair that in the top categories, grades 15, 16, 17, and 18 that we give them the comparable salary we promised. It is a moral responsibility and it is a legal responsibility to these people that their pay should reflect comparability of pay with the private sector.

Mr. McGEE. Mr. President, will the Senator yield for 20 seconds?

Mr. FONG. I yield.

Mr. McGEE. Mr. President, I am afraid that the reporters in the Senate did not catch the full intent of the Senator's remarks when he appeared to have said that we want to get good men in government. What he really meant was that we want good men and good women in Government, with equal pay for equal service.

Mr. FONG. That is what I meant, Mr. President.

Mr. President, I ask unanimous consent to have printed in the RECORD a Report of the Commission on Executive, Legislative and Judicial Salaries, a letter from the American Foreign Service Association, a letter from Justice Tom C. Clark, a letter from the Chief Justice of the Supreme Court, a General Accounting Office memorandum on information and observations on need for executive pay adjustment, and the editorial from the Washington Post of March 4, 1974.

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

REPORT ON THE COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

WASHINGTON, D.C.,
June 30, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We have the honor to present to you the report of the second Commission on Executive, Legislative and Judicial Salaries.

Unlike our predecessor, this Commission approached its task fully conscious of an important constraint upon its recommendations; namely, the need to act with due regard for the spirit of the Phase II (5.5 percent) Salary Guideline of the Economic Stabilization Act. In addition, we find that a substantial rise in living costs has eroded the purchasing power of salaries of top officials in the three branches of the Federal Government who have not had a pay increase since March of 1969. These considerations have greatly restricted the range of decisions available to the Commission.

The principal obstacle to maintaining a reasonable and equitable compensation structure in the Federal Government is the fact that career employees receive annual pay increases that are related to industry salary rates, while the salaries of top officials in the Executive, Legislative and Judicial branches are normally adjusted every 4 years; and these 4-year adjustments have the effect of placing a ceiling on the compensation of career employees, especially during an inflationary period. This, in turn, has created serious salary compression among the top ranks of career employees.

In our judgment, the dual salary system makes it difficult to attract, retain and motivate top officials in the Executive, Legislative, and Judicial branches, as well as career employees. Indeed, the dissonance between the two pay systems, in effect, has become a prime demotivator.

Replacing the present quadrennial Commission with a biennial Commission would, we think, largely eliminate compression as a demotivating force in both structures. Further, this modification would make the Executive Salary Schedules more responsive to economic change, and permit the next Commission to carry out what we regard as a much-needed reevaluation of positions within this structure. As we see it, the Phase II limitation precludes such action by the present Commission.

We are convinced that the salary schedules of career employees and the Executive Schedules require more effective integration. The biennial Commission would be one step in this direction, and we have recommended in our report an approach that could be a major advance toward achieving this end.

We share the conviction of the previous Commission that many critically important government positions are inadequately paid, and that this condition unfavorably affects the quality of talent available to these jobs. But once a reasonable degree of integration between the career salary structures and the executive salary structures has been attained, it will become practical for salary relationships more directly to reflect responsibilities of individual positions in these structures.

The Commission reached the above conclusion with great equanimity because the facts clearly pointed the direction corrective action must take. The same cannot be said regarding the Commission's primary function; recommending salary changes for the Executive, Legislative and Judicial branches of the Federal Government. The unusual economic conditions facing the country during our deliberations—price inflation at home and a weakening dollar abroad—led the Commissioners to arrive at three distinctly different salary recommendations, from the same available facts.

Let me summarize them briefly. Two Commissioners concluded that no salary increase should be recommended at this time in order to set an example for the rest of the country (see Minority View on page 33). Seven of the nine Commissioners, however, were convinced that simple equity demands that salaries be raised enough to at least offset the five-year cost-of-living advance. A majority of the seven, in turn, felt that restoring the purchasing power of Federal officials—a 25 percent increase—would be fair and equitable and at the same time set an unmistakable example of restraint (this Majority View

is expressed in the report starting on page 23). In addition, they felt that growing Congressional recognition of the need for a biennial Commission that would reassess salary levels in 1975 warranted taking a conservative posture at this point.

And, three Commissioners voted for a 30 percent salary increment (see Minority View on page 34). Pay increases in other sectors of the economy do, indeed, support such an advance. A very important consideration in this minority view is the belief that judges—as career public servants—have been seriously disadvantaged by lack of salary action since 1969. Other Commissioners share this concern regarding the Judicial branch's ability to attract and retain outstanding judges.

Respectfully submitted,

ARCH PATTON, *Chairman.*

COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

Appointed by the President:

Arch Patton, Chairman. Director, McKinsey & Company, Inc.

John H. Lyons, General President, International Association of Bridge, Structural & Ornamental Iron Workers.

David Packard, Chairman of Board, Hewlett-Packard Co.

Appointed by the President of the Senate:

Joseph F. Meglen, Lawyer—Partner, Meglen & Bradley.

Bernard G. Segal, Lawyer—Chairman, Schnader, Harrison, Segal & Lewis; Past President, American Bar Association.

Appointed by the Speaker of the House of Representatives:

Edward H. Foley, Lawyer—Partner, Corcoran, Foley, Youngman, and Rowe; Former Under Secretary of the Treasury.

William Spoelhof, Educator—President, Calvin College.

Appointed by the Chief Justice of the United States:

Roger M. Blough, Lawyer—Partner, White & Case.

William T. Gossett, Lawyer—Partner, Dykema, Gossett, Spencer, Goodnow, and Trigg; Past President, American Bar Association.

Executive Director, David H. McAfee.

Introduction

The Federal Salary Reform Act of 1962 and the Salary Act of 1967 provide that the compensation of government employees be administered on two distinctly different bases:

(1) Career employees in the Federal service, paid under the General Schedule, generally receive salary adjustments each year. These increases are directly related to private enterprise salary rates for the same level of work—the "Comparability Principle"—and are based upon Bureau of Labor Statistics surveys. They are by far the largest group of Federal employees; there are 1.3 million of them, with an annual payroll of $17 billion. Periodic reevaluation of positions in this category are the responsibility of the Civil Service Commission.

(2) The compensation of top officials in the Executive, Legislative and Judicial branches[1] of the Government, on the other hand, is subject to adjustment in March of every fourth year with the budget submitted by the President to the Congress. This period was temporarily extended from 4 to 5 years by action of the President last fall. The Executive Schedule specifies the salary rates of approximately 2,800 officials with an annual payroll of $100 million. The only regular review of position value relationships in the Executive Schedule is lodged with this quadrennial Commission, a weakness discussed under the heading "The Commission's Responsibilities".

The normal 4- and present 5-year lag in salary adjustments between the two groups of Federal employees might have been acceptable in an inflationless economy, or if the two systems were independent of each other. However, neither condition is present today. Indeed, the upward pressure of salary rates in the private sector of the economy on the General Schedule has created a severe salary compression among career employees holding many of the most responsible executive positions in the Federal service. The compression results from the legal limitation that no employee in the General Schedule may be paid more than the lowest salary in the Executive Schedule (Level V).

This problem will be discussed in greater detail later, but two related facts should serve at this point to underscore its importance:

Today's Level V compensation of $36,000—the lowest in the Executive Schedule—became effective in March 1969. At that time, the "comparability" salary rate for the top grade—GS–18—in the General Schedule was $30,239. As of January 1973, the "comparability" rate for this grade had risen to $41,734.

However, as a result of the 4-year-old $36,000 Level V "ceiling," every Federal executive in GS Grades 18 and 17 is paid at the $36,000 "ceiling," despite the higher "comparability" rates. Moreover, nearly half of those in Grade 16 are also at this $36,000 salary rate. Thus, when these GS 18–17–16 "Supergrade" jobs are valued by BLS surveys at private enterprise rates, they are shown to be "worth" up to 16 percent more in today's market than the statutory "ceiling" permits them to be paid.

One result of this compression is that there are numerous instances in the Civil Service where two, or even three, levels of position responsibility all receive the same salary. In other words, the supervisor and his subordinate, and sometimes the *latter's* subordinate, each receives a $36,000 salary!

The Commission on Executive, Legislative and Judicial Salaries is deeply concerned by this condition on two counts. The first, of course, is that the motivation of career executives to accept greater responsibility is being undermined when subordinates are paid as much as their superiors.

The second concern is of even greater importance, for it involves the repudiation of a moral obligation of the Congress to career employees. The Congress established the principle of "equal pay for equal work" in Civil Service, as well as an annual salary review. Yet both principles are being violated as applied to "Supergrades" at the top of the General Schedule. (The Commission must assume, as things stand today, that position values at the top of the Civil Service have been soundly evaluated both internally and in comparison with the outside world or private enterprise.)

The Commission's responsibilities

The Act creating the Commission (see Appendix A) had two key provisions bearing on its responsibilities when making recommendations to the President;

It should determine "appropriate pay levels and relationships between and among positions" in the Executive Schedule.[2]

It should determine "appropriate pay relationships" between the Executive Schedule and the General Schedule.

The Commission interprets these provisions to mean it should (1) determine and recommend appropriate pay changes for the Executive Schedule, (2) determine and recommend changes in salary relationships among positions *within* this structure, and (3) determine and recommend changes in salary relationships between the lowest levels of the Executive Schedule and the top grades in the General Schedule.

The Commission has fulfilled the first of these responsibilities, and its recommendations appear in subsequent sections of this report along with supporting data.

In common with the previous Commission, however, we have found the other two responsibilities to be major undertakings. For example, if the Commission were to evaluate whether an Assistant Secretary in one Department should be in the same or a different level as compared with an Assistant Secretary in another Department, it would be essential to know the relative contribution to national programs and objectives of each position's responsibility and authority, as well as the knowledge and skill that each must bring to bear on its own decisionmaking process. The Commission is in no position to make such a determination among the scores of positions in the Executive Schedule because of time and budget limitations.

Given more time and a larger budget, a soundly based evaluation of positions in the Executive Schedule is not only feasible, but desirable. For example, a number of Executive level positions have been called to our attention that seem to be ranked one or more levels higher than appears reasonable in the light of their *present* contributions to national programs and objectives. There probably are other positions ranked too low by the same standard of comparison.

As a practical matter, the number of *different* Executive Schedule positions involved in such an evaluation process would be relatively small, probably not exceeding several score. However, it would be necessary to establish some common measures of value, other than position title, to assess the difference in value among the great variety of functions carried on in the Federal Government.

Insuring sound pay relationships between the bottom of the Executive Schedule and the top of the General Schedule—the third of the Commission's responsibilities—is a more massive undertaking. The "several scores" of different jobs in the Executive Schedule would need to be evaluated in relation to perhaps a few hundred different position responsibilities in the top grades of the General Schedule.

More importantly, common yardsticks of position value for the two systems would need to be developed to insure that the inevitable downgrading of some positions and upgrading of other would have an acceptable internal rationale. Federal employees in Generel Schedule Grades 17 and 18 are usually direct subordinates of the Assistant Secretaries, Comptrollers, or General Counsels in Executive Schedule Levels IV and V. Therefore, such action would be a helpful first step—and a desirable one—toward a better integration of the two systems.

Today, however, no standing body has responsibility for assuring the Congress that positions at the bottom of the Executive Schedule and the top of the General Schedule are reasonably valued in *relation to each other*. Persons familiar with job values in the Federal Government have informed us that there are a number of positions in GS–18—and possibly GS–17—that are distinctly more valuable by any reasonable criterion than some jobs now ranked in Level V. Yet such a demotivational condition of equal pay for unequal work is presently not subject to periodic review, unless this Commission assumes that responsibility, and, as noted above, we have neither the time nor an adequate budget to get the job done.

The previous Commission's findings

The earlier Commission's report, dated December 1968, recommended substantial salary increases in the Executive Schedule that were designed to (a) attract people of high competence to Government service, and (b) provide salary differentials between the various position Levels more commensurate with the responsibilities discharged. It was the Commission's judgment that the then existing pay structure was out-dated. The recommended increases were regarded in part as a

Footnotes at end of article.

catch-up, and were also expected to establish a more reasonable relationship with 1968 values. (See Appendix B.)

These recommendations in the 1968 report were, with a single exception, substantially reduced by the President. The table below shows the actual 1968 Executive Salary Schedule, the recommended salaries, and those finally enacted. (See Appendix C.)

THE EXECUTIVE SALARY SCHEDULE

	1968 actual	1969 recommendation	1969 enacted
Level I	$35,000	$60,000	$60,000
Level II	30,000	50,000	42,500
Level III	29,500	46,000	40,000
Level IV	28,750	43,000	38,000
Level V	28,000	40,000	36,000

In the final analysis, therefore, only the Level I salary rate—Cabinet Secretaries—was accepted as recommended. All other positions in the Executive, Legislative and Judicial branches received pay increases in March 1969 that were markedly below what that Commission felt were reasonable. Furthermore, the improvement in salary differentials between the various position levels anticipated by the Commission was materially modified by the President's reductions.

Pay trends since the 1968 Commission report

Under existing statutes, any changes made in Executive Schedule salaries as a result of the present Commission's recommendations will not become effective until March 1974. This means *5 years* will have elapsed since Federal judges, Members of Congress, executives running major Government departments, et al.—received their last salary increases.

In the intervening years, inflation has been severe. The Consumer Price Index compiled by the Bureau of Labor Statistics has risen from 106.7 in January 1969 to 127.7 in January 1973. Thus, in the last four years alone, consumer prices have risen 20 percent. This means that an Assistant Secretary in Level IV, who frequently is recruited from industry, has seen the purchasing power of his $38,000 salary drop in these years to $31,750. And by the time his salary is adjusted in March 1974, its purchasing power may well have decreased 25 percent if present trends continue. Meanwhile, of course, his counterparts in industry have typically had their purchasing power maintained by annual pay increases, as we shall see.

To provide a sound basis for deciding on a reasonable salary increase recommendation for the Executive Schedule, the Commission assembled compensation data from many segments of the national economy. As might be expected, we found available surveys had varying terminal dates and covered varying time periods that did not exactly meet our needs. However, in common with the earlier Commission, we regard such data as a guide to arriving at a judgment, rather than a precise measure.

With this thought in mind, we accepted the fact that 5-year data matching the 1969–1974 period under consideration were simply unavailable. Indeed, even industry-wide 1972 salary information will not be ready until after our report is completed. Therefore, we chose the latest 4 years for which data are available—1967 to 1971—as our basic yardstick. And, in the interest of both reasonableness and fairness, we have added 5.5 percent—the Phase II "Guideline"—to all 4-year data to round out the 5-years. We believe this to be a conservative estimate.

The table on pages 6 and 7 shows the percent increase in salaries over this 5-year period of a sizeable cross-section of the economy.[a] During these same 5-years, the salary structure of the Federal General Schedule also increased each year. On the same basis as the foregoing, for example, the change in the General Schedule was as follows:

[In percent]

General Schedule Four years 1967–1971: +28.5.

General Schedule Five-year total: +34.0.

SALARY TRENDS IN NON-FEDERAL SECTORS OF THE ECONOMY, 1967–72

[In percent]

Industry	5 years 1967–71 (actual)	5 years (1972 estimate 5.5 percent)
PRIVATE ENTERPRISE		
Executives:[1]		
Manufacturing:		
Durable goods	17.6	23.1
Nondurable goods	19.1	24.6
Petroleum and natural gas	22.2	27.7
Wholesale and retail trade	20.7	26.2
Utilities	26.0	31.5
Construction	3.7	9.2
Finance and insurance	26.3	31.8
Billion dollar companies	16.3	21.8
Average—all industries	20.3	25.8
Average—80 large companies[2]	22.0	27.5
White collar workers:[3]		
Clerical	25.1	30.6
Junior professional and managerial	26.4	31.9
Senior professional and managerial	25.3	30.8
Blue collar workers:[3]		
Manufacturing—production workers	28.0	33.5
Building trades—journeymen	44.0	49.5
Printing trades	33.0	38.5
Local truck drivers	38.0	43.5
Local transit—operating employees	36.0	41.5
PUBLIC JURISDICTIONS		
Executives:[4]		
State Governors	21.0	26.5
Top 5 State officials	24.0	29.5
State court judges	21.0	26.5
Mayors, city and county managers	28.0	33.5
State university presidents	20.0	25.5
Public school superintendents	31.0	36.5
Federal Reserve bank presidents	22.0	27.5
Professional and managerial:[4]		
State employment security programs:		
State directors	34.0	39.5
Chief of benefits	30.0	35.5
Director—research and statistics	31.0	36.5
State public welfare programs:		
Director—research and statistics	28.0	33.5
Director—social services	32.0	37.5
State public health programs:		
Director—health statistics	26.0	31.5
Health officers	31.0	36.5
Director—public health nursing	28.0	33.5
State mental health programs:		
Director—vocational rehabilitation	34.0	39.5
Other local government:[3]		
Urban public school teachers	31.0	36.5
Urban firemen	36.0	41.5
Urban policemen	35.0	40.5

[1] American Management Association (average for 8,800 executives in 1,526 companies).
[2] McKinsey & Co. (40,000 executives in 80 large companies).
[3] Bureau of Labor Statistics.
[4] U.S. Civil Service Commission.

It should be noted that the 28.5-percent increase during the 1967–1971 period includes approximately 5.0 percent as the "catch-up" needed to equal private enterprise rates for the same level of work as determined by the Bureau of Labor Statistics, an action required by the "Comparability Principle" of the Salary Act of 1967. If this 5.0 percent were deducted, the 5-year total increase in the General Schedule would become 29 percent.

The Commissioners felt uneasy about accepting these substantial increases at face value. We recognized that salary data for 1967 and 1968 predate the last Executive Schedule increase in March 1969. But more importantly, 1967 was a fair profit year and 1968 a relatively high profit year for industry, and above-average bonuses paid to executives might have unduly inflated results.

Therefore, we reconstructed such information as we could—for a number of surveys were unavailable—to eliminate 1967 and 1968. Doing so meant our base information period dropped from 4 years to 3, hence it became necessary to estimate salary changes for both 1972 and 1973. To be conservative, we used the 5.5-percent "Guideline" of Phase II in both years.

In these terms, the 5-year pay increases that are projected—3 years actual, 2 years estimated—can be summarized as follows:

PERCENTAGE COMPENSATION INCREASES

[In percent]

Private enterprise	3 years actual 1969–72	Plus 2 years compounded at 5.5 percent
Executives	16.0	29.1
Clerical workers	18.1	31.4
Junior professional and managerial	17.4	30.7
Senior professional and managerial	17.7	31.0
Production workers (manufacturing)	19.5	33.0

These data indicate both time periods used to assess past pay increases lead to approximately the same conclusion: that 30 percent is a reasonable measure of the actual increase in compensation that will have occurred in the 5 years ending in March 1974. Coincidentally, annualizing and compounding the Phase II "Guideline" of 5.5 percent over 5 years turns out to be 30.7 percent

State and local government pay levels

Another way of evaluating the adequacy of the current Executive Schedule is to compare it with pay levels in state and local government. These smaller government bodies had, on March 31, 1972, some 1,858 jobs paid in excess of $36,000—the bottom rate of the Executive Schedule. Even more significant is the fact that 59 percent (1,094) of these state and local jobs were paid $40,000 or more. Although available data are not in a form to provide a precise measure (See Appendix D–V, page 57), it is clear that *upwards of 650 state and local job holders are paid more than U.S. Senators and Congressmen receive today!*

The point is, of course, that the need for talent to run these smaller government bodies has resulted in major salary increases over the past decade. This surely raises a question of relative value; either state and local government executives are overvalued, or Congressmen and Senators—responsible for the well-being of the country as a whole—are undervalued.

The years ahead

These analyses indicate that executive compensation in industry, and among state and local governments will have advanced approximately 30 percent in the 5 years ended March 1974. In the 4 years already elapsed, the cost of living has risen more than 20 percent.

To clarify its own thinking concerning the future impact of the Federal Government's two pay systems, the Commission used these two figures as a basis for some exploratory forecasts. We assumed, reasonably in our judgment, that salary trends in the private economy will advance the General Schedule 5.5 percent in each of the next 2 years, and 5.0 percent in each of the following 2 years. This would raise the GS–18 "comparability" salary level to $51,00 in October 1976. Then to provide a basis for comparison, we projected an increase in Level V of the Executive Schedule at both 20 percent and 30 percent.

On this basis, the relationship between the bottom of the Executive Schedule (Level V) and the top of the General Schedule (GS–

Footnotes at end of article.

18) would be as follows during the next 4 years:

	GS-18	Level V increase	
		At 20 percent	At 30 percent
January 1973[1]	$41,734	$36,000	$36,000
January 1974	44,025	42,200	46,800
October 1974	46,450	43,200	46,800
October 1975	48,775	43,200	46,800
October 1976	52,200	43,200	46,800

[1] The Federal Pay Comparability Act of 1970 provides that adjustment of the General Schedule (and related Schedules) be made in October. However, in order to conform with the requirements of the Economic Stabilization Act of 1971, the President ordered the October 1972 adjustment be deferred until January 1973. Our projection assumes that the October 1973 adjustment will also be deferred until January 1974 because of the extension of the Stabilization Act.

What this table indicates, of course, is that even a 30-percent pay boost for the Executive Schedule provides only 2 years relief from compression for key General Schedule positions. A 20-percent pay increase is wiped out as a "decompression" agent before it even becomes effective. And the next quadrennial Commission will not meet for 3 or 4 more years.

This table also demonstrates that if no increase in the Executive Schedule is agreed upon for payment in March 1974, GS–18 will be paid $15,200 below its "comparability" rate by October 1976. Furthermore, 28,000 employees in GS–18, 17, 16, 15 and the top of GS–14 would all be paid the same $36,000 in 1976.

The substantial differential between actual and "comparability" pay of top career employees in the upper grades creates an incentive for early retirement that may act to drain off needed talent. Indeed, one Agency head has told us this is already happening, and that the rate will increase unless the pay gap is closed. As he put it, "the good men go first".

This condition results from several key provisions of the Civil Service Retirement Act. Career employees may retire at age 55 with 30 years of service. The size of the individual's retirement annuity is based on the average of his three highest annual salaries. In addition, pensions of all retired employees are increased whenever the Consumer Price Index rises 3 percent or more over a base date, and a 1-percent premium is added to the highest percentage of the ensuing 2 months. There will be a cost-of-living adjustment in July 1973, for example, of 6.1 percent. Any employee who retires on or before June 30, will be eligible to receive this adjustment in his annuity.

Thus a career employee whose pay rate has been frozen will have an opportunity to retire immediately on a larger annuity than he could obtain by continuing on the job for several more years. Even a substantial future pay increase would require a considerable period before the 3-year average would produce an annuity equal to the annuity he could get this year, particularly when his own contributions—7 percent of salary—are taken into account.

Unless the system is changed, therefore, the recurring compression of career pay rates at the top of the General Schedule may well result in the early retirement of the better career executives who at age 55 can find non-Federal employment to supplement their retirement income.

The importance of these top career service positions to the running of our government is not always recognized. One Commissioner made a study of job turnover among Under Secretaries and Assistant Secretaries in the first 4-year term of the three most recent Presidents; Kennedy, Johnson and Nixon. The tenure of the 500 individuals holding positions during these 12 years were as follows:

	Percent
Tenure less than 12 months	20
Tenure 12 to 24 months	33
Tenure over 24 months	47

More than half of the Under Secretaries and Assistant Secretaries thus held their jobs less than 2 years, and one in five changed jobs in less than a year. Checks made by the Commission indicate that industry regards 2 years as a reasonable "learning period" when an executive moves from one functional responsibility to another, or one type of business to another—which is the position in which most new Under Secretaries and Assistant Secretaries find themselves upon joining the Executive Branch. Government sources tell us that only the specialists (taxes, medicine, etc.) are likely to "get on top of their job" in less than 18 months.

A more important, and less understood job-tenure statistic has to do with the time a boss and his subordinate work together. (The superior needs time to assess the effectiveness of his subordinate, and teach him the job; the subordinate needs time to learn his new job, and decide how to work with his new boss.) When the number of months Assistant Secretaries worked with Under Secretaries during the first full term of these three Presidents is compared over the same time span, the results are as follows:

Worked together:	Percent
Less than 12 months	39
Twelve to 24 months	38
Over 24 months	23

In other words, when "on the job tenure" becomes "superior-subordinate tenure", the number of Under Secretaries and Assistant Secretaries with less than 12 months tenure working together approximately doubles. On the other hand, only one in four worked together more than 2 years. The turnover is so high as to raise a question of the working effectiveness of such a "team".

It is recognized that a number of promotions occur among the officials of every Administration. This obviously speeds up the job-learning process, and frequently has the same effect where the "superior-subordinate" relationship is concerned. However, there is little evidence that the number of such promotions is large enough to alter the conclusion: turnover in the Executive structure magnifies the importance of "Supergrade" executives.

Industry generally regards 12 months as too limited a time frame for a supervising executive to judge either the capability or performance of any but the clearly outstanding or clearly inadequate executives with whom he has not worked previously. With all the complexities—including those political—found in the Federal Government, the time span for judging capability and performance might well be even longer.

The point is, of course, that if even 40 percent of the Assistant Secretaries are not on the job long enough to feel comfortable making the decisions facing them, the career executives on their staff become very important indeed. Until something can be done to reduce turnover at the Assistant Secretary level, therefore, it is critical that the quality of the executive talents in GS–17 and 18 be above average. And one of the more effective ways of accomplishing this objective is to see that these executives do not feel condemned to having their paychecks below the agreed-upon "comparability" level most of the time!

Recommendations

This Commission believes, as its predecessor did, that the existing compression between Levels in the Executive Schedule is both unreasonable and demotivating. Only 5 or 6 percentage points, for example, separate the salaries of Levels II, III, IV, and V. By any normal standard, the responsibility differential between Levels in the Executive Schedule is substantially greater than these percentages indicate.

Furthermore, there are changes within the Executive Schedule itself that should be made. The value of many jobs has been altered by changing national priorities and leadership needs, hence their value relationships should be readjusted.

However, the Commission does not believe this is an appropriate time to make the substantial salary increases needed to effect these adjustments. While relatively few in number, such pay boosts would be coming during a period of sharply rising living costs, and would be difficult for the public to understand. Furthermore, as leaders of the Federal Government, officials of the Executive, Legislative and Judicial branches should set an unmistakeable example for all of us. These are powerful arguments, in our view, for recommending both moderation and uniformity in salary change at this time.

Executives in industry, state and local governments have had their compensation increased approximately 30 percent in the 5-year period under review. And, as has been noted, compounding the Phase II 5.5 percent "Guideline" for the period equals 30.7 percent. Because of our decision to keep salary changes within the Phase II "Guideline," 30 percent marks the upper limit of a general pay increase considered by the Commission this year.

Indeed, a majority of the Commissioners would have voted for a 30 percent increase had it not been for our expectation that a biennial Commission (Recommendation No. 3) would be established this year.

Such action by the Congress would sharply reduce the risk of compression, and permit another review of the Executive Schedule within 2 years.

1. *Increase salaries in the Executive Schedule to equal the 5-year cost of living advance.*

In view of the obvious need for moderation implicit in the present economic environment, however, the Commission decided to limit its salary increase recommendation to the rise in the cost of living. It appeared to us that simple equity required the restoration of the lost purchasing power of these public servants. Anything less than this amount would mean continued compression among career employees almost from the day the increase became effective. For example, a 20-percent increase would raise Level V to $43,200 on January 1, 1974, at which time Grade 18 would be $44,025 on the basis of Commission forecasts shown in the Table on page 17. We regard a 20-percent pay increase as too small to be realistic.

The Commission recommends a 25 percent salary increase to restore the purchasing power of Executive Levels II, III, IV and V and equivalent positions in the Legislative and Judicial branches. We recommend a smaller percentage increase for Cabinet Secretaries, the Chief Justice of the Supreme Court and Associate Justices, but a dollar increase that approximately maintains the present dollar relationship of these positions with the rest of the Executive Schedule.

The reason for the smaller percentage increase recommended for Secretaries and Justices is to restore what this Commission and its predecessor considered a more reasonable value relationship between these positions and the rest of the Executive Schedule. The previous Commission, for example, recommended a salary of $60,000 for Level I and $50,000 for Level II. The recommended 71-percent increase for Level I was left unchanged but the President reduced the recommendation for Level II to $42,500—a 42-percent increase.

This Commission believes a $10,000 increase for the Secretaries and Justices is

equitable in view of the unusually large pay raise they received 4 years ago.

The Commission is sincerely concerned about the current level of compensation paid Federal judges. They are career employees with little opportunity to supplement their judicial salaries. During the past 4 years increases in the cost of living without compensating salary increases have intensified the economic pressures and financial sacrifices required for judicial services. Judges are recruited from a well-paid profession and the difficulty of attracting outstanding lawyers to the Federal bench and retaining them is increasing as judicial compensation falls further behind that of practicing lawyers.

Accordingly, should either the President or the Congress decide to modify or reject the salary rate we recommend for Members of Congress, we earnestly urge that our recommendations for the salaries of Federal judges (and of officials of the Executive branch as well) be approved.

The 1970 law creating the United States Postal Service added members of its Board of Governors to the list of positions for which this Commission is to make salary recommendations. At that time, their compensation was set at $10,000 plus $300 for each Board meeting attended, not to exceed 30 meetings a year. The Postal Service is still in a developmental stage as a separate corporation. The Commission believes the current compensation of the Board is reasonable under the present circumstances.

The new Executive Schedule would compare as follows with the present Schedule:

	Present rate	Proposed rate
Level I	$60,000	$70,000
Level II	42,500	53,000
Level III	40,000	50,000
Level IV	38,000	47,500
Level V	36,000	45,000

On this basis, the cost of the recommended adjustment for the three branches would be $25 million annually.

The specific salaries we recommend for officials included in the Executive, Legislative and Judicial branches of the Federal Government appear below and continue on next page.

Executive salary recommendations

Executive branch

Heads of Departments, Level I, $70,000.

Agency Heads and other Level II positions $53,000.

Under Secretaries and other Level III positions $50,000.

Assistant Secretaries and other Level IV positions $47,500.

Major Bureau Heads and other Level V positions $45,000.

Legislative branch

Senators, Representatives, and the Resident Commissioner from Puerto Rico $53,000.

The Comptroller General $53,000.

The Assistant Comptroller General $50,000.

The Public Printer, Librarian of Congress, Architect of the Capitol, and General Counsel of the General Accounting Office $47,000.

The Deputy Public Printer, Deputy Librarian of Congress, and Assistant Architect of the Capitol $45,000.

Judicial branch

The Chief Justice of the United States $72,500.

Associate Justices of the Supreme Court $70,000.

Judges, Circuit Courts, Court of Claims, Court of Customs and Patent Appeals, Court of Military Appeals $53,000.

Judges, District Courts, Customs Court, Tax Court of the United States, and Director, Administrative Office of the United States Courts $50,000.

Commissioners, Court of Claims $45,000.

Deputy Director, Administrative Office of the United States Courts $45,000.

Referees in Bankruptcy—full time—a maximum of $45,000.

Referees in Bankruptcy—part time—a maximum of $22,500.

Magistrates—full time—a maximum of $45,000.

Magistrates—part time—a maximum of $15,000.[4]

United States Postal Service

Members of the Board of Governors—$10,000 (no increase).

2. *Add Top Legislative Officers to the Commission's Jurisdiction.*

The Commission is not now responsible for recommending salaries paid the Vice President, the President Pro Tempore, the Speaker, the Majority and Minority Leaders. However, since these positions are, in fact, at the top of the official structure of the Federal Government, real inequity would result if they were not moved up in consonance with our recommendations. Since the Commission must take these positions into account in its deliberations in any event, we recommend that they be included in the Commission's responsibility in the future.

3. *Establish a Biennial Commission.*

We recognize the proposed 25-percent salary increase will mean a renewal of compression at the GS–18 level very soon after the change becomes effective. Furthermore, the Commission believes renewed compression would have the effect of further undermining the credibility of the principles of "equal pay for equal work" and annual salary adjustments established by the Congress. In view of the need for highly qualified talent in the "Supergrades" to offset the effect of extremely rapid turnover among Under and Assistant Secretaries, permitting another round of compression in the top grades of the General Schedule would certainly be counterproductive.

To cushion the recurring "compression crunch," we strongly recommend that the present quadrennial Commission be replaced by a biennial Commission that would meet in Fiscal Year 1975 and report its recommendations to the President late in that year so that a further adjustment of these salaries could be considered for 1975. At that time, inequities *within* the Executive Schedule could be evaluated by the new Commission and corrected.

A 2-year cycle of decision in adjusting the compensation of the Executive, Legislative and Judicial branches is essential, in our view, if recurring compression is to be controlled. A system involving salary changes every 4 years is simply incompatible with one that is adjusted each year during an inflationary period, particularly when the 4-year system "puts a lid on" the 1-year system. A 2-year cycle of adjustment for the Executive Schedule reduces the distortion resulting from inflation by half, making such compression as does occur between the two Federal pay systems more tolerable. The 2-year period also sharply reduces the size of the necessary salary increase, hence would lessen the misunderstanding among the electorate that seems to follow any boost in government salaries. Being accustomed to annual pay raises himself, the average voter overlooks the fact that 4 years normally elapse between increases in the Executive Schedule.

But the principal advantage of the 2-year cycle, of course, is that it would bring the two major Federal pay systems into closer harmony with each other, and would reduce to a viable level the dissonance between them occasioned by their 1- and 4-year pay cycles.

Footnotes at end of article.

4. *Integrate the Two Federal Pay Structures.*

Because of the critical importance of staffing the "Supergrades" (GS–16, 17 and 18) with strong executives, some means of integrating these positions with Levels IV and V should be found. The establishment of a biennial Commission would be one step in this direction, for it permits a closer "coupling" of the two systems.

The next step, and one we strongly recommend, would be to establish a task force to evaluate and integrate positions at the top of the General Schedule and the bottom of the Executive Schedule. Such a review should certainly include Levels IV and V of the Executive Schedule, and probably all of the "Supergrades" in the General Schedule. The primary objective of this review, of course, would be to establish value relationships between jobs in both pay systems in terms of their relative responsibility for carrying out national programs and objectives.

The end-product of such a task force would be an integrated position-value relationship among jobs in the two pay systems. In effect, therefore, the task force would do what this Commission cannot do as a consequence of time and budget limitations:

Determine "appropriate pay levels and relationships between and among positions" in the Executive Schedule,

Determine "appropriate pay relationships" between the Executive Schedule and top positions in the General Schedule.

The Civil Service Commission currently has responsibility for a periodic evaluation of the "Supergrades," and the Office of Management and Budget exercises a degree of authority where the Executive Schedule is concerned. Therefore, these two groups might provide the nucleus of manpower to staff such an evaluation task force.

In addition, the Commission urges that knowledgeable "outsiders" be included in the task force to give it objective and disinterested leadership in the position evaluation process. We believe this is necessary to insure a balance between government and industry experience in the measures used to establish position value. Outside expertise would also be helpful in arbitrating conflicting "inside" viewpoints that are liable to develop.

Since OMB does not have responsibility for a continuing review of position relationships in the Executive Schedule, some ongoing means of maintaining the integrity of such a structure is necessary once it has been established by the task force. In other words, some standing body is needed in the years ahead to fit new positions—created to reflect changing national priorities—into the Executive Schedule.

MINORITY VIEWS

(By Joseph F. Meglen and Edward H. Foley)

The undersigned were appointed by the President of the Senate and the Speaker of the House of Representatives respectively.

While we are in complete sympathy with the need for cost-of-living relief for members of the Federal service, and are in agreement that the greatest need is some relief for Federal judges, we must express our dissent from the majority recommendations for such excessive salary increases at this time for the following reasons.

The statutory function of this report, as we understand it, is to serve as a facility to the President in conveying in his next budget message his recommendations as to the rates of pay he deems advisable. The President has been emphatic in his 1974 budget and his review of 1975 budget forecasts in imposing strict budget limits which he believes essential to maintaining a healthy economy and avoiding accelerated inflation and increased taxes. Under these strictures many existing governmental programs have been curtailed or abolished. Under these cir-

cumstances, we do not feel justified at this time in recommending the proposed increases.

JOSEPH F. MEGLEN.
EDWARD H. FOLEY.

CONCURRENCE AND CONSENT

(By Bernard G. Segal. Joined in by William T. Gossett and by John H. Lyons)

We concur without reservation in Recommendations 2, 3, and 4 of the Report.

We do not dissent from Recommendation 1 for a 25 percent salary increase to the classes specified. Our reason for not dissenting is so that there may be no possible question that the President has been presented with a recommendation having the support of a clear majority of the Commissioners, although we believe that this result would follow in any event since 25 percent is encompassed within the higher percentage we considered appropriate. We are convinced that a recommendation of 25 percent is unconscionably low for the classes of officials to which the recommendation in the Report applies. We dissent from the failure to recommend increases of at least 30 percent, which we regard as the irreducible minimum.[5]

A striking and significant circumstance is that the reasoning, and the supporting statistical and other factual data, in the Report unequivocally support a minimum increase of 30 percent. We shall cite but a few of the statements and statistics in the Report which illustrate this.[6]

Thus the Report states:

". . . During this same five years, the salary structure of the Federal General Schedule also increased each year. On the same basis . . . , the change in the General Schedule was as follows:

	Percent
General schedule:	
4 years 1967–71	+28.5
5-year total	[1] +34.0

[1] The report states that approximately 5 percent of the 34 percent was "catch-up" needed to equal private enterprise rates for the same level of work." However, this is irrelevant to the comparison with the situation of the officials with whom the Commission is concerned, since obviously the compensation for these officials would need greater "catch-up" to equal the compensation of positions of corresponding importance and responsibility in the private sector.

The Report terms the 5.5 percent estimate of next year's increase to be "conservative."

After reviewing compensation of executives in industry and of high level officials in State and local Government, the Report concludes:

"These analyses [i.e., the comprehensive salary data in the Report] indicate that executive compensation in industry, and among State and local governments, will have advanced approximately 30 percent in the five years ended March 1974 . . ."

And the Report states further:

". . . Coincidentally, annualizing and compounding the Phase II 'Guideline' of 5.5 percent over five years turns out to be 30.7 percent."

Accordingly, throughout the deliberations of the Commission and until the last draft Report presented at the final Commission meeting, the lowest percentage increase suggested by any Commissioner or appearing in any draft Report, was 30 percent.[7] Indeed, in the draft Report preceding the last one, the Report's specific recommendation was:

"In light of the above, the Commission recommends an across-the-board increase of 30 percent . . ., which approximates pay increases of industrial and State executives, and the Phase II 'Guidelines' 5.5 percent compounded over five years."

Nothing, therefore, could have been more surprising than when, at the twilight of the Commission's deliberations, members, who had so strongly and—consistently advocated a minimum of 30 percent up to then, for the first time proposed that this be cut to 25 percent stating this to be the estimated increase in the cost of living during the 5-year period to March 1974.[8]

The only argument advanced in the Report for this change in position is "the obvious need for moderation implicit in the present economic environment." We regard this action not as "moderation" but rather as "penuriousness." For according to the Report's specific findings and conclusions which we have quoted above, the Board's present reduced recommendation of 25 percent is approximately 23 percent lower than the figure which would be produced by the President's Phase II "Guidelines," and it is 20 percent below executive compensation in industry and State and local governments.

How can it be "simple equity," as the Report terms it, to deny to every member of three groups of important Government officials increases that would conform to the Guidelines promulgated by the President of the United States pursuant to Act of Congress, and to the national pattern for executives in industry and State and local governments. The Report's belated reduction of the proposed increases from 30 percent to 25 percent becomes even more incomprehensible in view of its recognition of the facts that (1) these officials will have suffered through 5 years of one of the greatest inflationary periods in history with no salary increases, and (2) even if these officials receive increases in March 1974, under present legislation they are faced with the prospect of no salary increases again during the following 3 years at least. In the meanwhile, if executives in industry and State and local governments, and other Federal Government officials, receive only 5.5 percent a year during those 3 years, certainly a minimum prospect by any standard, their compensation will, by the end of that 3-year period, have been increased an additional 17.4 percent.

The Report states that the cost of its recommended salary adjustments would be a total of $25 milion. To increase these salaries by 30 percent, rather than 25 percent, would cost the Government an additional $5 million. Can anyone argue that, within the framework of the Federal budget or otherwise, to grant this $5 million, divided among all of the officials involved, would be inflationary or would violate "the obvious need for moderation?"

We have addressed ourselves to the economic justification for the increases. There is a moral obligation, too.

The Report deals so amply with the executive branch that we do not labor that subject further.

As to the Members of the Congress, the difficulty of their position is obvious. One-third of the Members of the Senate and all of the Members of the House of Representatives come up for election in 1974. They are the most likely group to be met with the impact of possible public reaction to increases, which though moderate, would appear high to the uninformed, to those who do not realize that the increases are "catch-up" for 5 years of no increases whatever. Some of this could be remedied by appropriate and forceful presentations to the public through the media and to the leaders of the important groups of our citizenry. It is our belief that leaders in agriculture, business, labor, the professions, and other groups would be willing to take up the cudgels if before the President's next budget message, they were to be properly briefed. The American Bar Association, which sponsored the legislation creating the original Commission on Judicial and Congressional Salaries and strongly supported the legislation creating the present Commission and its predecessor, has announced its unequivocal support for substantial increases for the executives, legislative, and judicial officials involved.

This situation created by the necessity of salary catch-up for our highest Government officials is not new. It has existed throughout our history. From 1789 to 1954, when Congress acted on the recommendations of the first Commission with jurisdiction over judicial and congressional salaries, adjustments in compensation of Members of Congress and the Federal judges were made on the average, once in every 20 years. Since 1954, this long period lag has been improved, but until we have a Commission charged with the responsibility for continuous review of the salaries of these officials, or at least biennial Commissions as the Report proposes, there will be a minimum 4-year lag and as in the present instance, even this may be prolonged. The current situation is aggravated by the severe inflationary pressures which have occurred and the steady erosion of actual income which this has produced. The officials involved can never be made whole; the losses they have incurred by virtue of having received no increases whatever year after year during whatever period is involved—5 years in this instance—is lost to them forever. And when salary adjustments are finally considered, they are of such magnitude that to an uninformed public they seem exorbitant and to Members of the Congress in the sensitive position of coming up for election, the situation seems ominous. But the history of our Country demonstrates that reasoned and restrained action by the Congress has never resulted in adverse consequences at the polls.

So much for the Members of Congress. The situation which the absence of any salary adjustment for 5 years has created for Federal judges, and as a result for the public interest as well, is critical.

It is essential that among the appointees to the Judiciary, there be a substantial number of the most able and talented young men and women. Yet, these are the very persons who are least able to make the financial sacrifice which leaving the Bar and ascending to the Bench involves today. Anyone who has been connected with judicial selection knows how many times recruitment of the most qualified lawyers among those available for judicial appointment is frustrated by their inability to accept the financial sacrifice that is entailed. We are sure we need not emphasize that compensation is not the primary attraction for those who aspire to judicial service. There is the prestige of the judge, the opportunity for enriching and rewarding service in pursuit of the highest aspiration of a people—justice under law. But judges have family obligations, too; children who go to college, all the economic pressures of a mounting economy. A differential, even a substantial differential, between earnings of the lawyer of ability and the judge of ability is to be expected, and judges do not complain of this. But the differential should not be allowed to become so great that it becomes intolerable.

A Federal judgeship is a lifetime appointment. Under prevailing standards of judicial conduct, the judge gives up virtually all opportunity for outside income. Yet, he must maintain a standard of living consistent with his position. Under these circumstances, he is especially hard hit if, when his salary is finally reviewed, the disproportion he already suffers as compared with his counterpart in private practice, is aggravated by failure to afford him even the percentage increases enjoyed by everyone else except his fellow sufferers in the Congress and the Executive branch.

We are faced with grave consequences growing out of the current situation. In the first place, recruitment of the kind of judges all of us want to see on the Bench is becoming more difficult; and now again, as in 1953 when the first Commission met, we are faced by the spectre of resignations of judges who simply cannot subject their families any longer to the financial pressures

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Footnotes at end of article.

of the situation. We do not mean to indicate that if the increase were to be 25 percent rather than 30 percent, there would be a general exodus from the Bench. But there would be a lowering of morale; and there would be an increasing realization on the part of the kind of lawyers we want to attract to the Bench that challenging and inspiring as judicial service is and great as might be the financial sacrifice they would be willing to make, the future is simply to bleak to permit the sacrifice entailed for them and their families.

It is a mistake to believe that the public cannot be educated to understand and appreciate the need for a 30-percent increase in salary for executive, legislative, and judicial officials who have sat by for 5 years without receiving any of the increases enjoyed annually by the rest of the economy.

A dramatic demonstration of this fact came when, as a result of the recommendation of the first Commission on Judicial and Congressional Salaries 2 decades ago, the Congress voted increases of 50 percent in the salaries of District Judges and Members of the Congress, with slightly lower percentages for Supreme Court Justices and judges of the Courts of Appeals. Despite these substantial increases, the response of the Country was largely favorable, as were most of the many editorials throughout the Country. And it can be stated categorically that there were no adverse consequences at the following congressional elections. This was largely attributed to the fact that the Commission had solicited the views of more than 10,000 editors of daily and weekly newspapers, and of publications in the fields of agriculture, business, labor, the professions, and civic, veteran and women's groups; that it had conducted extensive public hearings in the Senate Caucus Room, nationally broadcast and televised, at which present and past members of the Judiciary, the Congress, and the President's Cabinet, as well as representatives of groups having a total membership of more than 30 million people in almost every State in the Country, appeared as witnesses or made written submissions; and that when the Report was officially filed with the President and other officials designated in the statute, extensive press conferences followed. We believe that great benefit would derive if this last procedure were followed here, as the Commission plans to do if afforded the opportunity.

A very recent example occurred in Pennsylvania, whose population certainly represents a microcosm of the Nation insofar as its mix of both rural and urban communities is concerned. There, a continuing Commission had been appointed by the executive, legislative, and judicial heads of the government, in approximately the same manner as our Commission was appointed. The only difference is that that Commission's recommendations go directly to the legislature and become effective in the absence of rejection by the legislature.

The Commission's recommended salary increases for the Governor and heads of the executive departments ranged from 33⅓ percent to 60 percent, and for judges from 33⅓ percent to 44 percent.[9] At first, the adverse public reaction to some of these increases, especially for the legislature, was so great that substantially lower salaries than those recommended by the Commission were adopted by the legislature. Then, the educational process by the Commission began. Now came favorable editorials and improved public response. In the latter part of 1972, the legislature permitted the full salary increases recommended by the Commission to go into effect.

We have been advised that there is no responsible view anywhere in Pennsylvania that legislators will suffer political consequences by virtue of those merited, though substantial, increases which came, by coincidence, after 5 years of no salary increase at all.

In conclusion, the statistics and considerations cited in the Report, the public interest, and the overriding factor of justice amply justify, indeed urgently require, that salary increases of not less than 30 percent be provided for the executive, legislative and judicial officials covered by Public Law 90–206 (81 Stat. 642).[10]

BERNARD G. SEGAL,

Joined in by:

WILLIAM T. GOSSETT,
JOHN H. LYONS.

FOOTNOTES

[1] Each branch of the Federal Government, by separate legislation, has its own salary schedule for top officials. A list of the positions covered by each schedule appears on page 27. For the purposes of this report the term "Executive Schedule" will be used to connote the salary schedules of all three branches.

[2] Excluding the President, the Vice President, the President Pro Tempore of the Senate, the Speaker, and the Majority and Minority Leaders of the two Houses of Congress. The compensation of these positions is covered by other legislation. We will comment on this exclusion in our Recommendations.

[3] Comprehensive salary data are in Appendixes D–I to D–XVI.

[4] Public Law 92–428 (September 21, 1972) provides that the pay of part-time magistrates be not less than $100 a year, and not more than that of part-time referees or $15,000 whichever is less.

[5] The Report recommends increases of $10,000 in the salaries of Secretaries, and of the Chief Justice and the Associate Justices of the Supreme Court, or approximately 17 percent. We recommend that the increase for these officials be $13,000, or approximately 22 percent.

[6] Unfortunately, it is not possible for us to give page citations to the quoted portions of the Report since the Report and this statement of Concurrence and Dissent must be handed simultaneously to the Government Printing Office for printing.

[7] Only at the very last session did any Commissioner suggest that the Commission recommend that no salary increases be granted.

[8] The 25 percent figure includes an estimated increase of 5 percent in the cost of living for 1973. This appears to be too conservative an estimate. As this Concurrence and Dissent is being written, the Department of Agriculture reports that despite controls, food prices have increased 12½ percent thus far this year.

[9] It is not possible to give the percentages for the legislature since the increases included conversion from unreported expense allowances to salary.

[10] The same considerations call for salary increases of no less than $13,000 for Secretaries, and for the Chief Justice and the Associate Justices of the Supreme Court.

APPENDICES

Appendix A

Legislative provisions establishing the Commission on Executive, Legislative, and Judicial Salaries, and a method of setting the rates of such salaries

Public Law 90–206 (81 Stat. 642)
Approved December 16, 1967

Commission on Executive, Legislative, and Judicial Salaries

SEC. 225. (a) ESTABLISHMENT OF COMMISSION.—There is hereby established a commission to be known as the Commission on Executive, Legislative, and Judicial Salaries (hereinafter referred to as the "Commission").

(b) MEMBERSHIP.—

(1) The Commission shall be composed of nine members who shall be appointed from private life, as follows:

(A) three appointed by the President of the United States, one of whom shall be designated as Chairman by the President;

(B) two appointed by the President of the Senate;

(C) two appointed by the Speaker of the House of Representatives; and

(D) two appointed by the Chief Justice of the United States.

Terms of office

(2) The terms of office of persons first appointed as members of the Commission shall be for the period of the 1969 fiscal year of the Federal Government, except that, if any appointment to membership on the Commission is made after the beginning and before the close of such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(3) After the close of the 1969 fiscal year of the Federal Government, persons shall be appointed as members of the Commission with respect to every fourth fiscal year following the 1969 fiscal year. The terms of office of persons so appointed shall be for the period of the fiscal year with respect to which the appointment is made, except that, if any appointment is made after the beginning and before the close of any such fiscal year, the term of office based on such appointment shall be for the remainder of such fiscal year.

(4) A vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made.

Compensation: travel expenses

(5) Each member of the Commission shall be paid at the rate of $100 for each day such member is engaged upon the work of the Commission and shall be allowed travel expenses, including a per diem allowance, in accordance with section 5703(b) of title 5, United States Code, when engaged in the performance of services for the Commission.

80 Stat. 499

(c) PERSONNEL OF COMMISSION.—

80. Stat. 443, 387; Ante, p., 625

(1) Without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, and on a temporary basis for periods covering all or part of any fiscal year referred to in subsection (b) (2) and (3) of this section—

Ante, p. 638

(A) the Commission is authorized to appoint an Executive Director and fix his basic pay at the rate provided for level V of the Executive Schedule by section 5316 of title 5, United States Code; and

(B) with the approval of the Commission, the Executive Director is authorized to appoint and fix the basic pay (at respective rates not in excess of the maximum rate of the General Schedule in section 5332 of title 5, United States Code) of such additional personnel as may be necessary to carry out the function of the Commission.

Personnel detail

(2) Upon the request of the Commission, the head of any department, agency, or establishment of any branch of the Federal Government is authorized to detail, on a reimbursable basis, for periods covering all or part of any fiscal year referred to in subsection (b) (2) and (3) of this section, any of the personnel of such department, agency, or establishment to assist the Commission in carrying out its function.

(d) USE OF UNITED STATES MAILS BY COMMISSION.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall pro-

vide administrative support services for the Commission on a reimbursable basis.

(f) FUNCTION.—The Commission shall conduct, in each of the respective fiscal years referred to in subsection (b) (2) and (3) of this section, a review of the rates of pay of—

(A) Senators, Members of the House of Representatives and the Resident Commissioner from Puerto Rico;

(B) offices and positions in the legislative branch referred to in subsections (a), (b), (c), and (d) of section 203 of the Federal Legislative Salary Act of 1964 (78 Stat. 415; Public Law 88-426);

(C) justices, judges, and other personnel in the judicial branch referred to in sections 402(d) and 403 of the Federal Judicial Salary Act of 1964 (78 Stat. 434; Public Law 88-426); and

(D) offices and positions under the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

(E) the Governors of the Board of Governors of the United States Postal Service appointed under section 202 of Title 39.

80 Stat. 460; Ante p. 638

Such review by the Commission shall be made for the purpose of determining and providing—

(1) the appropriate pay levels and relationships between and among the respective offices and positions covered by such review, and

(11) the appropriate pay relationships between such offices and positions and the offices and positions subject to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

80 Stat. 443, 467; Ante, p. 625

(g) REPORT BY COMMISSION TO THE PRESIDENT.—The Commission shall submit to the President a report of the results of each review conducted by the Commission of the offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of subsection (f) of this section, together with its recommendations. Each such report shall be submitted on such date as the President may designate but not later than January 1 next following the close of the fiscal year in which the review is conducted by the Commission.

"Budget"

(h) RECOMMENDATIONS OF THE PRESIDENT WITH RESPECT TO PAY.—The President shall include, in the budget next transmitted by him to the Congress after the date of the submission of the report and recommendations of the Commission under subsection (g) of this section, his recommendations with respect to the exact rates of pay which he deems advisable, for those offices and positions within the purview of subparagraphs (A), (B), (C), and (D) of subsection (f) of this section. As used in this subsection, the term "budget" means the budget referred to in section 201 of the Budget and Accounting Act 1921, as amended (31 U.S.C. 11).

64 Stat. 832; 72 Stat. 852

(i) EFFECTIVE DATE OF RECOMMENDATIONS OF THE PRESIDENT.—

(1) Except as provided in paragraph (2) of this subsection, all or part (as the case may be) of the recommendations of the President transmitted to the Congress in the budget under subsection (h) of this section shall become effective at the beginning of the first pay period which begins after the thirtieth day following the transmittal of such recommendations in the budget; but only to the extent that, between the date of transmittal of such recommendations in the budget and the beginning of such first pay period—

(A) there has not been enacted into law a statute which establishes rates of pay other than those proposed by all or part of such recommendations,

(B) neither House of the Congress has enacted legislation which specifically disapproves all or part of such recommendations, or

(C) both.

(2) Any part of the recommendations of the President may, in accordance with express provisions of such recommendations, be made operative on a date later than the date on which such recommendations otherwise are to take effect.

(j) EFFECT OF RECOMMENDATIONS OF THE PRESIDENT ON EXISTING LAW AND PRIOR PRESIDENTIAL RECOMMENDATIONS.—The recommendations of the President transmitted to the Congress immediately following a review conducted by the Commission in one of the fiscal years referred to in subsection (b) (2) and (3) of this section shall be held and considered to modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(A) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of such recommendations (other than any provision of law enacted in the period specified in paragraph (1) of subsection (i) of this section with respect to such recommendations), and

(B) any prior recommendations of the President which take effect under this section.

Publication in Federal Register

(k) PUBLICATION OF RECOMMENDATIONS OF THE PRESIDENT.—The recommendations of the President which take effect shall be printed in the Statutes at Large in the same volume as public laws and shall be printed in the Federal Register and included in the Code of Federal Regulations.

APPENDIX B.—COMPENSATION OF MAJOR FEDERAL OFFICIALS 1789-1972

Calendar year change effective	President	Vice President	Speaker of the House	Majority and Minority Leaders[1]	President Pro-Tem of the Senate[2]	Congressman and Senators	Chief Justice of the Supreme Court	Associate Justices of the Supreme Court	Executive Level I (Secretaries of Departments)[3]	Executive Level II[4]	Executive Level III[4]	Executive Level IV[4]	Executive Level V[4]
1789	$25,000	$5,000	[5] $12			[5] $6	$4,000	$3,500	$1,000-$3,500				
1792									1,500-3,500				
1795						[5][6] 7							
1796						[5][7] 6							
1797									2,000-3,500				
1799									3,000-5,000				
1815			3,000			1,500							
1817			[5] 16			[5] 8							
1819							5,000	4,500	3,500-6,000				
1830									4,000-6,000				
1850									6,000				
1853		8,000							8,000				
1855			6,000			3,000	6,500	6,000					
1865			8,000			5,000							
1871							8,500	8,000					
1873	50,000	10,000	10,000			7,500	10,500	10,000	10,000				
1874		8,000	8,000			5,000			8,000				
1903							13,000	12,500					
1907		12,000	12,000			7,500			12,000				
1909	75,000												
1912							15,000	14,500					
1925		15,000	15,000			10,000			15,000				
1927							20,500	20,000					
1932		12,750	12,750			9,000			13,725				
1933						8,500			12,750				
1934:													
February		13,500	13,500			9,000			13,500				
July		14,250	14,250			9,500			14,250				
1935		15,000	15,000			10,000			15,000				
1946							25,500	25,000					
1947		20,000	20,000			12,500							
1949	100,000	30,000	30,000						22,500				
1955		35,000	35,000			22,500	35,500	35,000					
1956									25,000	$22,500 or 22,000	$21,000 or 20,500	$20,500 or 20,000	$19,000 or 17,500
1964		43,000	[8]	[8]		[8]	40,000	39,500	35,000	30,000	28,500	27,000	26,000
1965			43,000	$35,000		30,000							
1967											29,500	28,750	28,000
1969	200,000	62,500	62,500	49,500	$49,500	42,500	62,500	60,000	60,000	42,500	40,000	38,000	36,000

[1] Salary same as Congressman until 1965.
[2] Salary same as Senator until 1969.
[3] Salaries of heads of different departments varied during early years. After 1850, with minor exceptions, all department heads received the same salary.
[4] Executive salary schedule levels not established until 1964. However, 1956 act consolidated a large number of executive level positions in one list and, generally, the positions later placed in the respective executive schedule levels were placed at one of the two salaries shown.
[5] Amount per day.
[6] Compensation of Senators raised to $7 a day. Compensation of Representatives remained at $6 a day.
[7] Pay differential between Senate and House was removed when Congress did not renew provision for higher Senate compensation.
[8] Congressional salary changes in the 1964 act were not effective until January 1965.

Sources: Measures of Federal Salaries, Monthly Labor Review, October 1964, pp. 1143-1148, United States Code. United States Statutes at Large.

APPENDIX C

SALARIES OF MAJOR FEDERAL OFFICIALS, 1968 RECOMMENDATIONS OF COMMISSION ON EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES AND 1969 SALARY CHANGES

Positions	1968 salary	1968 recommendation	Current salaries (1969 action)
Chief Justice	$40,000	$67,500	$62,500
Executive Level I	35,000	60,000	60,000
Associate Justice	39,500	65,000	60,000
Executive Level II	30,000	50,000	42,500
Senators and Representatives	30,000	50,000	42,500
Comptroller General	30,000	50,000	42,500
Judges, Circuit Courts of Appeals	33,000	50,000	42,500
Judges, Court of Claims	33,000	50,000	42,500
Judges, Court of Military Appeals	33,000	50,000	42,500
Judges, Court of Customs and Patent Appeals	33,000	50,000	42,500
Executive Level III	29,500	46,000	40,000
Judges, U.S. District Courts	30,000	47,500	40,000
Judges, Customs Court	30,000	47,500	40,000
Judges, Tax Court	30,000	47,500	40,000
Director, Administrative Office of U.S. Courts	30,000	47,500	40,000
Assistant Comptroller General	$29,500	$46,000	$40,000
Executive Level IV	28,750	43,000	38,000
General Counsel, GAO	28,750	43,000	38,000
Librarian of Congress	28,750	43,000	38,000
Public Printer	28,750	43,000	38,000
Architect of the Capitol	28,750	43,000	38,000
Executive Level V	28,000	40,000	36,000
Commissioners, Court of Claims	29,000	40,000	36,000
Deputy Director, Administrative Office of U.S. Courts	28,000	40,000	36,000
Referees in Bankruptcy (full time)	22,500	40,000	36,000
Deputy Librarian of Congress	27,500	40,000	36,000
Deputy Public Printer	27,500	40,000	36,000
Assistant Architect of the Capitol	27,500	40,000	36,000
Referees in Bankruptcy (part time)	11,000	20,000	18,000

APPENDIX D–I

TABLE I.—CHANGES IN AVERAGE ANNUAL TOTAL COMPENSATION FOR THREE HIGHEST PRIVATE INDUSTRY EXECUTIVES (1967–71)

[Total compensation defined as salary plus bonuses, but excluding fringe benefits]

Type of industry	Executive rank	1967	1971	4-year percent change, 1967–71
Manufacturing	1st	$113,000	$135,000	19.5
	2d	80,000	98,000	22.5
	3d	65,000	80,000	23.1
Retail	1st	120,000	125,000	4.2
	2d	93,000	96,000	3.2
	3d	71,000	80,000	12.7
Gas and electric utilities	1st	83,000	91,000	9.6
	2d	53,000	60,000	13.2
	3d	43,000	49,000	14.0
Commercial banking	1st	$60,000	$73,000	21.7
	2d	43,000	50,000	16.3
	3d	34,000	40,000	17.6
Life insurance	1st	50,000	70,000	40.0
	2d	35,000	45,000	28.6
	3d	30,000	40,000	33.3
Fire, marine and casualty insurance	1st	50,000	60,000	20.0
	2d	35,000	45,000	28.6
	3d	28,000	37,000	32.1

Source: National Industrial Conference Board (NICB) study, "Top Executive Compensation."

APPENDIX D–II

TABLE II.—PERCENTAGE CHANGES IN TOTAL COMPENSATION PAID TO TOP EXECUTIVES BY INDUSTRY (1967–71)

Industry	Percent increase in total compensation over previous year				4-year percent change, 1968–71
	1968	1969	1970	1971	
Manufacturing:					
Durable goods	3.8	5.3	6.8	0.7	17.6
Nondurable goods	2.2	5.1	5.4	5.2	19.1
Petroleum and natural gas	2.8	6.6	5.9	5.3	22.2
Wholesale and retail trade	3.5	3.7	8.2	3.9	20.7
Utilities	3.9	6.3	7.4	6.2	26.0
Construction	3.8	−.7	1.7	−1.1	3.7
Finance and insurance	4.4	5.7	8.5	5.5	26.3
Billion dollar companies	1.4	5.3	5.7	3.0	16.3
Average weighted by number of companies in surveys	3.4	5.2	6.6	3.7	20.3

Note: "Total compensation" is defined as the sum of salary and bonus.

Source: 19th to 22d editions, 1968–71, "Top Management Report," Executive Compensation Service, American Management Association.

APPENDIX D–III

TABLE III.—NATIONAL SURVEY OF PROFESSIONAL, ADMINISTRATIVE, TECHNICAL, AND CLERICAL PAY, BUREAU OF LABOR STATISTICS

	Annual percentage increase				4-yr percent change 1967–71
	1967 to 1968	1968 to 1969	1969 to 1970	1970 to 1971	
Clerical workers (equivalent to GS 1–4)	5.1	5.5	6.2	6.2	25.1
Junior professional and managerial (equivalent to GS 5–10)	5.8	6.5	6.3	6.3	27.3
Senior professional and managerial (equivalent to GS 11–15)	4.7	5.9	6.4	6.2	25.3

APPENDIX D–IV

TABLE IV.—PAY TRENDS (BELOW EXECUTIVE LEVELS), BUREAU OF LABOR STATISTICS

Industry classification	1967	1971	4-yr percent change, 1967–71
I. Production and nonsupervisory workers (average hourly earnings including overtime):			
Total private industry	$2.68	$3.43	28
Mining	3.19	4.05	27
Contract construction	4.11	5.72	39
Manufacturing	2.83	3.57	26
Transportation and public utilities	3.24	4.21	30
Trade—retail and wholesale	2.24	2.87	28
Finance, insurance and real estate	2.58	3.28	27
Services	2.29	2.99	31
II. Union hourly wage rates (index—as of July 1):			
Building trades—journeymen	100.0	144.0	44
Building trades—helper—laborer	100.0	143.9	44
Printing trades—book and job	100.0	133.7	34
Printing trades—newspaper	100.0	133.1	33
Local truck drivers	100.0	137.8	38
Local truck helpers	100.0	138.8	39
Local transit operating employees	100.0	135.8	39
III. Urban public teachers (average annual salary)	$7,486	$9,799	31
IV. Urban firemen (average annual salary)	6,264	8,513	36
V. Urban policemen (average annual salary)	6,482	8,898	35

APPENDIX D–V

TABLE V.—SUMMARY OF 8 CATEGORIES OF STATE AND LOCAL GOVERNMENT POSITIONS IN 5 PAY BRACKETS [1] ABOVE $36,000 AS OF MAR. 31, 1972

	$65,000 and above	$55,000 to $64,999	$45,000 to $54,999	$40,000 to $44,999	$36,000 to $39,999	Total
Governors	5	5	14	8	5	37
State administrative and professional positions		5	6	49	83	143
Mayors, city and county managers		1	8	15	17	41
City and county administrative and professional positions		3	29	89	176	297
Superintendents and other public school officers		1	6	12	38	57
Positions in institutions of higher education		3	8	80	308	226	625
Public corporation positions		6	9	21	29	32	97
Judiciary				54	320	187	561
Total		14	32	218	830	764	1,858

[1] Value of emoluments, as reported or estimated, has been added to salary to determine total pay.

Source: Survey of pay rates of $36,000 or more in State and local government—U.S. Civil Service Commission.

APPENDIX D–VI

TABLE VI.—CHANGES IN AVERAGE SALARIES OF EXECUTIVES AND OFFICIALS BY OCCUPATIONAL GROUPING

Occupational grouping	Average number of positions	1967–68 average salary	1971–72 average salary	4-year percent change
I. School superintendents:				
A. Over $36,000 in 1972	41	$30,412	$39,962	31.4
II. State Governors:				
A. 15 largest States by number of employees	15	35,173	43,298	23.1
B. All 50 States	50	27,647	33,439	20.9
III. State government:				
A. Top 5 administrative officials in 15 States	75	24,551	30,480	24.1
B. State appellate courts of last resort	328	24,688	29,745	20.5
IV. Public universities:				
A. Presidents of universities with over 30,000 total enrollment	20	40,045	46,015	14.9
B. Presidents of universities whose 1972 salary is $36,000 or more	98	34,901	41,824	19.8
C. Changes in salaries of 3 highest paid university officials	39	37,253	43,059	15.6
V. City and county managers:				
A. Jurisdictions with populations of 1,000,000 or more	8	33,144	42,566	28.4
B. Jurisdictions with populations of 500,000 to 1,000,000	10	31,556	39,553	25.3
C. Jurisdictions with populations of 100,000 to 500,000	56	25,324	31,341	23.8
D. Jurisdictions with populations of less than 100,000	146	$22,204	$27,737	24.9
VI. Private sector:				
A. Medial total compensation of 3 highest company executives weighted by number of companies:				
1st	1,255	91,064	108,553	19.2
2d	1,255	64,409	77,516	20.4
3d	1,255	53,536	63,603	21.5
B. Median total compensation of 3 highest company executives weighted by industry contribution to national income:				
1st	1,255	110,294	126,233	14.5
2d	1,255	80,243	92,787	15.6
3d	1,255	63,832	76,246	19.5
C. Percentage increases in executive salaries by industry (AMA Top Management Report)	31,985			22.6
D. Percentage increases in total compensation paid to executives by industry (AMA)	31,985			20.3
VII. Others:				
A. Federal Reserve Bank Presidents	12	46,333	56,500	21.9

APPENDIX D–VII

TABLE VII.—SALARIES OF STATE EMPLOYEES

[Averages for 50 States]

Program and position	Average maximum salary July 1967	Average maximum salary July 1971	4-year percent 1967–71 change
Employment security:			
State director	$15,324	$20,590	34.4
Chief of benefits	13,004	16,859	29.6
Director, research and statistics	13,557	17,691	30.5
Public welfare:			
Director, research and statistics	13,380	71,119	27.9
Director, social services	14,102	18,540	31.5
Public health:			
Director, health statistics	13,332	16,796	26.0
Director, public health engineering	$17,945	$22,727	26.6
Health officer	17,078	22,303	30.6
Director, public health nursing	13,743	17,619	28.2
Director, public health education	12,907	16,028	24.2
Mental health:			
Psychiatrist	20,765	26,029	25.3
Director, vocational rehabilitation	16,497	22,050	33.7
Civil defense: Deputy	12,474	15,882	27.3

Source: U.S. Civil Service Commission.

APPENDIX D–VIII

TABLE VIII.—CHANGES IN THE DIRECT SALARIES OF GOVERNORS IN 15 LARGE STATES (1967–71)

[Ranked by number of State employees]

State	Number of employees, October 1970	Governor's salary, 1967	Governor's salary, 1971	4-year percent change
California	239,353	$44,100	$49,100	11.3
New York	201,214	50,000	85,000	70.0
Texas	133,067	40,000	58,500	46.3
Illinois	132,243	30,000	45,000	50.0
Pennsylvania	131,730	45,000	45,000	
Michigan	120,906	40,000	45,000	12.5
Ohio	106,558	40,000	40,000	
Florida	78,638	36,000	36,000	
Virginia	74,491	30,000	35,000	16.7
North Carolina [1]	71,238	25,000	35,000	40.0
Indiana [2]	70,450	$25,000	$25,000	
Massachusetts	66,998	35,000	40,000	14.3
Washington	65,770	32,500	32,500	
New Jersey	64,950	35,000	50,000	42.9
Louisiana	64,544	20,000	28,374	41.9
Total	1,623,150	527,600	649,474	
Average	108,210	35,173	43,298	23.1
Median	78,638	35,000	40,000	14.3

[1] Effective Jan. 1, 1973, the Governor's salary increased to $38,500.
[2] Effective Jan. 1, 1973, the Governor's salary increased to $36,000.

Source: "Book of the States, Council of State Governments," 1968–69 edition and 1972–73 edition.

APPENDIX D–IX

TABLE IX.—CHANGES IN SALARIES OF 5 TOP ADMINISTRATIVE OFFICIALS IN 15 LARGE STATES (1967–71)

[Ranked by number of State employees]

State	Number of State employees	Average salary of 5 administrative officials [1] 1967	Average salary of 5 administrative officials [1] 1971	4-year percent change
California	239,353	$26,764	$38,000	42.0
New York [2]	201,214	35,359	44,085	24.7
Texas	133,067	25,900	30,100	16.2
Illinois	132,243	28,500	31,000	8.8
Pennsylvania	131,730	25,500	25,500	----------
Michigan	120,906	27,900	33,500	20.1
Ohio	106,558	24,984	24,984	----------
Florida	78,638	[3] 31,396	33,600	7.0
Virginia	74,491	18,500	26,782	44.8
North Carolina	71,238	$20,100	$29,643	47.5
Indiana	70,450	19,522	26,016	33.3
Massachusetts	66,998	21,600	27,604	27.8
Washington	65,770	20,500	21,900	6.8
New Jersey [4]	64,950	24,100	37,570	55.9
Louisiana	64,544	17,640	26,918	52.6
Average		24,551	30,480	24.1
Median		24,984	29,643	18.6

[1] Secretary of State, Attorney General, Treasurer, Finance or Administration, Health.
[2] Secretary of State, Attorney General, Controller, Budget, Health.
[3] Effective July 1968, in lieu of finance or administration, includes controller.
[4] In lieu of finance or administration, includes budget.

Source: "Book of the States, Council of State Governments," 1968–69 edition and 1972–73 edition.

APPENDIX D–X

TABLE X.—SALARIES OF JUDGES OF STATE APPELLATE COURTS OF LAST RESORT (EXCLUDES ALLOWANCES)

State	Number of judges	1968	1972	4-year percent change 1968–72
Alabama	9	$19,500	$22,500	15
Alaska	5	20,000	36,000	80
Arizona	5	19,500	23,500	21
Arkansas	7	20,000	23,600	18
California	7	32,000	42,747	34
Colorado	7	22,000	27,500	25
Connecticut	6	29,000	29,000	----------
Delaware	3	24,500	34,000	39
Florida	7	34,000	34,000	----------
Georgia	7	26,500	32,500	23
Hawaii	5	27,000	32,670	21
Idaho	5	20,000	25,000	25
Illinois	7	37,500	40,000	7
Indiana	5	22,500	29,500	31
Iowa	9	22,000	25,000	14
Kansas	7	21,500	23,500	9
Kentucky	7	20,000	26,000	30
Louisiana	7	25,000	37,500	50
Maine	6	20,000	21,250	6
Maryland	7	32,500	40,000	23
Massachusetts	7	29,700	33,800	14
Michigan	7	35,000	42,000	20
Minnesota	7	26,000	32,500	25
Mississippi	9	19,000	26,000	37
Missouri	7	26,500	26,500	----------
Montana	5	17,000	22,500	32
Nebraska	7	20,500	25,000	22
Nevada	5	22,000	28,000	27
New Hampshire	5	22,880	27,500	20
New Jersey	7	31,000	45,000	45
New Mexico	5	20,000	22,500	13
New York	7	39,500	45,150	14
North Carolina	7	27,000	33,000	22
North Dakota	5	18,000	22,000	22
Ohio	7	24,000	30,000	25
Oklahoma	9	16,500	25,000	52
Oregon	7	23,500	26,500	13
Pennsylvania	7	37,500	37,500	----------
Puerto Rico	9	22,000	27,000	23
Rhode Island	5	25,000	25,000	----------
South Carolina	5	24,500	35,000	43
South Dakota	5	17,500	20,500	17
Tennessee	5	24,000	24,000	----------
Texas	9	27,000	33,000	22
Utah	5	16,500	23,000	39
Vermont	5	21,000	25,000	19
Virginia	7	22,500	31,000	38
Washington	9	27,500	27,500	----------
West Virginia	5	25,500	27,500	8
Wisconsin	7	24,000	28,000	17
Wyoming	4	16,500	22,500	36
Total	328	1,244,080	1,505,217	----------
Average annual salary		24,394	29,514	21

Source: "Book of the States, Council of State Governments," vol. XVII (1968–69), pp. 112 and 113; vol. XIX (1972–73), pp. 128 and 129.

APPENDIX D–XI

TABLE XI.—SALARIES OF INTERMEDIATE APPELLATE COURT JUDGES IN 6 LARGE STATES

	Number of judges	1968	1972	4-yr percent change
California	39	$30,000	$40,076	33.6
Illinois	24	35,000	37,500	7.1
Maryland	5	27,500	37,500	36.4
Michigan	9	32,500	38,500	18.5
New Jersey	12	27,000	42,000	55.6
New York	26	40,000	45,521	13.8

Source: "Book of the States, Council of State Governments," vol. XIX, 1972.

APPENDIX D–XII

TABLE XII.—CHANGES IN SALARIES OF PUBLIC UNIVERSITY PRESIDENTS (CHANCELLORS) (1968–72)

[Ranked by size of total enrollment of 30,000 or more]

	Total enrollment, fall 1969 [1]	Salary 1968	Salary 1972	4-year percent change
University of California	142,052	$45,000	$45,000	----------
University of Minnesota	70,234	42,000	49,500	17.9
University of Wisconsin [2]	68,176	47,000	45,000	—4.3
Indiana University	54,203	45,000	45,000	----------
University of Illinois	54,076	50,000	51,000	2.0
Ohio State University	48,747	40,000	50,000	25.0
University of Maryland	48,293	35,000	45,000	28.6
University of Missouri	47,323	30,000	42,500	41.6
Michigan State University	44,274	38,000	47,500	25.0
University of Michigan	38,328	49,000	55,500	13.3
Purdue University	37,341	43,500	50,000	14.9
University of Texas System [3]	37,203	$51,000	$53,500	4.9
Southern Illinois University	36,515	36,000	44,000	22.2
University of Tennessee	36,303	25,000	45,000	80.0
Wayne State University	34,924	40,000	40,000	----------
University of Nebraska	33,595	35,000	40,000	14.3
University of Washington	32,962	50,000	49,000	—2.0
Louisiana State University	32,635	35,000	40,000	14.3
University of Colorado	30,772	31,500	42,800	35.9
University of Hawaii	30,060	32,905	40,000	21.6
Average		40,045	46,015	14.9

[1] Includes students whose programs of study are creditable toward a bachelor's or higher degree and also undergraduate students in 1-, 2-, 3-year occupational programs which are not creditable toward a bachelor's degree. Many of the universities above have more than one campus. Enrollment shown is the combined figure for all campuses.
[2] Effective July 1, 1973, merger will be completed for a new University of Wisconsin System. The listed enrollment figures do not reflect the large addition of students from State colleges that will occur with that merger.
[3] Listed salaries for the chancellor of the University of Texas include an income supplement from foundations.

Sources: "U.S. Civil Service Commission Survey of Pay Rates in State and Local Government," 1968 and 1972. "Digest of Educational Statistics (1970)," U.S. Department of Health, Education, and Welfare, table 83, p. 64.

APPENDIX D-XIII

TABLE XIII.—CHANGES IN SALARIES OF 3 HIGHEST PAID OFFICIALS OF SELECTED PUBLIC UNIVERSITIES, 1968-72

University	1968 salary	1972 salary	4-year percent change
University of California:			
President	$45,000	$45,000	
Chancellor at Berkeley	42,000	44,000	+4.8
Executive vice president	42,500	42,500	
New York City college system:			
Chancellor	40,000	48,375	+20.9
President	35,000	41,275	+17.9
President	35,000	41,275	+17.9
University of Texas:			
Chancellor of system	51,000	53,500	+4.9
Director Medical School, Galveston	37,500	48,500	+29.3
Dean, Medical School, Dallas	33,500	46,000	+37.3
University of Minnesota:			
President	42,000	49,500	+17.9
Vice president, business affairs	33,250	40,000	+20.3
Vice president—academic administration	33,000	40,000	+21.2
University of Wisconsin:			
President	47,000	45,000	−4.3
Vice president	37,250	40,000	+7.4
Chancellor, Madison campus	36,000	40,750	+13.2
New York State University:			
Chancellor	45,000	52,300	+16.2
Vice chancellor	31,000	41,106	+32.6
Do	31,000	41,106	+32.6
University of Illinois:			
President	50,000	51,000	2.0
Provost	39,500	45,000	13.9
Vice president	39,500	42,000	6.3
Ohio State University:			
President	$40,000	$50,000	+25.0
Academic vice president	34,968	39,500	+13.0
Vice president, business	33,888	39,500	+16.6
Michigan State University:			
President	38,000	47,500	+25.0
Vice president, business	37,000	37,500	1.4
Provost	34,000	37,500	+10.3
Louisiana State University:			
President	35,000	40,000	+14.3
Chancellor, Medical School, New Orleans	28,000	42,000	+50.0
Dean, Medical School, New Orleans	30,000	40,000	+33.3
University of North Carolina:			
President	34,000	42,000	+23.5
Chancellor Chapel Hill	32,000	38,120	+19.1
Academic vice president	32,000	36,980	+15.6
University of Kentucky:			
President	35,000	42,500	+21.4
Dean Medical School	36,500	41,000	+12.3
Chairman, Medical School	34,000	38,000	+11.8
Purdue University:			
President	43,500	50,000	+14.9
Vice president, treasurer	37,000	42,000	+13.5
Vice president	32,000	37,000	+15.6
Total, all positions	1,452,856	1,679,287	+15.6
Average	37,253	43,059	+15.6

Source: "U.S. Civil Service Commission Survey of Pay Rates in State and Local Government," 1968 and 1972.

APPENDIX D-XIV

TABLE XIV.—SALARIES OF SUPERINTENDENTS OF PUBLIC SCHOOLS

Jurisdiction	Number of enrollees	School years 1966-67, salary	School years 1970-71, salary	4-year percent change
New York	1,143,853	$40,000	$48,000	20.0
Los Angeles	648,986	45,000	47,000	4.0
Chicago	576,253	48,500	56,000	15.0
Detroit	286,057	30,150	44,150	46.0
Philadelphia	249,093	36,000	42,500	18.0
Houston	241,419	27,500	41,500	51.0
Dade County, Fla	239,218	30,000	40,000	33.0
Baltimore	192,458	35,000	50,000	43.0
Dallas	164,214	35,000	37,500	7.0
Cleveland	149,334	39,500	39,500	
Prince Georges County, Md	147,233	32,500	42,500	31.0
District of Columbia	146,224	26,000	38,500	48.0
Milwaukee	130,540	31,998	39,498	23.0
San Diego	130,332	45,000	40,917	−9.0
Montgomery County, Md	125,344	27,000	38,000	41.0
Columbus, Ohio	108,311	30,000	41,500	38.0
Atlanta	105,815	27,500	37,500	36.0
Boston	95,972	30,000	42,560	42.0
San Francisco	86,205	35,000	42,000	20.0
Cincinnati	83,157	30,000	36,750	23.0
Newark	75,960	21,000	38,200	82.0
Portland, Oreg	74,949	30,000	36,500	22.0
Clark County, Nev	73,826	$28,000	$36,000	29.0
Buffalo	69,595	28,000	37,000	32.0
Long Beach, Calif	68,557	33,500	41,000	22.0
Minneapolis	67,158	35,000	40,000	14.0
Oakland	63,058	30,000	42,498	42.0
Akron	56,439	26,500	36,000	36.0
Greenville County, S.C	56,394	20,000	37,000	90.0
Flint, Mich	45,065	25,000	41,000	64.0
Richmond, Calif	41,313	25,000	36,732	47.0
Jersey City	38,392	25,950	37,350	44.0
Grand Rapids	34,980	24,000	37,500	56.0
Warren, Mich	32,257	23,000	37,000	61.0
Yonkers	30,716	28,500	36,000	26.0
Paterson, N.J	25,304	28,100	36,800	31.0
Brentwood, N.Y	21,906	21,200	36,000	70.0
Newton, Mass	17,812	28,500	40,000	40.0
Palo Alto, Calif	14,629	30,000	38,000	27.0
Inglewood, Calif	13,149	25,000	36,980	64.0
New Rochelle, N.Y	11,693	29,000	38,000	31.0
Average		30,412	39,962	31.4

Source: National Education Association, 1967 and 1971.

APPENDIX D-XV

TABLE XV.—CITY AND COUNTY MANAGER SALARIES, 1967-72

Jurisdiction	Population in thousands	1968 salary	1972 salary	4-year percent change 1968-72
A. Jurisdictions with populations of 1,000,000 or more:				
Los Angeles County, Calif	6,039	$38,520	$51,740	34.3
Orange, Calif	1,458	24,420	33,469	37.1
Orange County, Calif	1,458	36,000	41,748	16.0
San Diego County, Calif	1,318	35,208	41,748	18.6
Nassau County, N.Y	1,300	30,000	55,000	83.3
Dade County, Fla	1,268	32,500	37,500	15.4
Erie County, N.Y	1,087	32,500	36,750	13.1
Alameda County, Calif	1,059	36,000	42,576	18.3
B. Jurisdictions with populations of 500,000 to 1,000,000:				
Westchester County, N.Y	853	49,130	49,130	20.0
Dallas, Tex	844	30,000	43,888	46.3
Monroe County, N.Y	707	33,200	33,774	1.7
San Diego, Calif	697	35,200	38,820	10.3
San Bernardino County, Calif	672	31,942	36,991	15.8
San Antonio, Tex	654	25,000	34,500	38.0
Phoenix, Ariz	582	$26,052	$39,500	51.6
San Mateo County, Calif	551	29,208	42,768	46.4
Contra Costa County, Calif	550	31,560	39,204	24.5
Kansas City, Mo	545	32,500	36,750	13.1
C. Selected jurisdictions with populations of 100,000 to 500,000:				
Cincinnati, Ohio	453	40,000	40,000	0
Fort Worth, Tex	393	22,500	30,000	33.3
Toledo, Ohio	384	25,000	25,000	0
Ventura County, Calif	374	30,996	36,612	18.1
Oklahoma City, Okla	366	28,500	34,000	19.3
Oakland, Calif	362	35,000	43,800	25.1
Long Beach, Calif	359	37,000	43,420	17.4
Miami, Fla	335	29,849	38,075	27.6
Norfolk, Va	308	33,500	36,000	7.5
Riverside County, Calif	306	31,164	39,312	26.1
Rochester, N.Y	296	26,500	39,208	48.0

Sources: International City Management Association, 1968 and 1972 salary surveys. U.S. Civil Service Commission, 1968 and 1972 salary surveys.

APPENDIX D-XVI

TABLE XVI.—ANNUAL SALARIES OF PRESIDENTS OF FEDERAL RESERVE BANKS (1967-71)

	1967	1971	4-year percent change, 1967-71		1967	1971	4-year percent change, 1967-71
Boston	$40,000	$50,000	25.0	St. Louis	$35,000	$56,000	60.0
New York	75,000	90,000	20.0	Minneapolis	42,500	45,000	5.9
Philadelphia	45,000	45,000	0	Kansas City	42,500	56,000	31.8
Cleveland	45,000	51,000	13.3	Dallas	45,000	48,000	6.7
Richmond	45,000	51,000	13.3	San Francisco	46,000	67,500	46.7
Atlanta	35,000	51,000	45.7				
Chicago	60,000	67,500	12.5	Average	46,333	56,500	21.9

Sources: 54th through 58th Annual Reports, Board of Governors, Federal Reserve System (covering years 1967 through 1971).

AMERICAN FOREIGN SERVICE ASSOCIATION,
Washington, D.C., February 20, 1974.

Hon. HIRAM L. FONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FONG: As you may know, the American Foreign Service Association is the professional association, and the duly elected exclusive bargaining representative of the 11,000 men and women of the Foreign Service of the United States working in the Department of State, AID and USIA. We are writing you in your capacity as ranking minority member of the Senate Post Office and Civil Service Committee.

For almost three years now, an increasingly large number of senior Foreign Service personnel in the three Foreign Affairs Agencies have been denied any increase in salary because of the legal requirements in 5 USC 5308 which prohibit their receiving pay in excess of level V of the Executive Schedule. During the same time period, rising State and local taxes, and a very sharp inflation rate both at home and abroad have brought about a situation in which many senior employees in the Foreign Service have had their real, disposable incomes reduced by as much as 30 percent. You will recall that we brought this matter to your attention last spring, and greatly appreciate your efforts in getting the "McGee-Fong" Bill through the Senate. We only regret that the House failed to take parallel action.

The effect of this situation on Foreign Service personnel has been particularly unfortunate because many senior officers in the Foreign Service are regularly required to expend a considerable portion of their own incomes on official entertaining, uncompensated moving expenses, uncompensated educational and educational travel expenses and other extraordinary costs which have long since come to be an expected part of Foreign Service life. Moreover, in the Foreign Service, mandatory retirement comes at age 60, and an employee can only earn 35 years of retirement credit, though in the Civil Service employees can remain to age 70 and earn up to 40 years retirement credit. As a result, Foreign Service personnel rely particularly heavily on a growing "high three" years of income to obtain an adequate pension. Yet, many have seen their opportunities for an adequate pension disappear since they were unable to receive the salary increases to which pay-comparability studies indicated they were entitled.

The President's proposals now before your Committee would only go a small distance in rectifying the situation, but it is at least a start. We believe it would be highly unfortunate if well-justified pay increases were blocked by action of the Congress.

Much has been said in recent days of the need for the Congress to "set a good example" at a time of economic difficulties facing the country. AFSA agrees that the economic privations affecting the entire country should be born equitably. The question, however, is which example should be set. Would it be good public policy to deny further to senior personnel pay increases already long overdue? Almost everyone else in the country has had increases in income in the past three years which matched or came close to matching increases in the cost of living. Should this group of senior employees be the only significant group in the country to suffer a sharp reversal in their personal well-being?

Personnel who have reached the top normal rank in the Foreign Service, FSO or FSIO Class-1, now receives exactly the same pay as those few personnel granted the extraordinary rank of Career Minister (Executive Level V), and receive no more pay than personnel of FSO or FSIO Class-2. The Class-2 officer thus has nothing to look forward to in terms of monetary reward even if promoted twice. Do we really wish to set an example for the country which established the principle that being the best in your field, and thus rising to the top in a fiercely competitive career service brings with it no monetary reward? Do we wish to see the best career personnel attracted away from the career service not because they wish to leave, but rather because it has become highly disadvantageous financially for them to stay when the monetary rewards are greater elsewhere? Frankly, we doubt that these are beneficial examples to set for the country.

We hope that the Congress, in the interest of equity and sound public policy, will permit the increases recommended by the President to take effect, and will give serious consideration thereafter to a change in the law which will provide for a review of executive level pay every two years, rather than every four, so that this situation will not recur.

If you think it would be helpful, the Association would be pleased to meet with you or with other members of the Committee to discuss this matter further.

Sincerely yours,

THOMAS D. BOYATT,
President.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., February 25, 1974.

Hon. GALE W. MCGEE,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR: I have dictated this letter from Florida where I have been lecturing at the University; otherwise I would have called you direct. I did want you to know of my experience with the Judges of the Federal Judiciary. You will remember upon my retirement in 1967, I became Director of the Federal Judicial Center, which the Congress created toward the end of that year. After serving there for almost three years I began sitting on the Courts of Appeals, United States District Courts, Court of Claims, Customs and Patent Appeals and the United States Customs Court. These assignments placed me in contact with many federal judges, especially in the seminars conducted by the Federal Judicial Center for the United States Courts of Appeals and District Courts.

It has been distressing to me to hear the Judges speak of the difficulty they have in making both ends meet financially. Only three weeks ago in Atlanta, Judge Smith, the Chief Judge of the U.S. District Court in Georgia, told me that he was resigning because he had three children in college and was being paid $135,000 to return to private practice. He said that from his contacts, he doubted if salary increases would be sufficient to meet his requirements. He has been on the Bench for about nine years—the approximate time that it takes to indoctrinate a Judge and make him most efficient. Another Federal Judge from Philadelphia, Judge Masterson, resigned just a few weeks before I spoke with Judge Smith. Judge Masterson, like Judge Smith, was one of our younger Judges who has been on the bench about the same period. While Judge Masterson did not say what income would be in private practice, I daresay that $150,000 would be a fair estimate. In my sittings around the country in all the Circuits, except the First which has a light caseload, I find Judges are disturbed over their salaries. I find the same condition in the United States District Courts where I have been assigned all the way from San Francisco to Brooklyn.

In my judgment we will lose a good percentage of our Judges unless some steps are taken to correct the situation by meaningful salary increases. I concur wholeheartedly in the letter that the Chief Justice is sending you today regarding this matter and write only to underscore the urgency of the problem.

With every good wish.

Sincerely,

Justice TOM C. CLARK.

SUPREME COURT OF THE UNITED STATES,
Washington, D.C., February 25, 1974.

Hon. GALE W. MCGEE,
Chairman, Post Office and Civil Service Committee, Washington, D.C.

DEAR SENATOR MCGEE: I have your letter of February 19 advising that, as Chairman of the Post Office and Civil Service Committee, you intend to oppose any action disapproving the President's proposal on salary increases for the Federal Judiciary and other categories and asking my views on this matter.

Although the recommendation departs substantially from the recommendations of the Commission on Executive, Legislative and Judicial salaries, my colleagues on this Court and I agree with your position that the President's proposal should be accepted. One of its important consequences will be to encourage judges in the District Courts and Courts of Appeals to remain in service even though the pending proposal is patently discriminatory against those judges when compared with approximately one-third increase in government salaries generally since the 1969 salary adjustment for Federal Judges. Adoption of the President's proposal may help stem the resignations of District Judges in particular. We have had more resignations in the past year, based on economic grounds, than at any time in the past 100 years. I am also reliably informed that many qualified lawyers have declined appointment because the pay of a District Judge now is only

double the starting salary of law graduates hired by large law offices. It is surely not in the public interests to have some of the best qualified lawyers resigning or declining appointment because of inequitable and inadequate compensation.

I feel bound to comment also on the increase provided for the Associate Justices of the Supreme Court which is limited to $4,500 and is deferred nearly one year. This increase of $4,500 is less than one-half the increase provided over three years for Courts of Appeals judges and Members of Congress.

Notwithstanding that the pending proposal fails to take into account the severe inflation of recent years and fails to give due weight to the studies and recommendations of the Commission, its adoption will serve as an important interim function until appropriate legislation can be enacted.

Cordially,

WARREN E. BURGER.

GENERAL ACCOUNTING OFFICE: INFORMATION AND OBSERVATIONS ON NEED FOR EXECUTIVE PAY ADJUSTMENT

(Prepared in response to requests from a number of Members of Congress)

The information we have developed on the need for Executive Pay adjustment is summarized below and is discussed in detail in the remaining sections of this paper.

The quadrennial procedure for adjusting the pay of officials in the executive, legislative, and judicial branches, as provided by the Salary Act of 1967, is failing to achieve its objective. The salaries of these officials have not increased in 5 years (since March 1969). The President's current salary recommendations fall far short of matching the cost of living increases since 1969.

Supergrade employees and senior employees of other pay systems are losing significant comparability salary increases and retirement benefits because the salary rate of Executive Level V has placed a $36,000 ceiling on these pay systems since January 1971. The salary distinction among supergrade employees has become virtually meaningless, and this condition will progressively penetrate into lower pay grades unless the ceiling salary rate is increased.

The recommendations in the President's fiscal year 1975 budget should be accepted. Effective long-term reforms appear essential to prevent recurrence of these problems.

THE QUADRENNIAL PROCEDURE IS FAILING TO ACHIEVE ITS OBJECTIVE

The report of the Commission on Executive, Legislative, and Judicial Salaries, dated June 30, 1973, states that the compensation of these top officials "is subject to adjustment in March of every fourth year with the budget submitted by the President to the Congress."

The report acknowledges that this normal 4-year expectancy has already been extended to 5 years, during which time "executive compensation in industry and among State, and local governments will have advanced approximately 30 percent." However, in the interest of moderation, the Commission proposed to the President that Executive Level salaries be increased only to the extent that the cost of living has risen since the last adjustment in 1969—25 percent.

The President's recommendation, submitted to the Congress on February 4, 1974, proposes to meet this accumulated cost-of-living deficit by three annual salary increases of 7.5 percent each.[1]

This three-stage adjustment plan will not achieve the objective recommended by the Commission. Moreover, the increases recommended by the President will not restore the loss in purchasing power of the salaries established in March 1969. The following chart assumes the CPI increases at the same average rate for the past 4 years (6 percent), and illustrates (1) what has and will happen to the purchasing power of the 1969 salaries through January 1978 (the approximate date of the next Presidential recommendation) and (2) the effect, if accepted by the Congress, of the President's recommended increases.

Assuming the projected trends in the private economy occur, the purchasing power of the Executive salaries will lag about 11 percent behind by January 1976 and by January 1978 the gap will be about 18 percent.

Aside from the loss in purchasing power; the salary lag between Federal officials and their counterparts in the non-Federal sector has been greater.

In this connection, the latest Commission's report cited that the previous Commission's salary recommendations were not fully adopted. Thus, the March 1969 raise did not provide catch-up in such salaries. The previous Commission's report, dated December 1968, recommended substantial salary increases in the Executive Schedule which would provide salary differentials between the various levels more commensurate with their relative responsibilities. The recommended increases were regarded as a catch-up, and were also expected to establish a more reasonable relationship with 1968 values. However, the President substantially reduced the salaries recommended.

	Salaries			
Level	1968 actual	1969 Commission's recommendations	1969 rate established	Shortfall
I	$35,000	$60,000	$60,000	
II	30,000	50,000	42,500	$7,500
III	29,500	46,000	40,000	6,000
IV	28,750	43,000	38,000	5,000
V	28,000	40,000	36,000	4,000

The following table illustrates the fact that the three proposed 7.5 percent pay increases will make only a small reduction in the lag which has developed in the past 5 years between pay raises of Federal and non-Federal executives. We have used the Commission's estimates—namely, that the 5-year lag is 30 percent, and that it will grow at 5.5 percent each year in the next 2 years, and at 5 percent in each of the following 2 years.

[In percent]

Date	Proposed increase	Remaining lag after increase	Additional lag estimated to occur in next year	Cumulative lag
1969-74				30.0
March 1974	7.5	22.5	5.5	28.0
January 1975	7.5	20.5	5.5	26.0
January 1976	7.5	18.5	5.0	23.5

Hence, assuming that the three raises take effect, the actual improvement is very small. By the time the next Quadrennial Commission reviews the problem, the lag in Federal executive salary raises will be only 6.5 percent less than it is today.

The responsibilities of officials in Executive Levels I–V equal or exceed those of their counterparts in the private sector, while their compensation is substantially less. For example, the Chief Forester of the United States, Level V with a salary of $36,000 will be responsible for expenditures in fiscal year 1975 of almost three-fourths of a billion dollars. According to data reported by the American Management Association, the top executives of private companies of similar size earn salaries of $150,000 or more, plus bonuses and other benefits. This wide disparity between Federal and private sector compensation of key executives has long existed.

THE PAY CEILING IMPOSED ON SUPERGRADES AND OTHER SENIOR EMPLOYEES IS HAVING SERIOUS ADVERSE EFFECTS

Pay rates for Federal white-collar employees under statutory pay systems are subject to annual review and adjustment in accordance with 5 U.S.C. 5301. However, the law provides that these pay rates may not exceed the rate for Level V of the Executive Schedule. The Level V pay rate was last increased in March 1969, from $28,000 to $36,000. This rate has been the ceiling for Federal employees pay since that time. The pay rate for GS–18 employees reached this ceiling in January 1971. With the continued increase in other General Schedule salaries, based on comparability with the private sector, the percent of all supergrade employees paid less than the comparability rate has increased sharply because of the $36,000 ceiling, as shown below:

Year:	*Percent*
1971	18
1972	33
1973	64
Today (plus 1,000 at GS–15)	85

There are now 4,200 employees in grades GS–16, GS–17, and GS–18, and 1,000 employees in the top step of GS–15 who should be paid more than the $36,000 ceiling. The following tables shows the GS–15 to GS-18 salary rates, as determined by the comparability process, and the comparability rates affected by the ceiling.

Steps	GS–15	GS–16	GS–17	GS–18
1	$28,263	$32,806	[1] $37,976	[1] $43,926
2	29,205	33,899	[1] 39,242	
3	30,147	34,992	[1] 40,508	
4	31,089	[1] 36,085	[1] 41,774	
5	32,031	[1] 37,178	[1] 43,040	
6	32,973	[1] 38,271		
7	33,915	[1] 39,364		
8	34,857	[1] 40,457		
9	35,799	[1] 41,550		
10	[1] 36,741			

[1] The rate of basic pay for these employees is limited to $36,000 because of the statutory ceiling.

The $36,000 ceiling similarly affects the senior levels of other Federal pay systems.[2] This is the *compression problem*, which adversely affects both Federal employees and the Government. These adverse effects include:

Imbalance between salaries and responsibilities.

Loss of income to the employee, including future retirement benefits.

Early retirement is made more attractive.

Increased turnover of top management personnel and consequent decrease in skill levels.

Declining appeal of supergrade positions.

Hiring for supergrade positions made increasingly difficult.

Imbalance between salaries and responsibilities

Salary compression seriously weakens two pay principles providing internal equity which are established by law: equal pay for equal work; and maintaining pay distinctions in keeping with work and performance distinctions. All employees in grades GS–18, and GS–17, 80 percent of those in GS–16, and 4 percent of those in GS–15 now receive annual salaries of $36,000. The statutory principles (5 U.S.C. 5301) dictate that those paid the same should have responsibilities that are equal; but obviously they are not. In fact, three levels of supervision in a typical major division or bureau are earning the same sal-

[1] Except for Cabinet Secretaries and the Chief Justice and Associate Justices of the Supreme Court who would receive one 7.5 percent increase effective January 1975.

[2] i.e. P.L. 313, Foreign Service, Other.

ary, a condition which would be considered unacceptable in the private sector.

The difference between the pay of senior employees and the pay of employees at lower levels has narrowed sharply during the past several years. In December 1969, when Federal salaries were unaffected by the present ceiling, the differential between the pay of an employee in the first step of GS–12 and GS–18 employee's pay was 150 percent. After the October 1973 pay increase, the differential had narrowed to 106 percent. Continuation of this narrowing will not only further distort pay distinctions in keeping with work distinctions, but it may reduce morale within the work force and have a negative impact upon the career incentives of employees entering the career service.

Loss of income

The most obvious adverse impact of compression is that employees are denied salary increases to which they would otherwise be entitled. The following table shows the annual salary loss of employees at levels GS–18, GS–17 (step 4), GS–16 (step 5), and GS–15 (step 10) based on current comparability rates:

	Comparability rate	Ceiling	Annual salary loss
GS–18	$43,926	$36,000	$7,926
GS–17 (step 4)	41,774	36,000	5,774
GS–16 (step 5)	37,178	36,000	1,178
GS–15 (step 10)	36,741	36,000	741

When viewed on a cumulative basis, the inequity caused by the ceiling seems even greater. For example, a GS–18 employee's cumulative salary loss for the 3-year period ended January 5, 1974, was $11,557:

Period	Salary loss	Comparability rate	Ceiling	Difference
January 1971 to January 1972	$1,624	$37,624	$36,000	$1,624
January 1972 to January 1973	3,693	39,693	36,000	3,693
January 1973 to October 1973	4,411	41,734	36,000	5,734
October 1973 to January 1974	1,829	43,926	36,000	7,926
Total	11,557			

The affected employees are continually losing ground since every cost-of-living increase means a further loss in purchasing power of their stagnated $36,000 salary. For example, the GS–18 salary increase in January 1971 was limited by the $36,000 ceiling and has remained at that rate. Using the changes in the Consumer Price Index (CPI) since that time, we estimate that the purchasing power of a GS–18 employee's $36,000 salary is now worth about $30,985: a drop in purchasing power of $5,015.

An employee's retirement income is determined by applying a formula to the average of his 3-years highest salary. In other words, the higher the average, the greater the employee's retirement income. By compressing salaries below pay rates computed under the comparability process, the ceiling is penalizing employees, since the amount of retirement income they would otherwise be entitled to is being reduced.

For example, if a 55-year-old GS–18 employee retired in January 1974 after 30-years service, his retirement income during a 19.3 year remaining life expectancy would be about $44,100 less than if the pay ceiling had not been in effect.

Early retirement made more attractive

Under current economic conditions, continuation of the $36,000 salary ceiling will allow many employees to earn more retirement income by retiring early rather than continuing to work for the Government. They can then substantially better their current income by accepting non-Government employment.

In planning whether to continue a career or retire, an employee whose salary is at the ceiling must consider the relative financial benefits. For each additional year of work, the employee increases his annual retirement income by about $720 (2 percent of $36,000) and contributes $2,520 to the Civil Service Retirement Fund. If the CPI rises and remains at the minimum of 3 percent during that year, it would be more advantageous for the employee to have retired since his annual annuity would have increased by about $810[3] and he would not have been required to make any additional contributions to the retirement fund.

The following hypothetical example involving a 55-year old GS–18 employee with 30 years' service at December 31, 1973, illustrates why early retirement has become more attractive. Assuming 5.5 percent cost-of-living annuity increases at January 1 for each of the next 3 years, and the employee retired at December 31, 1973, the employee's annual annuity at January 1, 1977, would be $25,120. However, if the employee works the additional 3 years he would contribute an additional $7,560 to the retirement fund, and would receive about $1,477 a year less in his retirement annuity for the rest of his life.

Increased turnover of top management personnel

The turnover of supergrade employees has increased since 1970. This is attributable, in part, to salary compression coupled with cost-of-living increases in retirement annuities. Between 1970 and 1972, supergrade retirements increased from 264 to 380, a rise of about 44 percent. Further, during the first 8 months of 1973, another 379 supergrades retired. If retirements during the last 4 months of the year were at the same rate as during the first 8 months, we estimate that a total of about 570 supergrades retired during 1973, or more than twice the number of 1970.

In terms of the supergrade population, the retirement rate also increased.

	Number supergrades employed	Supergrades retirements	Percentage
1970	4,754	264	5.6
1971	4,855	273	5.6
1972	4,384	380	8.7
1973	4,909	[1] 570	11.6

[1] Projected for 12 months based upon 379 actual retirements during the 1st 8 months of 1973.

More than 1,000 supergrade employees are now eligible to retire, with 400 to 500 becoming eligible each year. Also, these supergrade employees are retiring at an earlier age.

	Total supergrade retirements	Below 60 years of age	Percentage
1970	264	85	32.2
1971	273	100	36.6
1972	380	154	40.5
1973 (8 months)	379	188	49.6

[3] Civil Service retirement annuities are adjusted on the first day of the third month that begins after the Consumer Price Index (CPI) has risen at least 3 percent from the last adjustment, and remains at this higher level for 3 consecutive months. The annuity increase is equal to the highest percentage increase in the CPI during the 3 consecutive month period, plus 1 percent. During the past 3½ years annuity payments to Government retirees increased 29.5 percent.

This loss of experienced management talent is discussed in the following sections.

Decrease in skill levels

Skill levels in some supergrade positions have fallen because on occasion, vacancies caused by early retirements must be filled by employees who have less experience and lower skills. The personnel director of a major Government commission in the Washington metropolitan area informed us that his organization sometimes must promote relatively "green GS–15 employees to fill GS–16 vacancies caused by retirements. Other personnel directors indicated similar experiences in their organizations.

Declining appeal of supergrade positions

Salary compression is making supergrade positions less attractive and threatens the integrity of Federal pay systems. Personnel officers with whom we consulted stated that some employees refuse to accept higher positions in the supergrade ranks because of the absence of additional monetary rewards. Others have expressed unwillingness to make geographic moves to new work assignments even when promotions were involved.

During our study, many such instances were cited to us. One case involved a GS–15 (step 10) employee who was offered a GS–16 position in the personnel office of a major department. The employee would not accept the higher position because of the added responsibilities and arduous work without additional income.

Hiring for supergrade positions made increasingly difficult

Some agencies report that they are experiencing increasing difficulty in hiring qualified personnel from outside the Government to fill senior level positions. This is particularly notable in the scientific, medical, and educational fields. Personnel directors told us that the individuals best qualified to fill supergrade positions often are refusing to accept Government employment because they would suffer a loss of income.

REFORMS APPEAR ESSENTIAL

The problems discussed above will progressively worsen with each day of delay in adjusting Executive Schedule pay. In addition, if the current ceiling continues until the next scheduled quadrennial review, another 21,000 General Schedule employees will be added to those who salaries would be limited to $36,000—including the top two steps of GS–14, most of those in GS–15, and all of those in GS–16, GS–17, and GS–18. There would then be about 28,000 employees all earning the same pay, even though their responsibilities range from GS–14 through Executive Level V. This would mean that six levels of responsibilities would be earning the same pay.

This would result in a virtually meaningless pay system for Federal managers and would seriously undermine the ability of the Government to attract young men and women interested in a long-term career in Federal service.

The current proposal in the President's budget, while falling short of the Quadrennial Commission objective, would offer a measure of relief. Therefore, we believe that the Congress should accept the President's recommendations for adjusting executive, legislative, and judicial salaries.

The cost of this proposed salary adjustment in the fiscal year 1975 budget is $34 million, out of a budget of over $300 billion—or $1 for each $10,000. We believe that the public will recognize the importance of this investment since it will help attract and retain the most competent managers. We also believe that the adjustment is essential even if Congress decides to exempt itself at this time, and even though, in such an event, some Federal executives would earn salaries in excess of the basic pay of

Members of Congress (a condition which already exists for Members of the Cabinet).

We believe that the Congress should also consider major reforms in the processes for adjusting Executive Schedule salaries, such as:

Making Executive Schedule salary rates subject to an annual cost-of-living adjustment, in the years between the quadrennial review.

Initiating early action leading to intergrating the Federal pay structures at the top of the General Schedule and the bottom of the Executive Schedule. The report of the Quadrennial Commission proposes the establishment of a task force to develop a plan for achieving this objective. The executive branch should be called upon to proceed with a study and to report its conclusions to the Congress in the next session.

Establishing a policy under which employees whose pay is affected by compression have their retirement income adjusted to reflect the amount to which they would have been entitled if compression were not a factor.

[From the Washington Post, Mar. 4, 1974]

THE QUESTION OF CONGRESSIONAL PAY

Watergate, inflation and the gasoline shortage may rank high on the list of public issues currently before Congress, but the hottest legislative potato on Capitol Hill these days is President Nixon's belated and awkwardly timed recommendation for congressional pay raises. Though most of the lawmakers seem to believe privately that Congress deserves a raise—it hasn't had one since 1969—politically sensitive members dread the thought of voting themselves more money in an especially volatile election year.

This political fear, while understandable, has generated a curious and unfortunate set of legislative shenanigans that have had almost nothing to do with the merits of the question. Indeed, as columnist Mike Causey observed in "The Federal Diary" last Wednesday, "our elected officials, saints and snakes, liberals and conservatives, family men, churchgoers, statesmen and hacks alike, have all had to act like 11-year-old boys sneaking a smoke in the washroom." The challenge in this instance is to avoid getting caught either casting a vote for the raise or letting an increase happen without some semblance of objection.

Fueling the dilemma is the fact that Congress must decide what to do—or not do—by Saturday, because that is when Mr. Nixon's recommendations would go into effect automatically if neither congressional body acts to change them. At this point, neither the House nor the Senate has acted. But committees in each body, rather than allow the raises to take effect without any votes, have wound up taking less-than-forthright positions on the question—with the result that a series of showdown votes is scheduled to begin in the Senate today.

To make matters worse, the issue isn't confined solely to pay raises for members of Congress, which we happen to believe are justifiable in view of a 30 per cent increase in prices since the last congressional raise. Caught in the political posturing is another important set of recommendations from the President: to increase the now-frozen salaries of some 840 federal judges and court officials, 600 political appointees and 10,000 top career federal executives, Veterans Administration medical personnel and Foreign Service officers—public servants whose pay is pegged to the top federal-executive ceilings.

The danger now is that this whole group of federal employees may be unfairly penalized by a Senate vote to scrub all 1974 pay raises. Civil Service Commissioner Robert E. Hampton, not known as one to cry wolf, has warned that if this happens the government could undergo a severe management and morale problem. "This is one of the most crucial issues involving personnel that has faced the Congress," says Mr. Hampton, noting that "the people who are responsible for running this country at its most critical time are being asked to do their jobs" with pay and future pensions frozen at 1969 levels.

The effort to close this gap began reasonably enough. Under a law designed to effect pay raises in non-election years, the President, Chief Justice and leaders of Congress appoint an outside panel every four years to study pay. The panel is supposed to report to the President, who then passes along recommendations as part of the budget.

But President Nixon failed to appoint his panel members in time to permit recommendations early last year. When the commission did report, it recommended a flat 25 per cent raise for federal officials. Indeed, the panel said that more could be justified, based on comparable wage gains during the 1969-to-1973 period. But the commission noted that 25 per cent this year would be more in line with economic conditions. Mr. Nixon modified the recommendation, proposing 7.5 per cent increases over the next three years.

Thus, the administration's proposals would increase the current $42,500 salary of senators and representatives to $45,700 for this year and would provide similar percentage increases for all others covered, including top federal career employes whose pay is now frozen at $36,000.

At first, members of Congress tried to ignore the issue, hoping that the raises would slip into effect automatically. But when some members introduced resolutions to kill the raises, the squirming intensified. The Senate Post Office-Civil Service Committee voted to kill the congressional raises and let the others take effect. Then the House Post Office-Civil Service Committee found an equally unsatisfactory way to duck the congressional question. The committee took an all-or-nothing stand: either the recommendations all go into effect or all of them get killed.

Now, Senate Chairman Gale W. McGee (D-Wyo.) will try to substitute a one-shot, 5.5 per cent increase as a compromise. Ranking Republican Hiram L. Fong of Hawaii has still other suggestions, including deferral of any raises for one year. Then there are two other senators, Democrat Frank Church of Idaho and Republican Peter H. Dominick of Colorado, who are among those up for re-election—and who want all raises killed. Add to this complicated scenario Sen. Ted Stevens (R-Alaska), who is not up for re-election, who favors all the raises—and who has threatened a filibuster to prevent any resolution blocking the increases. Finally, there is Senate Majority Leader Mike Mansfield (D-Mont.), who will seek to choke off a filibuster—a move that requires a two-thirds vote.

Certainly there are many Americans who react negatively to the idea of increasing congressional salaries—for most voters earn much less. Besides, the argument goes, members of Congress get a lot of "extras." They do get discount health insurance, haircuts and meals, some office and travel expense money, postal franking privileges, parking spaces and other amenities besides the honor of serving in Congress. But there are many expenses, too, that aren't covered by extra allowances: members do not receive entertainment allowances, for example, or additional compensation for family transportation, schooling or every one of the increasing number of trips home that have become necessary as the congressional sessions have grown longer.

Besides, members of Congress are not all independently wealthy retirees from private business. Many are young men and women of modest means who are expected to travel widely, entertain frequently, dress well and live in good housing. Should their salaries be frozen at 1969 levels when prices have already gone up 30 per cent since then?

We believe that good government leadership requires salaries that can attract good public servants of varied means—not just those who can afford to subsidize their mounting living costs, or who may be tempted to find other, less desirable ways to meet their personal bills. If members of Congress honestly believe that they and others covered by the federal-executive pay scales deserve the recommended 7.5 per cent increase, they ought to deal with the question honestly—and explain their position openly and candidly to constituents.

If, however, it takes some show of sacrifice to make them more comfortable this year, they ought to stand up for Senator McGee's 5.5 per cent proposal, avoid any filibuster and not make other federal employees suffer another year of frozen salaries.

Mr. FONG. Mr. President, I yield the floor.

Mr. HELMS. Mr. President, my distinguished colleague, Senator THURMOND, is away from the Senate today on official business, and he has requested that I have placed in the RECORD a brief statement making clear his opposition to proposed salary increases for Members of Congress.

It goes without saying, Mr. President, that I share the views expressed so eloquently conveyed in Senator THURMOND's statement, which he would have delivered orally on this floor could he have been here today.

Mr. President, I knew the amount of salary Senators receive when I sought election to the Senate. My conscience simply will not permit me to support any proposition to increase that compensation—particularly at a time when the people of my State, and every other State, are being victimized by a crushing burden of inflation caused, in large part, by the failure of Congress to insist upon a balanced budget.

The Federal Government, Mr. President, is the prime culprit behind the inflation our Nation is suffering. The Congress could, if it would, do something about it. But for a generation, Mr. President, the Congress has participated in the tax-and-spend, spend-and-tax philosophy of deficit financing. Now some bedragged economic chickens are coming home to roost.

The people are suffering, Mr. President, and it is poetic justice for Senators and Congressmen to suffer a little bit, too—if, indeed, they are suffering. I must observe, however, that I have observed no suffering among my colleagues, and I would suggest that the vast majority of the constituents of every Member of this Senate would gladly trade compensation with us.

Further comment is unnecessary, Mr. President. This matter, I believe, speaks for itself.

Mr. President, I ask unanimous consent that the statement prepared by Senator THURMOND be printed in the RECORD.

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

STATEMENT BY SENATOR THURMOND

There is no doubt in anyone's mind that our nation is now caught in the grips of inflation. All segments of society are affected. Probably the most vivid illustrations of this

can be found in the exasperation and despair of our housewives trying to make ends meet and our elderly attempting to live on fixed, inadequate incomes.

In these times, it is of utmost importance that we in the Congress give our countrymen a good example to follow. We must truly be the keepers of the public trust, and act in a way that will engender optimism, faith and respect.

To provide ourselves a raise in salary when so many in the land are so far less fortunate than we is simply not the way to do this. I have never voted in favor of a salary increase for myself and I certainly have no intention of doing so now.

For these reasons, I am in opposition to any and all salary increases for members of Congress this year and I hope my colleagues will join me in this opposition.

Mr. BENNETT. Mr. President, the Congress provided in the Salary Act of 1967 a mechanism for adjusting the pay of Government officials in the executive, legislative, and judicial branches. The objective of this mechanism was to do more than dispose of a politically unpleasant task. It was an attempt to set up a mechanism whereby the type of situation we are now confronted with could no longer occur.

Since I am retiring as a Member of the Senate this year and any decision on this question whether for or against will not affect me, I believe I am in a unique position to view this issue objectively.

The President has made the recommendation that increases be granted to meet the accumulated cost-of-living deficit currently faced by the Government employees who have not had a salary increase since 1969. He has proposed to meet this deficit by three annual salary increases of 7.5 percent each. I believe ideally that this recommendation should be adopted. It should be made clear, however, at this point, that this three-stage adjustment will not achieve the objective recommended by the Commission on the Executive, Legislative, and Judicial Salaries.

The Commission has estimated that the 5-year lag in these salaries was 30 percent based on the annual cost-of-living increase granted the rank and file civil service employee for each of the past 5 years and that it will continue to grow 5.5 percent for the next 2 years. The General Accounting Office in its report for Members of Congress, pointed out that even if these three raises take effect, that by the next time the quadrennial commission meets to review Government executive salaries, the lag of the Federal salaries will only be 6.5 percent less than it is today.

The effect of the ceiling imposed on GS employees at the top ranks is that one may proceed through the civil service ranks until he attains $36,000 salary level, then even though his responsibilities may continue to increase; his salary cannot.

Should Congress fail to raise the executive structure salary this spring, and should the current inflation increases for the General Schedule employees continue until 1977, nearly all executives in the GS 15–18 ranks and some in GS–14 ranks will all be paid the same salary when the next review period comes for the executive structure. Today, three or four layers of executives reporting to one another in the same office may be paid the same salary. If this ceiling is not removed, this may be five levels by 1977. This means that an employee, his immediate supervisor, and the supervisor's boss may all be making the same salary. It will get worse if a change is not allowed.

As Business Week pointed out in its January 19 issue—

The federal salary structure would create a motivational mess in most businesses.

I am sure that none of the Members here need to be reminded of this fact; however, I believe many are steadfastly ignoring it.

The "compression" of salaries has severely negative effect for both the Federal Government and its employees. First, it creates an imbalance between salaries and responsibilities. Why should an official accept more risk and responsibility in the form of a promotion when he does not get more money? Second, it causes a loss of income to the employee including future retirement benefits. Third, early retirement is made more attractive. Why stay extra years at the same salary when it will not affect your retirement? Fourth, it causes an increased turnover of top men from personnel and consequent decrease in levels of skill. Fifth, finally and most importantly, it means Government service is not as appealing as it should be and makes for increased difficulty in recruiting top personnel when these people can find better salaries and more potential for their futures in private industry.

I believe it is crucial, especially at this time, that the Government not take steps to discourage the most capable and well-qualified individuals from seeking election to Congress or pursuing a career of public service. In a very real sense, the voters will get the kind of public officials they pay for. By refusing public officials periodic salary increases to keep up with the cost of living, we limit the Government to two types of individuals: Those who cannot do better elsewhere or those of independent means.

I would prefer to see this body abandon the quadrennial salary review procedure and set up a system which provides for a tie between the GS cost-of-living increases and the congressional executive salary schedules whether it be a direct tie to civil service or a biennial review of the upper salary levels to avoid a recurrence of today's situation. I will remind my colleagues that we have waited 5 years to take this step and we are involved with a 30-percent increase, hardly a publicly appealing figure. However, some Members apparently do not remember before the last increase went into effect, Congress had waited 10 years before it increased government salaries. Every time Congress puts off pay raises until it feels politically safe in acting it assures that a large "makeup" increase will follow eventually. When an increase is proposed, it includes increments for each of the periods when salaries in the private sector and elsewhere in Government were periodically adjusted. This amount appears to be particularly large when it comes all at once every 5 or 10 years.

Mr. HANSEN. Mr. President, most Americans by now are aware of the recommendation for a series of three 7.5-percent pay increases for Congress, the judiciary, the Cabinet, and top-level executives of all three branches. I have not conducted a professional poll of the people, but I would hazard a guess that probably 99 percent of them strongly oppose these pay increases and fully expect Congress to respectfully decline a salary increase until inflation is brought under control. I know the people of my State are opposed to these raises. They have told me so.

Most people would prefer that Congress face this issue head-on, and either vote "yes" or "no" on the record as to pay increases. However, under the "automatic" procedure approved in 1969, recommended pay raises quietly go into effect unless Congress acts specifically to disapprove them. "OK," the people say, "then vote for a resolution to disapprove the increases." Such a resolution was introduced with my cosponsorship by Senator PETER DOMINICK. It stated very simply:

Resolved, that the Senate disapproves the recommendations of the President with respect to rates of pay transmitted to the Congress during February, 1974. . . .

In order to prevent these pay increases, Congress must act before March 6. It is apparent there will be no single vote on a simple resolution, such as the Dominick resolution, to disapprove the increases. Instead, the Senate faces a series of counterresolutions amendments, compromises, and amendments in the second degree, with a possible filibuster by those in favor of the pay increases. It appears a whole series of votes may be required to decide this issue.

I am opposed to any pay increases for any of the officials involved. I am opposed to any and all of the compromises that would give the raise to some, but not to others. And I am opposed to any scheme that would reduce the amount of the raise, or defer it until next year, or otherwise cloud the issue. The Senate should be given the opportunity to consider a straight resolution denying all of these pay raises, such as the Church-Dominick proposal. Such a resolution will have my support, because I am opposed to any raises for anybody.

Most of the people who have written me to oppose these pay increases have cited the inflation rate of recent years and its effect on their income. Indeed, proponents of the pay raise cite the same problem—the pay of Congress and other top Government officials has been eroded by persistent inflation during the past 5 years, and must be increased to compensate for this inflation.

I am aware that certain professional people, most notably in the medical and legal professions, presently are able to earn a higher income in the private sector than as Federal officials, thus making it difficult for Government to recruit these people.

Nevertheless, we were sent to Washington to represent the citizens of this country and to solve such problems as inflation. We are here to consider their interests, and unless we are prepared

to somehow cause every citizen to be compensated for the effects of inflation during the past 5 years, then we have no business raising our pay and that of the highest paid officials in Government.

Congress cannot escape responsibility for the inflation this pay raise is supposed to correct, or for the inflation it would spur, if permitted to take effect. Congress is the victim of its own policies and actions. Congress permitted the Nation's finances to be managed in such a way these past many years as to fuel the fires of inflation. Now we are suffering the consequences of that action, or inaction as the case may be.

If inflation is rough on those in Government making $36,000 or more anually, and on Members of Congress who make $42,500 annually, imagine its effect on a family making $15,000, or $10,000, or less. None of our constituents is shedding a single tear over the effect of inflation on the pay of Senators or Cabinet members. Probably they figure Congress deserves a taste of the bitter medicine they have swallowed for so long, as a consequence of inflation.

Until Congress exercises its responsibility to curb inflation by balancing spending with income, Congress does not deserve a pay raise.

Mr. President, I ask unanimous consent that a series of letters from Wyoming people, representative of the sentiment in my State, be printed in the RECORD. I ask also that an article from the February 27 Wall Street Journal about future prospects for more inflation be printed, as well.

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

[From the Wall Street Journal, Feb. 27, 1974]

UNITED STATES SEEMS HEADED FOR SHARP PRICE SPIRAL AND AN INTEREST-RATE SURGE, BURNS WARNS

(By a Wall Street Journal Staff Reporter)

WASHINGTON.—Escalating his inflation alarms, Arthur Burns warned that the U.S. seems headed for a Latin American-style price spiral that could "send interest rates soaring" and ruin chances for stable prosperity.

The nation is facing "an exceptionally difficult economic situation," the Federal Reserve Board chairman told the Congressional Joint Economic Committee. "Inflation is proceeding at a dangerous pace, unemloyment is rising, strong inflationary forces are likely to continue in 1974 and international financial relations have become strained," Mr. Burns testified.

The Fed chief sounded much gloomier yesterday than he had in testimony last week before the House Appropriations Committee. His somber remarks on the economic outlook also contrasted sharply with the generally upbeat predictions President Nixon had made the night before in his press conference, where he said that economic prospects for the rest of the year are "good" and that "we will bring inflation under control as the year goes on."

While Mr. Burns said some improvement in price performance is possible this year, he spent much of his testimony warning of the dire consequences of the present trend. In his prepared statement, he cautioned that "If rapid inflation continues this year, it may undermine confidence send interest rates soaring and wreck our chances of regaining a stable and broadly based prosperity in the near future."

TWO-DIGIT INFLATION

The surge in January consumer prices, at a seasonally adjusted annual rate 12%," is a grim warning that we are on the brink of a two-digit inflation," he said at the conclusion of his prepared remarks.

Under questioning from panel members, Mr. Burns' comments were even scarier. Asked about the interest-rate outlook, the nation's central banker said lending charges could decline if inflation is brought under control. But record rates will result if inflation continues surging, he said.

"If we go the Latin American way—and that is the way we seem to be going—we will have interest rates on Latin American standards," he said, or "a good deal higher than at present" and higher than ever experienced in the U.S. Committee Chairman Rep. Wright Patman (D., Texas) and advocate of low interest rates, apparently couldn't believe his ears and asked Mr. Burns to repeat the statement, which the Fed chief did.

The price spiral, Mr. Burns testified, "may also destroy the gains we have recently made in strengthening our competitive position in world markets and in improving our balance of payments." January's jump in prices in the U.S. "has already served to reduce the dollar's strength in foreign-exchange markets," he stated.

ROLE OF GOVERNMENT

"Inflation cannot be halted this year," the Fed chief said, but the government can and should lay the groundwork for "a gradual return to reasonable price stability."

He conceded under questioning that the Fed "could stop this inflation in a few months dead in its tracks" by severely tightening its grip on money and credit. But "we have no intention of doing it" because of the economic hardship such a policy would cause, he said.

The economic stagnation and soaring unemployment that would result from a severe tightening of monetary policy can be avoided by a more gradual approach to controlling inflation, Mr. Burns indicated. "I think we can end inflation over the next two or three years without going through a protracted period of heavy unemployment," he declared.

In the immediate period ahead, "we will have to suffer some unemployment" as the nation adjusts to fuel shortages and weaker demand, he said, but "I think the period can be brief." The expected rise in joblessness may run "several months," he told newsmen after the hearing. But he declined to estimate how high the jobless rate will go.

"The Federal Reserve is continuing to restrain the rate of growth in money and credit," he told the lawmakers. "I think that is helping lay the foundation" for a gradual return to price stability, he added.

OUTLOOK ON DISCOUNT RATE

The Fed chairman indicated he's against any immediate cut in the Reserve System's discount rate, the fee charged member banks for loans from the Fed. "If that rate were lowered" from its record 7½% level, Mr. Burns said, then the Fed would be "subsidizing" commercial banks with bargain borrowing costs. "We don't think that's a good idea," he said.

On another subject, Mr. Burns joined the consensus of forecasters in saying the U.S. trade balance "will probably register a substantial deficit in 1974 because of the rising oil-import bill." The U.S. trade account swung into surplus in 1973 as exports exceeded imports by $1.68 billion, following a record trade deficit of $6.36 billion in 1972.

The outlook for the overall balance of payments, which measures what the U.S. spends, lends and invests abroad against the total inflow of funds from all transactions with foreigners, is highly uncertain, Mr. Burns said. Large inflows of investment capital, including excess funds from the oil-rich nations, "might equal or even exceed the decline in our trade balance attributable to the large dollar value of oil imports," he estimated. But he also said higher interest rates abroad are causing an outflow of short-term capital from the U.S.

Though he reiterated his opposition to a general tax cut to spur the economy, he endorsed some kind of tax "relief" for low-income workers for whom Social Security payroll taxes have become "an excessive burden." He didn't suggest any specific plan for easing the payroll-tax burden, however.

CASPER, WYO.,
February 6, 1974.

DEAR SENATOR HANSEN, I am writing in support of your resolution disapproving of the salary increase for Members of Congress.

I agree with you that the best way to control inflation is for government to equalize spending with income.

Pres. Nixon's comment that the new federal budget, which increases our national debt even more staggeringly than ever, will help combat inflation is nothing less than fiscal *insanity.*

Sincerely,

(MRS.) PATRICIA ROBISON.

CASPER, WYO.,
February 9, 1974.

Senator CLIFF HANSEN,
Dirksen Senate Office,
Washington, D.C.

HONORED SIR: From an editorial in the Casper Star-Tribune, I understand that you and Sen. Dominick of Colorado are sponsoring a resolution to at least post-pone a pay increase bill exceeding the Cost of Living lines.

I for one, believe that this would be a good bill at this time, even though I feel that nearly everyone would appreciate an increase in his income. I personally do not believe that this is the time to give it, and do believe that as you were not in favor of it at this time, I also believe that it is a good time to tighten our belts, due to the present inflationary times we are living in!!

Sometimes it does seem hard for us at the grass-roots to understand just why some of these expenditures are needed, especially when our Government is asking all of us to try to economize to our best ability .

Therefore, as my wife and I both, are trying to manage on our Social Security with some other help from part time work I am doing, and really do seem to be doing right well now, we feel that SOME of you gentlemen in Washington should try as you wish, to curtail some of the unneeded expenses there.

There is no reflection on our part of your handling of our affairs in Wyoming at this time, so take this as a letter that might be used to help you and Mr. Dominick get across what your proposal desires.

Thanking you for taking the time to think of some of us back here, I remain.

Very Sincerely yours,

CHARLES W. BISHER.

LUSK, WYO.,
February 9, 1974.

Senator CLIFF HANSEN,
Dirksen Senate Office Building,
Washington, D.C.

Honorable SIR: I appreciate your view, which coincedes with mine, but as a matter of record I wish to register my opposition to any pay boost for Congressmen at this time. I agree with Senator Barry Goldwater also, who said, "Cost pinch Americans are doing their best to make ends meet in the face of rapidly rising cost of living items."

I hope your efforts, about which I read in the papers as well as in your newsletter, are successful on this issue.

Your sincerely,

Mr. A. F. DE CASTRO.

EDGERTON, WYO.,
February 9, 1974.

Senator CLIFF HANSEN,

SIR, I am strongly opposed to any increase in pay for our Congressmen at this time. I am a citizen, tax payer, and wage earner.

Yours truly,

HOWARD GEIKE.

MILLS, WYO.,
February 9, 1974.

DEAR SENATOR HANSEN, we want to help in our support of the Hansen-Dominick resolution to stop this automatic salary increase for the Senate and Congress.

As middle-income tax payers we are so strapped now with taxes we cannot afford to increase any spending. We urge you to work to cut federal spending to the home to stop inflation where it starts. Its very discouraging for couples in their 50's who have worked hard, paid their taxes and now find inflation is eating up everything so you can't save one penny for old age.

We say those in the Senate & Congress who can't live on their salaries should get into private industry and make their big money.

Most Sincerely,

WILLIAM J. AND BETTY J. NICKESON.

ROCK SPRINGS, WYO.,
February 9, 1974.

DEAR SENATOR HANSEN: I, as many young people, will be voting this year. I feel that it is my responsibility to voice my opinions to my Congressmen. I give my support to your resolutions to disapprove the salary increase of the Congress.

I believe that our government officials are still "public servants". I find it difficult to believe that a man making $42,000 a year can understand the rising cost of living problems the people that put him in office are facing.

Congressmen are becoming less aware of the people's needs. I feel that your resolution will be a step to bring our Congressmen back to the people.

Yours truly,

MELANIE DURHAM.

ROCK SPRINGS, WYO.,
February 13, 1974.

Hon. CLIFF HANSEN,
Senator, State of Wyoming, Dirksen Office Building, Washington, D.C.

DEAR SENATOR HANSEN: I am writing to express my strong opposition to the blanket pay increases for members of Congress and other Government employees.

In these hard times, when the average citizen has a hard time making end meets, it is ludicrous that Government employees are unable to live on the high salaries they are paid. Unfortunately, as you know, it is the middle income families that suffer the most and I resent it. My husband and I both work and even though we paid taxes on the two of us for 1973 (claiming only 2 exemptions), we still are going to have to pay an additional $327.00 by April 15, 1974!

I trust and pray your sponsored Hansen-Dominick Resolution will prevent this blanket increase in salaries.

Yours very truly,

Mrs. DARRYL T. CHILTON.

CASPER, WYO.,
February 18, 1974.

Senator CLIFF HANSEN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SIR: I am against a pay raise for Congressmen at this time. With the majority of working Americans struggling to make ends meet, there is no need for this added burden.

I would also like to see a recorded vote on how the members vote on this pay increase bill.

A Wyoming voter,

MARJORIE M. RIDDLE.

GILLETTE, WYO.,
February 15, 1974.

DEAR SENATOR HANSEN: The automatic, seven percent pay increase proposed in federal budget MUST NOT PASS. Press on for the Hansen-Dominick Resolution.

I believe the American taxpayer has been very liberal with Congressional Compensation such as pension plans, very liberal travel, office and other allowances. At this time it is ridiculous to think we feel generous enough to give more.

There should also be a recorded vote on the pay increase bill. We are entitled to know how the members vote.

Mr. and Mrs. GENE ADAMS.

EVANSTON, WYO.,
February 20, 1974.

Hon. CLIFF HANSEN,
U.S. Senator for Wyoming, Senate Office Building, Washington, D.C.

DEAR SENATOR: Always, as I bend to the task of writing to our men in Congress my mood is, What good does it do? I'm just one out of many thousands. Is it worthwhile to write? Will they read what I write? And will they pay any attention to it if they do read it?

Senator, if there's anything Congress doesn't need or deserve, it's another pay raise.

And if there's anything that rankles the public more than either the size of the raise, or the raise itself, is the manner in which this grab is being sneaked through without the congressmen having to stand up and be counted. The whole thing is immoral and dishonest, Senator, and I have confidence in you to recognize it as such.

Americans are being asked to sacrifice to fight the price spiral. I expect our leaders to set the pace. Trends are upgraded as one discovers himself and sets a better style.

Sincerely,

ROY MATTEHWS.

CHEYENNE, WYO.,
February 22, 1974.

Senator CLIFFORD HANSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HANSEN: When you consider that Congress has drastically cut Medicare benefits over the past few years, affecting those least able to earn money to pay for their care while Congressmen are able to obtain free hospital and medical care, and that Congress has failed to do anything about the problems facing the nation, I cannot see how members of Congress are entitled to a raise in pay. Certainly not on productivity.

It is certainly no wonder that Congress received a lower rating than the President in recent polls.

I wish I had half of $42,000 to live on. I certainly don't think Congressmen are entitled to any more of my money. It's too bad that they will receive the raise if they do nothing. The public is entitled to know how its representatives vote.

Yours truly,

Mrs. A. C. HARRISON.

CASPER, WYO.,
February 21, 1974.

Senator CLIFF HANSEN,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HANSEN: I agree with your proposal that the Congressional Pay hike (also for other high officials) should not be approved by Congress. It only increases another round of inflation and then another pay increase. There is less buying power after each pay increase. This vicious circle of pay raise followed by price increases gets nowhere and should be stopped. I hope you follow through with sponsoring a resolution to disapprove the three-stage salary increase.

Sincerely yours,

WILLIAM H. BENZ.

Mr. MUSKIE. Mr. President, few issues plunge Members of Congress into more hazardous political waters than the subject of their own salaries. This year is no exception, and the issue is further complicated by the related question of salaries in the executive and judicial branches. Feelings on both sides of the pay issue are all the more intense because of the enormous increases in the cost of living in recent years.

Let me state my position at the outset: I believe there is a special obligation for public servants in all three branches of Government to set an example of restraint for all Americans during this period of continued inflation and economic hardship.

For this reason, I will oppose both the President's proposed pay increase of 7.5 percent per year for the next 3 years and all proposed compromises which would permit any form of pay increase at this time. Now is the time to demonstrate to the people of our country that members of all three branches of the Federal Government are willing to make significant personal sacrifices in the fight against inflation.

This is not to say that a case cannot be made for a pay increase on the economic merits. Since the last pay raise in 1969 for all affected categories, the consumer price index has risen 29.3 percent. Yet salaries have remained frozen—not only for Members of Congress, but also for 842 Federal judges and court offcials, 600 political appointees, and 10,000 top career Federal executives, Veterans' Administration medical personnel, and Foreign Service officers. Meantime, pay for other Federal personnel has risen 42.3 percent, and executive-level pay in industry and in State and local governments has risen between 25 to 30 percent. Even if the President's proposals were enacted, it would be 1978 before top pay catches up with cost-of-living increases over the past 4 years. Meanwhile, the inflation will undoubtedly continue.

Because of the existing pay ceilings, the problem of pay compression in the top-salaried positions has become severe, and morale problems are reported to be intensifying. Civil Service Commissioner Robert E. Hampton has warned against morale loss and possible flight of our most experienced and talented career employees into more remunerative professions if salaries remain frozen at 1969 levels. Chief Justice Burger has issued a similar warning with respect to Federal judges. The General Accounting Office has criticized the President's recommendations as inadequate and has urged reform of the Salary Act of 1967 to insure more equitable treatment of high-salaried Federal personnel in the future.

Notwithstanding the foregoing, I believe that there are stronger countervailing reasons for opposing these pay increases at this time. Above all, I believe that public officials have a special responsibility to show leadership in exercising restraint in matters concerning their own remuneration.

We are living through a critical time in the economic affairs of our country. Average Americans—workers, small businessmen, farmers, older people—are being especially hard hit by rampant inflation. Lower income people are barely

holding on as their fixed costs—for food, energy, housing, clothing—continue to soar.

As we struggle together against the debilitating trauma of extreme inflation, it is untimely, to say the least, for those in Government to allow themselves a major pay increase at this time, however deserved that increase may be.

The Government officials affected by the President's proposals are at the upper end of the Federal pay scales. While they have been hit significantly as a result of inflation since the last pay raise in 1969, they nonetheless have remained in a much better position in relative terms than the average American. They can do without a major increase at this time.

I would like to add one additional thought: People with power and influence in our society seem to have been able to find relief during this economic squeeze by passing their own cost increases to those at the bottom end of the economic ladder. The average American is becoming increasingly angry and frustrated at this tendency, and those sentiments are being clearly and forcefully expressed in my own mail from constituents as well as in the media.

If we seriously want to reestablish the credibility of the Congress in the minds of most Americans, we cannot permit the people to believe that our first concern is to use our position of power and influence to get relief for ourselves—while they are unable at the same time to get relief for themselves.

I agree that there is never a good time for Members of Congress to increase their pay, and I appreciate the fact that inflation has wiped away most of the last increase. But I cannot conceive of a worse time to deal with this problem than the present.

Mr. President, I ask unanimous consent that letters from two of my constituents in Maine, one enclosing an article from Newsweek, be printed in the RECORD at this time. These letters are typical expressions of the deep economic frustrations being felt by Americans today. It is because of these frustrations that I believe we must oppose any proposal for a pay increase at this time for Members of Congress, Federal judges, and other high-salaried Government employees.

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

YORK, MAINE, *February 18, 1974.*

HON. EDMUND MUSKIE,
Washington, D.C.

DEAR SENATOR MUSKIE: My husband and I have just come back from visiting with Ruby P. Littlefield of Ogunquit, Maine, who told me that he used to know you quite well when he was a Senator in the Maine Legislature.

We showed him the enclosed clipping from Feb. 18 "Newsweek". He agreed with us that if you haven't read it, you should, because this young woman says so well what the average person feels.

What can we do to make our voices heard except to appeal to you, our representative?

I hope you will be able to find the time to read this article through and not just where it has been underlined.

Sincerely yours,

BARBARA DE GRUCHY.

[From Newsweek, Feb. 18, 1974]

(By Donna Cord)

DIARY OF A MAD HOUSEWIFE

You, my fellow Americans, will probably never read this. Not because my thoughts are not interesting, or important, or valid, or a darn sight better than a lot of the gibberish I have read in the My Turn column. But because I am nobody . . . that is, I am not what the enlightened editors of Newsweek would call a distinguished guest writer. But then, how many of those are there around anyway? No, I am just a poor, ordinary schnook—married, mother, citizen. The Bank Americard bill around our house is in four figures and the Sears bill is not far behind. A traveling vacation is in the unforeseeable future, as is a new car (our '68 Chevelle is creaky, but it runs), a new coat, roast beef and air conditioning. How many My Turn columnists can match those qualifications?

The one thing that I have an abundance of at this point in time is anger. Anger and disgust. Not with my country. The United States is blessed (in theory at least) with all the institutions to make it work for the people. I am angry with you, and you, and me. All of us. We have become a nation of sheep and we are being screwed at every turn.

We, the people, are letting go unchallenged atrocities that should warm the hearts of totalitarian leaders everywhere. The governor of California pays no taxes. The President pays laughably little (and by the way—my memoirs and personal papers are just sitting here, waiting for someone to appraise them . . .); your rich landlord probably paid less than you. Capital gains, write-offs, loopholes. Everyone acknowledges that only the middle-average-poor get the tax shaft. So why do we let it happen? Where is a full-fledged taxpayers' revolt? I am tired of being hopelessly debt-ridden while the rich and the super-rich and the politicians go skiing (did you notice our new Vice President happily giving interviews on the snowy slopes of Colorado?).

My husband belongs to no union; he gets no (ha ha) "cost of living" raises. So each year that he earns the same, our financial condition goes straight downhill. We need gas as much as any one, but if *we* had dared to block an interstate highway with our rusty car, we would have been arrested in two minutes flat. Why is it that big, profitable airlines have the ear of the government and plain people do not? Why, if indeed there is a shortage of gasoline, were the huge oil companies allowed to raise their prices to compensate for the reduced supply? All that that accomplished was to keep their profits (amounts so enormous they boggle the mind) at the same level. Well, the oil companies are part of the reason for the energy crisis, so why *should* their profits stay the same (or worse, increase)? What is the tragedy if big business would bear part of the burden of our current troubles?

But oh, no, folks. You and I are the ones who pay—60 cents a gallon and no end in sight. Can you believe that the signs of this energy crunch were not apparent to our government three months ago, or six months ago, or two years ago? What the hell have our leaders been doing? Wallowing in Watergate? But, lo and behold, all of a sudden the government announces that there is an energy crisis and a shortage of practically everything, and we meekly accept. Why aren't we outraged? We are taken for fools and suckers—and we must be.

MACARONI AGAIN

We are fools because we have uncomplainingly let the big-money interests take over our country. If you're not a conglomerate, you're nobody. I laugh and cry and rage all at the same time when some overeducated economist rattles on about supply and demand and trade deficits and baloney; then he slinks away, back to his well-furnished home and well-padded paycheck, while we nod our heads and eat macaroni again.

We, the people, used to have high moral standards—sometimes downright Victorian and repressive, but high nevertheless. So why are we allowing our beloved country to limp along with a President who is at best morally questionable, surrounding himself with yes men and crooks and perjuries and enriching himself at our expense? My house needs remodeling—will you send me tax money to pay for it?

Congress, a body of elected officials completely surrounded by a vacuum, is supposed to reflect the will of the people. And it is reflecting all right—reflecting our *lack* of will to change what is wrong. What are we afraid of? Have we met the enemy and it is us? Where is our public pressure—our collective will—to either get off the President's back (if his is still truly the leadership we want) or get him out of office?

We have gone along for years accepting the rich getting richer, toys that can maim, built-in obsolescence, unsafe cars, medical costs that threaten bankruptcy, air that chokes us and special-interest lobbies in Washington. Don't we care? Are we indeed such sheep that we must wait for a Ralph Nader to come along and get our cars made safer for us? We are the ones who are getting smashed up in our Tinkertoy two-doors at the rate of 50,000 a year while Pentagon personnel spend their time in chauffeured (and, I might add, sturdy) limousines. Where is the "citizens' lobby" to look out for *your* interests?

There is insanity all about us. Our government sells wheat to Russia, which in turn supports and encourages the Arab countries, which in turn shut off our oil. We pay farmers for *not* growing food, and millions go hungry. The dairy industry is a government pet, and I try powdered milk (ugh!) because real milk sells for $1.50 a gallon. If we elect an almost "ordinary" person—that is, not a millionaire—to high office (like Agnew), he winds up with his hand out for money; and if we elect millionaires, how can they know or care about the ordinary needs of ordinary people?

WHERE ARE OUR VOICES?

I have no answers—only a strong faith in the power of the people. I only know that you can't be walked on if you stand up. I know I care about my country and the quality of my life. And so do my neighbors. And the people all across America. Where are our voices? There is a scene from "The Magnificent Seven" in which the outlaw says of the poor villagers whose town he has just plundered, "If God didn't want them shorn, He would not have made them sheep." Have we become a nation of sheep?

MACKLANBURG-DUNCAN CO.,
South Portland, Me.

GOOD MORNING SENATOR MUSKIE: I never thought I would ever get angry enough to write a letter to my Senator. I say my Senator, for I have supported you in any political encounter you have entered since I was able to vote in 1961, and always admired you as a Governor and then U.S. Senator.

I just finished watching "sixty minutes" on CBS, Channel 13 here in Portland, and listened to the Shah of Iran call the oil companies in my country liars.

I have come to the point in time when I don't really trust my government, I'll change that, I trust my government, but I do not admire or trust the few people who are running it.

With the controls (Federal) we have on the people who are paying the bills, which are not the wealthy nor the poor, but the people who are just able to make ends meet. Maybe the "middle American" as we are called should "go on strike" it seems to be a way to get attention but we are too

busy working to pay higher food costs (because my Senator and Representatives are sending our grain to Foreign Countries, or a poor fruit picker won't pick or harvest a crop because he can't make enough money to support his family, or a truck owner won't haul the food to my store because he can't afford to pay higher fuel costs.)

And we the "Middle American" are too busy working to pay higher home heating fuel costs (which have doubled in the past twelve months) we are busy working to pay higher gasoline costs (which have increased by over 60%). Home heating fuel and gasoline are in short supply I am told by my Government, whose only knowledge comes from oil companies. These oil companies among other large companies have contributed enormous amounts of money to political campaigns and politicians for political favors.

Can't you control these companies?

Mr. Muskie, I have supported you in any way I could both by vote and money. Now you must support me.

I am damned tired of getting up every morning, listening to the news and finding that we are in more trouble than we were the day before.

Mr. Muskie, my wages are not keeping up with the expenses you are allowing to be charged.

Mr. Muskie, I'm running out of gasoline.

Mr. Muskie, My house is cold because my thermostat is set at 65° (since last November.)

Mr. Muskie, I need your help!

Very Sincerely Yours,

JAMES SEVERANCE.

P.S. Let's get America back on the right track, so we can all be proud again.

The PRESIDING OFFICER. Who yields time?

Mr. CHURCH. Mr. President, I yield such time to the Senator from Colorado as he desires.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. DOMINICK. I thank the distinguished colleague from Idaho.

The PRESIDING OFFICER. The Senator from Colorado may proceed.

Mr. DOMINICK. Mr. President, I listened to the distinguished Senator from Hawaii's impassioned plea on behalf of this amendment with great interest. The debate sounds as though the issue is something new, but it is not new. As long ago as April 6, 1973, almost a year ago, when I heard that a pay raise for Congress was going to be recommended regardless of whether it also applied to the judiciary branch and the executive branch I circulated a letter in a very short period of time and I got 19 signatures, including the distinguished Senator who now occupies the chair (Mr. MCCLURE), and pointed out at that time that while the efforts of the President—

to hold down the line on inflation, while faced with rising labor costs, increased prices and a difficult international monetary environment have found wide support among us, and it would appear to be very counter-productive to seek any increase in salaries under the purview of this Commission in the immediate future.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter dated April 6, 1973.

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

APRIL 6, 1973.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Commission on Executive, Legislative and Judicial Salaries will be making recommendations on salary increases in their report to be issued after June 30, 1973. It is our understanding that at the April 9 meeting, or subsequent to that date, a tentative recommendation of salary increases of 25% is likely to be forthcoming.

While we recognize the necessity for periodic review of the salary structure of those in the senior levels of the Executive, Legislative and Judiciary Branches, it is the belief of the undersigned that any public recommendation for salary increases at this time would be inappropriate.

Your efforts to hold the line on inflation while faced with rising labor costs, increased prices and a difficult international monetary environment have found wide support among us, and it would appear to be very counter-productive to seek any increase in salaries under the purview of this Commission in the immediate future.

For that reason, we urge you to hold in abeyance any actions recommended by the Commission through the remainder of this calendar year and until the inflationary spiral is sufficiently under control to justify increases throughout the economy. We cannot support any proposal for such increases while the nation is seeking to stabilize its economic position both domestically and in the international community.

Sincerely,

Senator Peter H. Dominick, Senator Milton R. Young, Senator Norris Cotton, Senator James A. McClure, Senator Clifford P. Hansen, Senator Roman L. Hruska, Senator Edward J. Gurney, Senator Charles H. Percy, Senator Dewey Bartlett, Senator Strom Thurmond, Senator Robert Taft, Jr., Senator Carl T. Curtis, Senator Henry Bellmon, Senator Wallace F. Bennett, Senator Paul J. Fannin, Senator George D. Aiken, Senator William V. Roth, Jr., Senator John Tower.

Mr. DOMINICK. Mr. President, I also would like to say to my friend from Hawaii, and I might say that he and I usually view issues comparably, that it would seem when listening to this debate as though the Commission had been unanimous in its recommendations that a 25-percent increase be granted to all top-level executives, and to Members of Congress. As a matter of fact, that is not so. Two of the nine members on the President's Commission on Legislative and Judicial Salaries did not feel justified at the time in recommending the proposed increase. The two members, Mr. Meglen and Mr. Foley, were appointed by the President of the Senate and the Speaker of the House, respectively, so we can see that those Members who were appointed by the leaders in the Senate and the House immediately arrived at the same conclusion as I had, that is, that any effort to try to increase salaries of Members of Congress at this point would do nothing but increase the push for further inflation in this country.

Now the question is, I would suggest, how do we handle the judiciary and executive salaries if we do not want to increase salaries of Members of Congress?

That is a very easy task. There is no reason why the distinguished chairman and ranking minority member of the Committee on Post Office and Civil Service could not amend the law which now put a freeze on this. They do not have to come in here with an extra salary increase; all they have to do is amend the law and bring it out for debate. That would immediately change the situation that was talked about at considerable length and with great gusto by my distinguished friend from Hawaii.

All we would have to do is change this piece of legislation which is now creating the problem or the dam, if that is it, on increased pay raises. It is not that I want to see them go to a greater or added expense in either judicial or executive salaries, nor do I want to see those people necessarily paid a lot more than Members of Congress. But I must say if my own experience is any kind of indicator there is no problem in finding Federal district judges. Every time there is a vacancy or every time it looks as though there might be a vacancy in my State, not only does everyone on the Colorado Supreme Court immediately see if he can get the nomination, but so do about three-fourths of the practicing lawyers in the State. It is one of the most difficult things I know of to try to find the best qualified people. I have found no indication whatever, even though these people in many cases are making much more money than a Federal district judge is paid, that the salary is not large enough.

There may be a problem in some States where people take that attitude. If they do, I am sorry about it. I would not say that necessarily the judicial system is foremost on that particular person's mind but there may be circumstances in his own family living which create a particular problem for that particular person. I can understand that. There is no reason why we should not be able to make allowances for that kind of thing when it is not widespread.

There is an even more important aspect. I was brought up in the political scene in my State of Colorado in which we had a law which Congress would be well advised to pass here—but it will not do it; I am not naive enough to think it would—but our constitution says if we spend more than we take in, the first who get cut off by the ears are the members of the legislature, and all the excess spending over income comes out of their salaries first. This includes not only members of the legislature, but also members of the Governor's cabinet and other State officers who are there. It is designed to hold down the cost of running government. It seems to me this is eminently sound. I said that if we had it in our Constitution or as a law, this would be the most economic-minded Congress we ever heard of. But we probably will not get it, or get an economy-minded Congress. We have not had one in a long, long time.

The next thing of interest is that our constitution in Colorado provides that we are not permitted to raise our own salaries while we are holding office—which is exactly what this measure would do, whether it is the Fong amendment or the McGee amendment or any other amendment. It would not affect me, insofar as I am concerned, if it were delayed until 1975, because I have to run

this fall, in the event I seek another term. It would affect two-thirds of the Senate, however, and it would result in a pay raise for them by their own actions while they were holding office.

All the way through, the Commission recommendation and the arguments for it have been based on the theory that inflation has gone on to such an extent that we need a raise. I have high respect for the capability of my colleagues, and actually, if some of our constituents would stay with us on a day-by-day basis and see the hours and hours we spend, not only on the floor but meeting in committees and talking with constituents and talking with agencies and answering letters, I think they would come to the conclusion that the job, in terms of work, deserves a $150,000-a-year salary. But we are not going to get it. That is not what we ran for when we ran for office. We did not run for the money. I did not, when the salary was $22,500. I did not ask for any increase. As a matter of fact, I have voted against every increase since I have been here, not because I am a demagog, not because I would not like more money—I would, just like anybody else—but I think we ran for a specific job at a specific level, and to say, all of a sudden, when we get into this job, we see it is a lot tougher than we thought it was, and because inflation has gone on, we deserve more money, and vote it for ourselves is, to me, a wholly wrong approach.

The last and final point I might mention concerns the causes of inflation. One of the great impacts on inflation—it is not the only one—is the excess Federal spending that goes on. Who is responsible for the excess Federal spending? Members of Congress. So are we going to reward ourselves by higher pay for having pushed through one of the greatest influences on inflation by ourselves?

There is no way we are ever going to stop this inflationary push as long as we have greater Federal spending than we have income to pay for it.

So, knowing full well that $42,500 in my State is considered a high salary for almost any job, calculating that the amount of work we do would require a salary equivalent to $150,000 a year, while knowing we will never get it here, and realizing that we have created part of the inflationary push thereby giving rise to the argument that we need a pay raise. I, for one, cannot see an increase, whether it is the McGee amendment, the Fong amendment, or any other amendment.

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

Mr. DOMINICK. I am happy to yield.

Mr. MAGNUSON. The Senator from Colorado just asked, Who is responsible for the Government spending excess?

Mr. DOMINICK. That is correct.

Mr. MAGNUSON. And the Senator said, Congress.

Mr. DOMINICK. Yes; I hope so.

Mr. MAGNUSON. Does the Senator realize that Congress has never spent over the Federal budget recommended by the President of the United States? Does he not think that the President ought to be responsible for his own budget?

Mr. DOMINICK. I absolutely do.

Mr. MAGNUSON. We have been under the budget by $21 billion. We will be under the budget this year. It seems to me that when we talk about Congress, we have been fiscally responsible. The President has been irresponsible.

Mr. DOMINICK. That may very well be true.

Mr. MAGNUSON. Is that correct or is it not?

Mr. DOMINICK. No, I do not think it is.

Mr. MAGNUSON. Let me give an answer to that. It may be that both the President and Congress ought to be more responsible. But do not say that only Congress is irresponsible.

Mr. DOMINICK. All right. Congress is the branch that sets the level of appropriations or authorizations In 1972, Congress—both Houses, said we should not spend more than $250 billion in 1 year. But then what did it do? It appropriated $265 billion. Then it jumped all over the President for impounding $15 billion. If he had followed what Congress said to do, he would have been jumped on by Congress.

Mr. MAGNUSON. I am saying Congress has not been fiscally irresponsible. We have been under the budget for the past 5 years. We will be under it this year.

Mr. DOMINICK. I sincerely hope so. I know the great care with which the Senator from Washington handles the budget.

Mr. MAGNUSON. It is a question of the overall priorities. We want to do more; the budget wants to do less. It is a question of priorities. But the overall has been good. I speak for the Senate alone when I say that we will be under the budget again this year.

Mr. DOMINICK. I am happy to hear that. I would agree with the Senator from Washington that the so-called full employment budget is absolutely a bunch of nonsense. With the Senator's ability, he could be paid a salary as high as that of the president of General Motors. But the full employment budget is a lot of baloney.

Mr. MAGNUSON. I did not say that.

Mr DOMINICK. No; I did not say the Senator said it. That is what the full employment budget is. A full employment budget means that the money to do what is necessary would require spending more than we would have coming in.

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

Mr. DOMINICK. I yield.

Mr. COTTON. Mr. President, I rarely disagree with the distinguished Senator from Washington, who is chairman of the subcommittee on which I serve. But I would call his attention to this: If we are talking about what the Appropriations Committee does, he is absolutely correct. We have kept under the President's budget for the last 5 years. But if he is talking about what Congress does, we must bear in mind that only 44 percent of the expenditures come from our committee.

Mr. MAGNUSON. That is correct.

Mr. COTTON. Back door spending authorizations that have been granted as obligational authority by the entire Congress have run beyond what the Appropriations Committee has recommended.

Mr. MAGNUSON. There is no question about that.

Mr. COTTON. So the Senator from Washington is correct when he says the Appropriations Committees have been frugal. But that does not mean the whole Congress has been, because Congress has been indulging in back door spending.

Mr. DOMINICK. The Senator from New Hampshire is absolutley correct.

Mr. MAGNUSON. That is why we ought to keep the integrity of the Appropriations Committee alive. We have been doing a good job.

Mr. DOMINICK. I do not criticize the Appropriations Committee.

I criticize the Members of Congress. All the way through we have continued back door spending. As has been well said by the Senator from New Hampshire, those spending increases become obligational in nature and are increases about which the Appropriations Committee can do nothing.

So, I would say again that here we have this cause for inflation which gives rise to the statement that we ought to have a pay raise when we ourselves have been largely responsible for that push. We should not reward ourselves for that.

Mr. CHURCH. Mr. President, I join with the Senator's statement, particularly with regard to inflation. Wherever the blame may lie as between the Congress and the President, the fact remains that the Federal deficit has increased by more than $100 billion since Mr. Nixon took office. Even though the Appropriations Committee may have actually appropriated less each year than the President requested, the deficit has continued to spiral upward at an unprecedented rate.

Mr. DOMINICK. To the extent that our deficit is now $465 billion.

Mr. CHURCH. The Senator is correct. And this administration, despite all of its pretensions to being a businessman's administration, devoted to sound fiscal policies, has turned out to be the biggest spender of any administration in recent memory, from that of the late Franklin Delano Roosevelt.

The fact is that deficit spending is running amok. Congress has not closed the gap between income and outgo. The President has yet to submit to the Congress a balanced budget. His latest budget is about $10 billion in the red. Even if the Appropriations Committee does as well this year as before, we will not come even near operating the Government in the black. Deficit spending will continue unless Congress finds a great deal more willpower than it has in the past.

The Senator from Colorado makes a very sound point when he says that we should put the fiscal house of the Government in order. That will be the time to call for a salary increase for the best paid people in the Government. And until we do that, at least as far as our own salaries are concerned, I do not think they should be increased.

On the other hand, I doubt that the people will begrudge a salary increase to us once the Government is operating again in the black. However, based upon the present circumstances. I can understand why the people would feel outraged, in view of this runaway inflation and continued deficit spending, if Congress were to increase its pay and the pay of the top echelons in the Government.

I commend the Senator from Colorado for the points he has raised.

Mr. DOMINICK. Mr. President, I thank the Senator from Idaho. He and I are fighting together all the way through on this matter. I am sure that a great many others will join with us.

Even if the President were to submit a balanced budget for the year, it would not be balanced. Why do I make that statement? The reason is obviously that the so-called "do it by mirror" system is not any kind of method by which we can balance the budget. We balance the budget only if we have full employment.

It seems obvious to me that we cannot do that with the energy crunch.

Mr. MAGNUSON. Mr. President, if the Senator will yield, what we are talking about here, in the whole field of the gross national product, is only a pebble on the beach.

Mr. DOMINICK. The Senator is correct. However, it is a big pebble.

Mr. MAGNUSON. I do not believe that if the Congress were to raise its own salary by 7.5 percent it would shake the fiscal foundations of this Nation.

What the Senator from Idaho and the Senator from Colorado talk about is the fact that we have to set an example.

Mr. DOMINICK. The Senator is correct.

Mr. MAGNUSON. And the few thousands of dollars that the Members of Congress will receive if it votes itself an increase will not shake anyone's family budget.

After all, people must realize that there is an income tax and 50 percent of an increase in salary would go back to the Federal Government anyway.

Mr. DOMINICK. The Senator is correct.

Mr. MAGNUSON. We are not talking about a raise of a few thousand dollars. We are talking about a raise of only half that amount. That will not shake the foundations of the Nation or create inflation or disturb the fiscal foundations of the Federal Government.

I stood up because I wanted to stand up for the Appropriations Committee. I think they did a good job, although perhaps they might do a better job.

Mr. DOMINICK. The Senator is correct. The Appropriations Committee has done a good job.

Mr. MAGNUSON. We are talking about how we look to the rest of the Nation. That is about all it amounts to. I do not believe that the amount of money involved in the pay increase would mean much of anything to the country.

Mr. DOMINICK. We are talking about that plus the fact that in my opinion we should not be raising our own salaries during the term for which we were elected. I think that it would be wrong to do that. If we need to give an increase to the executive and the judicial employees, there is no reason why we cannot amend the existing act.

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

Mr. DOMINICK. I yield.

Mr. CHURCH. Mr. President, the Senator from Washington is eminently correct when he says that the actual amount of money involved in a congressional pay hike will not undermine the economy of the Nation or have a very pronounced effect on the inflation.

According to the figures received from the administration, if Congress were to vote itself a pay increase, it would cost about $6 million. If we were to vote to increase the salaries of the top officials of the Government, in accordance with the President's recommendations, it would cost $34 million. That would be the immediate impact of adopting the President's pay increase recommendation. It would cost an added $34 million for the coming year. However, the proponents of the increase have pointed out that one of its principal purposes is to lift the lid on the Federal salaries, making way for an upward adjustment in salaries throughout the Federal civil service.

No one knows the cost of this indirect, but nevertheless inevitable consequence of our decision to raise the salaries of the top echelon officials.

Obviously, the ultimate cost of the increase would not be $6 million or $34 million. The ultimate cost to the Treasury of the United States would be counted in the hundreds of millions of dollars, or billions.

Mr. DOMINICK. Mr. President, the Senator is correct. I would like to add that a member of my staff tells me that in the first year it would be about $34 million. In the second year it would be $68 million. In the third year it would be $102 million. And that is without the additional cost which the Senator is talking about.

Mr. CHURCH. The direct cost would be $102 million in the third year. That does not take into account the indirect costs which would occur in upward adjustments for the entire civil service.

The ultimate cost would be in the hundreds of millions of dollars, indeed billions of dollars. In the last 10 years alone, Federal pay has more than doubled. It has gone up in excess of 100 percent, well ahead of the rate of inflation and well ahead of comparable increases in pay in the private sector of our economy.

As a matter of fact, the present Federal payroll is $64 billion—and it will go up to something over $70 billion next year.

I have supported these increases in the pay for civil servants. Most of us have done so from year to year. But, in the light of this doubling of Federal salaries in the past 10 years, and in view of the fact that pay increases have exceeded the inflation, and that the pay now, except for the topmost levels, actually exceeds comparable pay in private industry, it cannot be truthfully contended that the Federal bureaucracy has been ill served.

Therefore, I think that no undue hardship will be entailed if Congress simply insists on holding the line. The people expect us to do no less, in the face of continuing Federal deficits and this runaway inflation.

Mr. DOMINICK. The Senator from Idaho is undoubtedly correct, and the Senator from Washington was correct in some of the things he said about the public awareness of high officials doing this.

I have here an editorial which points that out quite clearly. One of the points it makes is that Plato suggested that public officials live simply, and therefore not be tempted by money, and that few heed this advice today. The editorial adds:

> Salaries of high officials themselves amount to little in Mr. Nixon's $40 million daily deficit, but the example set by our leaders is important.

That was exactly what the Senator from Washington was saying. I ask unanimous consent that the editorial entitled "Dominick's Salary Stance," published in the Littleton, Colo., Independent of February 14, 1974, be printed in the RECORD at this point.

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

[From the Littleton (Colo.) Independent, Feb. 14, 1974]

DOMINICK'S SALARY STANCE

Sen. Peter Dominick pleased his constituents last week when he told Leonard Larsen of the Denver Post that he opposed President Nixon's plan for salary increases for Congress and the cabinet.

As his final contribution toward inflation in 1969, President Johnson approved doubling the pay for President Nixon and jumps for Congress from $30,000 to $42,500 a year—plus dozens of fringe benefits.

Ever since then, most Americans have copied this example and we have had the worst five years of inflation in a century. George Shultz and Arthur Burns asked to have their pay substantially cut, but their gestures did not slow down the annual demands for higher pay by unions, government workers, and many others.

Plato asked public officials to live simply and therefore not be tempted by money. Few heed this advice today. A federal judge in New Jersey has resigned his $40,000 job to make more money as a lawyer. This does not strike us as patriotic. Large incomes mean large consumption of energy and added pollution. More consumption of natural resources that should be left to our great-grandchildren.

In the present case, Sen. Dominick opposes the proposal to hike congressional pay from $42,500 to $52,000, Cabinet officers from $60,000 to $70,000, and 2,800 other officials from $36,000 to $60,000.

He is opposed to both the raise, in view of the 8.8 pct. inflation rate, and also the method of granting the raise. Throughout history, Congress manfully voted itself pay raises. In 1967 it arranged for a "salary commission" to do the embarrassing work of providing pay hikes. These boosts are sent to the President who can alter them. They go into effect unless Congress vetoes the increases. This automatic system permits Congressmen to tell their constituents that they had nothing to do with their salary jumps.

Larsen reports that Rep. Bill Armstrong and Rep. Don Brotzman will support a resolution in the House to follow Dominick's proposal in the Senate.

Few members of Congress improve their financial position while in office. Most of them maintain two homes, and it is not pleasant for their children to be transplanted to the Washington area. Cost and physical effort of elections could be cut in half if we adopted LBJ's advice and chose the 435 House members at presidential elections only. This would tend to give the new President a Congress of his own party—something always to be hoped for.

Salaries of high officials themselves amount to little in Mr. Nixon's $40 million daily deficit, but the example set by our leaders is important. We trust that others in Washington will realize that their behavior is imitated as to morals, salaries, and way of life in this critical time.

Mr. COTTON. Mr. President, will the Senator yield? Just for a minute or two; I do not wish to encroach upon the Senator's time, which I know is limited.

Mr. DOMINICK. I yield to my friend from New Hampshire.

Mr. COTTON. Mr. President, I find myself just a little bit irked by the remarks of my very good friend, whom I greatly admire and who is always very factual and accurate, the Senator from Idaho (Mr. CHURCH).

In the first place, it is apparent to this Senator that the huge increase in what we are paying the Federal bureaucracy has not come so much from increases in salaries as it has from increases in numbers, because we have been adding so many; every bill that goes through adds more employees. The Senator may have taken that into consideration.

Mr. CHURCH. Mr. President, may I respond?

Mr. COTTON. I yield.

Mr. CHURCH. I think the Senator should realize that there has been a very precipitate drop in overall Federal employment, due to reduction in numbers of the Armed Forces. Taking into account the reduced levels in the armed services as compared to the added employees on the civilian side, the net reduction has been over a million. But despite that immense reduction in numbers, the actual cost to the Federal Treasury has increased. The actual payroll has gone up $22 billion, owing to the impact of increases in pay that have already taken effect.

Mr. COTTON. I understand. But when we begin to drag into this picture the cost of the Military Establishment. we are getting entirely off the subject and way out of focus, because we are now trying to do what this Senator, though he has been greatly in the minority, has always insisted it is impossible to do. I believe that, considering the population of the nations of the world today, and the power of the nations of the world today, this idea of a purely voluntary Army, wherein we induce people by money allurements so that we can say we do not have a draft, is something that will bankrupt this Nation before we get through, and we will not have the money to buy weapons because we will be paying so much in salaries.

But I am still irked by this point that was brought up. I am not worried about whether Members of Congress get the raise or not, for several reasons. One reason is that I am leaving and will not get it. It is perfectly true, as the Senator from Colorado has so well said, that we did not run for this job—I do not believe anyone has run for the House or the Senate, or very few ever ran—because of the salary involved. We ran for it because of the responsibility it carries, the honor it carries, the challenge it carries, and whatever inducement ambition may afford.

But here are the people who are being mistreated: We have frozen the salaries, for the past years, so that the people on our own staffs and the people in the higher brackets downtown have had their salaries frozen, so that they have not had the benefit of any of these raises, while, on the other hand, the less experienced, newer, younger members of cur staffs, and I suppose of the staffs downtown, have each time automatically received the cost-of-living increase. The result is that, for a number of years now, the most useful, the hardest working people, and the people with the greatest responsibility in your office and mine have been frozen where they were, and very useful people, including key people in the Senate, have just quit and retired because it represented money in their pockets to do so.

Mr. DOMINICK. I would say to the Senator from New Hampshire that I am sure this is true, although I do not usually pay any great attention to the matter. Let me say, however, that we could correct this situation by amending the other act, instead of going this way.

Mr. COTTON. Mr. President, that is exactly what I tried to do. I did my level best. I talked with the Senator from Wyoming (Mr. MCGEE) last year. I talked with my friend the Senator from Hawaii (Mr. FONG), and urged and begged that the Committee on Post Office and Civil Service do one thing, which would not raise anyone's salary one plugged nickel. I urged that they give us a bill that would permit—making it optional—those people on our staffs and downtown who had their salaries frozen, I repeat at their option, to pay out of their own pockets, from what they are now getting, toward their retirement the amount of money that they would be paying toward their retirement had they been allowed to receive the increases that those lower down on the echelon received, and in that way they would not be facing hardship when the time comes to retire after years of faithful service.

I am retiring from the Senate, as everyone knows, next January, and there are people on my staff who have been with me for 25 years, and they have had their salaries frozen for the last several years. If, for 1 year, if only dating back to January 1, the Post Office and Civil Service Committee—if this bill fails, as it is expected that it will—would only permit them at their option to reach into their own pockets on their present salaries and pay out toward their retirement the amount they would have paid had they received their raises, I believe that would be one thing we could do which would be just.

Mr. DOMINICK. I think the Senator from New Hampshire has a good thought there.

Mr. COTTON. Both Senators MCGEE and FONG listened to me with sympathy but did not say why it could not be done. I suspect they felt that if it were done before we acted on this thing today, it might militate against increasing the salaries. I appeal to them and I appeal to the Senate that after we dispose of this, particularly if it fails and the raise does not go through, at least we make my proposal retroactive to last January.

Mr. DOMINICK. I would be happy to support the Senator.

Mr. CHURCH. Mr. President, I think we had better determine how the time is being allocated in this colloquy that involves both sides of the question.

The PRESIDING OFFICER (Mr. MCCLURE). All this time has been charged to the Senator from Idaho who yielded the time to——

Mr. CHURCH. I yielded to the Senator from Colorado. I just think, for purposes of such a general colloquy and debate, we should ask that the time be equally divided between both sides.

The PRESIDING OFFICER. All time up until the present has been charged against the time of the Senator from Idaho.

Mr. CHURCH. I then ask unanimous consent, in view of the general debate which is now developing, on which positions are being taken on either side of the issue, that the time be divided equally between both sides.

Mr. FONG. Mr. President, I have only a few minutes left. I object.

The PRESIDING OFFICER. Objection is heard.

Who yields time?

Mr. MAGNUSON. Mr. President, will someone yield me 1 minute?

Mr. CHURCH. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mr. MAGNUSON. Mr. President, I would say to the Senator from Colorado, whose opinion I respect on these matters, that what we are talking about here, with Congress, is somewhat different than on the other salaries.

Mr. DOMINICK. That is correct.

Mr. MAGNUSON. The judges and the others are people who are here—grades 18, 19, whatever they are—who have permanent residences here, but Members of Congress have to maintain not only a residence in the Washington area but also in their own State or they cannot qualify to be a Member. So we are a little different.

What we really need more than a salary raise is some expense deduction, such as an ordinary businessman would take who has to go to his place of business. We work here 10 and 11 months of the year, we all know that. It seems to me that is the approach we should take, because it means that not only do we have to take care of our families back home but we also have to keep going back and forth from our States. So this is what we should do, instead of raising our salaries,

which does not mean too much, but this would.

I would, therefore, hope that the committee would consider that point sometime. We have that one deduction now that was knocked down—it is antique. Members cannot do that. So we are a little different from the average person who has a permanent home.

This is what I think Members of Congress would rather have than a salary increase.

Mr. DOMINICK. The Senator is right.

Mr. MAGNUSON. We would not gain anything by it. But we have got to have a residence in our State or we cannot qualify to be a Member of the Senate.

Mr. DOMINICK. The Senator is correct.

Mr. MAGNUSON. I believe that would be a better approach and more equitable.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HART. Mr. President, will the Senator from Hawaii yield me a couple of minutes?

Mr. FONG. I yield 3 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 minutes.

Mr. HART. Mr. President, the circumstances of each of us are different. For some it is possible to say that the few thousand dollars involved mean nothing. Perhaps that can be said for most of us. It is true that the timing is bad any time—and surely it is now. But I think there is a principle we are seeking to protect here which is worthwhile. There is no conflict of interest so gross, so outrageous, as men and women in Congress sitting around deciding how much they shall pay each other.

After 170 or 180 years of doing that, we decided—and I think wisely—to seek to reduce to the minimum the appearance of a conflict of interest by creating this commission, provided we can reject or modify their recommendations. That commission tells the President that we should not have, in a sense, a pay raise but that we should have a cost-of-living factor equivalent to the increase in the index since 1969—about 30 percent, or 25 percent—whatever it is. The President then says, well, we should dilute a little further the 7.5 percent for each of the 3 years.

Unless we want to get back to the business of sitting around telling each other what we will pay ourselves every few years, I would hope that we would support the concept established in 1967–1969—whenever it was—and ratify the opinion of that commission which, by a substantial majority, spoke to us in that fashion.

I agree with the Senator from New Hampshire (Mr. COTTON) that no one ever ran for the Senate because of the salary involved.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. HART. Mr. President, may I have 1 more minute?

Mr. FONG. One-half minute.

The PRESIDING OFFICER. The Senator from Michigan is recognized for one-half minute. [Laughter.]

Mr. HART. The quality of our performance would be vastly improved. I suggest that the confidence vested in us would be a little more solid than the circumstances of some of us being in conflict because of having to go out and make speeches for money, or to get money elsewhere.

We have been lectured that Congress is atrophying, that we are giving in to the White House, and not resisting their pressures on us; but in this case, we are doing this to ourselves. We cannot blame this on the White House. This is atrophy self-inflicted.

Mr. DOLE. Mr. President, will the Senator from Idaho yield?

Mr. CHURCH. I yield 3 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 3 minutes.

Mr. DOLE. Mr. President, first, I commend the Senator from Wyoming (Mr. MCGEE) and the Senator from Hawaii (Mr. FONG) for their efforts in trying to work out a compromise.

It has been said that the difficulty with pay raises in the Senate is that one-third of its Senators are millionaires, one-third are statesmen, and the other third are cowards.

I am not certain what the answer is, but I know that that last third changes as we near election time. There are 33 Senators running this year.

I find it difficult to agree with the Senator from Colorado who said that we should not vote for a pay increase during our term of office. That would never be possible in the Senate because the Senate is a continuing body and we would never have a pay raise if that were the case.

There is no doubt in my mind that this boils down for many of us to being straight politics; that is, is it our political interest to vote for or against pay raise.

I understand the realities of voting on a pay raise. In the 13 years I have been a Member of the House and Senate I know what it has meant so far as a Member is concerned.

I agree with the Senator from Michigan. I think it is a very difficult thing for some to do. There are some of us who are not in the first category of being wealthy and who supplement our income by making speeches, and we are criticized for doing so. There are others who do not need to do anything. There are probably others who consider the pay raise a sort of nuisance, something they have to take care of and send on to the bank. In any event, it never seems to be an appropriate time to increase the pay.

AGAINST PAY RAISE FOR CONGRESS

Mr. President, let me say at the outset that I am against raising congressional salaries as proposed by the President's budget recommendation. And furthermore, I am against giving these raises to high-level civil servants, Cabinet officers and the Federal judiciary.

I have sponsored legislation to deny these 22½ percent increases, and as a member of the Post Office and Civil Service Committee, I voted against modifying or softening the full prohibition on any of these raises taking effect.

VITAL ECONOMIC ISSUES

Economic matters—the so-called pocketbook issues—are the most important domestic concerns for the American people today. Inflation, the cost of living, food prices, the frustrations of the stock market—these are the areas most prominent in the minds of the American people.

Every day some major economic event seems to be in the headlines. It may be the announcement of new Government economic indicators, higher interest rates, a fluctuation the price of gold, or any number of possibilities.

There are, of course, many factors involved in shaping the present economic climate and determining future developments. But one item in particular is recognized by a great number of ordinary people, who are not economists or financial analysts. They realize that leadership and the example set by those in responsibility in Government are important elements in building the strength of our economy and inspiring confidence in the people.

GOVERNMENT SPENDING

One of the great concerns is Government spending. When such a sizable share of the average working man or woman's hard-earned pay is taken to support Government, it is no wonder that there is great concern for wasteful spending, unnecessary programs, and duplication of efforts which have too often come to light. In the people's mind the spending policies of Government are probably the most important influences in determining the economic health of the country. While not the only factor at work, many feel that Federal spending is the prime force in deciding whether we will have a stable, growing economy in which the great majority can expect to prosper and find security, or whether we will have a widely fluctuating—boom-and-bust inflation and recession—economy in which no one's income or savings are safe and secure. They look for and expect Uncle Sam to lead the way by setting his own house in order.

DIFFICULT CONDITIONS

At the present time the country is facing difficult economic conditions. The energy crisis threatens to throw our balance-of-payments account seriously out of balance, and changing relationships with Europe, Japan, and other trading blocs have written a new set of ground rules for America's role in the world marketplace.

TIME FOR SACRIFICE

In the course of efforts to control inflation, major sacrifice have been called for on the part of every sector of the economy. Workers have been told to restrain their bargaining for wage increases. Manufacturers have been required to curtail price increases. Farmers have had ceilings imposed on their prices. These requirements have not been easy or enjoyable for those affected by them. But the American people are a great people who have always been willing to make sacrifices when the need arose to serve the country's basic interest.

At home inflation continues to be a major force with the cost of living having gone up a full 1 percent in January alone.

Clearly no one considers for a moment that the lid is off, and that we can now afford to go on a rampage of wage and price boosts to make up for lost time. Such an attitude is dangerous and exactly the opposite of the mood which must be maintained if inflation is to be controlled.

Unfortunately, the Congress appears determined to pursue such a course—but not on a abstract basis concerning some broad policy affecting, say, business, farmers, or labor. Rather, Congress has before it a question of whether it and other officials at high levels of the Government are going to set an example of sacrifice, restraint, and responsibility—or tell the American people, "You bite the bullet, but we are going to take care of ourselves with a nice fat raise."

PERSPECTIVE IN CONGRESSIONAL SALARIES

Now, as one who has served in the House and Senate for more than 13 years, I have developed my own opinions about the salary levels for Members of Congress. And I believe there is a need to provide a high enough pay for congressional service to make it a career which persons of modest or limited means can afford to take up. Independent sources of income should never be set as a requirement for seeking or serving in Federal elective office.

And the same principle applies to top level officials in the executive branch and in the civil service and in our courts. We should also recognize that—fairly or not—congressional salaries act as lid upon the Federal pay structure. So, when the pressure builds up for higher salaries for the employees covered by the civil service structure—especially at the higher levels—Congress gets put in a very tight spot. There is never a "good" time to raise congressional salaries—that is a political fact of life. But there are valid reasons to do so, both in the interest of making public service in all three branches of Government reasonably rewarding for those who must support themselves and their families.

WRONG TIME

But as the saying goes, there is a time and a place for everything, and now—in the middle of the fight against inflation—is no time to hand out salary increases throughout the highest levels of the Government.

In my view, Congress should receive pay increases by appropriate amounts and at appropriate times, but in all fairness I do not feel we should have these increases at a time when millions upon millions of Americans are being told to practice restraint and pitch in to control the economy.

EXECUTIVE AND JUDICIAL SALARIES

In considering appeals to withhold congressional pay raises but allow them for everyone else, I was not persuaded that such a step was particularly wise, necessary or appropriate. In looking at the $36,000 ceiling imposed on certain high civil service grades by the present pay scales, I am moved to observe that many Kansans would be pleased and enthusiastic to serve in Government at that salary.

Granted, those who would benefit from these increases are subject to the same inflationary pressures which affect everyone. But because of their high positions in the civil service and in the top levels of the administration, they bear a major portion of the responsibility for Government policy decisions—particularly the control of spending and elimination of wasteful practices—and they should not be insulated from the impact of inflation.

Likewise, in considering the request of Chief Justice Burger that the salaries of Federal judges be raised, because of the threat that many judges might leave the bench for financial reasons, I have not noticed a great exodus from the lifetime salary and prestige of a Federal judgeship. Nor has there been—in Kansas at least—any shortage of qualified candidates for vacancies which arise on the bench.

LEADERSHIP FROM CONGRESS

Mr. President, I believe the American people are looking to Congress—and in the most critical way—for leadership on this issue.

As we all know the legislative branch is currently held in very low esteem by the people. In fact the Senators and Congressmen rate below the President in terms of public confidence in the job they are doing. These feelings are manifested in many ways—through surveys, in visits with constituents and at the ballot box. But the questions of congressional salaries and pay raises come up again and again in the discussion of various important issues.

As just one example I would call my colleagues' attention to an editorial which appeared recently in a small but very old and respected Kansas newspaper, the Caney Chronicle. It focuses particularly on the Senate, but in terms of the leadership and example set on issues of salary and fiscal responsibility, it expresses a broad concern which relates to the entire Congress. I ask unanimous consent that this editorial be printed in the RECORD at this point.

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

LOOK WHO'S TALKING

Watching televised reports of the oil company hearings in recent days makes the timbers beneath the Caney Chronicle quiver with disgust.

The hearings consist of a facedown between a panel of the nation's top U.S. Senators versus a handful of the nation's leading oil company executives.

The senators, in their pious roles, stare fervently at the successful businessmen.

"Now, we're going to make sure you don't make windfall profits," they tell them. "What you need to do is lay off a few people, cut back on your extravagance and make ends meet with a lot less profit."

Senator after senator takes his turn at cracking the whip in the arena of the most successful businessman in America.

The cameras whirr and by Cronkite time tonight, the nation will be fed this slop of the electronic media.

None of the TV networks date back much farther than 1940. The Chronicle has been here since 1885.

Since we've had a few more years to observe, here are our comments to the camera-happy senators who are doing the questioning:

"You're looking down your noses at the most successful of America's business executives. Take a good look, because they represent the inner fiber of our nation.

They're no different from the small town merchant, the Kansas farmer, the insurance man, the barber or the TV repairman.

They use good management techniques, hire expert workers, make fine products, maintain good profits . . . and balance their books.

They're successful.

Now let's take an honest look at you, gentleman:

You were hired by the American people to run a business, too. And it may be "hokey" to say, but, you've made a dandy mess of the things in your job.

You've raised your own wages by 400 percent in the past fifteen years. You've consistently overspent your budget. You've hired incompetent people, you've overstaffed every government building in the nation. You ridicule your company's top management. You refuse to cooperate with the other departments in your company. You devalue your product at every opportunity.

At times, gentlemen, you've given encouragement to your chief competitor.

Perhaps we're wrong, but it seems that you could take some lessons from those "profit-hungry tycoons who cheat the American people."

If someone should be lining up a panel of men to use as a verbal shooting gallery, it should be the businessman of America. . . . and you, gentlemen, should answer the questions.

If we had a choice of hiring a U.S. Senator or an oil company executive to run our business . . . I'm afraid it wouldn't be much of a choice. It would be the oil executive. Their record is just a tad better.

Get your own house in order, gentlemen, then come back to the hearing and take some notes while the oil men do the talking.

Mr. DOLE. This message of "Get Your Own House in Order" touches a very deep and responsive chord with the American people as they observe and evaluate and I know of no more important or ready opportunity to demonstrate an attitude that we are attempting to do so than by turning down these raises—for ourselves and others in positions of high authority and responsibility.

The PRESIDING OFFICER. Who yield time?

Mr. CHURCH. Mr. President, I yield 2 minutes to the distinguished Senator from Alabama.

Mr. ALLEN. I thank the distinguished Senator from Idaho for yielding to me.

Mr. President, I first became a member of any legislative body in 1939, as a member of the Alabama legislature, and served for a number of years in that capacity and in the State Senate, and now in the U.S. Senate, and I have never yet voted for a salary raise for myself.

I feel that at this time, in these critical times, with inflationary forces at work as they are, with Congress supposedly setting the tone for high level public service, it is unseemly and unbecoming for the Senate to devote 1, 2, or 3 days, as the case might be, to the matter before us.

I hope that we will vote in very rapid order on all the amendments pending

before the Senate. I hope that in the final analysis, the raise that is being recommended for all categories—for Members of Congress, for the Cabinet, and for the Federal judiciary—will be denied, and I will vote in that fashion.

Mr. FONG. Mr. President, I ask unanimous consent that Clyde DuPont, Mrs. Alyce Thompson, and Kitty Simonds have the privilege of the floor during the debate on this matter.

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

Mr. FONG. I yield 2 minutes to the distinguished Senator from Alaska.

Mr. STEVENS. That is not a lot of time to start the filibuster I have been reading about.

Mr. President, I think Senators should recall what happened last year, when the Senator from Alabama offered his resolution which would have instructed the Pay Commission that we wanted no pay increase. The net result of that debate at that time was that the Senate went on record that the pay increase should not exceed the Federal pay guidelines.

I support the action of the Senator from Hawaii. If that fails, I support the action of the Senator from Wyoming. In any event, I intend to oppose the resolution which would completely disapprove the action of the Pay Commission.

In the time available, let me read this from the GAO report:

> Between 1970 and 1972, supergrade retirements increased from 264 to 380, a rise of about 44 percent. Further, during the first 8 months of 1973, another 379 supergrades retired. If retirements during the last 4 months of the year were at the same rate as during the first 8 months, we estimate that a total of about 570 supergrades retired during 1973, or more than twice the number of 1970.

The point is that we are losing middle management in Government. We are trying to maintain pay schedules for the judiciary which will not attract those competent, bright, young people who are in the legal profession from their profession at a time when they should go on the bench.

What is more, we are refusing to face up to the question of what is adequate compensation for Congress. I do not feel that that decision should be made on the basis of political expediency, and that is really what is wrong with Congress today. When I first came to the Senate in 1969, as an appointed Senator, one of the first things I had to face was the question of the pay raise. At that time, my colleagues told me—

> "You don't have much chance coming back here, anyway, so you had better vote against the pay raise. If you vote for it, that will assure that you won't come back.

I voted for the pay raise then and went home and told my people why I did.

I believe this should not be a millionaire's club; and unless we keep the pay equivalent at least to the rate of inflation, that is what it will become.

Mr. FONG. Mr. President, I yield 1 minute to the senior Senator from Wyoming.

Mr. McGEE. Mr. President, I am not going to rehash what has been gone over all day and for several days. I want to look around this Chamber at the empty chairs and make a mental note of whose chairs they are, and I want to look at the desks that are occupied, and say again to this body that a majority of this body has come up to the leadership on this committee and said, "Hang in there." They have said, "Of course, you're right. This is what ought to be done, but I just can't afford to vote with you this time."

There is a critical issue that is measuring this body. When are we going to stand up and be counted? A consensus approves the wisdom, the equity, as laid out by my distinguished colleague on the committee. Yet, there is a timidity and a forfeiting of Senate stature, in truth, in violation of the integrity, because they are afraid to vote the way they whisper.

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. FONG. Mr. President, I ask unanimous consent that Mr. Charles Bruss have the privilege of the floor.

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

Mr. FONG. I yield myself whatever time I may require.

The distinguished Senator from Colorado has said that we should set an example for the country of no pay. We have already set an example, Mr. President. We have set an example for 5 years of no pay for Congress, no pay for our top echelon employees; and what has happened in the country? The military received an 80-percent increase in the 5 years during which we have said we will set an example. The Government employees have received 42 percent, and the entire private sector has received approximately 30 percent. This is how they are following us.

What kind of example are we setting? Does the Senator from Colorado mean that if we set an example, Mr. Meany is not going to ask for an increase in the next 4 years for his people? He is asking for a 10-percent increase this year.

How are we going to set an example? Whether we set an example or not, they are not going to follow that example, because they are now asking for a cost-of-living increase, saying that the cost of living has increased by that amount and they want it.

Are we going to tell the 88 million working people in America for the next 4 years that they should follow our example and have no increase, even if the cost of living goes up 6 percent a year and it will cost them 24 percent in the erosion of their purchasing power?

Mr. President, the distinguished Senator from Colorado says, "Change the law, and there will be no compression." I do not see why we must change the law. Is he against the principle of comparability?

The distinguished Senator from Idaho says that he is for the principle of comparability. If we are going to have the principle of comparability, we are going to have this compression problem, because of the $36,000 ceiling.

Now, we have taken care of the statutory employees by this principle of comparability. We have taken care of the blue collar workers. Every year a survey is made in 39 different geographical areas and they are paid comparable wages automatically.

Now, if we are going to have comparable salaries then certainly our salaries should also increase.

Answering the distinguished Senator from Idaho who said that by giving this $34 million increase to the top echelon Government employees we are going to raise the lid and everybody will go up automatically, that is absurd. Everybody in the statutory system is governed by a system of comparability. The salaries of lower ranked employees will go up whether we lift the lid or not on the present $36,000 a year ceiling. The lid will stay there. It is below grades 15, 16, 17, and 18 that comparability is still in effect. However, probably very soon, we will have every one up in the GS–14, GS–15, GS–16, GS–17, and GS–18 pay category.

Mr. President, by lifting the ceiling of $36,000 we do not invite a lifting of all salaries of employees. Those salaries will be governed by the principle of comparability. I do not see how we can change the law because I do not see what other principle could be followed except to say that the 5 million people in Government should follow the 80 million people in the private sector.

The Senator from Colorado said we were responsible greatly for the inflation. Are we responsible for the inflation in Germany? Are we responsible for the inflation in Japan? Are we responsible for the inflation in England? Inflation was brought about last year because there was a drought and there were storms, and supplies and minerals became scarce throughout the world. There was general inflation all over the world. Although our percentage of inflation was high. We witnessed the lowest inflation rate of all industrialized countries, in the world.

In asking my colleagues to vote for my amendment, I urge them to consider that salaries of Federal white collar workers have gone up 43 percent in the past 5 years; that 3 million military personnel salaries have gone up 80.4 percent in the last 5 years; I ask them to consider that blue collar workers earnings have gone up 45 percent in the past 5 years; and I ask them to consider that three levels in our Government, and if we do not do anything now, six levels in our Government will be paid the same pay; that is, the top echelons, grades 14 through 18. In terms of pay we will not know who is boss No. 1, boss No. 2, boss No. 3, boss No. 4, or boss No. 5.

I ask the Senators to consider that 10,000 General Schedule employees are now drawing the same pay and by 1978, if we do not do anything, 28,000 Government employees will be drawing the same amount of pay even though their duties and responsibilities are different.

I ask the Senators also to consider that the morale of Government employees is at a very low point and that the compression problem is working havoc on them. We have not provided equal pay for equal work and higher pay for higher responsibility.

What kind of pay schedule will we

have if we have people with different degrees of responsibilities drawing the same pay? The appeal of promotion to supergrade positions is declining. Let us face up to the fact that the Federal Government is losing its top echelon executives and losing hundreds of supergrade employees. Let us face up to the fact that it is better for them to retire, that it is more attractive for them to retire, than to stay. They can get more money if they retire today, and get cost-of-living benefits and perhaps another job in private industry.

Many employees are quitting and why should they not quit? They would be foolish if they did not.

The Federal Government is competing with the private sector for these employees and the private sector pays much higher salaries.

Let us face up to the fact that for the past 5 years the purchasing power of our employees has eroded 30 percent.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FONG. I thank the Chair. I ask Senators to vote for my amendment.

Mr. CHURCH. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. DOMINICK. Mr. President, would the Senator yield to me for 1 minute?

Mr. CHURCH. I am happy to yield to the Senator from Colorado.

Mr. DOMINICK. Mr. President, I have been listening to the argument by the distinguished Senator from Hawaii. We should keep in mind that the average per capita income in the United States is about $5,000. The median family income is about $12,000. It is estimated that the number of Americans earning $36,000 a year is extremely small, probably only 1 percent or 2 percent of all the people employed in the United States. I would say that I do not really feel too sorry about it, but even if there is a compression factor, and I am sure there is, it can be changed by amending the acts which are within the jurisdiction of the Committee on Post Office and Civil Service.

I thank the Senator from Idaho for yielding.

Mr. CHURCH. Mr. President, whatever else can be said on the merits or demerits of a pay increase for the top level echelon of Government employees, this is not the time to enact it.

At the moment public confidence in the Government is at an all-time low. What we need to do now in Congress is set an example of restraint. If the word goes out from here in the next few days that we cannot restrain ourselves when it comes to increasing our own pay, then the public will have no basis for any confidence whatever that Congress is prepared to deal with the broader question of controlling Federal spending, limiting Federal deficits, or coping with the most serious inflation to strike this country in a quarter century.

This is the time to set the proper example for the country as a whole, and to turn down any increased pay until we have earned it.

Mr. President, once we have dealt effectively with the problems that beset people, brought inflation under control, balanced the deficit and shown the capacity to cope with the many shortages that now plague the society, then the people would not begrudge us an increase in pay. Until then, I think we should vote it down.

Mr. HRUSKA. Mr. President, I rise in support of the original resolution reported out of the Post Office and Civil Service Commission on February 26, 1974, pertaining to President Nixon's salary increase recommendations. This resolution would serve the same purpose as the resolution I introduced (S. Res. 272) on February 4; that is, to disapprove the President's recommendation for congressional salary increases.

The resolution reported from the Post Office Committee which we are now considering differs from Senate Resolution 276 introduced by my colleague from Colorado (Mr. DOMINICK). Senate Resolution 276 would totally disapprove the President's recommendation.

The Postal Revenue and Federal Salary Act of 1967 (P.L. 80–206), provides that the President's recommendations become effective 30 days following transmittal of the budget, unless in the meantime other rates have been enacted into law or at least one House of the Congress has enacted legislation which specifically disapproves all or any part of the recommendations.

Mr. President, I will not dwell on the fact that an increase in congressional salaries at this time is not in the public interest. It can be argued that an increase which would cost $27 million the first year would not be inflationary in a budget that exceeds $300 billion.

That argument, I submit, misses the point. The point is that at a time when all of us must do all we can to stem inflation, for the Congress to acquiesce in an increase in its own pay would be an abdication of leadership.

We have quite a different problem, however, in our resopnsibility to maintain a high degree of quality and competence in the Federal judicial system.

Each Member of the Senate knows that while salaries in the private sector as well as in other areas of the Government has risen by more than 30 percent since 1969 when judicial salaries were last adjusted, there has been no increase at all for Federal judges. The result has been that it has become increasingly difficult to attract, and in some cases to keep, qualified men and women on the Federal bench.

If the Congress now denies an increase, it will be saying to the Federal bench that we have turned our backs on them for another 4 years since the statute establishes quadrennial review of such salaries.

The result, I fear, will pose a serious threat to the quality and continuity of our judicial system.

It is well known that lawyers of the skill and experience we want on the Federal bench can command income far in excess of the current judicial salaries. If we keep the salaries at their present level, we can anticipate a reduction in the quality of our judges.

It is as simple as this, Mr. President: We will get what we pay for.

The annual additional cost of the proposed increases for the judicial branch would be $4 million. I reject the idea that we cannot afford that figure. Indeed, I suggest that we can ill afford not to approve the increase.

A similar situation exists in the higher grades of the executive branch. Because the Congress has approved annual increases for the lower grades while maintaining a ceiling on the higher grades we have created a situation where the salaries are virtually the same for a senior GS–15 and a Presidential level V.

Thus, while there are vast differences in responsibility and ability, we are paying each the same salary. Such a system is pure folly. It destroys initiative and blurs responsibility.

There are those, of course, who argue that bureaucrats should not be paid more than the Members of this Congress. That seems to me shallow reasoning.

We, the Congress, by our own action, have created a most difficult administrative situation by freezing the higher salaries at the 1969 level while allowing the lower grade salaries that have kept pace with the increased cost of living. That same cost of living has increased for the senior grades as well. Have we the right to demand greater sacrifices for them?

As with the judicial branch, we risk the loss of talented, dedicated men and women whose responsibilities to their families must be weighed when they consider private employment with more attractive salaries.

Mr. President, I urge acceptance of the original resolution reported out of the Post Office and Civil Service Committee.

Mr. MATHIAS. Mr. President, the Congress long ago established the policy that Federal salaries should be comparable to those paid by private employers. The reason for this policy is clear—the people suffer if they are denied the best public servants because of substandard salaries. The Commission on Salaries has recommended that certain salaries be raised so they are consistent with the principle of comparability. I support the Commission's recommendations, as they have been forwarded to us by the President—with one exception. That single exception is that I do not believe that the pay of Representatives and Senators should be raised at this time. My votes on the resolution before us will be consistent with this policy.

The PRESIDING OFFICER. The Senator's time has expired. The question is on agreeing to the amendment of the Senator from Hawaii to the amendment of the Senator from Wyoming.

Mr. FONG. I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr.

EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) is absent on official business.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent because of death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Carolina (Mr. THURMOND) is absent on official business.

I further announce that the Senator from New York (Mr. JAVITS), the Senator from New York (Mr. BUCKLEY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 17, nays 71, as follows:

[No. 47 Leg.]

YEAS—17

Beall	Griffin	Pearson
Bennett	Hart	Scott, Hugh
Brock	Huddleston	Scott, William L.
Brooke	Kennedy	Stennis
Cotton	McClure	Stevens
Fong	McGee	

NAYS—71

Abourezk	Eagleton	Mondale
Aiken	Ervin	Montoya
Allen	Fannin	Moss
Baker	Fulbright	Muskie
Bartlett	Goldwater	Nelson
Bayh	Gurney	Nunn
Bellmon	Hansen	Packwood
Bible	Haskell	Pastore
Biden	Hatfield	Pell
Burdick	Hathaway	Percy
Byrd, Harry F., Jr.	Helms	Proxmire
Byrd, Robert C.	Hruska	Randolph
Cannon	Humphrey	Ribicoff
Case	Jackson	Roth
Chiles	Johnston	Schweiker
Church	Long	Stafford
Clark	Magnuson	Stevenson
Cook	Mansfield	Symington
Cranston	Mathias	Taft
Curtis	McClellan	Talmadge
Dole	McGovern	Tower
Domenici	McIntyre	Tunney
Dominick	Metcalf	Williams
	Metzenbaum	Young

NOT VOTING—12

Bentsen	Hartke	Javits
Buckley	Hollings	Sparkman
Eastland	Hughes	Thurmond
Gravel	Inouye	Weicker

So Mr. FONG's amendment to Mr. McGEE's amendment was rejected.

Mr. McGEE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Wyoming will state it.

Mr. McGEE. Have the yeas and nays been ordered on the next amendment?

The PRESIDING OFFICER. They have not.

Mr. McGEE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wyoming (Mr. McGEE). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Mississippi (Mr. EASTLAND), the Senator from Alaska (Mr. GRAVEL), the Senator from Indiana (Mr. HARTKE), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), and the Senator from Alabama (Mr. SPARKMAN) are necessarily absent.

I further announce that the Senator from Texas (Mr. BENTSEN) is absent on official business.

I also announce that the Senator from Hawaii (Mr. INOUYE) is absent because of a death in the family.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from South Carolina (Mr. THURMOND) is absent on official business.

I further announce that the Senator from New York (Mr. JAVITS), the Senator from New York (Mr. BUCKLEY), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Carolina (Mr. THURMOND) would vote "nay."

The result was announced—yeas 26, nays 62, as follows:

[No. 48 Leg.]

YEAS—26

Beall	Hart	Pastore
Bennett	Haskell	Pell
Bible	Huddleston	Percy
Brock	Johnston	Scott, Hugh
Brooke	Kennedy	Scott, William L.
Cannon	McClure	Stevens
Case	McGee	Tower
Cotton	Metcalf	Williams
Fong	Moss	

NAYS—62

Abourezk	Eagleton	Metzenbaum
Aiken	Ervin	Mondale
Allen	Fannin	Montoya
Baker	Fulbright	Muskie
Bartlett	Goldwater	Nelson
Bayh	Griffin	Nunn
Bellmon	Gurney	Packwood
Biden	Hansen	Pearson
Burdick	Hatfield	Proxmire
Byrd, Harry F., Jr.	Hathaway	Randolph
Byrd, Robert C.	Helms	Ribicoff
Chiles	Hruska	Roth
Church	Humphrey	Schweiker
Clark	Jackson	Stafford
Cook	Long	Stennis
Cranston	Magnuson	Stevenson
Curtis	Mansfield	Symington
Dole	Mathias	Taft
Domenici	McClellan	Talmadge
Dominick	McGovern	Tunney
	McIntyre	Young

NOT VOTING—12

Bentsen	Hartke	Javits
Buckley	Hollings	Sparkman
Eastland	Hughes	Thurmond
Gravel	Inouye	Weicker

So Mr. McGEE's amendment was rejected.

Mr. RANDOLPH. Mr. President, it is a privilege to join in cosponsoring the proposal of the Senator from Idaho (Mr. CHURCH) to disapprove all recommendations for salary increases. Additionally, I wish the record to reflect that I was added as a cosponsor of Senator CHURCH's original resolution, Senate Resolution 271, on February 6.

There might be a reason why I now want to discuss the issue of pay raises in more detail tomorrow. At present, however, it is my purpose only to restate my opposition to salary increases for the categories that we are considering in this bill which was reported to the Senate over the rollcall objections of Senators BURDICK, DOLE, and RANDOLPH.

Further, Mr. President, I ask unanimous consent that the following material be printed in the RECORD:

Page 7 of the report which gives the rollcall vote in the committee.

My supplemental views in the report, as contained on page 9.

The statement which I issued to my constituency in West Virginia on February 7, 1974.

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

THE COMMITTEE VOTE

The Committee's first vote was on an amendment sponsored by Senator Fong to a motion by Senator Jennings Randolph, to disapprove the Presidential recommendations entirely. Fong's first amendment proposed that Senators and Congressmen forego raises until 1975. The Committee vote on the amendment was: Yea—Senators Moss, Fong, Stevens and McGee. Nay—Senators Randolph, Burdick, Hollings, Bellmon and Dole.

The second amendment, also by Senator Fong, proposed to delay all scheduled executive, legislative and judicial salary increases until 1975. The Committee vote on the amendment was: Yea—Senators Moss, Fong, Stevens and McGee. Nay—Senators Randolph, Burdick, Hollings, Bellmon and Dole.

The vote on the successful Fong amendment, disapproving only Congressional pay raises for the full term of the recommendation was: Yea—Senators Moss, Hollings, Fong, Stevens, Bellmon and McGee. Nay—Senators Randolph, Burdick, and Dole.

The final vote to report the resolution was: Yea—Senators Moss, Hollings, Fong, Stevens, Bellmon and McGee. Nay—Senators Randolph, Burdick and Dole.

SUPPLEMENTAL VIEWS OF SENATOR RANDOLPH

To insure that my votes on Senate Resolution 293 are clearly understood, I reiterate my earnest opposition to pay increases for Members of Congress, Judges, and top officials of the Executive Branch, including the military, as proposed in the President's budget.

It is my conviction that this is not a time for Members of Congress and officials of Government who have leadership responsibilities of our Nation to receive pay raises. Foremost among this country's problems is the state of our economy. Citizens generally are confronted with an unusually acute inflationary spiral and in most instances they have not been able to cope with the skyrocketing increases in the cost of living. Until we reverse this situation, the salaries encompassed in the President's proposal should remain at present levels.

One approach to the issue of salary increases would be to combine a resolution of disapproval with legislation which would enable the Congress to consider this issue in 1975. This could be done through a simple amendment to the Federal Salary Act, P.L. 90–206, requiring the President to resubmit next year his recommendations on any part disapproved by the Congress and specifying that any recommendations disapproved in a given year shall be reconsidered by the Congress in the succeeding year. I suggested this approach but it was evident from the discussion in our committee that there was little sentiment for this course of action.

I then moved the adoption of S. Resolu-

tion 271 introduced by Senator Church, with my cosponsorship, to disapprove the entire salary proposal. My motion was subsequently amended and thus no direct vote was taken on it.

Votes listed in this report reflect my opposition to salary increases now.

I am in favor of disapproving Congressional pay raises. I am also opposed to pay increases for all others in high level positions in Government which Senate Resolution 293 would allow.

Raises at this time would have disastrous impact on the will of our citizenry to sacrifice in this time of crisis. It is my considered judgment that salary increases in 1974 would cause a further erosion of the people's confidence in our national legislative body. I do not advocate retreat. I plead for restraint.

JENNINGS RANDOLPH.

SENATOR RANDOLPH OPPOSES SALARY INCREASE

I am opposed to pay raises for Members of Congress, Judges, and top officials of the Executive Branch, as proposed in the President's budget. It is my feeling that this is not a time for Members of Congress and officials of Government who are attempting to help resolve the problems of our economy, to receive pay raises. Citizens generally are confronted with an unusually acute inflationary spiral and in most instances they have not been able to cope with the substantial increases in the cost of living. Until we reverse this situation, the salaries encompassed in the President's proposal should remain at present levels.

I am cosponsoring a resolution to disapprove in full the proposed pay plan. That resolution has been referred to the Committee on Post Office and Civil Service, on which I serve, and I shall actively work to secure its approval.

It should be noted that the President's proposals are based on the report of the Commission on Executive, Legislative and Judicial Salaries—established by the Federal Salary Act of 1967. Under the 1967 Act, it is the responsibility of the Commission to study and review the status of salary levels of top officials in the Executive Branch; Members of Congress; justices, judges and personnel of the Judicial Branch and report its findings to the President. The President then submits his proposals to Congress.

The Federal Salary Act requires that any recommendations of the President on salary increases be included in his budget to the Congress. The budget, of course, has to be acted on by the Congress. Additionally, under this Act, Presidential recommendations do not become effective if either House of Congress disapproves the President's proposals within 30 calendar days after receipt of the proposals. The Congress can disapprove the proposals in part or in full. This would have to be done by March 9.

AMENDMENT NO. 991

Mr. CHURCH. Mr. President, in accordance with the unanimous-consent agreement, I call up amendment No. 991, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

Strike out all after *"Resolved,"* and insert in lieu thereof the following: "That the Senate disapproves all the recommendations of the President with respect to rates of pay transmitted to the Congress in the budget for the fiscal year 1975 pursuant to section 225(h) of the Federal Salary Act of 1967.".

Mr. GRIFFIN. Mr. President, will the Senator from Idaho yield briefly?

The PRESIDING OFFICER. The Senate will be in order. Senators will suspend until the Senate is in order.

The Senator from Idaho may proceed.

Mr. CHURCH. Mr. President, for what purpose does the Senator ask me to yield?

Mr. GRIFFIN. If the Senator will yield very briefly, I would like to ask the majority leader about the program.

Mr. CHURCH. Yes, I am happy to yield for that purpose.

Mr. MANSFIELD. Mr. President, in response to the question raised by the distinguished acting Republican leader, I would like first to ask the distinguished Senator fgrom Idaho how long he anticipates speaking today, and also the distinguished Senator from Colorado, and when and under what circumstances they expect the vote to occur on the Church-Dominick amendment now pending.

Mr. CHURCH. I would say, Mr. President, that I have no way of knowing when a vote will occur on the Church-Dominick amendment. It is in the nature of a substitute, and would reject any pay increase at this time. I do not know whether amendments will be offered to the substitute, and I do not know how long the debate will take.

I am ready to vote at any time, since I have made my case for our substitute resolution earlier in the day, and the Senator from Colorado has already spoken at length, so I believe we are prepared for a vote as soon as the Senate is willing to vote.

Mr. DOMINICK. The Senator from Idaho is correct. I am ready to vote right now.

Mr. McGEE. Mr. President, will the majority leader yield?

Mr. MANSFIELD. I yield.

Mr. McGEE. Mr. President, we have discussed this matter among the many Senators who are deeply involved on this issue. There is a group of Senators going to New York this evening, I understand, for a commitment that is already laid on.

Mr. MANSFIELD. After we adjourn.

Mr. McGEE. After we adjourn, yes. I wonder whether, out of respect for that, and because we expect another amendment or two, we could agree not to vote tonight, and see if we could work out something by tomorrow, if that is all right with the leadership.

Mr. MANSFIELD. Mr. President, I think that was the understanding, that we would not vote on the Church-Dominick amendment.

I yield to the distinguished Senator from Alaska.

Mr. STEVENS. Mr. President, I have a couple of amendments. I would like to ask unanimous consent to deliver them to the desk before the latest time the Parliamentarian will tell me I might deliver them.

Mr. GRIFFIN. Mr. President, it is my understanding that if the Senator from Alaska sends them to the desk any time before 11 o'clock Wednesday morning, it will be sufficient.

Mr. STEVENS. I expect to call them up tomorrow, and I would also advise the majority leader that I intend to seek a vote on the alternative I propose tomorrow.

Mr. MANSFIELD. Very well; that explains the situation for today. There will be no further votes this afternoon, but there will be a vote on the Church-Dominick substitute, really, tomorrow.

Senators will recall that under the unanimous consent agreement, it was agreed that we would take up the minimum wage bill tomorrow, on Tuesday, and I hope the Senator from Alaska will keep that in mind. If he wants to offer some amendments tomorrow, maybe we can work out a mutually satisfactory agreement.

Mr. McGEE. This afternoon, I thought we just settled the question of minimum wage. [Laughter.]

Mr. MANSFIELD. In a sense.

But I would hope that some time this week we would be able to take up S. 1017, the Indian education bill; also the minimum wage bill which will be the pending business tomorrow.

Later in the week we can take up, I hope, S. 3066, the omnibus housing bill; following that, hopefully, with S. 1541—though not necessarily in that order—a bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures, and so forth. Also S. 3044, a bill to amend the Federal Election Campaign Act of 1971.

So we have a full schedule for the remainder of this week, and all of next week. Thus, I would hope that Senators will stay close to the floor and be prepared for any eventuality which might arise.

I thank the Senator from Idaho very much for yielding me this time.

Mr. CHURCH. Mr. President, I have no interest in holding the floor longer. If any Senator wishes to speak at this time, I yield the floor.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 2315) relating to the compensation of employees of Senate committees, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House had agreed to, without amendment, the following concurrent resolutions of the Senate:

S. Con. Res. 55. Concurrent resolution authorizing the printing of the report of the proceedings of the forty-sixth biennial meeting of the Convention of American Instructors of the Deaf as a Senate document;

S. Con. Res. 56. Concurrent resolution authorizing the printing of additional copies of Senate hearings on the Child Abuse Prevention Act, 1973;

S. Con. Res. 58. Concurrent resolution authorizing the printing of additional copies of the Report of the Commission on the Bankruptcy Laws of the United States for the use of the Senate Committee on the Judiciary;

S. Con. Res. 59. Concurrent resolution authorizing the printing of the compilation entitled "Disclosure of Corporate Ownership" as a Senate document;

S. Con. Res. 61. Concurrent resolution authorizing the printing of additional copies of part I of the Senate committee print entitled "Confidence and Concern: Citizens View American Government—Survey of Public Attitudes"; and

S. Con. Res. 64. Concurrent resolution authorizing the printing of congressional eulogies and other tributes to the late J. Edgar Hoover as a Senate document.

WATERGATE

Mr. CURTIS. Mr. President, I wish to speak on a matter relating to the current Watergate case. It is a very serious situation when an individual states publicly that he has seen the evidence that the grand jury has taken and, with that statement, to convey the idea that someone is guilty of a crime.

That is very serious. It is most serious when an elected public official, a member of the legislative branch, makes the statement that they have seen the grand jury evidence in the Watergate case and then proceed to pronounce judgment on it.

If they have seen the evidence, then someone is responsible for a violation of law. If they have not seen the evidence, they should not make such statements.

The matter I refer to is set forth in a letter bearing the date of February 28, 1974, signed by Rabbi Baruch Korff, the general charman of the National Citizens' Committee for Fairness to the Presidency. This letter is addressed to the Honorable William Saxbe, Attorney General of the United States, and reads as follows:

FEBRUARY 28, 1974.

Hon. WILLIAM B. SAXBE,
Attorney General of the United States, Department of Justice, Washington, D.C.

DEAR GENERAL: On Monday, February 25, 1974, a seminar was conducted by U.S. Rep. Michael Harrington (D.-Mass.) for approximately 20 people at the Kennedy Institute of Politics, Cambridge, Mass. The seminar was also attended and addressed by Rep. Thomas P. O'Neill, Jr. (D.-Mass.), majority leader of the House. During his remarks Rep. O'Neill has been reported as saying that he thinks special Watergate Prosecutor Jaworski could have *indicted the President*. The following direct quotations have been attributed to O'Neill: *"From what I have seen, the evidence is very damaging."* "Rather than see the evidence made public, I think (O'Neill) the President will resign."

These direct quotations were carried by Associated Press after they were aired on WHRB radio in Cambridge, Mass. Rep. Harrington on the night of February 25 confirmed that WHRB news editor, Dan Raviv, was present at the seminar that morning and that he (Harrington) has asked that the session remain off the record.

The two direct quotations attributed to Majority Leader O'Neill at the very least strongly imply that he has either had access to and read minutes of the grand juries sitting on Watergate matters or he has discussed in detail evidence presented to these grand juries with Mr. Jaworski or informed members of the Jaworski staff. The only other possible explanation for the statements of Majority Leader O'Neill is the purely political motive of making knowingly false statements only to deny them later after the vicious thought included in the original false statements have been given wide circulation.

The source of this data is a story on page 1, column 8 of the morning edition of the Boston Globe, Tuesday, February 26, 1974, byline Stephen Wermiel of the Globe staff. In that story it is reported that O'Neill could not be reached to determine the accuracy of the quotations. The WHRB source, Dan Raviv, did not withdraw the quotations.

It is respectfully submitted that the Department of Justice consider an immediate investigation be made to determine if the facts upon which the memo is based are accurate. It would appear that it would not be difficult to determine from the Kennedy Institute of Politics who attended the seminar.

If indeed Majority Leader O'Neill made such statements, protection of the Presidency, the integrity of the separation of Congressional (O'Neill), and Judicial (Grand Juries), and Executive (the President and the Special Prosecutor) powers has been seriously violated by making available either directly or indirectly to Rep. O'Neill the evidence presented to the grand juries. Either Mr. Jaworski or the members of his staff and Rep. O'Neill should be brought before the courts at least to be reprimanded and perhaps to be more severely punished for what would be such a serious violation of the laws and rules of court if these facts are correct.

Respectfully yours,

(Rabbi) BARUCH KORFF,
General Chairman, National Citizens' Committee for Fairness to the Presidency.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 11 o'clock tomorrow morning.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that tomorrow, after the joint leadership has been recognized, there be a period of not to exceed 30 minutes for the transaction of morning business, with a time limitation of 5 minutes on each statement therein.

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 second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR CONSIDERATION TOMORROW OF S. 2747, THE FAIR LABOR STANDARDS AMENDMENT OF 1974

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, at the conclusion of routine morning business, the Senate resume consideration of S. 2747, a bill to amend the Fair Labor Standards Act of 1938.

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

EXTENSION OF TIME TO FILE REPORT ON S. 1541

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Rules and Administration have until midnight, March 6, to file its report on S. 1541, a bill to provide for the reform of congressional procedures with respect to the enactment of fiscal measures; to provide ceilings on Federal expenditures and the national debt; to create a budget committee in each House; to create a congressional office of the budget; and for other purposes.

ADJOURNMENT TO 11 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 11 a.m. tomorrow.

The motion was agreed to; and at 4:16 p.m. the Senate adjourned until tomorrow, Tuesday, March 5, 1974, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 4, 1974:

DEPARTMENT OF THE INTERIOR

Royston C. Hughes, of Maryland, to be an Assistant Secretary of the Interior, vice Laurence E. Lynn, Jr., resigned.

IN THE NAVY

The following: named officers of the Navy and of the Naval Reserve for permanent promotion to the grade of captain:

Captain

Abbott, William Benjamin, II
Adair, Frederick Semple
Adams, Robert Lee, Jr.
Aldern, Donald Deane
Alexander, Marvin Gillen
Alexich, Milton Pivar
Allen, Douglas Arnold
Allen, James Anthony
Allen, John Bishop
Altwegg, David Mattson
Ames, Fred Floyd, Jr.
Anderle, Charles Kenneth
Anderson, Forrest Prentice
Anderson, Paul Leland
Argiro, Vincent James
Arn, Robert Warren
Arnold, John Elwin
Asmus, Paul Allen
Aston, William Joseph
Avallone, Eugene Michael
Avrit, Richard Calvin
Baciocco, Albert Joseph, Jr.
Backman, Fred Myron
Badgett, John Jefferson
Baker, James Ellis, Jr.
Baker, James Gilbert
Barnes, Clifford Paul
Barnes, James Peter
Barrett, Gardner Stewart
Beck, Donald Ancell
Beech, Wayne L.
Beecher, John Dennis
Bell, Clyde Roberts
Bell, Gerald Robert

Bibby, Lowe Haydn, III
Bird, Charles Scudder
Bohannon, William Louis
Bos, Roger Charles
Bradford, Gerald Reese
Brady, Allen Colby
Brandel, William John, Jr.
Bress, Allyn Virginius
Brewer, Glenn Milton
Bridge, Daniel Thomas
Brooks, Walter Allen
Brown, Larry James
Buck, John Addison
Burkhardt, Lawrence, III
Burnett, James Andrew
Burris, Lloyd Edward
Busey, James Buchanan
Butler, Charles Arnow
Byouk, Mark Louis
Byrd, Paul Richard
Cahill, William Anthony, Jr.
Califf, Toxey Haas
Campbell, Ronald Alistair
Carlin Robert Joseph
Cassani, Henry Louis
Caswell, Frederic Chester J.
Chambers, Lawrence Clevelan
Chasse, Robert Leon
Cherrier, Herbert Alvado
Chertavian, Armen
Chewning, Robert Wills
Childers, Donald Johnson
Chisum, Oscar Clarke
Clare, James Stuart
Clausner, Edward, Jr.
Clermont, William Joseph, Jr.
Cobern, Ernest Lee
Coiner, John Alfred
Collins, Ferdinand I, Jr.
Collins, Frank Charles, Jr.
Combs, Robert Ebell
Connally, Robert F., III
Connell, Lewis Edward
Connelly, Robert Bailey
Connors, Eugene Timothy
Conrad, Peter Corteau
Cornwell, James William
Creighton, Bert Haddow, Jr.
Criner, James Ellis
Cromwell, John Philip, Jr.
Cruden, David Selby
Cullins, Peter Kendall
Cunningham, Melville Dexter
Cunningham, Richard Burton
Dallaire, Richard Paul
Dallamura, Richard Anthony
Damico, Richard James
Darrel, Charles George
Davey, John Roderick, Jr.
Davis, Henry Jefferson, Jr.
Davis, Jack William
Davis, Michael Chase
Davis, Paul Harrison, Jr.
Decook, David Walpole
Demun, Taylor Kent
Dietrich, Henry Thornton, Jr.
Donnelly, Raymond Daniel, Jr.
Drummond, Scott Edward, Jr.
Dudley, Calvin Chester
Eakle, Burke Eldridge
Ebbert, Edwin Leigh
Englehart, Harry John
Engquist, Gordon Wendell
Enos, Ralph Lindsay
Eshman, John Robert
Etchison, Frank Leslie, Jr.
Farley, James Walsh
Fellowes, Frederick Gale, Jr.
Felt, Donald Linn
Fisher, William Gooding, Jr.
Fitzgerald, James Gerald
Fletcher, Charles Douglass
Fontaine, Richard Kern
Fowler, John Wesley
Fox, Kenneth
Francis, Thomas Aquinas
Franke, Richard Dean
Frankenberger, William Jame
Fugate, Glenn
Gahafer, Joseph Gorman
Gair, Bruce Otto
Galing, Searcy Garlits
Gallotta, Albert Armond, Jr.
Gardner, Ruel Eugene
Gatje, George Carlisle
Gibbins, Gareth William
Gillcrist, Paul Thomas
Glancy, Thomas Joseph, Jr.
Glunt, David Latta, Jr.
Goetschius, Forrest Dale
Grandfield, Francis Joseph
Granum, Bradford Simley
Gray, Walter Scott, III
Grimm, William Francis
Groehn, Gerhard Curt
Gurney, Charles Edwin, III
Hale, William Todd
Hamilton, Kenneth Muller
Hamilton, Leo Langford
Hansen, Merle Charles
Hansen, Ronald Ralph
Hardisty, Huntington
Hart, Richard Leland
Hawins, Phil R.
Hayes, Morris Lee
Hays, Estel Wilbur
Hays, Thomas Myron, Jr.
Hedges, Ralph Richard
Heenan, Richard Dennis
Heffernan, George Aubin
Hetu, Herbert Edmond
Hinkley, Harold Lewis
Hoganson, John Henry
Holcomb, M. Staser
Holgren, Marvin Aubrey
Hollick, Frederick Basil
Holmberg, Lennart Gustaf
Hopper, Richard Sabin
Horan, Robert Athanasius
Horne, Charles Francis, III
Howe, Richard Bradford
Hughes, Wayne Philo, Jr.
Hukil, Henry Durbin, Jr.
Hull, George Thomas
Hume, Robert John
Hunt, Albert Monroe
Hunter, Charles Bryan
Ingley, Edmund Wesley
Jaburg, Conrad John
Jacskon, Dempster McKee
Jackson, Thomas Lee
James, Charlie Negus, Jr.
Jarvis, Donald Homer
Jayne, Gordon Howland
Jewell, Thomas Allen
Johnson, Arne Christian
Johnson, Guy David
Johnston, Maurice Milton, Jr.
Johnstone, Richard Alastair
Jones, Samuel Oather, Jr.
Karvala, Curtis Arnold
Kauderer, Bernard Marvin
Keane, James Philip
Kehoe, James William, Jr.
Kelley, Frederic Warren
Kemble, Richard Ellis
Kennedy, Robert Correll
Kennedy, Ronald Willard
Kendy, Walter Julius
Kersch, Roger Neil
King, William Richard
Kinnebrew, Thomas Richard
Kirksey, Robert Edward
Kirschke, Ernest James
Knutson, Donald Wayne
Knutson, Wilbert Duane
Kraft, Leroy Marks
Kuhn, Edwin Allan
Kully, Sheldon David
Kurzenhauser, Alfred
Lacey, Alfred Gerald
Lake, Charles Marshall, Jr.
Lamb, Derwin Taylor
Larocque, George Norwood
Layman, Lawrence
Leahy, John Patrick
Lemmon, Virgil Joseph
Lenox, Glen Walter
Lewis, James Thomas
Lidel, Carl John
Lighter, Elbert Donald
Lloyd, Theodore Leighton, Jr.
Loposer, Avery Kenneth, Jr.
Luckett, Thomas William
Lukas, Thomas Edward
Lunt, Vernon Shirley
Lyons, James Aloysius, Jr.
MacFie, Richard Boyden
MacKercher, John Cameron
MacPherson, John Joseph
Mahony, Wilbur James
Mains, Homer Omans, Jr.
Malone, Roy Wilson
Malone, Thomas Logan, Jr.
Manara, Vincent Joseph, Jr.
Manring, Charles David
Marin, William Thomas
Martin, William Raymond
Massimi, Robert Francis
Masterson, Kleber Sanlin, Jr.
Mau, George William, Jr.
Mayberry, Thomas Alfred, Jr.
Maynard, Donald James
McCanna, Marvin George, Jr.
McCormick, Daniel G., III
McDaniel, Clarence Leonard
McGaughy, Richard Wayne
McGrath, Harold Albert
McGuire, Orville Wendell
McIntyre, John Joseph
McKechnie, Russell Roland
McWey, Russell Bartholomew
Meek, Kenneth Leland
Meeks, Thomas Leland
Mehl, James Patrick
Meltzer, Melvin
Meserve, Charles Lemuel
Miale, Robert Eugene
Milius, Paul Lloyd
Miller, Floyd Harry, Jr.
Mills, Joseph Erval
Mischke, Gayland Julius
Mitchell, John Creegan
Mitchell, John Robert C.
Mitchell, Leland Gayle
Moffitt, Russell Louis
Moody, Thomas John
Mooney, John Bradford, Jr.
Moore, Charles Julian
Moore, Ernest Melvin, Jr.
Moore, Loren Irving
Moore, Virgil Wayne, Jr.
Moreau, Arthur Stanley, Jr.
Mountford, Edward Joseph
Mueller, George Edward
Mullin, James
Mulloy, Paul Joseph
Muncy, William Everett
Murphy, Gilbert Franklin, Jr.
Murphy, Ray Douglas
Myers, Carroll Eugene
Myers, William Stewart
Nation, William Clarence
Naugle, James Orin
Naylor, Charles Kenneth
Neel, William Charles
Nelson, Eric Abraham, Jr.
Nelson, Jack Herman
Nevius, William Blauvelt
Newsome, James Walton
Nicholson, John Lewis, Jr.
O'Brien, Jerome Leo
Oder, Howard Wayne
Ogara, Patrick Eugene
Olson, Norman Hugo
Organ, James William
Orrik, Frederick John, Jr.
Orvis, Peter Hill
Orzalli, John Benton
Overdorf, Thomas Rogers
Padgett, Harry Elroy
Palmer, Wallace Chester
Pappas, George Theodore
Patch, Irwin, Jr.
Patten, Michael Allison
Pauly, Donald Erasmus
Phillips, Charles Alfred
Pierce, Ray Edward
Piper, Harold Leroy
Polatty, Donald Bullock

Pollak, Charles Duane
Portnoy, Howard Robert
Powell, William Vogt
Pray, Robert Edgar
Prindle, Charles O'Brien
Pringle, Donald Bruce
Posser, Walter Robert
Quarg, William Frederick
Quinn, Robert Thomas
Rabun, Floyd Kelley
Raithel, Albert Lawrence, Jr.
Ramsey, David Goggin
Ramsey, William Edward
Rasmussen, Robert Leonard
Raybourn, Lee Francis
Redfield, John Morgan
Reed, Charles Arthur
Reed, William Howard
Ricardo, Benny Joe
Rice, James Orville
Richard, Jackson Bethune
Rigsbee, Clifford Marshall
Rilling, Alexander Wolfgang
Rivers, Wendell Burke
Roane, Donald Patterson
Roberts, William Eugene
Rodgers, Frederick Alan
Roehl, Frank Ernest
Rowden, William Henry
Rueff, Eugene Carl
Rumble, Maurice William
Rush, Thornwell Frank
Rushing, Charles Franklin
Saunders, William H., III
Saylor, Eugene Harrington
Schollian, James Joseph
Schuerch, Richard Walter
Schultz, Ford Joel Elmer
Schutz, Walter Joseph
Scott, John Harold, Jr.
Scull, John Duncan
Seeger, Charles Edward
Service, James Edward
Seymour, Ernest Richard
Shafer, Lawrence
Shaid, Robert Allen
Shanahan, Thomas Leo
Shellman, Curtis Barnett, Jr.
Sheppard, Harry Leon, Jr.
Sherar, Robert Cody
Sierer, Payson Dwight, Jr.
Sigsworth, David Eugene
Sims, Gelzer Loyall, Jr.
Sinclair, Alexander Malcolm
Skube, Edward Anthony
Smith, Carol Castleman, Jr.
Smith, Hugh Thornber
Smith, Kenneth Godfrey
Smith, William Frank
Solterer, Carl Frederick
Sorenson, Curtis Alvin
Span, William Francis
Spencer, Robert Webb
Sprunk, William, Jr.
Stader, John Francis
Stadler, Roy Frederick, Jr.
Stark, Peter Amy, Jr.
Stein, George Daniel, Jr.
Stewart, Rodney Lee
Stierman, Joseph William, Jr.
Streightiff, Charles Willis
Strohm, James Joseph
Strunk, Arthur Adolph
Sugg, Ross Edgar
Sullivan, Robert Hayes
Sutherlin, Benjamin Thomas
Swartzrauber, Sayre Archie
Tallet, Arthur Joseph
Tate, Charles Gordon
Taylor, Clinton Wagner
Taylor, Thomas Dewey, Jr.
Tetrick, Claude Jackson
Thiel, Louis Harry Carl, Jr.
Thomas, Richard Terry
Thomas, Svend Erling
Thompson, George Irwin
Thompson, William Summers
Thunman, Nils Ronald
Till, Ernest Anton
Tillerson, Leonard Earl
Treadwell, Lawrence P., Jr.
Trimble, Richard Wallace
Toffer, George John, Jr.
Troutman, Burl Abraham, Jr.
Turnage, Robert Lake
Tuzo, Paul Benjamin III
Valade, Larry Gale
Vanarsdol, Robert Allan
Varley, James Francis
Victor, Francis Ward
Vines, Thomas Edward
Wadsworth, Francis Laughlin
Walden, John Warren
Walker, George Dale
Walker, Henry McDonald
Warren, Thomas Carroll
Webb, James Irwin
Webber, Gene Duane
Webster, Edward Walter V.
Weeks, Robert Hart
Wellman, Harold Nixon
Wenning, James O.
Whelan, Edward Charles, Jr.
Whelchel, Henry Cowan, Jr.
Whistler, Ralph Nelson, Jr.
Whitaker, Robert McKay
White, Maurice Gene
White, Paul Geltmacher, Jr.
Whorton, William Robert
Wilbur, Edward Terhune
Wilde, Stanford Richard
Wilhelm, Quentin Earl
Wilkinson, Joseph Barbour J.
Williams, Charles Dean
Williams, John Thomas
Williams, Ross Norman
Williard, Bobbie Derres
Wilson, Donald Kenneth
Wilson, Jack Leonard
Wilson, James Edgar, Jr.
Wilson, Richard Vincent, Jr.
Wimberly, Tommy Charles
Winkel, Raymond Norman
Winkler, Richard Charles
Withers, Christopher
Wolff, Kenneth Eugene
Wood, Ralph Edwin
Woodbury, John Leland, Jr.
Wright, Richard Taliaferro
Wright, Sidney Victor, Jr.
Wunderlich, Robert
Yamnicky, John David
Yetman, William Raymond
Young, Harold Lawrence
Yount, Tim Buffington
Zacharias, Jerrold Matthew

SUPPLY CORPS

Barrett, Charles William
Baunsgard, Perry Edward
Bennett, William Watkins
Boyce, Thomas Arthur
Caliman, Wayman, Gazaway, Jr.
Carpenter, Charles F., Sr.
Carpenter, Dan Moreno
Carpenter, Norman Eugene
Carson, Donald Eugene
Cuson, Charles Edward
Dickey, William Harlan
Dreese, Richard Nedau
Dunlevy, John Hugh
Edsall, Van Thomas
Flores, Joseph Louis
Foster, Robert Wolfe
Frost, Shirley David
Gallagaher, Robert Francis
Galvez, Richard Michael
Gillespie, James Alwin, Jr.
Giordano, Andrew Anthony
Gudbranson, Larry Gene
Gustavson, Arthur Robert
Hamilton, Oliver Wendell, Jr.
Hendershot, Theodore Raymon
Hennessy, William Joseph
Hill, Robert Edmond
Hurt, Richard Owen
Jackson, Arthur Duane
Kohl, Jacob Daniel
Landfair, Robert Wayne
Mayer, William Henry
McGillivary, Duncan Philip
McMahan, Paul Thomas
Morrison, Quinn Beasley
Nehez, James Robert, Jr.
Phleger, Charles Phillip
Postak, John Nick
Postich, George
Sandrock, John Edgar
Schriner, James Arthur
Spears, Laurence
Stevens, Robert James
Thompson, Gerald Jordan
Umstead, Walter Williams, Jr.
Wadsworth, Ben Awbrey, Jr.
Waller, Edmund Meredith, Jr.

CHAPLAIN CORPS

Auel, Carl Alfred
Bevan, Leory Alfred
Bontrager, John Kenneth
Carr, John Francis
Dillard, Donald Hoyt
Dodson, Leonard William, Jr.
Foelber, Robert Eugene
Goad, John Thomas
Herrmann, Theodore Carl
Johns, Harry David
Laboon, John Francis, Jr.
Linzey, Stanford Eugene, Jr.
Lionberger, Paul Harvey
Miller, Harry Rhodes
Morrill, Giles Drohan
Thompson, John Estill

CIVIL ENGINEER CORPS

Armatrout, Merritt Franklin
Bannister, William Harris
Biederman, Jack Carl
Dixon, Olin Lamar, III
Doyle, Thomas James
Gates, Paul Richard
Mooney, Malcolm Tyler
Myers, Clayman Campbell, Jr.
Raber, Robert Royden
Saravia, Benjamin Louis
Sutherland, Andrew Grant
Sutley, Robert Marion
Taylor, James Theodore
Williams, Edward John, Jr.

JUDGE ADVOCATE GENERAL'S CORPS

Bridges, Kenneth Knox
Evans, Laverne Elton
Fruchterman, Richard L., Jr.
Haight, Gardiner Morton
Higgins, Clinton Kelly, Jr.
McHugh, James Joseph
Newton, Robert Bradford
Odonnell, John Huber, Jr.
Rogers, Richard James
Salomon, Ferdinand Lewis

MEDICAL SERVICE CORPS

Asche, Clifton Ayers
Bower, Harold Robert
Browne, Weldon George, Jr.
Dowling, James Howard
Gay, Laverne William
Green, William James, Jr.
Harris, Albert Claude
Hughes, Robert Glen
Mateik, Edward Donald
McConville, William Edward
Reed, Robert Fleming
Sanders, James Monroe
Schindele, Rodger Francis
Schlamm, Norbert Arnold
Summerour, Thomas Jefferson
Tedford, Charles Franklin

NURSE CORPS

Heimberger, Peggy Susan
McKay, Bernadette Alice
Miller, Jean Louise
Nielubowicz, Mary Joan
Redgate, Janet Marie
Stone, Charlotte Romaine