United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 93d CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, March 7, 1974*

The House met at 12 o'clock noon.

The Reverend Robert Newton Barger, president, Religious Workers Association, Champaign, Ill., offered the following prayer:

You shall not take vengeance or bear any grudge against the sons of your own people.—Leviticus 19: 18.

Father of Mercies, inspire us for leadership in healing the divisions that exist within our Nation. As we have made efforts to make peace abroad, strengthen our purpose to do likewise now at home. Never let us forget the missing in action, nor the returned veterans, nor those who for reasons of conscience have left our constituencies. While we cannot bring back our sons who have bravely died, move us to reflect Your generosity and concern for those still missing in action, for our forgotten veterans, and for our exiled sons. We ask this through Him who came to seek and to save the lost. Amen.

THE JOURNAL

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

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate having proceeded to reconsider the bill (S. 2589) entitled "An act to assure, through energy conservation, end-use rationing of fuels, and other means, that the essential energy needs of the United States are met, and for other purposes," returned by the President of the United States with his objections, to the Senate, in which it originated, it was *Resolved*, That the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed a resolution of the following title:

S. Res. 293

Resolved, 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.

The message also announced that the Senate agreed to the amendment of the House to a bill of the Senate, S. 1745, entitled, "An act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes," with an amendment in which concurrence of the House is requested.

CALL OF THE HOUSE

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

The SPEAKER. Evidently a quorum is not present.

Mr. McFALL. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

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

[Roll No. 67]

Andrews, N.C.	Dingell	Morgan
Armstrong	Edwards, Calif.	Murphy, N.Y.
Ashley	Flood	Murtha
Barrett	Fraser	Nelsen
Biester	Giaimo	O'Neill
Blatnik	Gibbons	Podell
Boggs	Gray	Randall
Brasco	Hansen, Wash.	Reid
Broomfield	Hawkins	Rodino
Burke, Calif.	Hébert	Rooney, N.Y.
Burton	Henderson	Rostenkowski
Carey, N.Y.	Jarman	Runnels
Chappell	Jones, Okla.	Satterfield
Chisholm	Karth	Skubitz
Clark	Kazen	Stratton
Clausen, Don H.	Long, Md.	Symms
	Lujan	Teague
Collier	McKinney	Treen
Collins, Ill.	McSpadden	Udall
Conyers	Macdonald	Waggonner
Corman	Metcalfe	White
Davis, Ga.	Mills	Whitehurst
Dellums	Minshall, Ohio	Whitten
Denholm	Montgomery	
Diggs	Moorhead, Calif.	

The SPEAKER. On this rollcall 358 Members have answered to their names, a quorum.

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

THE HONORABLE THOMAS A. LUKEN

Mr. HAYS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio, Mr. THOMAS A. LUKEN, be permitted to take the oath of office today. His certificate of election has not arrived, but there is no contest, and no question has been raised with respect to the validity of his election.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. LUKEN appeared at the bar of the House and took the oath of office.

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. MURPHY of Illinois. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REV. ROBERT NEWTON BARGER

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

Mr. MADIGAN. Mr. Speaker, the gentleman who opened the business of the House with a prayer today is the Reverend Robert Newton Barger, associated with the Newman Foundation at the University of Illinois in my district at Champaign. Reverend Barger is the author of the book about amnesty which is published and is available now, beginning today. Although I have not read the book, I have for the past year had several discussions with Reverend Barger on the subject of amnesty, and I know that this will be a studied and reasoned book.

Consequently, if any of the Members should become interested in having a copy of this book, I would be delighted to hear from them, and I would be delighted to provide them with copies of the same.

PANAMA CANAL

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

Mr. DORN. Mr. Speaker, I am gravely concerned about negotiations concerning the Panama Canal. It is vital in any agreement with Panama, vital to the security and commerce of this Nation, that control of the canal remain in U.S. possession. The United States and our Navy are committed to maintaining freedom of the sealanes. This in essence means that as long as the Panama Canal is controlled by the United States, it will be open to all nations great and small.

Should this absolutely necessary link between the Pacific and the Atlantic fall under domination of a foreign power this would be a fatal blow to the defense of

the Western Hemisphere and the economy of the Western world.

We must never permit a Suez-type fiasco in the Canal Zone. The economy of the Southeastern United States and yes, of South Carolina, would be adversely affected should the Panama Canal be closed or subject to riots and disorder. The shortest route between Southeast ports such as Charleston and Savannah to the west coast of South America is through the canal. It is nearer through the canal from Charleston to the west coast of South America than from San Francisco.

The growing economy of the Southeast has a direct stake in the passage of commerce through the Panama Canal, as do ports on the U.S. gulf coast. The question of continued U.S. control of the canal is perhaps the greatest single issue facing foreign policy in the Western Hemisphere.

We must never surrender U.S. sovereign control over the U.S.-owned Canal Zone.

PRIVACY STILL DIVIDED

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

Mr. ALEXANDER. Mr. Speaker, today's Post reported that Dr. Don Paarlberg, a spokesman for the administration stated that Executive orders authorizing the revision of privacy of 3 million American farmers are now inoperative.

Notwithstanding this statement the fact remains that the Presidential orders are still effective.

I realize that the word "inoperative" has taken on a new meaning under the Nixon administration which carries with it the force of law. But this Member will not be satisfied until Executive Orders No. 11697 and 11709 are rescinded.

HEARINGS ON PROBLEMS AFFECTING TOURISM INDUSTRY

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

Mr. HUNGATE. Mr. Speaker, I would like to announce that the Subcommittee on Environmental Problems Affecting Small Business has scheduled a hearing on Friday, March 15, to examine the problems confronting small-business men and women engaged in tourism as a result of the fuel shortage.

For over 2 years now, this subcommittee has been examining the general problems of small businesses engaged in tourism and outdoor recreation, and for 3 days last August, the subcommittee traveled to Missouri, Minnesota, and Wisconsin so that we could hear directly from those small operators engaged in this industry. At that time, the full impact of the fuel shortage could not be determined because its effects were just beginning.

As a fuel shortage could have serious consequences, the subcommittee decided that it would be necessary to hold another day of hearings devoted exclusively to examining its impact on the small businesses in this industry. The March 15 hearing, to be held in Washington, will conclude our present examination of the tourism industry.

Witnesses scheduled to testify before the subcommittee include Mr. William D. Toohey, chairman, Special Travel Industry Council on Energy Conservation; Mr. William Newbold, National Campground Association; Mr. George Fichtenbaum, American Society of Travel Agents, Inc.; Mr. Robert Neville, National Restaurant Association; Mr. Arthur Packard, American Hotel and Motel Association; and representatives of the Federal Energy Office.

Members wishing to testify or submit a statement for the record should address their requests to Michael J. Ward, counsel, Subcommittee on Environmental Problems Affecting Small Business, Permanent Select Committee on Small Business, U.S. House of Representatives, 2361 Rayburn House Office Building, Washington, D.C. 20515—225-4881.

FEDERAL ENERGY ADMINISTRATION

Mr. HOLIFIELD. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill—H.R. 11793—to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions.

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

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 11793, with Mr. FLYNT in the Chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on yesterday section 7 of the committee amendment in the nature of a substitute ending on page 24, line 5, had been considered as read and open to amendment at any point. There was pending the amendment of the gentleman from New York (Mr. HORTON) and an amendment offered by the gentleman from North Carolina (Mr. BROYHILL) as a substitute for the Horton amendment.

Mr. DINGELL. Mr. Chairman, it is important to once again call attention to section 5 of the bill as amended by the distinguished and able chairman of the Committee on Government Operations—(see CONGRESSIONAL RECORD of March 5, 1974, p. 5302).

In commenting on that amendment, Chairman HOLIFIELD stressed that the purpose of the amendment is "to make clear that the bill does not give the Administrator any new authority to initiate a consumer rationing program or similar programs." Similarly, it "does not give the Administrator any new authority," to modify or affect other programs not under his jurisdiction, such as the programs of the Environmental Protection Agency. Thus, the bill, with Chairman HOLIFIELD's amendment, does not give FEA the authority to modify, alter, or in any way affect, directly or indirectly, EPA's rules, regulations, standards, guidelines, plans, certificates, et cetera, issued and administered by that Agency under other provisions of law or those of other Federal agencies, including some constituent agencies of the Interior Department, like MESA.

I commend Chairman HOLIFIELD for his forethought and wise action and his sincere effort to avoid any encroachment on the jurisdiction of other committees. It is, as he and the able gentleman from New York (Mr. HORTON) suggested, a very important amendment.

Mr. HORTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, since the House adjourned yesterday afternoon, I have had an opportunity to study the Broyhill amendment. It has many good points, particularly that providing for hearings on rules that have been promulgated without benefit of hearings prior to issuance.

I understand there may be some technical problems with certain parts of the amendment. But since it is so complicated I am not prepared to offer amendments now. I will try to work out these problems in conference.

I am prepared to accept the Broyhill amendment.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as the Members know, I moved to rise last night because the House was in a state of confusion and noise. We could not hear the amendment being read. It was a nine-page amendment.

Over the evening and this morning, we have studied this amendment, the substitute amendment offered by Mr. BROYHILL of North Carolina. We believe that we can accept it. It offers certain emergency procedures which would speed up the hearing procedures that are now in existence under the Administrative Procedure Act.

Therefore, there is no objection on this side as far as I know to the acceptance of the substitute amendment offered by Mr. BROYHILL of North Carolina.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) as a substitute for the amendment offered by the gentleman from New York (Mr. HORTON).

The substitute amendment for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. HORTON), as amended by the amendment offered by the gentleman from North Carolina (Mr. BROYHILL) as a substitute.

The amendment, as amended, was agreed to.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am taking this time to inform some of the Members who have been questioning me in regard to the time that we will use in handling the bill, many of whom want to get out of town for speaking engagements and other

business which they deem to be more important than this business, or at least commitments they cannot get out of, that it is my intention today, with the help of the House, the cooperation of the House, to move as expeditiously as possible in the consideration of amendments.

Mr. Chairman, I would like to conclude consideration of this bill by a reasonable hour this evening. As far as we know, there are 17 amendments now pending. Many of those amendments, I understand, are not important amendments; they are technical in nature. I believe the Members of the House are ready to expedite this bill, and so at the proper time I am going to suggest a limitation of debate.

I am going to ask unanimous consent to limit debate upon amendments which I think are trivial and which can be disposed of one way or the other.

Mr. Chairman, I have no desire to shut any Member off. We are going to try to move along and try to get this bill on the way.

Now, we are doing some things which the Members do not realize we are doing. I just want to make this point while there are this many Members on the floor of the House. Yesterday, we adopted the Dingell amendment, as amended by the Eckhardt amendment. This frees any producer of up to 30,000 barrels per day from price controls, the price control above the base level they have been producing in these wells. These old wells can be increased, as we all know, by different methods.

That can go up two or three times, maybe more, and that additional oil has no price control on it. It can seek its level on the market the same as the Far Eastern oil.

We are not talking about Pop-and-Mom well owners; we are talking about corporations which can produce up to 30,000 barrels per day—that is at $10 a barrel—for a price of $300,000. In 30 days, for a month's production, that runs up to 9 million barrels of oil in 1 month, and we can figure 12 times that in a year. So that is around $108 million a year for that production.

So we are not talking about Pop-and-Mom wells. We have opened up a floodgate. This is not a rollback amendment; this is a roll-forward amendment.

Mr. Chairman, I would like the Members to get this point. I have checked this with the best figures I have access to. Forty percent of the oil, the domestic oil in the United States, is produced by companies with a production of 30,000 barrels per day or less.

So if any of the Members around here think they are rolling the price back, let me tell them they are rolling it forward. We are rolling it forward, as it is now, at $7.09 a barrel, and then with all of these exempted producers, as I have just explained, by the Eckhardt amendment, that brings it up to $108 million per year of oil.

So we are, in effect, doing things that we really do not understand and we do not know much about. We are taking the word of people for things which they may believe to be the truth.

Mr. Chairman, for these reasons, I am going to try to move along with this, and if the Members want to load this bill down with all of these amendments that none of us understand, they can take the responsibility.

The CHAIRMAN. The time of the gentleman from California (Mr. HOLIFIELD) has expired.

(On request of Mr. HORTON and by unanimous consent, Mr. HOLIFIELD was allowed to proceed for 2 additional minutes.

Mr. HOLIFIELD. Mr. Chairman, if we want to move along with this bill, we should not load it down in this fashion.

Now, we have put on the so-called rollback or the roll-forward amendment. We have already put that on. That was why the President vetoed the Staggers bill. That was his main principle and his purpose for doing it.

I think most of us who are working on this legislation have had a pretty clear signal that the FEA bill is going to be vetoed. This organizational bill is being loaded down with all of these substantive measures, and the Members who are doing it can take the responsibility for it. I am sure they are willing to, and that is their privilege. However, if the House moves along as it is moving now, we are getting to an impasse.

We must remember that the President of the United States is not going to get the blame. It is the Members of this House, it is the Congress of the United States that is going to get the blame for not coming forward with an organization to tackle this energy problem.

Mr. Chairman, the responsibility is on the Members shoulders. I am not running for reelection myself, so I can look at this problem pretty objectively.

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

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

Mr. HORTON. Mr. Chairman, as I understood the gentleman's figures and the point which the gentleman is making, he is saying that those Members who supported the Eckhardt amendment and later the Dingell amendment were accepting those amendments on the basis that they were exempting the independents and the small stripper well operators, and that this was not going to do very much damage to the overall effort to roll back prices.

What the gentleman is saying is that this represents 40 percent of the oil production, and those Members who are of the opinion they are rolling back prices and protecting the consumers have a misapprehension as to what they did yesterday?

Mr. HOLIFIELD. Mr. Chairman, they are rolling the price forward on new oil to a point equivalent to what the Saudi Arabians are gouging us for.

Mr. MOSS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think it is very generous and gracious of my distinguished chairman and my good friend from California (Mr. HOLIFIELD) to undertake here today in the absence of the gentleman who sponsored the amendment adopted yesterday, to talk about this matter.

However, in the interests of accuracy I think his figures should be corrected. This is not a roll forward and it does not deal with 40 percent of the oil. I have spent as much time in studying this question as has my distinguished colleague from California.

Mr. Chairman, the amendment of the gentleman from Texas dealt with new oil, new crude, only. Let us have that straight. He are not talking about $10 here, because the average for the month of February for domestic crude was $7.02. But let us assume we were talking about $10, $12, or $15. The gentleman's bill, in section 5, provides for no kind of a rollback; it provides for no kind of a limitation upon the discretion of the Administrator of this agency. To talk about this being a simple, uncomplicated reorganizational framework is just so much bull. I am not a newcomer around here. This is my 22d year of legislating in this body.

This provides that the President can transfer unlimited functions. You do not enumerate which functions he can transfer under your transfer authority in section 6. You transfer from agencies; it is a catchall.

Mr. HOLIFIELD. Will the gentleman yield on that?

Mr. MOSS. I will be happy to yield as soon as I am finished.

It is a reorganization that permits the President to transfer and permits the agency here to undertake proceeding on roads the full reach of which no Member of this House fully appreciates.

As I recall the resistance yesterday from the chairman and the distinguished minority leader of the committee, the tenor of their discussion was that there should be no rollback authority at all; none at all. It would do grave violence to the bill, they said yesterday. But today the tenor changes, because now they say if you only roll back these smaller producers you do no great violence. You roll forward the price.

Well, that is not the case. If it were the case, there would not be so much opposition coming from downtown.

I am going to state a simple philosophy that I have stated many times on this floor. The President of the United States has full responsibility for his actions and for the exercise of his veto authority. But I, as a legislator, am responsible to the more than 450,000 people that I speak for here in this House. I am responsible to them to exercise my best judgment whether or not the President concurs in my exercise of that judgment.

I happen to think that there has been a very considerable body of evidence to show that the public confidence in the President, the individual institution of the Presidency, has declined markedly. I know you are going to say the same thing happened to the Congress, but I can point very clearly in my own district to the fact that repeatedly in election years where Presidents have been running in my district that I have outpolled them anywhere in a ratio from about 15 to 20 to 25 percentage points. So I do not think I am speaking here

without the confidence of the people of my district. I can go back to them with a clear conscience knowing that they expect me to exercise my independent judgment and that they are tired of a Congress that is subservient to the whims and the will and the demands of the Executive.

In the first place, Mr. Chairman, we talk about the Presidency as though it were some sort of monolithic creature.

We do not know who is going to exercise this authority that we are voting on so freely. There is no one who can guarantee that Mr. Simon is going to be there next week. I remember in our Committee on Interstate and Foreign Commerce where we had a body of amendments offered to us one day from Governor Love, and another package of amendments from Mr. Simon the following day, as speaking authoritatively for the administration.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. Moss was allowed to proceed for 1 additional minute.)

Mr. MOSS. Mr. Chairman, as a matter of fact, we had three bodies of legislative recommendations, many of them contradictory, from the recently retired Admiral Rich, who was chief adviser to Secretary Morton, former Governor Love, who is energy adviser to the White House, and Secretary Simon, all three concurrently proposing amendments to the Committee on Interstate and Foreign Commerce, and they were contradictory amendments.

So, Mr. Chairman, I am not impressed when we are told here about this being sort of a sacrosanct package, and we should not touch it, and that we should not do anything to it. I say to the Members that here is our opportunity to exercise our independent good judgment. Let us do it from knowledge, let us not be frightened or intimidated in its exercise by anybody here or at 1600 Pennsylvania Avenue.

The CHAIRMAN. The time of the gentleman has again expired.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 22, after the period on line 15, add the following: "Whenever the Administration establishes or utilizes any advisory board, task force, committee, commission or similar group, not composed entirely of permanent Federal officers and employees, with respect to any matter affecting any industry or segment thereof, the Administrator shall insure that each such group is reasonably representative of all segments and levels of such industry and of the industrial and private consumers served by such industry or segment thereof: *Provided*, That the Administrator in appointing private consumers to each such group shall give special consideration to the recommendations of public interest entities and individuals specializing in consumer, environment and conservation matters; and that the consumer members of each advisory panel shall be selected on the basis of experience and participation in consumer affairs."

Mr. ROSENTHAL. Mr. Chairman, this amendment would require the Federal Energy Administrator to appoint a consumer or public representative to each industry advisory committee not composed entirely of permanent Federal employees. It should be understood that my amendment does not require that industry advisory groups be dominated by consumer or public representatives. It merely requires that such groups are reasonably representative of all segments and levels of industry and of the industrial and private consumers served by such industry.

The consumer community has very little faith in the operation of industry advisory groups. They see these groups as special interest organs with inside information and an inside influence on the policymaking decisions of Federal departments and agencies. Frankly, I think that this impression is basically correct. But we could change that impression and foster public confidence in the work of energy industry advisory groups, if we placed a consumer spokesman on each one to ask the right questions, raise the right issues and seek data relevant to consumer interests.

It is clearly unlikely that the consumer point of view will be expressed in the deliberations of an industry advisory group unless a consumer representative is present at the meetings and participates fully in the framing of the issues and the recommendations of the group.

I urge this amendment as a way of assuring the public that their interests will be represented at all levels and in all processes of the Federal Energy Administration's decisionmaking apparatus.

In this regard, Mr. Chairman, I am appending to my remarks a sample listing of corporate executives who are now advising Government policymakers. This list appeared in the February 26, 1974, issue of "The Gallagher Presidents' Report."

The material referred to is as follows:

BIG BUSINESS CHIEFS COUNSEL BIG GOVERNMENT

(Selected list of corporate chief executives serving on Federal Advisory Committees.)

COMPANY, CHIEF EXECUTIVE AND FEDERAL ADVISORY COMMITTEE MEMBERSHIP

Allied Chemical; John T. Connor; U.S. Department of Commerce, National Export Expansion Council.

Aluminum Co. of America; John D. Harper; U.S. Department of State, International Business Problems; Federal Power Commission, National Power Survey (Executive Advisory Committee).

Amerada Hess Corp.; Leon Hess; U.S. Department of the Interior, National Petroleum Council.

Ashland Oil; Orin E. Atkins; U.S. Department of the Interior, National Petroleum Council.

BankAmerica Corp.; A. W. Clausen; U.S. Department of the Treasury, American Bankers Association Government Borrowing Committee.

Burlington Industries; Charles F. Myers, Jr.; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Celanese Corp.; John W. Brooks; U.S. Department of the Interior, National Petroleum Council, U.S. Department of State, International Business Problems.

Chase Manhattan Corp.; David Rockefeller; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Cities Service Co.; Robert W. Sellers; U.S. Department of the Interior, National Petroleum Council.

Consolidated Edison Co.; Charles Luce; U.S. Department of the Interior, Bonneville Regional Advisory Council-Walla Walla, U.S. Atomic Energy Commission, Senior Utility Steering Committee, U.S. Department of State, Advisory Committee on the 1972 UN Conference on the Human Environment.

Continental Oil Co.; John G. McLean; U.S. Department of the Interior, National Petroleum Council, Emergency Advisory Committee for Natural Gas; Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Deere & Co.; William A. Hewitt; U.S. Department of the Treasury, Liaison Committee of the Business Council.

Exxon Corp.; J. K. Jamieson; U.S. Department of the Interior, National Petroleum Council.

Firestone Tire & Rubber; Raymond C. Firestone; U.S. Department of Transportation, Senior Advisory Committee.

First National City Corp.; Walter B. Wriston; U.S. Department of the Treasury, American Bankers Association Government Borrowing Committee.

Ford Motor Co.; Henry Ford II; U.S. Department of Transportation, Senior Advisory Committee.

Foremost-McKesson; Rudolph J. Drews; U.S. Department of Commerce, National Export Expansion Council, Action Committee on Taxation in Relation to Exports.

General Dynamics Corp.; David S. Lewis; U.S. Department of Defense, Industry Advisory Council.

General Motors Corp.; Richard Gerstenberg; U.S. Department of Commerce, President's Advisory Council on Minority Business Enterprise; U.S. Department of Transportation, Senior Advisory Committee, Secretary's U.S. International Transportation Exposition Committee.

Gulf Oil Corp.; B. R. Dorsey; U.S. Department of the Interior, National Petroleum Council; Federal Power Commission, National Gas Survey (Executive Advisory Committee).

Honeywell, Inc.; Stephen F. Keating; U.S. Department of Defense, Industry Advisory Council.

ITT; Harold S. Geneen; U.S. Department of State, International Business Problems.

Jewel Cos.; Donald S. Perkins; Office of Emergency Preparedness, Emergency Economic Stabilization Industry Advisory Committee for Food Retailing.

Litton Industries; Charles Thornton; U.S. Department of Commerce, International Business Advisory Committee; U.S. Department of Defense, Air University Board of Visitors; U.S. Department of Transportation, Senior Advisory Committee, Secretary's U.S. International Transportation Exposition Committee; U.S. Department of the Treasury, Treasury Liaison Committee of the Business Council.

Lockheed Aircraft Corp.; Daniel J. Haughton; U.S. Department of Defense, Medical Advisory Council (Military Airlift Committee of the National Defense Transportation Association).

Marathon Oil Co.; J. C. Donnell II; U.S. Department of the Interior, National Petroleum Council.

McDonnell Douglas Co.; Stanford N. McDonnell; U.S. Department of Defense, Officer Training School Advisory Committee.

Mobil Oil Corp.; Rawleigh Warner Jr.; U.S. Department of the Interior, National Petroleum Council, Federal Power Commission, National Gas Survey.

Monsanto Co.; Charles H. Sommer; U.S. Department of Commerce, National Export Expansion Council; U.S. Department of the Interior, National Petroleum Council.

Morgan Guaranty Trust Co.; Ellmore Patterson; U.S. Department of Defense, Industry Advisory Council.

National Cash Register; Robert S. Oelman; U.S. Department of Defense, Air Force Logistics Command Advisory Board; U.S. Department of State, International Business Problems.

Occidental Petroleum Corp.; Armand Hammer; U.S. Department of the Interior, National Petroleum Council.

Pacific Gas & Electric Co.; Shermer L. Sibley; Federal Power Commission, National Power Survey, (Executive Advisory Committee), National Gas Survey (Executive Advisory Committee); U.S. Atomic Energy Commission, Senior Utility Steering Committee.

PPG Industries; Robinson F. Barker; U.S. Department of Defense, National Committee for Employer Support of the Guard Reserve.

Raytheon Co.; Thomas L. Phillips; U.S. Department of Defense, Industry Advisory Council.

Shell Oil Co.; Harry Bridges; U.S. Department of the Interior, National Petroleum Council, Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Sperry Rand Corp.; J. Paul Lyet; U.S. Department of Defense, Industry Advisory Council.

Standard Oil (California); Otto N. Miller; U.S. Department of State, National Review Board-Center for Cultural & Technical Interchange Between East & West, U.S. Department of Transportation, Secretary's U.S. International Transportation Exposition Committee Federal Power Commission, National Gas Survey, (Executive Advisory Committee).

Standard Oil (Indiana); John E. Swearingen; Federal Power Commission, National Gas Survey; U.S. Department of the Interior, National Petroleum Council.

Standard Oil (Ohio); Charles E. Spahr; U.S. Department of the Interior, National Petroleum Council.

Sun Oil Co.; Robert Dunlop; U.S. Department of the Interior, National Petroleum Council.

Tenneco Inc.; Nelson W. Freeman; Federal Power Commission, National Gas Survey.

Texaco Inc.; Maurice F. Granville; U.S. Department of the Interior, National Petroleum Council; Federal Power Commission, National Gas Survey.

Textron Inc.; G. William Miller; U.S. Department of Defense; Industry Advisory Council.

Transamerica Corp.; John R. Beckett; U.S. Department of State, International Business Problems.

Trans World Airlines; Charles Tillinghast; U.S. Department of State. International Business Problems, Secretary's Committee to Facilitate Travel; U.S. Department of Transportation, Secretary's U.S. International Transportation Exposition Committee.

Travelers Corp.; Roger Wilkins; U.S. Department of the Treasury, American Life Insurance Association Economic Policy Committee.

TRW Inc.; Horace Shepard; U.S. Department of Commerce, National Export Expansion Council.

Union Oil Co. of Calif.; Fred Hartley; U.S. Department of the Interior, National Petroleum Council.

Winn-Dixie Stores; Bert Thomas; Office of Emergency Preparedness, Emergency Economic Stabilization Industry Advisory Committee for Food Retailing.

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

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

Mr. MILFORD. I thank the gentleman for yielding.

Will the gentleman please explain to me how one can identify a consumer representative? It appears to me that every person in the country is a consumer representative.

Mr. ROSENTHAL. I do not think we have had that trouble in other areas of legislation or regulations. I am glad this colloquy has come up. I think what is intended by this amendment especially, is a person who has been actively engaged in a consumer movement, a person who has been representing consumers, people engaged in Consumers Union or other public interest organizations, anyone who has worked particularly in this field. But I would not object to any person who willingly identifies himself as a consumer. I suspect that President Armand Hammer of Occidental Petroleum might have some difficulty passing muster with that identification, but I do not think other citizens would.

Mr. MILFORD. Would the gentleman yield further?

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

Mr. MILFORD. How, then, would picking a consumer representative group differ from picking a lobbying group?

Mr. ROSENTHAL. I think it is a matter of judgment. I do not see any difficulty. Obviously, someone who is a chief executive officer of a major corporation, a petroleum corporation, would, I think, be disqualified. I think people who have been active in the consumer movement, who have represented consumers before Federal boards and agencies, who have asked to participate as consumer representatives, who have voluntarily come forth or who have some identification as a person having a consumer commitment. I think it is a matter of judgment. I do not think we can provide that degree of specificity here on the floor.

I urge my colleagues to adopt this amendment because I think it brings a very important blend of integrity and responsibility to what we are doing here today.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I respect my friend, the gentleman from New York, who has worked very hard in the consumer field. He has worked hard to get out a bill for the protection of the consumers, and I think the consumers need protection today if they ever needed it in their lives. But on this matter of advisory committees I differ with him, and I will explain why.

The point is not that we are opposed to having any consumer or public representative on the advisory committees appointed by the administrator. The point is that the amendment would distort the intent and purpose of the Federal Advisory Committee Act, Public Law 92-463. That act contemplates in section 5(b)(2) that the membership of advisory committees—and I am quoting now—

> . . . shall be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee.

What I am saying here and what the law says is, if we are going to appoint these advisory committees, there is already a law that tells them that they have got to be fairly balanced. To put a consumer representative on every committee would in some instances not be appropriate. If we had a technical committee that was studying a new way of cracking gas in a refinery, the consumer that we would put on there would not be an expert in that field. It might be a technical group. They would have to consider something which is beyond the ken of the consumer spokesman.

The Administrator would have occasion, of course, to appoint advisory committees in which consumers and members of the public are part of the representation. We do not preclude that. In fact, we encourage it. The Administrator would have to appoint advisory committees on matters involved with specialized and highly technical disciplines, as I mentioned. If there are different points of view regarding a technical matter at issue, these, too, should be fairly represented. It could be a matter that is highly classified. It could be a discussion of the state of the art of fusion or laser research.

To make it mandatory that there be a consumer representative on every board, whether or not a consumer issue is involved, is a waste of time and manpower.

I believe that the purpose of the gentleman is adequately taken care of in existing law, the Federal Advisory Committee Act.

I would ask that this amendment be voted down.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment. I want to compliment my colleague from New York (Mr. ROSENTHAL) in his effort to get consumer representation on the advisory committees.

We have a very special problem in this area. It is true that I always support the representation of consumers on advisory boards, because their concerns really represent a majority of America. But it is even more essential, because by admission of all concerned—the administration, industry, scholars, Members of Congress—the only sources of information, the only input we have had in this entire energy crisis has come from industry itself.

We have had great difficulty in dealing with this crisis, because of a lack of reliable information. Since we have been relying solely on industry data, we have been seriously hampered in our efforts to deal with this crisis. As we set up a Federal Energy Administration, we have a special obligation to make certain that we overcome what has clearly been an undue reliance on very special interests—those same interests which we seek to regulate, from whom we seek to get information, and to whom we are turning for suggestions of a new approach to our energy problems. We must give the American people some assurance that their voices will also be heard, that there will be representation of consumer power in this area that concerns them so greatly. I think it is invaluable. As a matter of fact, I think it is critical, if we are to restore meaningful legislative functions and the confidence of people in this Congress, that in this instance especially, we

place consumer representatives on our boards dealing with energy problems.

I would urge Members of this House, with all deference to the feelings of our chairman, that we accept this amendment as being one that is clearly consistent with the effort we are making here to create some meaning out of a very chaotic situation. In order to provide some representation to consumers, to counteract the undue influence of industry representatives, and to insure the proper administration of our energy programs, I urge support for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

The question was taken; and on a division (demanded by Mr. ROSENTHAL) there were—ayes 11, noes 25.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 23, strike lines 18 through 20, inclusive.

Mr. HECHLER of West Virginia. Mr. Chairman, this amendment will strike out section 7(j) on page 23, which is one sentence long and reads as follows:

The administrator shall perform such other activities as may be necessary for the effective fulfillment of his duties and functions.

Mr. Chairman, that is an extremely broad grant of unlimited power to the Administrator. I would say in addition that on the 5th of March, the committee adopted an amendment offered by the gentleman from California (Mr. HOLIFIELD) which confined the application of the bill to the extent expressly authorized by other sections of this act or any other provision of law.

If section 7(j) is coupled with the authorization "to take action to expedite the development of energy resources", it can pose a serious threat to our Federal lands. Using this vague and open-ended language, the Administrator could conceivably order stepped-up strip mining, oil shale development, and other oil development. Granting this kind of unrestricted power to FEA further weakens the role of Congress in defining how we meet major energy needs. The blank check in 7(j) would constitute a further sacrifice of the responsibility of Congress. I believe that Congress should only grant those powers which are clearly defined and specified to meet the energy problems.

I hope my amendment is adopted, because if it is, this will be a signal that the Congress has no intention of rolling over, playing dead, and giving up unrestricted power in such an area as strip mining. Here is a concrete example of what I am talking about: During a recent visit to North Dakota, I talked with many ranchers and cattlemen, and farmers who were concerned that large-scale strip mining of lignite for coal gasification would devastate their land. Frequently, they pointed out to me that the coal companies were pressuring the land owners to sell their mineral rights, or else the Federal Government would step in and seize these mineral rights by eminent domain. Many people throughout the Great Plains are determined that these vast areas not repeat the experience of West Virginia, where out-of-State interests have exploited the land and the people for private profit and with little resulting benefits for the people of the area.

We have the responsibility in this Congress to protect the land and the people. We also have the responsibility to preserve and protect the Constitution and the powers of the Congress. This is why I urge support for this amendment to strike from the bill the unlimited and unjustified powers conferred by section 7(j).

Mr. HOLIFIELD. Mr. Chairman, will the gentleman from West Virginia yield?

Mr. HECHLER of West Virginia. Mr. Chairman, I am happy to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, the gentleman from West Virginia has conferred with me and also with the ranking minority member on the committee concerning this matter. It is a perfecting amendment made necessary by the adoption of the Holifield amendment on page 18, section 5.

Mr. Chairman, we accept the amendment.

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

Mr. HECHLER of West Virginia. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I would be very happy to accept the amendment.

Mr. HECHLER of West Virginia. Mr. Chairman, I thank my friend from New York. I urge adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The amendment was agreed to.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 24, line 6, at the end of section 7, insert the following new subsections:

"(l) Whenever the Federal Energy Administration submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that estimate or request to the Congress.

"(m) Whenever the Federal Energy Administration submits any legislative recommendations or testimony or comments on legislation to the President or the Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Federal Energy Administration to submit its legislative recommendations, or testimony or comments to any officer or agency of the United States for approval, comment, or review prior to the submission of such recommendations, testimony, or comments to the Congress."

Mr. MOSS. Mr. Chairman, this is really a very simple amendment. Is says rather clearly that the Congress is entitled to be informed directly and concurrently with the officials of the Office of Management and Budget as to the nature of legislative recommendations or budget proposals made by the Federal Energy Administration. I do not see why we should have to have material that has filtered through this bureaucracy downtown, which was originally the Bureau of the Budget and is now the Office of Management and Budget.

Mr. Chairman, a number of years ago I made a study of the function of the Bureau of the Budget and the staffing pattern. I found that persons of the GS–7 and GS–9 levels were frequently called upon to make judgments and, in effect, to veto actions by top administrators of Government by the simple act of not clearing them for submission to the Congress.

Now, if the kind of legislative information we want is only that which filters through this faceless bureaucracy, then my amendment would be most inappropriate, and those Members who would want that kind of filtered information should certainly vote against the amendment.

However, if the Members do believe that Congress has a right to know the clear and candid views of the Administrator, without the direct modification which might occur as a result of a review in the Office of Management and Budget or by some other unidentified and not always clearly authorized person, then they will vote for this amendment, for then we have a right to say to the Administrator: "We have requested your views. We want those views."

Mr. Chairman, we have done this in a few instances in the last few years. I can assure the Members that I intend at every opportunity in the future to offer this kind of language to legislation creating new agencies or in effect amending the charters of existing agencies. I think that the most important element in reasserting the powers of the Congress and the powers of the people is to first lay the groundwork to insure that we have full, complete, and reliable information. And I will say to the Members that we have not had that on the energy crisis, not always because the agencies have not wanted to give it to us but sometimes because they have not had it. And sometimes they have not had it because somebody has decided down in the Office of Management and Budget, in the process of approving a questionnaire under the 1942 wartime Federal Reports Act conferring that authority upon the agency, that the questionnaire was not appropriate.

Mr. Chairman, they made policy decisions that were far-reaching. They had tremendous impact upon the legislative competence of this body because it was forced to legislate with less than the full facts.

As I said, it is a simple amendment; it is a consistent amendment; it is one which is offered to help restore some of the badly eroded powers of the Congress.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

The first paragraph of the gentleman's amendment would require concurrent transmission of budget estimates

by the FEA to the Congress and the executive. This part is unnecessary, since committees of the Congress can get such information whenever they request it.

The second paragraph would require concurrent submission of legislative recommendations, testimony, or comments to the Congress and the executive, and would prohibit prior review or approval by the executive before submission to the Congress. The effect of this part is to treat the FEA as a legislative rather than an executive agency, at least to the extent of preventing Presidential coordination of executive branch policies and recommendations to the Congress. This adds to the confusion of responsibilities between the two branches of Government.

Taken altogether, these two paragraphs try to make the FEA a legislative or quasi-legislative agency when, in fact, it is in the executive branch and should be under the general control and direction of the President. This is to be a temporary agency. Let us not confuse lines of organization and responsibilities any more than necessary between the two branches, and let us not try to develop new theories of organization on the basis of this temporary agency.

Mr. Chairman, as the gentleman said, this is a simple amendment, and I think the gentleman has explained his position. I have certainly explained my position.

Mr. Chairman, I ask for a "No" vote on the amendment.

Mr. YATES. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, I am so pleased to learn that my distinguished colleague from California has no difficulty in getting this information. I wish he would tell some of the gentlemen on the Committee on Appropriations, because I have just discussed it with two of them and they cannot get it in the Committee on Appropriations. We have not been denied it in the Committee on Interstate and Foreign Commerce. We have not been getting the budget estimates from the Department of Transportation until they have been cleared by the OMB. Maybe the chairman can.

I would say to the gentleman that he is enjoying a most uniquely privileged position as a Member of this House and enjoying a status not enjoyed by other Members of this body.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and on a division (demanded by Mr. Moss) there were—ayes 12, noes 23.

So the amendment was rejected.

Mr. MOSS. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Forty-two Members are present, not a quorum. The call will be taken by electronic device.

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

[Roll No. 68]

Armstrong	Hastings	Podell
Ashley	Hawkins	Randall
Blackburn	Hébert	Reid
Blatnik	Henderson	Rhodes
Brasco	Jones, Ala.	Rooney, N.Y.
Brown, Calif.	Jones, Okla.	Rostenkowski
Burton	Karth	Roy
Carey, N.Y.	Leggett	Ruppe
Chisholm	Long, Md.	Satterfield
Clark	McEwen	Sikes
Clausen, Don H.	McKinney	Stanton, James V.
Clay	McSpadden	Stephens
Collins, Ill.	Melcher	Stokes
Conyers	Mills	Stratton
Dellums	Minshall, Ohio	Symington
Diggs	Mollohan	Talcott
Donohue	Montgomery	Teague
Drinan	Moorhead, Calif.	Thompson, N.J.
du Pont	Morgan	Tiernan
Foley	Murphy, N.Y.	Treen
Gaydos	Nelsen	Udall
Giaimo	O'Hara	Whitehurst
Gibbons	O'Neill	Whitten
Hanna	Patman	
Hansen, Wash.	Pepper	

Accordingly the Committee rose; and the Speaker having resumed the chair (Mr. FLYNT) Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11793, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 358 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. When the point of order on the absence of a quorum was made, the Chair had started to recognize the gentleman from Texas (Mr. ECKHARDT), to offer an amendment, which the Clerk will report.

AMENDMENT OFFERED BY MR. ECKHARDT

The Clerk read as follows:

Amendment offered by Mr. ECKHARDT: Page 24, after line 5, add the following: (1) the Federal Energy Administration shall be considered an independent regulatory agency for purposes of chapter 35 of title 44, United States Code, but not for any other purposes.

The CHAIRMAN. The chair recognizes the gentleman from Texas (Mr. ECKHARDT) for five minutes in support of his amendment.

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

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I have had some discussion with the gentleman from Texas on this amendment, and I am prepared to accept the amendment. I think it is a good amendment.

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

Mr. ECKHARDT. Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, we are prepared to accept the amendment on this side.

Mr. ECKHARDT. Mr. Chairman, I thank the gentlemen. I shall merely state for the convenience of the Members of the House that this amendment has the effect of treating the FEA as an exception to the Coordination of Federal Reporting Services Act which would otherwise cover it and require FEA to act within its terms and requirements. But, as the result of the Alaska Pipeline Act, regulatory agencies are excepted from coverage of the Reporting Act. This amendment brings the FEA into this exception.

Mr. VANIK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to ask the chairman of the committee, the distinguished gentleman from California, whether in his concept of this legislation this new administration can exercise authority and jurisdiction over an energy trust fund.

We are currently in the Committee on Ways and Means discussing the possibility of an energy trust fund. The question has arisen as to what branch of the Government would be responsible for administering such a trust fund if it was established by action of our committee.

Mr. HOLIFIELD. Well, it is very difficult for me to project my mind into the future about a law that I do not know about. I do not know what it contains. If the Committee on Ways and Means, however, passes legislation which sets up a trust fund, as energy matters have been delegated by the President to other agencies, to the head of the FEA, in my opinion it could be done; but I cannot look into the President's mind to see what he will do.

Remember, this is a 2-year emergency bill. He could do that if it is delegated to him, as other powers have been delegated

Mr. VANIK. It could be within the scope of his administration?

Mr. HOLIFIELD. It could be.

Mr. VANIK. Mr. Chairman, I appreciate the response of the chairman of the committee relating to the trust fund concept.

I would like to direct attention to another issue which I would like the Federal Energy Administration—and the committee—to consider. According to page 19, line 17, of the bill as reported, one of the functions of the Administrator will be to develop and recommend policies on import and export of energy resources. As you know, last spring, the President finally terminated the oil import quota program which was choking off supplies of desperately needed oil.

But in place of quotas, a new system of fee-licenses was instituted under Proclamation 4210. Under that proclamation, the new license fees were tied to the old quota system. Importers are granted free imports to the extent of historical imports. To those importers without a history of imports or to those importers who import above their historical levels, license fees are imposed—despite the staggering high price of petroleum products on the world markets.

As of today, the import license on crude is 13 cents per barrel. The import license fee on gasoline is 54.5 cents per barrel, and is scheduled to rise to 57 cents per barrel on May 1

These fees—which are really duties imposed without congressional consent—make absolutely no sense in this time of high prices. The Proclamation 4210 itself has become irrelevant. The proclamation

reads that fee licenses shall be employed to "discourage the importation into the United States of petroleum and petroleum products in such quantities or under such circumstances as to threaten or impair the national security."

It would seem to me that continuation of the fee is encouraging inflation, and to the extent it discourages imports, is threatening the national security.

I hope it would be the committee's intent that this discriminatory import fee be reexamined under the provisions of section 5, subsection 8. Hopefully, the administration will develop a policy to end this fee during this time of sky-high prices.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 7? If not, the Clerk will read.

The Clerk read as follows:

COMPENSATION

SEC. 8. (a) Section 5313 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(22) Administrator of the Federal Energy Administration.".

(b) Section 5314 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(62) Deputy Administrator of the Federal Energy Administration.".

(c) Section 5315 of title 5 of the United States Code is amended by striking out "(97)" in the last paragraph of such section and inserting in lieu thereof "(98)", and by adding at the end thereof the following new paragraphs:

"(99) Assistant Administrators, Federal Energy Administration (6).

"(100) General Counsel, Federal Energy Administration.".

(d) Section 5316 of title 5 of the United States Code is amended by adding at the end thereof the following new paragraph:

"(134) Additional officers, Federal Energy Administration (9).".

(e) In the event that any individual at the time of entering upon any one of the positions described in subsections (a) through (c) of this section then holds another position in the executive branch, he may continue to hold such original position but shall be entitled, for as long as he holds both positions, to receive the pay for only one such position: *Provided*, That he shall be entitled to receive the greater pay if different rates of pay are prescribed for the two positions.

(f) Appointments to the positions described in subsection (d) of this section may be made without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the section be dispensed with, that the section be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: Page 25, strike out the text of subsection 8(e) and insert in lieu thereof:

"(e) No individual holding any of the positions described in subsections (a) through (c) of the section shall also hold any other position in the executive branch during the same period."

Mr. HOLIFIELD. Mr. Chairman, I wish to make an extraneous remark here. I hope we can retain enough Members on the floor to save the time which is involved in quorum calls. I am not asking for quorum calls, but if we can keep enough of the membership here to act upon these amendments, we can get through with the bill in very good time today, and the Members can pick up their plane reservations.

Mr. Chairman, on this amendment which I have offered, the Federal Energy Office performance to date, as I think all of us will agree, has left something to be desired. The top officials of FEA will have to do better. This is a full-time mission. Either we have got an energy crisis or we do not have one.

These officials should devote their full-time efforts to the difficult tasks they will be dealing with. The bill should make that quite clear.

When the committee considered the legislation in December, I felt that a case had been made for permitting the Administrator to serve in two related positions. In retrospect, the experience of the past 4 months teaches us that the energy emergency requires undivided attention. Also, while the case was made at that time basically for the Administrator, the bill was drafted to include his deputy and assistants.

Mr. Chairman, this has been brought to the attention of the gentleman from New York (Mr. HORTON) and myself, as well as the other members of the committee. This could lead to a proliferation of officials with divided loyalties and objectives.

I recommend that this amendment to correct the situation be adopted.

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

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

Mr. HORTON. Mr. Chairman, I am in complete accord with the gentleman from California, the chairman of the committee, with respect to his amendment.

I realize this is a temporary or a limited agency in the sense that its life is only for 2 years and it is going to be difficult perhaps to get the top leadership for these important positions.

On the other hand, as the gentleman has indicated, these are important positions, and this is an important matter. So I am willing to accept the amendment.

Mr. Chairman, I have talked with the representative of the administration, Mr. Simon, and I understand they are also willing to accept the amendment.

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TRANSITIONAL AND SAVING PROVISIONS

SEC. 9. (a) Subject to section 20, whenever all of the functions or programs of an agency, or other body, or any component thereof, affected by this Act, have been transferred from that agency, or other body, or any component thereof pursuant to section 6 of this Act, the agency, or other body, or component thereof shall lapse.

(b) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Administrator, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(c) The provisions of this Act shall not affect any proceeding pending, at the time this section takes effect, before any department or agency (or component thereof) regarding functions which are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued if this Act had not been enacted.

(d) Except as provided in subsection (f)—

(1) the provisions of this Act shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

(e) No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, actions, or other proceedings may be asserted by or against the United States or such official as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter any order which will give effect to the provisions of this section.

(f) If, before the date on which this Act takes effect, any department or agency, or

officer thereof in his official capacity, is a party to a suit, and any function of such department, agency, or officer is transferred under this Act to the Administrator, or any other official, then such suit shall be continued as if this Act had not been enacted, with the Administrator, or other official as the case may be, substituted.

(g) Final orders and actions of any official or component in the performance of functions transferred by this Act shall be subject to judicial review to the same extent and in the same manner as if such orders or actions had been made or taken by the officer, department, agency, or instrumentality in the performance of such functions immediately preceding the effective date of this Act. Any statutory requirements relating to notices, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the performance of those functions by the Administrator, or any officer or component.

(h) With respect to any function transferred by this Act and performed after the effective date of this Act, reference in any other law to any department or agency, or any officer or office, the functions of which are so transferred, shall be deemed to refer to the Administration, Administrator, or other office or officer in which this Act vests such functions.

(i) Nothing contained in this Act shall be construed to limit, curtail, abolish, or terminate any function of the President which he had immediately before the effective date of this Act; or to limit, curtail, abolish, or terminate his authority to perform such function; or to limit, curtail, abolish, or terminate his authority to delegate, redelegate, or terminate any delegation of functions.

(j) Any reference in this Act to any provision of law shall be deemed to include, as appropriate, references thereto as now or hereafter amended or supplemented.

(k) Except as may be otherwise expressly provided in this Act, all functions expressly conferred by this Act shall be in addition to and not in substitution for functions existing immediately before the effective date of this Act and transferred by this Act.

(l) The provisions of this section shall apply to functions transferred to the Administration pursuant to section 6(c) of this Act, except that reference in this section to the effective date of this Act shall be deemed to be references to the date of the transfer of the functions involved.

Mr HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 of the bill be considered as read, printed in the RECORD, and open for amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: On page 29, strike out lines 16 through 20.

Mr. HOLIFIELD. Mr. Chairman, this amendment which I have offered is a conforming amendment.

The Committee of the Whole has previously approved deletion of special authority given the President by section 6(a) to make additional transfers of functions. The present amendment simply deletes the section relating to such special transfers of functions and no longer recognizes any such transfers.

Mr. Chairman, I offer this amendment in the interest of consistency.

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

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

Mr. HORTON. Mr. Chairman, I wish to state that I accept the amendment and I agree with the arguments made by the chairman of the committee.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I respectfully ask for the attention of my good friend and colleague, the gentleman from Texas (Mr. ECKHARDT) and the chairman of the subcommittee for purposes of interpreting some of the unfortunate comments made earlier by my good friend, the gentleman from California, the chairman of the committee. The chairman of the committee referred to the amendment offered yesterday by me, with an amendment offered by my good friend and colleague, the gentleman from Texas (Mr. ECKHARDT).

Unfortunately, the distinguished and able chairman of the committee, the gentleman from California (Mr. HOLIFIELD), in those earlier comments advised the House, I think in most ill fashion, as to what the contents of the amendments offered yesterday were in my amendment, as amended by my good friend, the gentleman from Texas (Mr. ECKHARDT).

So for purposes both of correcting the RECORD, creating legislative history and advising my colleagues as to what the real purposes of the amendments were yesterday, I engage in this colloquy, and I again ask for the attention of the chairman of the committee, who is my good friend and for whom I have the highest regard.

With regard to the original amendment, the amendment which was offered by me, it would have fixed a limit on the amount to which the Administrator to be established by the legislation before us would be able to raise those amounts are set forth in the amendment which appears at page 5444, and they would come to approximately a maximum of $7.09 per barrel.

Now, my good friend and colleague, the gentleman from Texas, subsequently offered an amendment which I applauded and which the House adopted, which amendment would, as I interpret it, have applied only to new oil and then only to new oil which was produced by producers who had a total daily production of less than 30,000 barrels.

Now, the allocation legislation, as my friend from Texas has advised me, does not apply to stripper wells. As a matter of fact, I am informed, there was a specific exemption for that in the other legislation. So essentially it is legislation which permits producers of less than 30,000 barrels per day, to market new oil production without price control limitations.

Now, Mr. Chairman, I yield to my good friend from Texas, because he has some comments with regard to the amounts involved and with regard to what his amendment is. I ask my friend from Texas to comment.

Mr. ECKHARDT. The gentleman in the well is absolutely correct. The amendment which I offered to his amendment was limited, No. 1, to new oil. The amount of new oil produced in the United States and covered by this act and thus exempted could not exceed 30 percent of the total production of oil. But in addition to being limited to new oil, it is limited to that new oil which is produced by those who produce less than 30,000 barrels per day.

Mr. DINGELL. And this is a relatively small percentage of the total production in the country.

Mr. ECKHARDT. Well, this is not a number of producers but an amount of production.

I did not hear the gentleman from California in his statement earlier, but I do not dispute his facts. What he was suggesting—and I would have to check the actual facts—is that those who produce under 30,000 barrels per day produce 40 percent of the total production of all oil, old and new, in the United States.

Mr. HOLIFIELD. I believe that is right.

Mr. ECKHARDT. I do not dispute that point. I think the chairman was correct if those were the facts he stated. But that would mean if one should assume the proportion of old and new oil produced by both the 30,000 and less and the over 30,000 producers—that would mean 40 percent of new oil which is exempted would be taken out of coverage, that is, 40 percent of 30 percent, which would be somewhere in the neighborhood of 12 percent. So the statement of the distinguished chairman of the committee earlier today, as I understand it, that 40 percent of the oil would be taken out of coverage by virtue of the Eckhardt amendment is, I think, an error. As a matter of fact, I know it is an error, because I know he is referring to the 40 percent produced by independents.

The amount taken out of coverage, in my opinion and from the facts that I have heard on the floor—and I shall ask permission later to check the exact figures—would not exclude more than approximately 12 percent from the total coverage of control of the total oil in the country.

Mr. DINGELL. I think it must be very plain—and I want the record straight on this, and I rise in a spirit of friendship and high regard for my friend, the chairman of the committee, but I think he made a most unfortunate statement at a time just earlier where he said that this is not a rollback but, rather, a roll forward.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

(By unanimous consent, at the request of Mr. Moss, Mr. DINGELL was allowed to proceed for 5 additional minutes.)

Mr. DINGELL. I thank the gentleman.

My good friend from California made the comment that this is a roll forward. I think a careful analysis of the legislation and the comments made by my friend from Texas and me indicate that it is not a roll forward of prices at all. On the contrary, it is a rollback and, more importantly, it is a rollback provision which affords a measure of incentive for small producers to produce new oil.

As a matter of fact, the amendment which we are discussing was adopted by the House yesterday by a very healthy margin and not only rolls back prices, but provides an incentive for the production of new oil by the small producers.

It is so drafted by my friend, the gentleman from Texas (Mr. ECKHARDT) that there is a cutback in production by the persons who get an exemption from it that they do not get the advantage of being deregulated as to new production.

Now, Mr. Chairman, I yield to the chairman, the gentleman from California (Mr. HOLIFIELD), my friend, so that the gentleman can agree with me.

Mr. HOLIFIELD. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, the statement I made was based on preliminary material that was furnished me by the FEO.

Mr. DINGELL. Mr. Chairman, let me interrupt the gentleman from California and say that if the gentleman from California believes the FEO, then the gentleman is in great error, because they are invariably in error.

Mr. HOLIFIELD. Mr. Chairman, the gentleman from Michigan asked me a question, and I am attempting to answer his question. I would not mislead this House knowingly in any way. I have this information here which I will submit to the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Michigan (Mr. DINGELL) and I will confer with them on it. If I was mistaken then I will admit to the House that I was mistaken.

At the present time my understanding is as I said it. I will be very happy to submit this information and have a conference with the gentleman, and if necessary I will make a statement on it.

Mr. DINGELL. Mr. Chairman, the gentleman from California is a very fair-minded Member of this body, and I thank the gentleman for his comments, they being wholly in accord for the reasons that I have such high regard for the gentleman.

Mr. Chairman, I now yield to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I thank the gentleman for yielding, and I was attempting to answer on behalf of the absentees, the two proposers of the amendment on yesterday, and noting the error made by the distinguished gentleman from California (Mr. HOLIFIELD) wherein the gentleman said that it would be a move forward, rather than a rollback, and wherein the gentleman stated that it would apply to 40 percent of the total production.

I have here in my hand, Mr. Chairman, the Pims Monthly Petroleum Report of January 31, 1974—and, Mr. Chairman, that stands for the petroleum industry monitoring system. It shows here in a diagram that new oil production amounts to 10 percent total. That includes new oil produced by those operating aggregate total production of more than 30,000 barrels a day, as well as those operating less. So the new oil figure is less than the 12-percent projection made on some calculations rather hurriedly by my friend, the gentleman from Texas (Mr. ECKHARDT) which, in the official report, is listed as 10 percent.

Mr. DINGELL. Mr. Chairman, I have promised that I would yield to my good friend, the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman, for the purpose of legislative history, since the gentleman from Michigan (Mr. DINGELL) and the gentleman from Texas (Mr. ECKHARDT) were the authors of this amendment, I would like to propose a situation to the gentlemen, and ask them what the intent of this legislation would be insofar as that situation is concerned.

Mr. DINGELL. Mr. Chairman, I would ask the gentleman from Texas (Mr. MILFORD) if he would defer my yielding to him on that particular point until the gentleman from Texas (Mr. ECKHARDT) has made a further statement. Then I will be glad to come back to the gentleman.

Mr. MILFORD. Mr. Chairman, I will be happy to do so.

Mr. DINGELL. Mr. Chairman, I now yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the point the gentleman from California (Mr. Moss) made is something that needs to be addressed. When I said the figure of not greater than 30 percent, I meant to say, and I believe I did say, I think, that old oil consists of about 71 percent of the total oil. The oil which is something less than 30 percent consists of 10 percent new oil, 13 percent stripper wells, and 6 percent released oil.

In truth and in fact, my amendment only affects new oil which is an even lesser figure than 30 percent; it is 10 percent, because stripper wells do not come under this act with or without the Eckhardt amendment. The reason for that is that this bill specifically states that it does not in anywise change the substantive provisions of the coverage under the Emergency Petroleum Allocation Act, and under the Economic Stabilization Act. Those acts exclude strippers. So strippers are totally excluded from this bill with or without the Eckhardt amendment.

Mr. DINGELL. Mr. Chairman, I thank the gentleman from Texas for his remarks, and I now yield again to the gentleman from Texas (Mr. MILFORD).

Mr. MILFORD. Mr. Chairman. I again thank the gentleman from Michigan for yielding me this time.

Mr. Chairman, for purposes of defining new and old oil; we have the situation where we are going back and reclaiming old oil fields. These fields are still producing, but only a very small amount daily. Through tertiary recovery and other techniques, we are increasing the output of these wells. Would that oil then be considered new or old oil, after those processes?

Mr. DINGELL. That would be under existing oil, as I understand it. It would probably fall under the definition of production from stripper wells, in most instances, and would still be exempt under the amendment. This depends on whether they all are under the definition of stripper wells or under other legislation not presently before us.

The CHAIRMAN. Are there further amendments?

Mr. PRICE of Texas. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I should like to ask the gentleman from Texas (Mr. ECKHARDT) some questions. I have an interpretation by the Office of Management and Budget that leads me to believe that in their interpretation it is different from the Dingell-Eckhardt amendment, which I understood it to do yesterday. I will read the gentleman some figures, and I should like to have him clarify them, if he could.

It provides an exemption from the mandatory ceiling for new oil if, No. 1, an oil producer produces less than 30,000 barrels per day. The exemption applies only to new crude production. Is that correct so far?

Mr. ECKHARDT. Will the gentleman yield?

Mr. PRICE of Texas. I yield to the gentleman.

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. Above the 1972 production levels for any given property. New crude production is defined as that in excess of, first, the monthly production of a property during 1972 or, second, if oil not produced each month from a property in 1972, then monthly production is determined by dividing total production by 12?

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. Special restrictions require that before current production is considered new, it must equal the 1972 levels on a monthly basis?

Mr. ECKHARDT. That is correct.

Mr. PRICE of Texas. It states that 60 percent of the domestic crude produced by 18 large producers, all produce over 30,000 barrels a day.

Mr. ECKHARDT. That is, I understand, correct.

Mr. PRICE of Texas. Forty percent of domestic crude produced by approximately 8,500 companies, all small producers, produce 30,000 barrels per day.

Mr. ECKHARDT. I have the same information. I cannot verify it, but it sounds right.

Mr. PRICE of Texas. Yes, but about 25 percent of the new, stripper, released, of major producers' production is currently exempt production and is at about $10 per barrel. This would be rolled back to $5.25; would that be correct?

Mr. ECKHARDT. I do not understand that to be true, because stripper production, under both the Emergency Petroleum Allocation Act which we acted on in the committee on which I sit and under the Economic Stabilization Act, is exempted altogether from coverage. This bill does not add any additional authority for the control. Therefore, control of stripper production, if it exists, would have to come from either the allocation bill or the Economic Stabilization Act. So I do not see that stripper production would be subject to price control, whether it was by majors or whether it was by independents. I do not think it is affected by this bill, by the Dingell amendment or by the Eckhardt amendment to the Dingell amendment.

Mr. PRICE of Texas. In other words, I am to understand that it is the gentleman's belief that stripper wells would fall under this category of 30,000 barrels or less?

Mr. ECKHARDT. No, not precisely. The thing about it is that stripper production was exempt from authority to control prices under the bills which give substantive authority to this administrative bill's functions. This administrative bill does not add any further authority to the FEA than that which has been substantively given under the other bills, and neither of those bills exercise control over price of stripper production.

Mr. PRICE of Texas. The summary from the Office of Management and Budget here says less than 5 percent of the current domestic production would be exempt under this provision compared to the 30, and the new, 10, and release, 6, and the strippers, 13, which is now not controlled. Therefore, on an overall basis this provision is about as restrictive as a rollback provision in the Energy Emergency Act, and would adversely affect domestic crude production.

If this is the interpretation and analysis of the Dingell-Eckhardt bill, which I supported yesterday—then I am going to go on record at the present time—that I will not today support the Dingle and Eckhardt amendment passed yesterday which I supported.

Mr. ECKHARDT. Let me point out to the gentleman that the total effect of the Dingell-Eckhardt amendment, plus the exemption of strippers, are to permit both major companies and independents to produce from stripper wells without price controls.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ECKHARDT and by unanimous consent Mr. ECKHARDT was allowed to proceed for an additional 2 minutes.)

Mr. ECKHARDT. Mr. Chairman, in addition to that, by virtue of the Eckhardt amendment to the Dingell amendment, companies producing below 30,000 barrels per day are exempted from restriction with respect to that production which is new production by those companies.

Now, I must qualify that a bit. Because of the parliamentary situation, the Dingell amendment was only a limitation and what it says is that the Administrator should not limit less than to this figure. Since this is an exemption to that limitation it does not tell the agency that it must come to any conclusion, but it exempts the agency from the command of the Dingell amendment not to go beyond $7.09 with respect to new oil.

So I would say this, that although it only affects perhaps 12 percent of the total production in the United States counting both the stripper exemption that existed before this amendment and this amendment and, of course, the amendment itself affecting much less than that; nevertheless, it creates a liberal provision, a liberalizing provision with respect to independent producers.

Mr. PRICE of Texas. Mr. Chairman, I would like to say for the record that I appreciate the explanation of the gentleman. I respect the efforts of the gentleman in this area; but I must go on record myself, if it does not exempt the 30,000 barrels per day, I want to make it known on the record that I am opposed to it.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Are there further amendments to section 9?

If not, the Clerk will read.

The Clerk read as follows:

INCIDENTAL TRANSFERS

SEC. 10. The Director of the Office of Management and Budget is authorized to make such additional incidental dispositions of personnel, personnel positions, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred or reverted by this Act, as he may deem necessary or appropriate to accomplish the intent and purpose of this Act.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 30, between lines 5 and 6, insert the following new section:

"ENVIRONMENTAL PROTECTION

"SEC. 11. There shall be established within the Federal Energy Administration an Environmental Protection Unit whose primary purpose shall be to coordinate activities between the Federal Energy Administration and the Environmental Protection Agency. The purpose of such coordination shall be to preclude the possibility that the energy actions undertaken by the Federal Energy Administration will be violative of environmental protection laws including, but not limited to, the National Environmental Protection Act and the Clean Air Act."

And renumber the succeeding sections accordingly.

Ms. ABZUG. Mr. Chairman, on pages 6 and 7 of the committee report accompanying the bill we are considering today, the primary purposes of the Federal Energy Administration are set forth. In describing the proposed Office of Energy Conservation and Environment, the report states:

> The primary purpose of this office will be to reduce the demand for scarce fuels. It will promote efficiencies in the use and development of energy resources; coordinate Federal, State, and local energy conservation programs; identify needs for research and development into methods of improving the usage of scarce fuels; develop a broad public awareness program on the need for energy conservation; and study environmental implications of energy initiatives.

The purpose of my amendment would be to carry out that intent by establishing an environmental protection unit within the Federal Energy Administration. It would serve to coordinate the functions and activities of the Federal Energy Administration with those of the Environmental Protection Agency so as to insure that there is real cooperation and consultation and that we do not emasculate one program in an attempt to carry out the other.

We have witnessed in the last months, and seen reflected in the energy bill passed by this House and by the other body, increasing attacks upon our environmental safeguards by those in the energy field and elsewhere. Attempts have been made to make the environmental protection program the scapegoat for our energy problems. There is absolutely no foundation for this. Beyond that, these are shortsighted and perilous moves. As Environmental Protection Agency Deputy Administrator John Quarles has said, if decisions are taken which sacrifice environmental protection in a rush to increase energy supplies, "we are selling out the future to satisfy a present need."

Mr. Chairman, I would go further and say that we may even now be endangering the health of our people by overreacting to a crisis which we have not yet been able to define.

I am not going to take much more time on this, Mr. Chairman, because I know we are anxious to conclude for the day, but I believe that we must get some facts straight. On the basis of facts and figures which we have before us, we can see that any shortages of energy resources which may exist are the result, not of our environmental laws but of our increasing consumption rates. According to the Environmental Protection Agency, of the total increase in gasoline consumption over the past 5 years, two-thirds of it is attributable to additional cars on the roads and 23 percent is due to increased mileage per car. Only 9 percent may be due to fuel economy losses caused in part by emission control devices in current use. When we realize that our per capita energy consumption is the highest in the world, by far, our reaction should be to reduce this role of consumption, not to emasculate our environmental protection program. I believe it is essential to work toward this end as well as to increase our energy supplies. But at the same

time, we must protect our environment to the fullest extent.

Regardless of whether the Members agree fully with environmental concerns, we all must recognize that there is a problem. People have different views on this, and we must find a way to coordinate these conflicts and to reconcile them. The only way we can be assured of effective coordination is by establishing a consultative body within the Federal Energy Administration to perform this function.

Mr. Chairman, I think we can have an effective energy program together with an effective environmental protection program. To insure this, I urge support and passage of my amendment.

Mr. HOLIFIELD. Mr. Chairman, I rise reluctantly to oppose this amendment.

Mr. Chairman, as the Members know, I handled the Environmental Protection Agency reorganization plan on the floor, which put the different functions together into one agency now headed by Mr. Train. I did this for the purpose of bringing those environmental protection functions which were scattered throughout the Government together into one place, where Congress could see what they were, and where the Administrator—now Mr. Train—could coordinate them, because they were running at cross purposes to each other before we created this Environmental Protection Agency.

Therefore, I am interested in environment the same as any others here are. I have sometimes felt that Mr. Train has been more of a zealot than an advocate. I felt that he has gone too far. When he goes out to California and advocates that we do away with 80 percent of our automobiles when we have no mass transit, this convinces me that this is an act of a zealot and not an act of a responsible advocate.

However, I think in opposing this amendment which the gentlewoman from New York has offered, I want to say this, that in this bill we properly refrain from creating internal organizational units.

This is done in order to give the utmost flexibility in organizing a new agency and enabling it to adjust for changes and new problems. The amendment is contrary to that purpose.

Mr. Chairman, this amendment offered by the gentlewoman from New York (Ms. ABZUG) is not necessary. The Administrator would have ample authority to designate necessary liaison and coordinating officers with other departments and agencies of the Government. I think that the amendment confuses agency responsibilities.

The Environmental Protection Agency is charged with enforcing these environmental laws. This is their job, that is their purpose, and they are funded and they have a staff to do that. If we try to set up organizational units in this agency or in relation to another agency, and if their objectives may be diametrically opposed, we would be creating confusion. That is exactly what we would do. If we have them set up in these separate agencies, and each one is going forward and advocating its particular purpose, we have at least an orderly presentation of their views, whether they are right or wrong.

Mr. Chairman, I think we should not confuse the issue and put the Environmental Agency people into the Energy Agency, which has the task of getting on with the job of getting enough energy in this country, so that we can clean up the environment, by the way. I think we ought to keep them separate, and I ask for a "no" vote on the amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentlewoman from New York.

Ms. ABZUG. Mr. Chairman, I direct the attention of the gentleman to the report. Perhaps the gentleman was not listening to this when I was presenting my amendment.

On page 7 of the report it is stated that one of the primary purposes of this office will be to "study environmental implications of energy initiatives."

This is on page 7 of the report accompanying the bill.

Mr. HOLIFIELD. Yes.

Ms. ABZUG. Mr. Chairman, would the gentleman agree that if we consider this important enough to put it in our report and to indicate this is a primary purpose, would it not be perfectly appropriate to have such a unit which would indeed be able to react immediately to the impact which our energy initiatives would have on the environment? In that way we can deal with the conflicts or reconciliations, of the impact each would have upon the other. I believe this happens to be very fundamental to the whole development of an energy program.

So, Mr. Chairman, I submit that the setting up of this unit is a very fundamental suggestion which comes out of our own report.

Mr. HOLIFIELD. Mr. Chairman, if that is the way the gentlewoman reads it, I understand her position. I know the gentlewoman is very sincere in this matter.

However, I do believe, as I said before, that if we try to put these agencies together or put their functions in the same agency, why, then we will create confusion.

The head of the Environmental Protection Agency and the head of the Federal Energy Agency are both appointed by the President. Certainly the President can coordinate his appointees so that there will not be confusion.

It is just a matter, I think, of the orderly placing of functions and purposes and getting the staff to carry out those functions and purposes in one agency, and then, with a different approach to a different problem, doing the same thing in another agency.

Mr. Chairman, I just believe it would be a mistake to confuse this in that fashion.

I ask for a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The question was taken; and on a division (demanded by Ms. ABZUG) there were—ayes 10, noes 35.

So the amendment was rejected.

The CHAIRMAN. Are there any further amendments to section 10? If not, the Clerk will read.

The Clerk read as follows:

SEC. 11. As used in this Act—

(1) any reference to "function" or "functions" shall be deemed to include references to duty, obligation, power, authority, responsibility, right, privilege, and activity, or the plural thereof, as the case may be; and

(2) any reference to "perform" or "performance", when used in relation to functions, shall be deemed to include the exercise of power, authority, rights, and privileges.

AMENDMENT OFFERED BY MR. LONG OF LOUISIANA

Mr. LONG of Louisiana. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LONG of Louisiana: Page 30, line 15, strike out the period and insert, in lieu thereof, the following: "; and (3) any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity or political subdivision of a State or to the prices of or revenues from such royalty oil or shares."

Mr. HORTON. Mr. Chairman, I should like to reserve a point of order against the amendment. I am not sure I understand what the amendment is, but perhaps I can make the point of order after the gentleman from Louisiana has explained it.

The CHAIRMAN. The gentleman from Louisiana is recognized for 5 minutes in support of his amendment.

Mr. LONG of Louisiana. Mr. Chairman, the question, of course, is why would you exempt the State's share of the revenues from the price rollbacks?

Let me state first that I voted yesterday for the rollbacks. Basically there are five reasons, I think, for allowing the States this privilege.

First, the State's share of oil production is a relatively small part of the country's total production. Second, most oil-producing States, such as Louisiana, gear their State revenue and expenditures to their oil income. Third, the Federal intervention often disrupts the State revenue system.

Fourth, another interesting thing, particularly with respect to the State of Louisiana, is that all of the income, every bit of it, every penny of it, is dedicated to education. Another example, California has dedicated its income in a number of categories, including park systems and many other things that are important in California. This would cost the State of Louisiana a substantial amount of money. Fifth, I think it would cost all of the oil-producing States a substantial amount of money if this exemption is not granted.

That is my argument. I yield back the balance of my time.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I should like to make a point of order against this amendment.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. HORTON. Mr. Chairman, this matter is not the subject matter within section 11. Section 11 is a definition section. I realize that the gentleman is attempting to define certain words, but it seems to me that the language he uses is to add new authority or subtract authority from existing law. I certainly understand the gentleman's concern, but these words included are probably included in statutes. It seems to me what he is doing is expanding or changing laws which are now in existence.

Also, we do not know the effect of the amendment on the rules of the House.

Mr. Chairman, I feel it is inappropriate to this section and nongermane and for that reason ask that it be ruled out of order.

Mr. LONG of Louisiana. Mr. Chairman, the gentleman from New York (Mr. HORTON) has raised a point of order that what I am attempting to do by this amendment is to define a term, which is what I am attempting to do by this amendment. And it appears to me to be completely within the purposes of this particular section to do so, and it seems to me that it is a perfectly valid place and a correct and specific place for an amendment of this type to be introduced.

The CHAIRMAN (Mr. FLYNT). The Chair is prepared to rule.

The gentleman from Louisiana (Mr. LONG) has offered an amendment to add a new subsection to section 11 of the bill, which is the definitions section.

The gentleman from New York (Mr. HORTON) has made a point of order against the amendment on the ground that it refers to matters not contained in the language of the section as written.

The Chair has carefully examined both the section as it appears in the bill, and also the amendment offered by the gentleman from Louisiana (Mr. LONG).

The Chair will state that subsection (1) of section 11 reads as follows:

> Any reference to "function" or "functions" shall be deemed to include—

and so forth.

The amendment sought to be offered by the gentleman from Louisiana (Mr. LONG) starts as follows:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits" shall not be deemed to refer to—

And so forth.

The Chair is constrained to feel that if the language of one subsection of the bill states clearly that certain references shall be deemed to include references, and there are two sections already appearing in the bill, the Chair is constrained to rule that the adding of the third section falls clearly within the reasonable interpretations of the word "Definitions," and therefore holds the amendment is germane and overrules the point of order.

Mr. REES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a complex area that we are dealing with.

Let me give the Members some background on the situation in California. The largest oil pool in the lower 48 States is the East Wilmington Pool, which is off Long Beach. This is owned by the State of California. The State of California put these lands out to bid, but they stated in the lease that the State could take its one-sixth royalty either in cash or in kind.

Because of the oil shortage, and because of the erratic price pattern, the State of California last year decided to take the oil in kind and put it out to bid, so that independent refiners and distributors would have an opportunity for an oil source that they did not then have. We were desiring to open up the market for more competition. The statutory sell-off sections of the law—and I am very familiar with these because I was in the State senate when those leases were sent out—had three purposes:

First, to provide a source of crude oil for independent refiners and distributors;

Second, to provide additional revenue to the State; and

Third, to provide a check on the crude oil prices paid for royalty oil or tidelands oil kept by the major oil companies.

Here is the problem: the cost of the oil in the East Wilmington Field is posted price, but the posted price is established by the same oil companies that are the lessees of the East Wilmington Field so that there is no way of really knowing what the real market value on that oil is. The oil that they are taking out is a heavy gravity oil, and heavy gravity oil costs less than a lower gravity oil.

The reason for this price differential was, they say, is that it costs more to refine heavy gravity oil. The problem is, though, that there have been a great many changes in the refining process. There is expert testimony that heavy gravity oil is really worth more than the oil companies claim it is. There is a case now pending in the superior court in Sacramento, Calif., where the State is trying to obtain information from the oil companies so that they can find out whether we are receiving what we should be receiving. It is an extremely serious situation where the taxpayers are being paid a price for their oil that the Joint Committee on Public Lands in the legislature thinks is too low—something like $200,000 a day less than what they should be getting.

The only way we can establish a price is to have the ability to auction this oil off so that those independent refiners and independent distributors would then have a chance to set a price in terms of the value of that oil. This is the reason for this amendment.

Originally State oil was exempt. California went to bid, and then on the day that the sales were to be consummated to the highest bidder, which was $1.10 over the posted price, the Cost of Living Council on October 25 of last year promulgated a rule that the States did not have an exemption. Of course, this means that this whole process of allowing the independents to bid on the State's share goes out the window. We have no way of testing the market to really find out what the market value of this oil is. If this continues, those oil States, such as Texas, Louisiana, and California, are going to be taking a financial beating.

The purpose of this amendment is to unfreeze this State oil, this public oil, so we can maximize the benefits to the taxpayers of these States, and—and I consider this even more important—we can develop some type of a competitive situation in the oil industry so, one, we can establish a price for the oil, and two, we can give the independents some chance of purchasing oil which today they cannot purchase. This is the reason I think this amendment is a very important one, and I would ask for an "aye" vote.

Mr. HORTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, could I have the attention of the gentleman from Louisiana, the author of the amendment? According to my copy of the amendment, under the section 11, Definitions, he would add a new definition which would say:

> Any reference to "domestic crude oil", "crude oil", "energy prices", or "profits", shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity, or political subdivision of a State, or to the prices of or revenues from such royalty oil or shares.

The thing I should like to ask the gentleman to define is royalty oil. If a State owns land and it leases that land to a private corporation or private individual, then that would, I assume, be royalty oil, and it would be exempt from the provisions of the rollback amendment Mr. DINGELL offered, as amended by Mr. ECKHARDT.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Louisiana.

Mr. LONG of Louisiana. I thank the gentleman for yielding. It was my intention by the amendment, and I should like to have the record so show, that the term "royalty oil" here applies only to the royalty payable to the State of Louisiana, and not payable to individuals.

Mr. HORTON. But it does not say that. When the gentleman has used just the words "royalty oil," it seems to me that what he has done is exempt a lot of oil which is not necessarily royalty oil going to the State but which could be going to corporations. Is it not a fact that States do lease lands to private corporations or corporations.

Mr. LONG of Louisiana. Certainly. This is the way most of the oil is developed.

Mr. HORTON. That would be royalty oil; would it not?

Mr. LONG of Louisiana. As long as the royalty oil would be payable to the State of Louisiana, and then only, it would be

covered by this provision oil. This is a usual term of art that is used in the oil industry. It applies to that which is paid in the form of a share of the oil that is produced from a lease.

Mr. HORTON. Mr. Chairman, I am going to oppose the amendment because I do not believe that the definition as set forth in the amendment is subject to the construction that the gentleman from Louisiana has offered. Therefore, I think it opens up a lot of questions which ought not to be opened up at this point. I, therefore, am going to oppose the amendment.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the requisite number of words.

This indicates one of the difficulties of bringing into an organization bill matters of substance. Mr. HORTON and I have fought all the way along to keep these matters of substance, matters of policy, different programs, and so forth, out of this bill.

We have been unsuccessful to some extent. This is brought about, of course, by the Dingell-Eckhardt amendment, which does exempt and does roll back and does roll forward to some extent some of the categories of oil. I oppose those two amendments and I will have to oppose this amendment, in order to be consistent.

I honestly do not understand the terms that are used here. I cannot pass judgment upon the scope of this. This has not been brought before our committee. We had not discussed it and had no testimony on it. I must take a position in opposition to the amendment, because I do not understand it.

Mr. LONG of Louisiana. Mr. Chairman, will the gentleman yield?

Mr. HOLIFIELD. I yield to the gentleman.

Mr. LONG of Louisiana. The reason the matter was not brought before the committee, was that I agreed, at the time the gentleman appeared before the Committee on Rules, along with Mr. HORTON, that this was going to be basically an organizational type of bill, rather than a substantive type of bill.

We have now moved, by the adoption of the price rollback yesterday, into a substantive bill and that is another reason I think it is germane and it adequately and properly fits at this point.

Mr. HOLIFIELD. Mr. Chairman, I would say to the gentleman, if I had not thought it was germane, I would have objected to it on the ground of nongermaneness. I believe it is germane. I do not know what is not germane now that the bill has been opened up by these substantive amendments.

Very frankly, I do not understand this and I must oppose it.

Mr. MALLARY. Mr. Chairman, I read the text of the amendment offered by the gentleman from Louisiana and it is clear from his explanation that he intends to refer only to royalty oil, payable, as he stated, to the State of Louisiana. I assume he also means to refer to royalty oil payable to other public entities. The reading of the amendment as offered makes clear that the exemption he proposes to add "shall not be deemed to refer to royalty oil or the shares of oil production owned by a State, State entity, or political subdivision of a State."

It appears to me the text of the amendment does not restrict royalty oil to oil of a public entity, but refers also to royalty owned by a private lessor. On that basis it opens this exemption up far wider than intended and I therefore oppose the amendment.

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

Mr. MALLARY. I yield to the gentleman from California.

Mr. REES. Would the gentleman accept an amendment which would define royalty oil as take-out oil owned by a State, so we really nail it down? If it is a problem of definition, an amendment should be in order to state exactly what the gentleman proposes for us now.

Mr. MALLARY. I think what the gentleman suggests would be preferable; but the problem is not for me to accept or deny a further amendment. The problem is that in legislating something as important we should not be offering or accepting hastily drawn amendments. The confusion at this point indicates the undesirability of this amendment. Therefore, I oppose it.

Mr. SISK. Mr. Chairman, I move to strike the last word.

Mr. HOLIFIELD. Mr. Chairman, will the gentleman yield for a special request?

Mr. SISK. I yield to the gentleman.

MOTION OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I move that all debate on this amendment close in 5 minutes.

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

The motion was agreed to.

Mr. SISK. Mr. Chairman, I want to join with my distinguished chairman and the dean of the delegation in hoping we can get on with this. I have a few questions to ask. I have been looking around for the chairman of the Committee on Interstate and Foreign Commerce.

It seems to me that the Members of the House are entitled to know what kind of procedure we are faced with in meeting the energy crisis. The Committee on Rules granted a rule to the Committee on Government Operations, and the distinguished chairman of that committee, to come down here with an organization bill setting up an organization to administer the program; not, as I understood, to get involved in a lot of substantive matters dealing with rationing, dealing with price control or anything else.

If there is anything in the world that justifies the low opinion in which the American people hold this Congress—21 percent, mind you, aparently four out of every five, think we are doing a lousy job, and I think sometimes we are; I am inclined to agree with them—this kind of demonstration we have seen here in the last 2 or 3 days, in my opinion, justifies it.

Mr. Chairman, I do not know what the Committee on Interstate and Foreign Commerce proposes to do. If there is any member of that committee here who would like to comment, I would be happy to hear him as to whether in fact they are going to take back the bill which has been vetoed and come out with an emergency bill which will meet some of the needs which this country has and which I think this country feels the Congress should be responsible for. I invite the comment of any member of that committee.

Mr. Chairman, we have gotten this bill into a shape that means it is going to be vetoed, so all we are doing here is spinning our wheels. I agree that I am taking up 5 additional minutes of the time, but it does seem to me that we ought to give a little bit of thought to what we are doing and why we are in such low esteem in this country when we go through these kinds of foolish proceedings.

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

Mr. SISK. Mr. Chairman, I want to say that none of the things I have said are any criticism of the gentleman from California (Mr. HOLIFIELD) or the gentleman from New York (Mr. HORTON).

Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, I do understand that. The gentleman gave us the rule we asked for. There has developed a theory of germaneness, I regret to say, that in moving different entities into a new organization, substantive matters become germane for amendments.

Mr. Chairman, I would say to the gentleman as a member of the Rules Committee, and I have said it before to other members of the Rules Committee, that the Rules Committee should formulate a rule applicable to reorganization—and this is not going to affect me, because I am not going to be here to handle the reorganization plans next year—but they should make a rule that when we move entities together into an organization, that this does not thereby make germane amendments to the substantive statutory programs associated with the reorganizations.

I just hope, and I say this as a request, that the gentleman takes this matter up. On a reorganization plan we have to vote it up or down without amendments. On reorganization bills, I am not saying we should not be able to amend, maybe put another organization in it, or take organizations out of it. I think that latitude should be there, but to open up every law, every rule, every regulation of the Economic Stabilization Act to substantive amendments—and this is what we have done on this bill—is to make chaos out of it and to defeat the purpose of jurisdiction of statutory committees.

I say that the statutory jurisdiction of the committees, unless it is preserved, would have no more order than in the other body, where there is a guerrilla attack on every piece of legislation we send over there, and I deplore it because

it frustrates the House and frustrates the committees.

Mr. SISK. Mr. Chairman, I appreciate the comments of my friend. Let me say that I agree with everything he is saying, and to the extent that the Rules Committee can do something to bring order out of chaos, I am all for it. Frankly, though, it does not relieve the responsibility of the legislative committee.

I am not here condemning the Committee on Interstate and Foreign Commerce, but I am wondering what their obligation or responsibility is. Apparently, they have moved in here with the idea of yielding their jurisdiction to the Committee on Government Operations in order to get something which probably will be vetoed.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Louisiana (Mr. LONG).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to section 11?

If not, the Clerk will read.

The Clerk read as follows:

INTERIM APPOINTMENT

SEC. 12. (a) Any of the officers provided for in section 4 of this Act may be nominated and appointed as provided in that section, at any time after the date of enactment of this Act. Funds available to any department or agency (or any official or component thereof), any functions of which are transferred to the Administrator by this Act, may, with the approval of the President, be used to pay the compensation and expenses of any officer appointed pursuant to this subsection until such time as funds for that purpose are otherwise available.

(b) In the event that any officer required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act, the President may designate any officer, whose appointment was required to be made by and with the advice and consent of the Senate and who was such an officer immediately prior to the effective date of this Act, or any officer who was performing essentially the same functions immediately prior to the effective date of this Act, to act in such office until the office is filled as provided in this Act. While so acting, such persons shall receive compensation at the rates provided by this Act for the respective offices in which they act.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 12 of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 12?

If not, the Clerk will read.

The Clerk read as follows:

APPROPRIATIONS

SEC. 13. There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The CHAIRMAN. Are there amendments to section 13?

If not, the Clerk will read.

The Clerk read as follows:

ACCESS TO RECORDS BY THE COMPTROLLER GENERAL

SEC. 14. (a) For purposes of review and evaluation of the operations of the Administration, including audit and examination of the Administration's use of Federal funds, and notwithstanding the provisions of section 16 of this Act, the Comptroller General of the United States, or any of his duly authorized representatives, shall have access to and the right to examine—

(1) any books, documents, papers, records, or other recorded information of the Administration or within its possession or control; and

(2) any books, documents, papers, records, or other recorded information of any recipients of Federal funds or assistance under contracts, leases, cooperative agreements, or other transactions entered into pursuant to subsection (e) or (i) of section 7 of this Act which in the opinion of the Comptroller General may be related or pertinent to such contracts, leases, cooperative agreements, or other transactions.

(b) Reports relating to management and conservation of energy submitted by the Comptroller General to the Congress shall be available to the public at reasonable cost and upon identifiable request, except that the Comptroller General may not disclose to the public any information which concerns or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, except that such information may be disclosed, in a manner designed to preserve its confidentiality—

(1) to other Federal Government departments, agencies, and officials for official use upon request;

(2) to committees of Congress having jurisdiction over the subject matter to which the information relates; and

(3) to a court in any judicial proceeding under court order formulated to preserve the confidentiality of such information without impairing the proceedings.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that further reading of section 14 of the bill be dispensed with, that it be printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENTS OFFERED BY MR. CULVER

Mr. CULVER. Mr. Chairman, I offer two amendments, one to section 14 of the bill, which has just been read, and the other a conforming amendment to section 15 of the bill, and I ask unanimous consent that they be considered en bloc.

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

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. CULVER: Page 32, Line 21, strike the word "may" and insert the word "shall"; insert before the comma the words: "by the Comptroller General or the Administrator."

Pages 32–33, starting with Line 25, strike the words: "having jurisdiction over the subject matter to which the information relates".

Page 34, Line 21, after the end of the last sentence insert a new sentence as follows: "Disclosure of such information by the Administrator shall be governed by section 14(b) of this Act."

Mr. CULVER. Mr. Chairman, this is a clarifying amendment to assure legitimate access to confidential energy information for official purposes by agencies of the executive, legislative, and judicial branches including the independent regulatory agencies. The duty to provide such information to these bodies is made mandatory rather than permissive by the amendment, although still "in a manner designed to protect its confidentiality."

Further, the amendment would strike as surplusage the subject-matter jurisdiction qualification on congressional committee access. Jurisdiction is a manner for Congress to decide and should not be a debating point for those upon whom the disclosure duty falls.

Finally, for convenience we have added the Administrator as well as the Comptroller General as a party to whom official bodies may turn for such information. It will often be more convenient to secure this data directly from the FEA, although the Comptroller General would still act as a monitoring resource for the Congress.

I urge approval of this clarifying amendment.

Mr. Chairman, the second amendment is a conforming amendment to make disclosure of confidential energy data by the Administrator conform to the guidelines and procedures set forth in section 14(b) as we have now clarified that section.

The amendment is noncontroversial and I urge its approval.

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

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

Mr. HORTON. Mr. Chairman, I have discussed these amendments with the gentleman from Iowa and with the minority side, and we are willing to accept them.

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

Mr. CULVER. I yield to the distinguished chairman of the full committee.

Mr. HOLIFIELD. Mr. Chairman, I, too, have discussed this matter with the gentleman from Iowa. I know that the gentleman and his staff have worked for several days on this particular matter, and I think they have done a good job on it.

Mr. Chairman, I will accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Iowa (Mr. CULVER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. ROSENTHAL

Mr. ROSENTHAL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROSENTHAL: On page 32, at the end of line 13, add the following new paragraph:

"(3) any books, documents, papers, records or other recorded information of any public or private persons, organizations or other entities which are or would be available to any Federal agency pursuant to its functions and authorities relating to management and conservation of energy, including but not limited to energy costs, demand, supply, reserves, industry structure, environmental

impacts, and research and development, which in the opinion of the Comptroller General may be related or pertinent to the operations of the Administration."

The CHAIRMAN. The gentleman from New York (Mr. ROSENTHAL) is recognized for 5 minutes in support of his amendment.

Mr. ROSENTHAL. Mr. Chairman, when the Comptroller General of the United States testified before the House Government Operations Committee on the Federal Energy Administration Act, he stated the following:

Provision should be made for GAO access to the same records and documentation for which the Federal Energy Administration is provided access, thus providing Congress the assurance that independent reviews of the manner in which the Agency is carrying out its data collection functions can be made.

It is important to note that the GAO now has this authority, with respect to companies under contract to agencies of the Federal Government or where Federal loans, grants or other types of financial transactions are involved. In other words, Mr. Chairman, what my amendment attempts to do is to merely extend an existing power of the Comptroller General to a new category—the energy crisis and those companies that are subject to the information gathering powers of the Federal Energy Administration. I think that every Member of this body would agree that the General Accounting Office has served the Congress and the public well over the years. I know that my constituents—and I suspect constituents of others—are having difficulty believing the disparte energy-related statistics and data coming out of different Government agencies and from the private sector. If we are to ask the public to believe in and make sacrifices in behalf of the Federal Government's energy policies, it is vital that they have confidence that these policies are based on accurate and verifiable data.

The Comptroller General has requested that he be permitted access to the books and records of those companies which are or would be available to the Federal Energy Administration. I know he would exercise such authority with discretion and with regard for the rights of others.

If data submissions to the Federal Energy Administration are called into question or if the FEA's data collection practices are challenged, the Congress should be able to rely on the General Accounting Office to inquire into the matter. But without this amendment, such an inquiry will be impossible.

Mr. Chairman, the Comptroller General believes it is essential that the GAO have authority to report to Congress on the manner in which the Federal Energy Agency is carrying out its data-collection responsibilities. I agree.

Many, if not most, of the FEA's senior policymakers have held important jobs with oil and other energy companies. I recognize that it may be necessary, from time to time, to utilize the expertise of persons fresh from industry.

But I also believe that it is necessary to recognize the appearance of impropriety that such arrangements create. Accordingly, I have asked for and received from the Federal Energy Office a listing of policymaking officials who have recently been employed in the oil and gas or other energy industries. I am attaching to my statement this listing:

Person	Present title	Previous energy industry employment
Duke Ligon	Assistant Administrator for Policy Planning and Regulation.	Continental Oil Co., 1969.
Phil Esley	Deputy Assistant Administrator for Policy Analysis.	Sinclair.
Bob Bower	Consultant, Presidential interchange program.	Phillips.
J. Gill	Acting director, program planning.	Gill Oil Co. (president) 1973.
J. R. Goodearle	Acting Chief	Production and financing (independent sector) 1969.
D. Harnish	Industrial Specialist, Contingency Planning.	Exploration consultant, 1963.
Lisle Reed	Acting Assistant Director, Program Planning.	Exxon Petrochemicals, 1971.
Troy York	Industrial Specialist, Coal Switching.	Marathon Oil Co., 1958.
Ed Western	Industrial Specialist (Natural Gas).	Sun Oil Co. (Presidential Interchange Program), 1973.
Tom Dukes	Aide, Office of Gas Rationing.	British Petroleum; 1973 Gasoline Station Level.
Robert Presley	Contingency Planning	Exxon, 1971.
James Langdon	Price and Tax Policy	American Petroleum Institute, staff, 1973.
Susan Mintz	Price and Tax Policy	American Petroleum Institute, staff, 1973.
Clyde Topping	Price and Tax Policy	Mobil, 1972.
Linda Buck	Price and Tax Policy	Gulf Oil Co., 1974.
Arthur Finston	Price and Tax Policy	Consultant, independent oil producer, 1974.
Eugene Peer		General manager, manufacturer, 1937 to 1969.
William Darby	Unknown	Senior petroleum economist, 1942 to 1960.
David Oliver	Unknown	Chief economist, 1946 to 1964.
Earl Ellerbrake	Unknown	Chief of transportation research and development, 1946 to 1960.
Dale Swan	Unknown	Staff economist, 1973.
Dr. Tayyabkhan	Unknown	Manager of computer methods, Mobil.
Ali Ezzati	Unknown	Economist in United States, 1970 to 1974; in Iran, 1965 to 1967.
H. J. Ashman	Unknown	Unknown, 1954 to 1966.
Thomas Daugherty	Unknown	Unknown, 1965 to 1974.
John R. Lewis	Office of Energy Conservation.	(A) Petroleum engineer, Standard Oil Co. (Indiana) and Subsidiaries, 1940 to 1959 (less 3¼ yr. military service). (B) Petroleum engineer, Mid Continent Oil & Gas Association, 1960 to 1963. (C) Petroleum engineer, National Petroleum Council, 1963 to 1967.
John G. Miller	Office of Energy Conservation.	Aramco, senior process engineer, 1948 to 1959.
Bart J. McGarry	Office of Energy Conservation.	(A) Public Relations Association, Mobil Oil Co., 1955 to 1960. (B) Manager, Public Relations, Northern Illinois Gas Co., 1968 to 1971.
George Hall, Jr.	Fuel Manager, General Fuels.	Creole Petroleum Co., 1968 to 1971.
Neil Packard	Program Analyst, Residual Fuel.	Esso Eastern, Inc., Vietnam division, aviation manager, assistant terminal manager, terminal manager, Ind. services advisor, 1966 to 1973.
George Mehocic	Distribution Specialist, Residual (not yet on board).	Humble Refinery, 1967 to 1969, Esso International, 1969 to 1972, marketing.
E. Lloyd Powers	Distribution Specialist	Has consulted for several oil companies outside the United States.
Donald K. Hawes	Acting Fuel Manager, Crude Oil and Petrochemical Allocations.	(A)—Union Texas Natural Gas, 1951 to 1960, secretary-treasurer. (B)—Mobil Chemical (division of Mobil Oil) 1962 to 1968, manager of financial controls; 1968 to 1969, planning coordinator.
Robert Cunningham	Industrial Specialist (Crude Oil and Refining).	Standard Oil, Chevron Asphalt, 1948 to 1971, all positions, final position—sales manager (Baltimore region).
Robert Kahl	Industrial Specialist (petroleum products).	Kewanee Oil Co., 1935 to 1968, vice president of foreign operations (last 12 yr).
Morris Robinson	Engineer	Amarill Oil & Gas Co., consultant.
Ray W. Whitson	Refinery Specialist	(A) City Service, 1928 to 1934, chemist. (B) William Bros., 1935 to 1941, chemical engineer, pipe line company. (C) National Petroleum Refiners Association, 1964 to 1974, technical director.
Lou Bley	Industrial Specialist (residuals).	Gulf Oil, 1959 to 1968, relations director.
Tom Olson	Industrial Specialist (Bunker).	Interstate Oil Transport Co., 1969 to 1973, safety engineer.
John Osborne	Industrial Specialist	Ashland Oil and Refining Co., petroleum engineer.
Roy Pettit	Staff Assistant, Office of Program Planning and Systems Development.	Standard Oil, 1955, in training petroleum operations.
John Adger	Special Assistant, Office of The Deputy Assistant Administrator.	Mobil, 1969 to 1973; geologist/geophysicist.
These 3 men are in defile of the Assistant Administrator for Resource Development:		
(1) R. R. Atkins	FEO/ERD, Oil, Gas, Geosteam.	(A) District geologist, Westgate-Greenland Division of Mississippi River Fuel & Iron Corp., 3 yrs. (B) Independent consulting geologist, 12 yrs. (C) Director of eastern hemisphere operations, Drilling Equipment Division of Westinghouse Air Brake. (D) EPA, 2½ yr, subsurface pollution control, in petroleum industry since 1948.
(2) D. B. Gilmore	FEO/ERD, Material Expediting.	(A) District geologist, Thompson & Harris Drilling Co. 2 yr. (B) Independent consulting geologist 16 yr. (C) Asphalt refinery manager and R. & D.; Trunbull Asphalt Co., 4 yr. (D) EPA, 2 yr., geological R. & D., in petroleum industry since 1950.
(3) L. E. Moore	FEO/ERD incentive planning.	(A) Manager of unit operations; Mid States Oil Corp., 9 yr. (B) Consulting engineer, Raymond F. Kravis Co., 4 yr. (C) Independent consulting engineer, 2 yr. (D) IRS, 9½ yr., oil and gas evaluation engineering, in petroleum industry since 1948.
Chalmer Kirkbride	(Not on board yet) Consultant, will be Dr. Weinberg's expert on the oil business.	From Sun Oil, former vice president recently a private consultant.

I think it would be an abuse of our responsibility if we did not adopt this amendment. This amendment was not my idea, it was recommended by the Comptroller General. I think it is a very useful amendment and, frankly, I would hope that the committee would accept the amendment.

Mr. Chairman, I urge the adoption of the amendment.

Mr. HOLIFIELD. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

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

Mr. CONTE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this amendment has far-reaching effects, and I think the members of the committee ought to be informed as to what the amendment does. In effect, what it does is give the Comptroller General direct access to books and records of companies. In effect, what it does is give the Comptroller General indirect subpena power since it gives him the right of access to company books, records, and other information, a right which presumably is enforceable in the courts by injunction or otherwise.

The committee bill gives the Comptroller General two kinds of access to books and records, first to those of the Federal Energy Administration for the purpose of review evaluation, including audit and examination of the administration's use of Federal funds and, second, to those of any recipients of Federal aid through contracts, leases, or other transactions.

The committee does not believe that the Comptroller General should through his own resources correct and analyze energy data. That is the proper function of the Federal Energy Administration. And our bill gives him that clear authority, including the subpena power.

The Comptroller General's proper responsibility is to audit the functions and the operations of the FEA, and to help the Congress evaluate its performance. It is not a line agency in the executive branch; it is an auditing agency and an arm of the Congress.

This is too important a subject to dispose of by a floor amendment. It requires evaluation in the broader context of the Comptroller General's role and responsibility. More and more the Comptroller General is being thrust into the political and quasiadministrative areas by numerous laws and floor amendments. We ought to give some thought as to how far we want to go lest the General Accounting Office be transformed into a much different kind of institution than the one which we now have, which, I might add, I think is a very good and efficient agency.

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

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

Mr. ROSENTHAL. Mr. Chairman, would I be correct if I said that the Comptroller General in testimony before our committee asked for this authority?

Mr. HORTON. That is right. He has asked for the authority. But the point is that the committee has not analyzed it. There is now pending before the committee a proposal by the Comptroller General.

Mr. ROSENTHAL. In his testimony on this bill he asked for this authority.

Mr. HORTON. I do not recall the exact testimony as to whether or not he did say that or not.

Mr. ROSENTHAL. He did.

Mr. HORTON. If the gentleman from New York has that recollection, then I am sure his recollection is right.

But the committee in its own judgment decided not to give the Comptroller General that authority. I think it is a wise judgment not to give it to him because it would transform the Comptroller General's office into a different type agency authorized to go in directly and get the information.

I now yield to the gentleman from California (Mr. HOLIFIELD).

Mr. HOLIFIELD. Mr. Chairman, I would ask the gentleman from New York if it is not true that the committee was asked this in the committee, and that it was rejected?

Mr. HORTON. That is correct.

Mr. HOLIFIELD. And I would also ask the gentleman from New York if it is not also the truth that we are going to have hearings on this; that we consider this a very important thing. That is something the Congress has never done, to give to the Comptroller General what in effect is subpena power. There are arguments for it, I think, and the Attorney General has made some of those arguments. There is no man in government whom I respect more than Elmer B. Staats, the Comptroller. I think he is one of the great public servants of our time. We are going to consider this in our committee. But it would apply, of course, to more than just this agency.

Mr. HORTON. I appreciate the gentleman's remark and his contribution. I agree with him. I certainly agree with him with regard to the responsibility and the standing of Mr. Staats the Comptroller General. As Mr. HOLIFIELD has stated, he and I have both talked about this bill, and we do intend to have hearings on it. This is not the place for the amendment, and I urge the committee to reject it.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONTE. Mr. Chairman, I rise in support of this amendment.

Mr. Chairman, I rise to support this amendment.

In the past 7 weeks, the Select Committee on Small Business, on which I am the ranking minority member, has held 4 exhaustive days of hearings on the need for Federal legislation to require the oil companies to report timely and accurate information on production, inventories, and reserves. My distinguished colleague from Michigan, Mr. DINGELL, the chairman of the subcommittee, is to be commended for calling these hearings.

These Small Business Committee hearings showed that the present energy data reporting system is a spectacle of ignorance. Information that Federal agencies need comes to them shrouded in secrecy and often secondhand. There is a shocking overreliance on industry data that is unverified, unaudited, uncompleted, and uninformative. As witness after witness told the committee, the Federal Government needs its own source of energy data, which can be audited and verified, and then made public.

Let me give an example of how the lack of reliable information can hurt the public. Early in January, the Department of the Interior held its first lease sale for 5,000 acres of oil shale lands in Colorado. This tract was leased by two major oil companies for $210 million.

I asked the Assistant Secretary of the Interior during the Small Business Committee hearings what was the Department's "minimum acceptable bid" on this lease.

He said he did not know. I had the information so I told him. The price tag that the Interior Department set on the first oil shale bid was less than $9 million.

I said then that I thought this valuation was outrageously low—and I added that even the winning bid of $210 million was far too low.

Further investigation by the Select Committee on Small Business has shown that the public was sold out on this oil shale lease deal. Our committee has discovered that the minimum acceptable bid should have been about $515 million.

That means that the Interior Department leased valuable public lands to two major oil companies—Gulf and Standard Oil of California—for approximately 40 percent of its true value. This represents a rip off on the American taxpayer of over $300,000,000.

Mr. Chairman, at this point, I would like to insert in the RECORD two articles from the Washington Post giving the details of this outrage:

OIL SHALE TRACT VASTLY UNDERVALUED, HOUSE PROBE SAYS

(By Morton Mintz)

The federal oil shale tract in Colroado leased to two major oil companies had been secretly valued beforehand by the Interior Department at a mere one-fortieth of the winning bid, House investigators have discovered.

Moreover, the investigators say, the actual value of the tract is at least $500 million—more than twice the $210.3 million bid jointly by Gulf Oil and Standard Oil of Indiana for a long-term lease. Interior accepted the bid Jan. 17.

Actually, Interior was stunned even by the offers of the seven rivals that lost out to the Gulf-Standard combine. Their bids ranged between $16 million and $175 million. The advance calculation by Interior had been that the tract would bring a relatively modest sum—somewhere between $5 million and $6 million.

Did the two firms make a $200 million mistake? Or did Interior? And, could it be that even the $210.3 million was a bargain?

The answer unearthed by the House Select Small Business regulatory subcommittee and its staff is: It was the government that erred.

The key elements of the affair? Familiar ones, says the subcommittee staff; bureaucratic goofs concealed by secretiveness until investigators—armed in this case with subpoenas—pry out the story. Exposure on Capitol Hill. Some reforms. A career impeded.

In the shale story, a principal figure is In-

terior's John B. Rigg, deputy assistant secretary for energy and minerals. As late as January, he was also acting assistant secretary, but he holds that title no longer.

Rigg also had been in full charge of Interiors' program for developing six oil shale tracts with various pioneering technologies. No longer.

The story began to surface the day Interior accepted the Gulf-Standard bid on the Colorado tract, which consists of 5,100 acres and is the first to be leased for development.

At a subcommittee hearing, Rep. Silvio O. Conte (R–Mass.) asked Rigg to state Interior's minimum acceptable bid for the tract. Such figures, which take into account such factors as the difficulty of extracting oil, are calculated by a committee of five Interior Department employees whose identity is kept secret and who meet inconspicuously in an office in Denver.

Rigg said he did not know the figure. Conte said reliable sources had told him it was $9 million. Rigg, still insisting he didn't know, said, "I could get it for you and supply it to you."

Over the next few days, William F. Demarest Jr. and Peter D. H. Stockton of the subcommittee staff found Rigg unwilling to supply the figure. Chairman John D. Dingell (D–Mich.) then issued subpoenas for Rigg and Reid Stone, head of Interior's shale oil task force.

Calling on Rigg in his office Jan. 23, Stockton and Demarest found Rigg anxious to dissuade them from serving the subpoena.

The subcommittee aides recalled to a reporter Rigg's warning that they could destroy Interior's system for evaluating the oil shale tracts. He termed them "worse than the environmentalists."

Rigg also considered development of the tracts so vital to the national interest that he said they should be given away with "deep subsidies," the investigators said.

As for the $9 million figure, investigators said, Rigg reported he had been advised it was in error, and warned his visitors, "I will call you liars" if they use it. They left—after serving the subpoena—with a clear impression that $9 million must be below Interior's actual secret estimate. They subpoenaed Stone on Jan. 25.

The same day a delegation from Interior called on Stockton and Demarest. The meeting produced an admission that the $9 million estimate was erroneous not because it was too low, but because it was "substantially" higher than the true Interior committee evaluation.

The investigators agreed to a request that they recommend to the subcommittee that it receive the precise figure in confidence. The figure is still not known, although Interior had said it is about one-fortieth of the $210 million.

The explanation of the $5 million to $6 million valuation emerged on Jan. 28 at a public hearing at which Rigg admitted that there was no basis in law for Interior withholding such data from Congress.

Under questioning by Dingell, oil shale coordinator Stone acknowledged that the Interior committee had "locked in" its valuation of the tract on Sept. 25, when the price of oil—a crucial element of the computation—was $3.89 a barrel. During the ensuing three months, the price of domestic oil shot up to between $7 and $10 a barrel.

"Isn't it a fact that nothing was done to take this change into account before the sale?" Dingell asked.

"That is a fact," Stone said. He agreed, in addition, that the top-bid figure of $210 million, which reflects a high profit ratio once the breakeven point is exceeded, was probably based on an assumed price of $5.10 per barrel.

However, Federal Energy Administrator William E. Simon said he expects the price of domestic crude to settle between $7 and $8. Even at $7 the tract would be worth about $515 million, according to Demarest and Stockton. They point out that with the break-even point reached far below $7, most of that price would be profit.

Could it be worth much more? Yes, they say. The reason is that the tract will be developed as a surface mine, which, according to Rigg, will yield more than three times as much shale oil than if it were developed as an underground mine.

Interior Secretary Rogers C. B. Morton announced on Nov. 28 that the tract would be developed as a surface mine. Yet, Stockton and Demarest said, the computation to which the Interior evaluation unit had wed itself in September was based on underground mining.

Rigg told the subcommittee that open-pit mining of shale "has not yet been demonstrated," and that underground mining—"the only demonstrated system"—would produce only 1.3 billion barrels.

An Amoco spokesman in Chicago, asked about the basis for the $210.3 billion bid with Gulf, said a number of factors were involved, including a try to make the offer high enough to surpass competitors, and the extent of offshore oil and gas reserves.

The spokesman said the project was considered such a long-term affair as to make it impossible to try to compute closely a target rate of return.

Amoco says it expects the joint investment during the 30-year life of the lease to reach $4 billion (in current dollars), with about $500 million of the total being needed to build an initial plant to produce 50,000 barrels daily.

The $210.3 million—$41,319 per acre—is the most expensive federal lease ever executed. It took effect March 1.

The bid was accompanied by a check for $42 million to cover the first year's installment of the total "bonus" payment. Two more payments of $42 million each will be made in 1975 and 1976. The final two payments will be returned as a writeoff against development costs.

The companies will pay royalties on an adjustable basis, depending upon the actual grade of shale and price of crude oil. For years six through 20, the royalty must be at least $14 million.

The firms also will pay a nominal rent—50 cents per acre per year.

LOW ESTIMATE—SHALE BID MISTAKES ADMITTED

(By Morton Mintz)

The Interior Department admits that it made major errors when it estimated that the "minimum acceptable bid" for an oil shale tract in Colorado would be between $5 million and $6 million—about one-fortieth of the $210.3 million actually bid in January by Gulf Oil and Standard Oil of Indiana.

The admission is in a memo prepared by Assistant Secretary Laurence E. Lynn Jr. for Under Secretary John C. Whitaker, who had requested an analysis and suggestions to prevent a recurrence of such a miscalculation.

Those on Capitol Hill who have expressed doubt about Interior's ability to assess accurately the worth of the nation's reserves of oil and natural gas say the shale episode has added to their concern.

A copy of the memo, dated Feb. 1, was obtained by the House select small business regulatory subcommitte. Its staff has estimated that the true value of the tract is at least $500 million, more than double the sum being paid by Gulf and Standard for a long-term lease, as The Washington Post reported yesterday.

Lynn, explaining the low advance estimate made by a resource evaluation panel of Interior's Oil Shale Task Force, said it had made key assumptions in September and had not changed them before the bidding in January.

One of these assumptions was crucial: that the price of a barrel of crude oil would be $3.75. As of September, that price was "not clearly unreasonable," Lynn told Whitaker. But by the time of the sale in January oil prices had skyrocketed, with some sales being made for as much as $10, Lynn said.

The $210.3 million bid suggests that Gulf and Standard "may have had in mind a price in the neighborhood of $6.50/barrel," Lynn said, "In retrospect, it was a major error not to have revised the valuation immediately prior to the sale, in the light of the expectations then prevailing."

The official also said there was "some uncertainty" about what the minimum acceptable bid was supposed to represent. Several concepts, "not all of which are consistent, appear implicitly to have been in people's minds," Lynn said.

These concepts included getting a bid: large enough to evidence a bidder's "good faith," "not so large as to be a barrier to development of the oil shale resource," "equal to the 'true value' of the resource (where 'true value' was not clearly defined," and sufficient to provide "a 'fair return' to both the bidder and the taxpayer."

"Perhaps in part because of this uncertainty . . . it was not clear to the resource evaluations panel whether the proper price of oil to use in its calculations was a historical average ($3.75), the current spot price (up to $10), or an expected future price ($6 to $7?)," Lynn said.

Moreover, he said, "Little detailed review by major departmental officers" of the panel's work was provided. He said the possible causes included the task force form of organization, the highly technical nature of the work and the officials who "didn't want to know" the panel's minimum acceptable bid "because they feared prior disclosure to the prospective bidders."

The official most insistent on not wanting to know was deputy assistant secretary John B. Rigg.

Lynn's recommendations included a high-level departmental review of the panel's work before each lease sale, dropping the phrases "minimum acceptable bid" in favor of "expected resource value," and directing the panel to make its calculation on the basis of "best estimates of expected future prices."

In private business, nobody could afford to make a mistake like that. By the same token, the Federal Government cannot afford to base national energy policy on inadequate information.

I would add that this type of blunder is not limited to just oil shale lease sales. The Small Business Committee has found similar giveaways of public treasures in the leasing of offshore tracts in the Louisiana gulf. The committee has found one tract that the Interior Department valued at $144,000 being sold for $91.8 million—which is 637 times its predicted value.

In the Small Business Committee hearings, we heard a long series of witnesses representing Federal agencies, the major oil companies, and consumers. Without exception, and this included the witness from Exxon, these witnesses endorsed the idea that Federal energy data legislation is needed. They agreed unanimously that the present data reporting system is inadequate. The call for the legislation provided in this amendment was overwhelming.

Mr. Chairman, the Federal Energy Office has been trying to run the mandatory allocation program for the past 2 months

without adequate data. Just yesterday, John Sawhill, Deputy Director of the Federal Energy Office, admitted that his agency still does not have adequate information concerning oil supplies by region and by State.

This legislation is vitally needed. A similar provision exists in the energy emergency bill, but that bill is expected to be vetoed.

Without accurate and timely data to indicate how oil shortages can be relieved in certain regions and States, the mandatory fuel allocation program will not be able to succeed.

I urge my colleagues to support this important amendment.

Mr. JOHNSON of Colorado. Mr. Chairman, I do not want to divert the gentleman from the main thrust of his argument, but he has indicated to me that the gentleman is making statements about things he is not as fully informed as I personally am, because it is in my district.

Does the gentleman know how many millions of acres the Government owns out in that oil shale land from which they leased 10,000 acres?

Mr. CONTE. Yes; we know that. We have the figures. We had expert witnesses from the Department of the Interior on this subject matter. If I am as ill informed as the gentleman is saying, then the officials from the Department of the Interior are ill informed, for I base my information on their facts and figures.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. HORTON and by unanimous consent, Mr. CONTE was allowed to proceed for an additional 2 minutes.)

Mr. JOHNSON of Colorado. Does the gentleman know how many millions of acres the Government actually owns?

Mr. CONTE. I am informed that the United States owns outright over 7 million acres of oil shale lands in Colorado, Utah, and Wyoming.

Mr. JOHNSON of Colorado. Does the gentleman know how much it costs a company to build a 50,000-barrel-a-day plant?

Mr. CONTE. I am not arguing the cost. I am saying that the Department of the Interior evaluated and admitted under oath that they were ready to receive a $9 million bid and it went for $210.3 million. Our investigation proved it was worth over $500 million. And that was for a tract, known as tract C-a, that's only 5,089 acres.

If the gentleman wants to defend the oil companies, he can go ahead. I am saying that we have a lousy reporting system.

Mr. JOHNSON of Colorado. When the gentleman says "rip off and defend the oil companies" and that sort of thing, he is using emotional terms which get away from the facts and do not help in developing those shale oil reserves. Let us get away from those kinds of terms.

Mr. CONTE. The gentleman can strip any adjectives he wants. I am still saying we do not have the proper reporting. We do not have the proper data from any Department of the Federal Government. We have to depend on the oil and gas companies for our information.

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

Mr. CONTE. Yes; I will yield to the gentleman if I have the time.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

(At the request of Mr. HORTON and by unanimous consent, Mr. CONTE was allowed to proceed for an additional 2 minutes.)

Mr. HORTON. Mr. Chairman, I want to agree with the gentleman on the point that the Federal Energy Office has had difficulty getting information, but that is the purpose of this bill. It is to set up a Federal Energy Administration by statute.

The next section, section 15, does give to the Administrator unusual authority to go in, to verify, look at books and records which he does not now have; so it is very important to enact this bill.

The amendment of the gentleman from New York (Mr. ROSENTHAL) has to do with permitting the Comptroller General to go in and the point I make in opposing the amendment——

The CHAIRMAN. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. HORTON and by unanimous consent, Mr. CONTE was allowed to proceed for an additional minute.)

Mr. HORTON. Mr. Chairman, the point I am making is that we do give the authority to the Administrator to get information. The Comptroller General's responsibility should be to audit the books given to the FEA and not become a legislative agent.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. ROSENTHAL).

The question was taken and the Chair announced that the noes appeared to have it.

Mr. ROSENTHAL. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to this section?

If not, the Clerk will read.

The Clerk read as follows:

INFORMATION-GATHERING POWER

SEC. 15. (a) The Administrator shall, for the purposes of section 5(9) of this Act, have authority to collect energy information from all persons owning or operating facilities or business premises who are engaged in any phase of energy supply or major energy consumption, and to require full identification of all data and projections as to source, time, and methodology of development.

(1) The Administrator is authorized independently to formulate, issue, and require responses by such persons to surveys or questionnaires for the collection or standardization of energy information.

(2) The Administrator, to verify the accuracy of information he has received or otherwise to obtain information necessary to perform his functions is authorized to conduct physical inspections at energy facilities and business premises, to inventory and sample any stock of fuels or energy sources therein. and to inspect and copy records, reports, and documents from which energy information has been or is being compiled, subject to the applicable procedures for administrative inspections and warrants prescribed in subsections (b)(1) through (3), (c)(1), (3) through (5), and (d) of section 510 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 880), which procedures the Administrator is hereby empowered to employ and exercise in his own right and title for purposes related to the exercise of his responsibilities under this Act. For the purposes of this Act, the term "controlled premises" shall be deemed to refer to and include energy facilities and business premises owned or operated by persons engaged in any phase of energy supply or major energy consumption.

(b) The Administrator shall collect, assemble, evaluate, and analyze energy information pursuant to categorical groupings, established by the Administrator, of sufficient comprehensiveness and particularity to permit fully informed monitoring and policy guidance with respect to the exercise of each of the advisory and program responsibilities vested in the Administrator under section 5 of this Act or otherwise.

(c) The Administrator shall have authority, for the purposes of this Act, to sign and issue subpenas for the attendance and testimony of witnesses and the production of relevant books, papers, and other documents, and to administer oaths. Witnesses summoned under the provisions of this section shall be paid the same fees and mileage as are paid to witnesses in the courts of the United States. In case of refusal to obey a subpena served upon any person under the provisions of this section, the Administrator may request the Attorney General to seek the aid of the district court of the United States for any district in which such person is found to compel such person, after notice, to appear and give testimony, or to appear and produce documents before the Administrator.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 15 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MS. ABZUG

Ms. ABZUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. ABZUG: Page 35, between lines 10 and 11, insert the following new subsection:

"(d) The Administrator shall collect from departments (including independent agencies), and each such department, agency, and instrumentality is authorized and directed to furnish, upon request of the Administrator, information concerning energy resources on land owned by the Government of the United States. Such information shall include, but not be limited to, quantities of reserves, current or proposed leasing agreements, environmental considerations, and economic impact analyses."

Ms. ABZUG. Mr. Chairman, my amendment requires that the Administrator of the Federal Energy Administration, in addition to obtaining much needed data from the energy industry, also collect information concerning energy resources on federally owned lands.

The American people are skeptical and angry about fuel shortages and rising energy costs. When they ask how this all came about, they are bombarded with facts and figures, which are replaced by new facts and figures, ad nauseum. The fact is, and Mr. Simon of the Energy Office readily admits, that we do not presently have an adequate energy data collection system. Nor do we have the in-

formation necessary for the public or policymakers to know where we stand in this period of energy shortages.

The legislation before us contains a section dealing with direct data collection and analysis. It falls short, however, in that it applies only to the private sector and does not provide that information be gathered concerning the energy resources to be found in Federal lands, or the current or contemplated uses of these lands.

It is estimated that 80 percent of our fuel reserves are on Federal lands. Administrator Simon, however, has admitted that we have no Government information on these holdings. Now that intense pressure is building to develop these Federal lands into new resources, we must be very cautious that in our zeal to produce new energy supplies quickly, we do not simply give away our lands because we do not know what they contain.

The President, in his January 23 energy message, directed the Secretary of the Interior to lease 10 million acres of the Outer Continental Shelf by 1975. The newspapers have recently been reporting the new found interest in oil and shale deposits on Federal lands. Pressure is building every day to throw open our remaining Federal lands to the energy companies. However, since the Department of the Interior, which has custody of the Federal domain, has little idea of how much oil, gas, coal or oil shale these lands contain, we face the danger of selling or leasing them for a fraction of their actual worth.

Furthermore, before selling or leasing any Federal lands for development, we ought to see the whole picture. How much land does the Government own? Where is it? How much of it is leased, to whom, and under what conditions? How much oil, gas, coal, and oil shale is contained in these lands? What are the environmental and social effects, as well as the total economic impact of developing these lands? Mr. Chairman, these are only a few of the questions which must be answered now, before a further raid on, and giveaway of, Federal lands occur.

The amendment which I offer will require that all agencies of the executive branch cooperate in supplying data which will give us, for the first time—it is shocking to admit—a comprehensive outlook upon the energy resource contents of our federally owned lands.

I urge my colleagues to support this amendment.

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

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I know the gentlewoman from New York has worked diligently on this amendment. We have gone over it with her, and I am willing to accept it.

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

Ms. ABZUG. Mr. Chairman, I yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, we will be glad to accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. ABZUG).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 35 after line 10, a new section "(d)", and add the following:

To protect and assure privacy of individuals and personal information, the administrator is directed to establish guidelines and procedures for handling data pertaining to individuals. He shall provide in such guidelines and procedures a reasonable and expeditious method for each individual data subject to:

(1) Be informed if he is the subject of such data.

(2) Gain access to such data.

(3) Contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data.

The administrator shall take necessary precautions to assure that no indiscriminate transfer of data pertaining to individuals is made to any other person, organization or government agency.

The CHAIRMAN. The gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes in support of his amendment.

Mr. HORTON. Mr. Chairman, I do not want to make a point of order against the amendment because I think it is included in the rule, but I wonder if the sponsor of the amendment would hold off and present it in the next section, which is section 16, confidentiality of information?

Mr. GOLDWATER. Mr. Chairman, is the gentleman saying that he would make a point of order if it was included in this section?

Mr. HORTON. This is section 15, information gathering power. The confidentiality amendment, I think, would be more appropriate in the next section.

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

Mr. GOLDWATER. Mr. Chairman, I yield to the gentleman from New York.

Mr. KEMP. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, as a cosponsor of this amendment, it seems to me that wherever we give the Administrator the right to issue subpenas, we are talking about information that should be protected, or information rights that should be protected. It is the purpose of this amendment to protect the civil liberties of each individual who might, under subpena, have his privacy intentionally abused, so it is the purpose of the amendment to protect that right. I think it is germane on that particular section.

Mr. HORTON. Mr. Chairman, I ask the gentleman if he would put it into the next section. I think it would be more appropriate in the next section.

Mr. GOLDWATER. The gentleman from New York (Mr. HORTON) is certainly more expert on this bill than is the author of this amendment.

The CHAIRMAN. Does the gentleman from California (Mr. GOLDWATER) ask unanimous consent to withdraw his amendment?

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

Mr. GOLDWATER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, we do not want the gentleman from California to lose this amendment, and I think he needs the guidance of the Chair as to whether or not the amendment is germane to the next section or germane to this section. Otherwise he might lose his rights.

The CHAIRMAN. In light of the statement which was just made by the gentleman from Maryland (Mr. BAUMAN), the Chair will state that he is not going to rule on anything until he hears the argument.

Mr. GOLDWATER. Mr. Chairman, the gentleman from New York (Mr. HORTON) recognizes the intent of this amendment, and I am sure that I will be able to go along with his thinking if he feels it would fit better in the next section of the bill.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. Are there further amendments to section 15?

If not, the Clerk will read.

The Clerk read as follows:

CONFIDENTIALITY OF INFORMATION

SEC. 16. Except as otherwise provided by law, all information reported to or otherwise obtained by any person exercising authority under this Act which contains or relates to a trade secret or other matter referred to in section 1905 of title 18, United States Code, shall be considered confidential for the purposes of that section, except that such information may be disclosed to other persons empowered to carry out this Act solely for the purpose of carrying out this Act or when relevant in any proceeding under this Act.

AMENDMENT OFFERED BY MR. GOLDWATER

Mr. GOLDWATER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOLDWATER: Page 35, after line 21, insert a new section "(d)", and add the following:

To protect and assure privacy of individuals and personal information, the administrator is directed to establish guidelines and procedures for handling data pertaining to individuals. He shall provide in such guidelines and procedures a reasonable and expeditious method for each individual data subject to:

(1) be informed if he is the subject of such data.

(2) gain access to such data.

(3) contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data.

The administrator shall take necessary precautions to assure that no indiscriminate transfers of data pertaining to individuals is made to any other person, organization or government agency.

Mr. GOLDWATER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

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

There was no objection.

Mr. GOLDWATER. Mr. Chairman, I offer this amendment on behalf of the gentleman from New York (Mr. KEMP) and myself.

Mr. Chairman, there has been much discussion recently about the concern over the privacy of individuals in this country. The President has addressed himself to it. There have been numerous Commissions that have addressed themselves to it.

There is presently, either in contemplation or in fact, hearings being held on the question, either in the Committee on Government Operations or in the Committee on the Judiciary. The gentleman from New York (Mr. KOCH) has introduced some very comprehensive legislation on this subject, as well as has my good friend, the gentleman from New York (Mr. KEMP).

This is really a very simple amendment, Mr. Chairman. It is aimed at securing individual privacy rights in one specific area, and that is in the use of individual data held in a manual or a computer data collection operation.

Now, it has been said that this bill is an organizational bill, and it is. However, it is also an authorization bill, one which authorizes and grants great power.

In my judgment, the Administrator, under section 15 of this bill, has very broad power to collect data that could have the potential of damaging the privacy rights of an individual. The individual must be protected against any indiscriminate use of such data.

The amendment only seeks to do three things:

First, allow an individual to know what kind of data is being held about him.

Second, allow the individual to inspect this data, and

Third, allow the individual to contest the accuracy of the data.

This amendment would not place an undue restriction upon the Administrator. He has the necessary latitude to establish guidelines and procedures within the Federal Energy Administration for carrying out the purpose of this amendment.

Mr. Chairman, over the past 10 years, a great deal has been said about privacy. Yet, actual invasion of privacy and the potential for invasion of privacy is greater now than ever before. I want to see this body stand up and be counted on the issue of privacy. We are creating a new agency. In the past, we have created agencies and we lost control over them. This is especially true in the area of privacy.

We now have an opportunity to tell the people of this country that this agency will be responsive to their needs, and certainly the need to protect privacy should and must be paramount.

By adopting this amendment, we will be saying to the American people that this body has begun to wage the war on privacy invasion. While it is a small step, it is nevertheless a significant step. I hope that the House will accept this amendment.

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

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

Mr. HORTON. Mr. Chairman, I have been in the process of reading the gentleman's amendment, and I have read it before. I certainly agree with the substance of what the gentleman is trying to put in the bill.

As a matter of fact, I have sponsored primary legislation myself, and I spoke in behalf of the Koch bill before the Committee on Government Operations. I have also served on the Subcommittee on Freedom of Information of the Committee on Government Operations as the ranking member. Until I became the ranking minority member of the full committee, I served on that committee, and I have been very much concerned about the protection of privacy of individuals.

I am certainly interested in this bill doing that, in other words, protecting the privacy of the individuals. One thing I have some trouble with is the definition of the language:

> The administrator shall take necessary precautions to assure that no indiscriminate transfer of data pertaining to individuals is made to any other person, organization or Government agency.

I am not sure those words have ever been defined, and I do not know just exactly what they mean. Could the gentleman give us an explanation of what that means?

Mr. GOLDWATER. I think it is pretty clear what "indiscriminate transfer" means. Certainly the language in that portion of the amendment gives flexibility to the administrator. In essence what it says is just be careful with personal information on individuals.

Mr. HORTON. Mr. Chairman, with the author's definition of those words, I am prepared to accept the amendment.

Mr. HECHLER of West Virginia. Will the gentleman yield?

Mr. GOLDWATER. I yield to the gentleman from West Virginia.

Mr. HECHLER of West Virginia. I commend the gentleman from California on his amendment and I will support his amendment. When the Clerk read the amendment I thought he referred to a new amendment section (D). I believe the amendment should correctly read, "Section (B)" and I am sure that by unanimous consent the incorrect reference can be corrected.

Mr. GOLDWATER. No. The amendment was read correctly referring to section 16.

The CHAIRMAN. Does the gentleman from California ask unanimous consent that where the letter "D" is used it can be changed to the appropriate number?

Mr. GOLDWATER. I do ask such unanimous consent.

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

There was no objection.

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

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

Mr. KEMP. Mr. Chairman, I rise in support and cosponsorship of the amendment offered by the very able gentleman from California (Mr. GOLDWATER).

I take this opportunity, first, to commend the gentleman (Mr. GOLDWATER) for his many substantive efforts to strengthen the right to privacy—the right to be let alone. He has been at the forefront of efforts within this Chamber and in committee to insure compliance of investigatory and reporting systems of Government with the requirements of due process.

This amendment is, therefore, offered in furtherance of our joint and mutual commitment—reflected in the introduction and sponsorship of a number of important bills and amendments—to strengthen the right to privacy, to insure the protection of the individual's personal right to be free from intrusion by Government.

As the gentleman has pointed out, this is not a complex amendment. It is intended to secure the right to privacy in one specific area of law: The use of individual data collected and held in manual or computer data collection systems compiled, maintained, and used by the proposed Federal Energy Administration, the intended successor to the Federal Energy Office.

In these days when the methods of Government too often appear to be contrary to the protection of individual rights, the enactment of such a protective requirement should receive the support of all Members, irrespective of philosophical, political, or partisan persuasion.

I am personally confident that the principal reason the committee-reported bill did not contain such a safeguard provision is that the matter was simply never considered during that committee's deliberations. I do not feel that it was because the members of that committee would have rejected such a measure—a measure designed to more stringently guarantee protections for our citizens.

Section 15 of the bill before us, H.R. 11793, would give the administrator of the proposed agency extensive powers to collect and use data in such manners as to have the potential of damaging the rights of individuals.

The individual must, therefore, be assured by the Congress of the protections he should have—in furtherance of the principles of due process—against any indiscriminate or erroneous use of such data.

The amendment, if it becomes law, will do three basic things:

It will allow an individual to know the exact nature of data being held and used about him or his activities;

It will allow that individual to inspect such data; and,

It will allow that individual to contest, according to procedures established pursuant to this law and regulation, the accuracy of that data, correcting it when necessary.

In my opinion, the amendment would not place any undue restrictions upon the administrator or the proposed agency, for sufficient latitude is preserved to establish implementing guidelines and procedures for carrying out the strict intent of this amendment.

The consideration of this amendment affords this body an opportunity to illustrate by deeds—not just words—its commitment to the restoration of individual rights against unwarranted Government intervention or its simple mishandling of information gleaned with good intentions. This is a small step toward showing

the people our commitment, but it is an important one.

We should be ever mindful of the observation of Woodrow Wilson:

> Liberty has never come from government. The history of liberty is the history of limitations or government power, not the increase of it.

I hope the House will accept the challenge and adopt this amendment.

Ms. ABZUG. Mr. Chairman, will the gentleman yield?

Mr. GOLDWATER. I yield to the gentlewoman.

Ms. ABZUG. I am aware of the gentleman's effort in the area of privacy. I think he has a very good bill on that subject, which I have analyzed very carefully and I support it.

I am however concerned about the gentleman's application of the issue of personal privacy to this bill. Would the gentleman tell me what individual privacy he expects to be interfered with that Exxon might possess? Is the gentleman aware of the fact that we are dealing in this section with Exxon and with other major oil companies and seeking information as to prices, resources, and supplies from both private and public oil companies?

Mr. GOLDWATER. Will the gentlewoman yield back the time?

Ms. ABZUG. I certainly will. I just want the gentleman to explain what personal privacy means here.

Mr. GOLDWATER. This bill addresses itself primarily to information contained in corporations and organizations. There is nothing in the bill that precludes the Administrator from gathering information on individuals. All we are saying here is that if, if, the Administrator does possess information on individuals, then those individuals should be protected.

Ms. ABZUG. And not information that may be claimed from a corporation or its offices with respect to their oil interests or holdings or anything like that? Because we regard corporation offices as individuals under the law, I want to point out to the gentleman.

Mr. GOLDWATER. As the bill is drafted it pertains to a human being.

Mr. Chairman, basically all this amendment does is as follows: It does three things; namely, it allows an individual to know there is data being withheld about him and it allows him to inspect the data and, third, allows him to contest the accuracy or relevancy of that data.

Mr. HOLIFIELD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, there are certain things that just seem to stir up the adrenal glands when we mention them. One of them is individual privacy and that sort of thing.

The gentleman from California (Mr. GOLDWATER) who offered the amendment has served on the Committee on Government Operations, and I want to pay tribute to his diligence and hard work in working on that committee. He knows, I guess, that the so-called freedom of information law came from that committee, and he also knows that for over a year now the Moorhead subcommittee has been working on freedom of information, the right of privacy, and that sort of thing.

This is a very complicated matter. It is something that gets into the constitutional rights of free speech and the privacy of the individual and other things like that.

Notwithstanding the motives of the gentleman from California, I want to speak a little word of warning here, because the gentleman's intention of protecting individual privacy is worthy, and it deserves general consideration rather than piecemeal action under this bill, which authorizes information gathering only from energy facilities and business premises. Individual data involving the privacy of individuals is unlikely to be involved. The amendment offered by the gentleman from California is unfortunately vague and difficult to understand in the context of the FEA.

For example, what is "individual identifiable personal data," which the gentleman seeks to protect? These are new words. I have read the Freedom of Information Act, and I have listened to a great deal of testimony, and I say these are new words. They are not words of legal art, and they are susceptible to all kinds of interpretations.

The prohibition against indiscriminate transfers of such data to other persons—and I underline the word "indiscriminate"—the indiscriminate transfer of such data to other persons, organizations, or Government agencies, is similarly vague. Is disclosure prohibited, or just the indiscriminate transfer? What does "indiscriminate transfer" mean? Since the proposed amendment presents a number of technical questions as to scope, definition of terms, and procedures, I must oppose it in the present context. Legislation to protect the privacy of individuals should be ironed out after hearings by the appropriate committee of jurisdiction.

We are treading on dangerous ground here. We may very well do something that we will be very sorry about. It has no real place in this bill, because we are giving this administrator the right to go into business places and to get energy data, and the right of subpena, and we are making that available, by the way, to the Comptroller General, the thing that the gentleman from New York (Mr. ROSENTHAL) was interested in. But we did not give even the Comptroller General the right to go indiscriminately out to subpena all kinds of information from every Member of the Congress. It is a serious thing when you give anyone the right of subpena power, and it is a serious thing when you think of approving language which has admittedly vague and ambiguous wording, wording which is subject to different interpretations.

So, Mr. Chairman, I ask that the amendment be voted down.

Mr. KOCH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment offered by the gentleman from California (Mr. GOLDWATER).

Mr. Chairman, I rise in support of the amendment offered by the gentleman from California (Mr. GOLDWATER). I think it cannot be all bad if it has GOLDWATER and KOCH on the same side; indeed, I think it is all good because the protection of civil liberties is not a conservative or liberal monopoly. It belongs to all.

Mr. Chairman, the reason that I rise in support of the amendment is this: For the last 5 years the appropriate committees in this House have been addressing themselves to the right of privacy. I do hope that there will be legislation coming out of the appropriate committees this year, which will open the millions of Government personal dossiers for inspection. The gentleman from California (Mr. GOLDWATER) is the sponsor of some legislation, as am I, and also the gentleman from New York (Mr. KEMP) and there are others in this House who have introduced and supported privacy legislation.

But the fact is, Mr. Chairman, that at this moment there is no legislation which would protect the individual—and we are not, let me emphasize, talking about corporations in this amendment. The word "individual" is a very precise word; it means a human being. If you want to cover corporations, then you use the word "person," not "individual."

So this will protect in some form the right of privacy of an individual. It is drawn with the purpose of making certain that the requests of the administrator under this legislation will not be denied. It in no way limits the collection of material or information by the administrator. This amendment requires that there be guidelines provided, so that there will be reasonable procedures provided which will give an individual reasonable access to his dossier to see if it is accurate and complete and relevant. We are not, under this amendment, spelling out the exact guidelines. It would be foolish on the floor to write such guidelines; they are left to the administrator.

So, Mr. Chairman, I urge support of this amendment if we are interested in protecting the rights of the individual. We must bear in mind that in protecting the privacy of individuals, the civil libertarian insists on the protection for all individuals, not just those with whom he is in accord.

Mr. CRANE. Mr. Chairman, would the gentleman yield?

Mr. KOCH. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I applaud the gentleman from New York for his remarks and the gentleman from California for his leadership on this vital issue. I must say that I could not agree with the gentlemen more. I think we are living in an age of creeping snooperism on the part of Government, albeit it is not confined entirely to the Government. The idea of keeping dossiers or Americans about which they are not informed, is a source of concern to anybody who believes in the civil rights of the individual. I cannot by any stretch of the imagination determine why anyone would have any objection to this amendment or would consider this treading on dangerous ground. The safeguards of the amendment should be guaranteed to us all. I thank the gentleman for yielding.

Ms. ABZUG. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I compliment the gentleman from New York (Mr. KOCH) and I compliment the gentleman from California (Mr. GOLDWATER) on their past efforts in behalf of the right of privacy. But I think they are distorting the whole concept in this context. I may remind you that I also believe in the right of privacy and freedom from governmental interference.

I point this out to the gentleman from New York and the gentleman from California because I oppose this amendment. The reason I oppose the amendment is that although the gentleman's objectives and motives may be good. I fail to see how this amendment will accomplish an appropriate privacy protection in the way that it is worded.

For example, the gentleman from California says:

"He shall provide in such guidelines and procedures a reasonable and expeditious method," for what? "For each individual data subject to:

"First, be informed if he is the subject of such data.

"Second, gain access to such data.

"Third, contest the accuracy, completeness, timeliness, pertinence and necessity of retention or inclusion of such data."

We are seeking information here about oil. We are seeking information about conflict of interests. We are seeking information here about what is happening to the precious commodities of energy in this country. We are going to be getting into information about individuals. Yes, we are going to be getting information about the president of Exxon and the president of Standard Oil, and all the other oil company executives.

I find it very strange, indeed, that there is at this point a big rush to the assertion of the right of privacy when what we are seeking to uncover is the source and extent of the tight control of the oil and energy resources in this country, the kind of control that is depriving millions of individuals in this country of an opportunity to obtain gas and fuel at reasonable prices, the control that is creating inflation and causing unemployment.

I really understand the basic principle of the right of privacy, but I would submit to my colleagues that this proposed amendment is an inappropriate application, or, at its best, it is poorly drawn. In either case, I think it is very important that we not now limit the opportunity we have to get information from sources, both government and private. The only kind of information that I can conceive of is the kind of information we must have and that would not invade a person's individual right of privacy.

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

Ms. ABZUG. I yield to the gentleman from New York.

Mr. KOCH. I thank the gentlewoman for yielding.

What distresses me about my colleague's statement is that I know she is concerned about privacy. But I do not care what an individual does, whether I agree with what he does or disagree with what he does, he is entitled to the same rights of privacy that I would accord to those with whom I am in accord.

Ms. ABZUG. In general I could not agree more with the gentleman from New York (Mr. KOCH), but he does a disservice to what we are seeking to do, because the Goldwater amendment seeks to provide a cover for information which has been concealed from the American people, and it does not have a darned thing to do with the right of privacy.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. GOLDWATER).

The question was taken; and on a division (demanded by Ms. ABZUG) there were—ayes 49, noes 8.

Ms. ABZUG. Mr. Chairman, I demand tellers.

Tellers were refused.

Ms. ABZUG. Mr. Chairman, I object to the vote on the ground that a quorum is not present.

The CHAIRMAN. The Chair will advise the gentlewoman that point cannot be raised in the Committee of the Whole.

Ms. ABZUG. Mr. Chairman, I demand tellers.

The CHAIRMAN. The request for tellers has been denied.

The Clerk will read.

The Clerk read as follows:

REPORTS AND RECOMMENDATIONS

SEC. 17. (a) Six months before the expiration of this Act, the President shall transmit to Congress a full report together with his recommendations for—

(1) disposition of the functions of the Administration upon its termination,

(2) continuation of the Administration with its present functions, or

(3) reorganization of the Administration.

(b) Not later than one year after the effective date of this Act the Administrator shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as the existing productive capacity and the extent to which such capacity could be increased for crude oil and each major petroleum product each year for the next ten years through full utilization of available technology and capacity. The report shall also contain the Administration's recommendations for improving the utilization and the effectiveness of Federal energy data and its manner of collection. The data collection and analysis portion of this report shall be prepared by the Federal Trade Commission for the Administration. Unless specifically prohibited by law, all Federal agencies shall make available estimates, statistics, data and other information in their files which, in the judgment of the Commission or Administration, are necessary for the purposes of this subsection.

(c) The Administrator shall from time to time report to Congress on the policies and activities of the Administration, including information-gathering activities under section 15 of this Act, and shall provide a full report of all activities six months before the expiration of this Act.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 17 be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to this section?

AMENDMENT OFFERED BY MR. HECHLER OF WEST VIRGINIA

Mr. HECHLER of West Virginia. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HECHLER of West Virginia: Page 37, after line 4, insert the following subsection:

(d) Not later than 90 days after the date of enactment of this Act, the Administrator shall submit a report to the President and Congress detailing a plan for the creation of a Government corporation which, for the purposes of conserving scarce supplies of energy, insuring fair and efficient distribution of such supplies, maintaining fair and reasonable consumer prices for such supplies, and promoting the expansion of energy sources for the general welfare and common defense and security, would operate and maintain the property and facilities of any person in the United States whenever such property and facilities are utilized in the exploration, development, processing, refining, or required transportation by pipeline of crude oil, petroleum products, natural gas, and coal.

Mr. HECHLER of West Virginia. Mr. Chairman, this is a very simple amendment. I think we ought to seriously consider the nationalization of the oil industry.

I would say to those who are concerned about the protection of the oil industry that there are 58 ex-oilmen holding key FEO jobs. If the oil industry is nationalized, the people in the oil industry should have no concern whatsoever, since they already have their alumni holding important FEO jobs.

I would say, Mr. Chairman, that each of us on this committee have had numerous personal and direct experiences with the maladministration of the so-called energy program. During the past week, for example, there were 21,000 coal miners in West Virginia who were not producing coal because they could not get the gasoline necessary to drive to work.

We immediately contacted the Federal Energy Office, orders to supply the needed, extra gasoline were sent directly down from the Federal Energy Office but it took 3 or 4 or 5 days in many instances to get that order to be carried out by the oil industry and its distributors.

The arrogance of the oil industry is evident as these huge conglomerates try to buy elections, brainwash through millions of dollars in advertising and propaganda, and virtually regard themselves as above the law. It is about time we did something for the consumers, the working people, and the poor people of this Nation.

As a result of this, it is my conclusion that we ought to give very, very serious thought, to the nationalization of the oil industry. For those who are hesitant, I say this is only an amendment to come up with a report and plan for nationalization within 90 days. Perhaps with Mr. Simon and his 58 oil executives serving in the Federal Energy Office, we will not

receive an unbiased and objective report, but at least we will get the Nation focused on the issue.

This is a very simple amendment and I trust we may get a vote on it. Let us have an end to arrogant rule by the secretive, profit-bloated, low-taxpaying oil conglomerates, and let us restore the Government to the people where it belongs.

If there are no questions, I yield back the balance of my time.

Mr. HOLIFIELD. Mr. Chairman, I rise for two purposes.

The CHAIRMAN. The gentleman from California is recognized for 5 minutes.

Mr. HOLIFIELD. Mr. Chairman, my first purpose is to compliment the valor, the bravery, and courage of the gentleman from West Virginia.

I look back in biblical history to the time when David picked up a small pebble and slew Goliath, the giant.

I remind my friend—he is my friend—that he is a David going forth to slay the giant, but he left his slingshot at home.

I do not think that it is necessary to argue about this. This has been a dream of many people. It, however, is not in tune with reality, and I ask for a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia (Mr. HECHLER).

The question was taken; and on a division (demanded by Mr. HECHLER of West Virginia) there were—ayes 4; noes 39.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 36, line 6, strike out "one year" and insert the following: "three months."

Mr. BIAGGI. Mr. Chairman, we understand the laudable purposes of this section, but the question of establishing the date of 1 year in the light of the urgency of the crisis strikes me as one of a dilatory nature. I would have to assume that the Administrator during the last number of months has been doing some research.

Mr. Chairman, I have oft times found that when we establish a "not later than 1 year" as the maximum, it oft times becomes the target date.

Mr. Chairman, I suggest very strongly that the people of this Nation cannot wait 1 year to find out exactly what the status of our oil reserves are, especially in light of the fact that we would be making very important determinations in the interim.

It is essential, I think, that Congress and the Nation be informed of the exact status of our energy reserves before we are called upon to make such determinations. Hence, I ask that this amendment be passed.

This amendment although simple in content, could have a profound effect on the actions of the Federal Government with respect to meeting our future energy needs. This report will provide the most accurate facts and figures yet—on existing oil and gas reserves and resources in the United States and its Outer Continental Shelf, as well as the present productive capacities and potential for increase for the next 10 years.

Must we wait for another year to elapse before we have this vital information? Many crucial energy-related decisions could be made in the next 12 months, yet without the benefit of the kind of data which would be contained in this report, how effective could these decisions be? The American nation currenty in the midst of the worst energy crisis since World War II is looking to the future for relief from the long gas lines and the high cost of heating oil which has marked the winter of 1974 thus far. Can we effectively inform them about what the future holds without knowing exactly what reserves of gas and oil we will actually have? If this report proves that we are indeed facing a critical shortage, then we must develop strong remedial legislation to cope with it.

This amendment will serve another important purpose. It could conceivably facilitate the work of the Federal Energy Administration, for this report could actually set the direction of their work. If for example the report uncovers the fact that we have no immediate shortages of vital energy supplies, then the FEA can work on expanding the long term research and development programs designed to make the United States self-sufficient in matters of energy.

In recent weeks the Congress has passed some significant energy legislation including the Solar Heating and Cooling Demonstration Act, and the emergency energy bill. Yet how can we expect to have these bills fully implemented without knowing where we are in terms of energy resources, reserves and production? This report can be made available within 3 months, it is possible that the present Federal Energy Office has already been looking into this situation for some time. My amendment would simply give them the necessary push to complete this urgently needed project.

Mr. Chairman, this legislation we are considering today is viable and important for the future of America. I have not come to change it, but rather to strengthen it. The American public is entitled to as much information as possible about what the future energy situation in this country will be. They have been in the dark far too long.

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

Mr. BIAGGI. Mr. Chairman, I am delighted to yield to the gentleman from California.

Mr. HOLIFIELD. Mr. Chairman, the gentleman requests information within 3 months in the face of the bill language of "not later than one year." In the first place, let me say that not later than 1 year would encompass—and I am going to make some legislative history on this—"just as soon as the Administrator can obtain this information and put it together."

If we look on down at the rest of the line, it says:

Shall submit a report to the President and Congress which will provide a complete and independent analysis of actual oil and gas reserves and resources in the United States and its Outer Continental Shelf.

This is a task that in my opinion is desirable, but I do not believe could be accomplished within 3 months. However, we had some testimony as to really the lack of information on some of these vital energy statistics in America. I am getting it and getting it just as quickly as we can, because until we do get it, we really cannot justly implement the law we are trying to pass in order to achieve victory in this energy crisis.

However, I would say to the gentleman that if it could be done in 3 months, I hereby advocate to the Administrator that he do it; do it within 6 months if it takes longer but not later than 1 year to bring this information to the Congress and to the American people.

Mr. BIAGGI. Mr. Chairman, I am certain that the chairman shares my concern and the concern of my colleagues in the House as to the urgency and need for this information.

I am not so sure that my amendment is that vital in the light of these comments. As long as we establish in this legislative colloquy which should recommend in the report that the Administrator be urged to not confuse "not later than 1 year" within the maximum as the target date.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield, I will state to the gentleman that I will write a letter to the Administrator and clarify it, if there is any confusion in his mind, and I will state that what we mean by this is: "Just as soon as possible, and not later than 1 year."

Mr. BIAGGI. Mr. Chairman, I thank the gentleman.

Mr. HOLIFIELD. Mr. Chairman, if the gentleman will yield further, that is conditioned on the premise that the bill is passed and not vetoed. I have some doubts in my mind, with the load it is carrying in the form of amendments, that it is going to be signed by the President.

Mr. BIAGGI. We all share that concern.

Mr. HOLIFIELD. I hope that when the time comes, the gentleman will help me get this bill passed, when we come to the point of voting on a certain amendment.

I will state to the gentleman that I will write him a letter and he can put it in the RECORD.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for his comments and for his statement of his position.

Mr. Chairman, I ask unanimous consent that I be permitted to withdraw my amendment.

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

There was no objection.

The CHAIRMAN. Are there further amendments to Section 17?

If not, the Clerk will read.

The Clerk read as follows:

SEPARABILITY

SEC. 18. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

The CHAIRMAN. Are there amendments to section 18?

If not, the Clerk will read.

The Clerk read as follows:

EFFECTIVE DATE AND TERMINATION

SEC. 19. This Act shall be effective no later than the expiration of sixty days after the enactment of this Act or such earlier date as the President shall prescribe and publish in the Federal Register, and shall terminate two years after such effective date.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 19 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

The CHAIRMAN. Are there amendments to section 19?

If not, the Clerk will read.

The Clerk read as follows:

REVERSION

SEC. 20. Upon the effective date of the termination of the Federal Energy Administration, any functions or personnel transferred by subsection 6(a) of this Act shall revert to the Department of the Interior. If before that date the Department has been abolished or reorganized such functions and personnel shall be transferred to the successor instrumentality that has assumed the Department's energy resource functions. Any other functions or personnel positions provided by statute which are transferred to the Administration under subsection 6 (c) of this Act shall revert to their respective agencies as provided in the applicable statutes. An officer or employee of the Federal Government who is appointed, without break in service of one or more workdays, to any position for carrying out functions under this Act is entitled, upon separation from such position, to reemployment in the position occupied at the time of appointment or in a position of comparable grade and salary.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 20 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

AMENDMENT OFFERED BY MR. HOLIFIELD

Mr. HOLIFIELD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLIFIELD: On page 37, strike out line 25 and everything that follows thereafter down to and including "statutes." in line 3, page 38.

Mr. HOLIFIELD. Mr. Chairman, the purpose of this amendment is to delete authority given to the President to make limited transfers of functions to the new Agency in addition to those transferred by the bill itself. The original bill gave the President this authority for a 3-month period and only for certain agencies. Any transfer was to be subject to congressional review.

These provisions were included in the bill at a time when the administration said it needed additional time to consider certain incidental functions and decide whether these should be transferred to the new Agency. Sufficient time has elapsed without request from the administration for any of these perfecting changes, and there would appear to be no further need for this transitional transfer authority. Accordingly, the amendment would strike the transfer authority and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. HOLIFIELD).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to section 20?

If not, the Clerk will read.

The Clerk read as follows:

SEX DISCRIMINATION

SEC. 21. No person shall on the ground of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity carried on or receiving Federal assistance under this Act. This provision will be enforced through agency provisions and rules similar to those already established, with respect to racial and other discrimination, under title VI of the Civil Rights Act of 1964. However, this remedy is not exclusive and will not prejudice or remove any other legal remedies available to a discriminatee.

Mr. HORTON (during the reading). Mr. Chairman, I ask unanimous consent that section 21 of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

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

There was no objection.

Mr. FRENZEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, right on the heels of a veto, sustained in the Senate, but sustainable here, too, this House is passing another energy bill with a provision similar to that which provoked the veto. It is a bad error, but errors are surely consistent with our traditions on this bill.

Our first error was in not passing a sensible energy bill last December.

Our second was in demanding confrontation with the White House instead of negotiation.

Our third error was approving a rollback when we knew it could mean less oil, not more.

Our most recent error is the rollback loophole. The original rollback was supposed to affect less than 20 percent of the oil we use. The 30,000 barrels per day loophole makes the rollback affect only a tiny fraction of that amount, and therefore it can't help lower gas prices very much. It also sets a price, about $75 million in annual sales, under which anything is legal, and over which anything is banditry.

Our underlying errors are two. First, we are still trying to legislate results rather than processes. That technique looks good in the press releases, but lousy at the gas pumps.

Second, we are trying to pretend we are the executive branch, but we have not fooled anyone yet. Setting prices in legislation is foolish. If it is not counterproductive, it may be the opposite—a give away.

Despite the indignities we have wrought upon it, I shall vote for this bill because we need it. Also, it is possible that the conference committee will exercise better judgment than this House and restore the bill to the simple structural form it should take.

The FEO exists on the basis of an Executive order. Until it gets its statutory basis, it cannot do the things we have complained that it does not do. FEO is struggling manfully despite borrowed employees, a shortage of skills because it cannot borrow all the people it wants, and a shortage of authority because we cannot pass a reasonable energy bill. Our criticism of FEO will never be well founded until we give the energy agency the tools it needs.

Mr. RONCALIO of Wyoming. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to congratulate and to compliment the gentleman from New York (Mr. HORTON), the leader on the minority side, for his efforts in this legislation, and, particularly, the gentleman from California, CHET HOLIFIELD.

I congratulate the gentleman from California for the manner in which he has handled some of the most complex legislation we have had this year or which this Congress shall see for many years.

Mr. Chairman, I am somewhat of an old hand around here at watching legislation. I first began as a Senate employee in 1940. My observations go back to some great leaders in floor work, in both bodies of Congress.

I think these two leaders deserve our gratitude and our congratulations in guiding this legislation, in light of the Staggers bill having been vetoed by the President yesterday, toward the end of providing energy which this Nation needs so badly.

Mr. Chairman, I commend both gentlemen for their very fine efforts.

AMENDMENT OFFERED BY MR. GUNTER

Mr. GUNTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GUNTER: Page 38, line 21, add the following new section:

SEC. 22. (a) The Emergency Daylight Saving Time Energy Conservation Act of 1973, P.L. 93-182; (87 Stat. 707) is hereby repealed.

(b) This section shall take effect at 2 o'clock antemeridian on the first Sunday which occurs after the enactment of this Act.

POINT OF ORDER

Mr. HORTON. Mr. Chairman, I make a point of order against the amendment.

Mr. Chairman, this amendment amends existing law, which is not the subject matter of this bill and is therefore nongermane. I urge that the Chair rule that the amendment is out of order.

The CHAIRMAN. Does the gentleman from Florida (Mr. GUNTER) desire to be heard on the point of order?

Mr. GUNTER. Mr. Chairman, I do.

Mr. Chairman, I would ask the Chairman to recall the words of the distinguished chairman of the committee, the floor manager of this bill, a few moments ago, when he said to the House to the effect that, "I do not know what is not germane at this point in the consideration of this legislation."

Furthermore, Mr. Chairman, I would say and call the attention of the Members of the House to the language of the declaration of purpose in section 2(a) on page 14 of the committee bill which declares that among the purposes of this act is to require positive and effective action in order to promote the general welfare and the common defense and security.

I submit, Mr. Chairman, under this broad language and for the stated purposes of this act that the general welfare declaration permits an interpretation and a finding by the Congress that the enumerated and authorized activities established by the Federal Energy Administration, if executed within the framework of the year-round daylight saving time provisions, would not serve the general welfare.

Therefore, I would urge a favorable ruling to me on the point of order.

Mr. MOSS. Mr. Chairman, may I be heard on the point of order and in support of the point of order?

The CHAIRMAN. The gentleman is recognized.

Mr. MOSS. Mr. Chairman, the language would amend the Uniform Time Act of 1930, the act to which the amendments creating a new daylight saving time limitation were directed. That act has been under the jurisdiction of the Committee on Interstate and Foreign Commerce from the very beginning when it was originally introduced in this body in 1930. Each amendment to that act has been referred to and considered exclusively by the Committee on Interstate and Foreign Commerce. That act is not transfered nor is any portion of it contained in the authority conferred upon the Administrator under the provisions of this reorganization act.

For that reason it is my opinion that it is not germane and that the point or order should be sustained.

The CHAIRMAN (Mr. FLYNT). The Chair is prepared to rule.

The gentleman from Florida (Mr. GUNTER) offered an amendment the effect of which is to repeal an existing law which is not otherwise referred to in the bill under consideration.

The gentleman from New York (Mr. HORTON) has made a point of order again the bill that it is not germane to the bill and that it attempts to repeal a separate act which is not previously mentioned in the bill under consideration.

The Chair in ruling on points of order does not rule on the merits of any amendment that has been offered.

The Chair in this case is constrained in his ruling to relate to the germaneness of the amendment to the bill under consideration.

For the reasons stated in the argument of the gentleman from New York the Chair sustains the point of order.

Are there any further amendments?

Mr. HECHLER of West Virginia. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. HECHLER of West Virginia. Mr. Chairman, I ask unanimous consent to withdraw my point or order that a quorum is not present.

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

There was no objection.

Mr. HORTON. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Thirty-eight Members are present, not a quorum. The call will be taken by electronic device.

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

[Roll No. 69]

Adams	Fulton	O'Neill
Armstrong	Gubser	Podell, N.Y.
Bell	Hanna	Randall
Blatnik	Hansen, Wash.	Rees
Boland	Hawkins	Reid
Brasco	Hays	Robison, N.Y.
Brooks	Hébert	Rodino
Burke, Calif.	Henderson	Rooney, N.Y.
Burton	Jones, Okla.	Rosenthal
Camp	Karth	Rostenkowski
Carey, N.Y.	Kluczynski	Stratton
Clausen, Don H.	Kuykendall	Sullivan
	Leggett	Teague
Clay	McKinney	Treen
Collins, Ill.	McSpadden	Whitehurst
Conyers	Mills	Wilson, Charles H., Calif.
de la Garza	Minshall, Ohio	
Dellums	Montgomery	
Diggs	Murphy, N.Y.	Wilson, Charles, Tex.
Fraser	Nelsen	

Accordingly the Committee rose; and the Speaker having resumed the chair Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 11793, and finding itself without a quorum, he had directed the Members to record their presence by electronic device, whereupon 375 Members recorded their presence, a quorum, and he submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

Mr. DONOHUE. Mr. Chairman, I very earnestly believe that the substance of this bill, H.R. 11793, with the addition of strengthening amendments as determined by the Members, eminently deserves—and I hope it will receive—the resounding approval of the House this afternoon.

It is basically designed to assemble under one roof, for concentrated administration and responsibility, practically all the varied energy-related functions that are now being performed in larger or lesser fashion, by the Departments of Interior, Agriculture, Commerce, Treasury, and the Cost of Living Council.

Mr. Chairman, if there is anything sure that has come out of all the uncertainties and frustrations surrounding the sudden eruption of the energy crisis, it is the positive and imperative need of establishing one department, with adequate authority and specific direction, to find and bring together all the scattered, disunited agency activities related to the energy shortages and to cement them into the strongest possible single resource that our National Government can project toward the immediate correction and lasting solution of our energy shortages catastrophe.

Such an agency should, and there is every reason to feel that it will, with highest efficiency, irrespective of any other legislative or Presidential projection, act to obtain all the deplorably lacking information about the major oil companies, oil supplies and reserves, and their price and profit structures, discover any unfairness and injustices in supply distribution or allocation, research the availability for development of additional private- or Government-owned supply sources, determine the feasibility, both financially and environmentally, of developing such resources in the public interest, conducting other and continuing analyses of pertinent data and providing expert guidance and recommendations to the Chief Executive and the Congress in their joint effort to achieve a prompt correction of currently frustrating shortages, particularly in gasoline, and a long-term solution of the overall energy problem that will insure our everlasting independence from any foreign deprivation.

Certainly these are timely and imperatively important objectives in the national interest. This measure before us is the legislative instrument through which these objectives can be achieved and I earnestly urge its overwhelming adoption by the House.

Mr. VANIK. Mr. Chairman, it had been my hope to offer an amendment clarifying information collection. The purpose of this amendment was to spell out in greater detail the type of information which we want the FEA to provide.

The amendment would have continued to require the Administrator to collect information on all forms of energy—but it would require, at a minimum, certain specific types of information on oil and gas.

The type of information spelled out in the amendment is almost identical to the information requested in the committee report on page 9. In the committee's report, it is stated:

What the committee has in mind [in this subsection] are information categories such as those developed in 1970 by a cabinet task

force on oil import control chaired by George P. Shultz, then Secretary of Labor. This report stressed the need to improve the collection of statistics relevant to oil policy and listed some 15 categories of information to be developed. The Administrator is expected similarly to develop comprehensive and particularized categories of energy information.

The amendment would simply seek to insure that the Administrator actually provide the type of data we need, if we are to respond intelligently to the energy crisis.

In addition to spelling out the data requested in the 1970 report, I have added four additional, specific requests for oil and gas information.

Subparagraphs 2, 3, and 9 relate to inventories and comparative price tradeoffs between different forms of energy. The need for this type of information has been documented by the GAO's report of February 6, on action needed to improve Federal energy data. Subparagraph 19 deals with petroleum entering and leaving bonded warehouses. I have received information that stockpiling and speculating may be occurring through the use of bonded warehouses. Information on this subject could resolve that question.

I hope that the administration will provide the type of information spelled out in the proposed amendment. The 1970 Oil Import Task Force, the General Accounting Office, have both told us what type of information we should be asking for. If the FEA does not provide this data, we will have to return to this subject and legislate its collection.

The text of the suggested amendment is as follows:

AMENDMENT OFFERED BY REPRESENTATIVE CHARLES A. VANIK TO H.R. 11793, THE FEDERAL ENERGY ADMINISTRATION ACT

On page 34, strike out lines 15 through 21 and insert the following new subsection,

"(b) The Administrator shall collect, assemble, evaluate, and analyse information on all forms of energy, and with respect to petroleum, specific information pursuant to the following factors—

(1) Quantity data concerning exploration, discovery, and production of oil and natural gas by region in the United States, including information on the maximum efficient recovery rates of petroleum reservoirs and data that match exploratory development effort with the trend of reserves developed and proved;

(2) Detailed quantity data on reserves, production, and prospects on the public lands of the United States;

(3) Data on petroleum and petroleum product inventories held by refiners and major petroleum terminal operators;

(4) Data on petroleum and petroleum product inventories held by those persons other than refiners and major petroleum terminal operators, including large volume consumers and retailers;

(5) Detailed cost data and financial outlays by domestic region, covering all stages of development from leasing to production and refining;

(6) Transportation cost data, both domestic and foreign, pipeline and tanker, present and future, and data on present movements;

(7) Available information on foreign cost of development and production, and tax structures in the various countries;

(8) Complete United States price data for crude oil and finished petroleum products;

(9) Analysis of the price elasticities for oil and gas in the industrial, commercial, and residential markets;

(10) Foreign price data, including both integrated and non-integrated transfer (as opposed to "posted") prices;

(11) Trends in the technology of exploration, production, and transportation;

(12) Trends in the technology and cost of petroleum substitutes, including oil from shale, coal, tar sands;

(13) Demand data and projections for crude oil and for finished petroleum products, in the United States and in other major market sectors in the world;

(14) Data on the cost and other characteristics of domestic and imported liquified natural gas;

(15) Data on refining and distribution costs;

(16) Data on petrochemical feedstock and operating costs;

(17) Structural information relevant to competition in the markets for energy:

(18) Data on the role of petroleum in the balance of payments overall and by sector or country.

(19) Data on the amount of petroleum products entering the United States under bond and net changes in the amount of petroleum products under bond, including data on the amount of bonded petroleum products withdrawn for domestic use; and

(20) Such other data as the Administrator shall deem useful.

No later than sixty days after the enactment of this Act, the Administrator shall submit a preliminary report to Congress regarding his progress in establishing an efficient system of collection of data required by this subsection. No later than six months after the enactment of this Act, and every six months thereafter, the Administrator shall submit a report to Congress regarding the information and analyses collected under this section.

Mr. CULVER. Mr. Chairman, I am particularly pleased that with final passage of this bill, the House will have given its approval to the information-disclosure provisions of the Federal Energy Administration Act, which I introduced last December in the course of committee markup of the bill.

During those days, we worked diligently with majority and minority staff and with professional administration experts to produce language that would be both comprehensive and fully workable. I firmly believe that we succeeded in these endeavors, and that the end product merits this body's full support.

The information-disclosure provisions in the bill are comprehensive in their coverage and in the powers that they confer. That is because they respond to a comprehensive need for accurate and reliable energy information across the entire spectrum of supply and consumption.

The bill confers subpena power and, even more importantly, an independent verification authority. The public files of the 1970 Shultz Task Force on Oil Import Controls contain an admission by Exxon Corp. that it keeps four sets of books on reserves, ranging from "high optimistic" to "low pessimistic," and that it chose which set to give that task force. Thus it would do no good to simply collect reserves information, for example, unless the Administrator is also given the responsibility and the tools to determine what these figures mean. The Culver provision will give the Administrator the authority to verify the data underlying such reports, through the issuance of administrative inspection warrants that the Justice Department has confirmed are fully enforceable in court.

The scope of energy information to be collected and analyzed is similarly comprehensive. It extends to all fossil fuels, including oil shale and tar sands, as well as to nonfossil fuels such as uranium. It covers vital cost and pricing data, and so will help us to pierce the fictions of posted prices and of integrated-company transactions. It gets at the foreign operations of U.S. companies, and the highly controversial tax and royalty schemes worked out with Middle East producing countries. It covers new technology, and balance-of-payments information. It gets at demand and use by major energy consumers, which is relevant to possible hoarding or other unfair advantages, such as the availability of needed feedstocks for nonintegrated petrochemical plants. And it covers structural information bearing on energy competition, which is at the core of current policy concerns. All of these categories are carefully set forth in the never-implemented Shultz task force report, which we have endorsed by language in the bill and by specific reference in the committee report.

My information provisions cover every supply activity from exploration through retail marketing by the major integrated energy companies. This is imperative at a time when thousands of independent retail marketers have been driven out of business. The Culver provison, adopted in committee, will get at the actions of the major companies, but it will not extend to so-called "mom and pop" operations. The committee report states, and I quote:

It is most decidedly not the committee's intention to authorize the creation of a massive federal energy police force, or to burden or harass local gasoline station operators or other small business proprietors.

What we want to get at is the truth of rumors that the major oil companies, for example, are storing excess gasoline in vacant service stations.

The provisions of the committee bill are most careful in their treatment of confidentiality. They incorporate the protection for proprietary data set forth in section 1905 of title 18 of the United States Code, but they compel the disclosure of such data in a manner preserving its confidentiality. The FEA bill, with my amendments, provides that such data will be made available to the GAO, to the courts, and to committees of the Congress, as well as to the general public in an aggregated form. Thus we will have an independent check on the diligence of the Administrator, and the public will obtain the fruits of that diligence.

In summary, I submit that my proposal, which has been incorporated in H.R. 11793 as reported by committee, does everything that needs to be done to give us accurate and reliable energy information. It is certainly not going to be

welcomed by the major oil companies, but neither does it face any threat of Presidential veto. We have had both minority and majority support for this provision, and I urge each of my colleagues to support it as an integral part of the act.

Mr. HOLIFIELD. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have asked for this time to inform the Members of the House that I will ask for a separate vote on the Dingell amendment, as amended by the Eckhardt amendment.

Before I make a few remarks on that point, I want to thank the Members of the House for the courtesy that they have shown during these 3 days of hard debate. The debate has been carried on at a high level. We have disagreed at times, but as far as I know all rights have been preserved.

Mr. Chairman, we have in this Federal Energy Agency an organization bill that was requested by the administration.

Mr. Chairman, the administration asked for a Federal Energy Agency to take the place of the Federal Energy Office which was established by Executive order and which is not qualified to receive appropriations. They are trying to solve this problem with borrowed personnel from the different agencies of Government, because they have no money of their own to spend.

I think the orderly thing for this House to do is to give an independent agency, set up normally, as all other independent agencies are, to the administration to attempt to solve this problem.

This crisis in energy is a real crisis in my opinion, regardless of why it happened. I have my own ideas as to why part of it happened. But nevertheless we are faced with it. The people in my district are paying 67 cents per gallon for gasoline today and they are standing in line 2 or 3 hours to get it. Something must be done.

If we in the Congress fail to do our duty and give the administration the tools which they have asked for in order to properly approach this problem and try to solve it, then we can be blamed. We can be blamed by the American people, we can be blamed by the President, and it degenerates into a political squabble.

On the other hand, if we give them the tools to work with, then it will be up to them, and it will be their responsibility to implement this strongly felt desire on the part of the American people to get this job done. That is what we are trying to do, and that is why we have fought for 3 days to keep things as nearly as we can along the line of an organizational system. We must give them that tool to work with.

Mr. Chairman, I regret that the Staggers bill was vetoed. I voted for the Staggers bill. I voted for it in good conscience. Under the separation of powers, the President had the right to veto it. I do not agree with him; I did not think he should have done it, but he did it.

That legislation was as to the form and substance of programs and procedures and powers, which the administration asked for, and he got some things that he did not ask for. I take no position on that.

However, the President vetoed that bill, and one of the strong arguments for opposition that he gave was on the so-called rollback provision.

Now, Mr. Chairman, I am going to ask for a separate vote on the rollback provision. I want the Members to vote according to their conscience on this matter.

So one may say, "Well, let him veto it. I do not say that. I do not discharge my responsibility to this House and to my committee and to the Members by saying, "Let him do this," because we are at a stalemate, and we cannot be in a stalemate in this country and survive. We have to make this work. This is one of those occasions when the President may not have all he wants and the Congress cannot have all it wants. We are trying to reach a consensus here. That is the purpose of a democracy. It is only in a dictatorship where the man on top says, "I want it this way and you cannot do it any other way." We have our ideas and we are trying to get together and have a consensus so that we can make democracy work. It is in line with that that I say, let us eliminate this particular Dingell-Eckhardt amendment and get the job done that we have tried to do for the last 3 days and for the last 6 months.

Mr. MACDONALD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise with some reluctance, because I happen to serve on both the Interstate and Foreign Commerce as well as the Government Operations Committee, and because the chairman of the Committee on Government Operations has been very fair about this entire matter, but I think the Members of the House should know that this goes a little deeper than just a matter of jurisdiction here within the House.

I think if we have a separate vote and if it is defeated, then the Congress once again is faced with going back to the people and telling them that they have done absolutely nothing to roll back prices which are increasing 1 cent here and 2 cents there on the price of gasoline.

If this bill that we had before us earlier had not been vetoed, I would have been in the working for the passage of this bill and supporting the chairman of the Committee on Government Operations. However, I believe this is the last chance the Congress has to send a message, as was said in recent elections, to the White House stating that this is not a one-man Government.

That veto overrode the wishes of about 325 Members of this House and I think roughly 67 Members of the other body, all of whom represent a great cross-section of this country.

Mr. Chairman, I would like to point out that this rollback in many ways is much less than what the Independent Producers Association said they could live with as recently as January of this year, at which time they indicated they could not only live with $6 per barrel as a price but that if we did give them that price they would have broken the back of the problem by 1980.

Also I do not believe that the passage of this bill and the veto message that accompanied the earlier bill is anything but a strawman put up when it said that there will be no further exploration and, therefore, no further discovery if this rollback is adopted. I think there is plenty of incentive to the independents. This is a favor to the true independent producers of this country.

I feel very strongly indeed that we should take the word of the gentleman, Mr. Simon, who is now in charge, although he was in charge and then was fired, and then was rehired to handle this chaos. When he stated in January of 1974 that he thought that any price over $7 a barrel was a windfall profit. I do believe very strongly that the House should stick to its guns and be able to go back and face the people and let them know that we here in the House have tried very hard to protect their interest.

I agree with the chairman of the Committee on Government Operations, the gentleman from California (Mr. HOLIFIELD), that originally this bill was an organizational bill, and strictly within the purview of the Committee on Government Operations. Unfortunately, events have changed that. And the events, I must say, are not of our making, but of the making of the White House. And I am not picking on anyone in the administration or their advisers. I think they have been misguided. In the first place, the President said we have no energy crisis. Mr. Simon said we have a very strong one. So I indicate to the House my strong belief that we should stick by our guns.

The CHAIRMAN. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Dingell-Eckhardt amendment rolls back crude oil prices to maximum levels of $5.25 or $7.09 per barrel. New oil, however, produced by firms whose output is less than 30,000 barrels per day will be exempt from the price limitations. New oil is defined as crude from new properties produced for the first time in 1973 and production from older properties that exceeds 1972 output.

The amendment will have the barest impact on retail petroleum product prices and may pose a serious disincentive to the reopening of abandoned wells. Moreover, it will only insignificantly hit at the majors and with little effect.

RETAIL PRICE IMPACT WILL BE INSIGNIFICANT

New oil under the CLC's two-tier system accounts for only 17 percent of the U.S. petroleum supply. If the price of all this oil, which is now selling for roughly $10 per barrel, were rolled back to $5.25 per barrel it would lower prices only 80 cents per barrel or 2 cents per gallon of gasoline. If the 35 percent increase option were exercised resulting in some $7.09 per barrel crude, the price impact

would be 1 cent per gallon. This amendment will exempt substantial amounts of domestic crude from the rollback estimated at 12 percent of domestic crude or over 1 million barrels per day. If all domestic crude priced at $7.09 or less would only achieve retail savings of 1 cent per gallon, exempting 12 percent of domestic output will wipe out most of even that miniscule savings.

THE ROLLBACK WILL HAVE LITTLE IMPACT ON MAJORS' PROFITS

In simple terms, 78 percent of the majors' 1973 profit increases were derived from overseas operations. Foreign economic developments are well beyond the reach of a domestic crude price rollback. Additionally, some of the larger U.S. oil companies can qualify for the 30,000 barrels per day or less exemption. Indeed, Standard Oil of Ohio reported domestic crude oil production of 25,000 barrels per day in 1973.

THE AMENDMENT DISCOURAGES THE REOPENING OF MANY ABANDONED WELLS

Despite the Dingell-Eckhardt amendment exploration and discovery efforts on the part of nonmajors may be encouraged because any new oil finds can be sold at market-determined prices. The fact remains that the amendment provides no incentive for the majors to seek oil in many marginal areas. Right now we need to stimulate production from all sources.

However, the establishment of the 1972 base production period may effectively discourage the reopening of older wells. For example, suppose a stripper well pumped five barrels a day during 1972. It was then closed in early 1973 because production dropped to 3 barrels per day. If that well were to be reopened under this amendment, its three barrels would be sold at controlled prices. Only if production topped 5 barrels per day could the small amount of additional crude qualify for market prices. Currently, the $10 per barrel price provides the incentive to operate the well. This amendment would shut it down.

The National Stripper Well Association estimates that there are many thousands of currently abandoned stripper wells. It projects that the $10 per barrel price will reactivate many of these wells with a total daily output of 250,000 barrels per day or more. Materials shortages and uncertainty over what Congress will do is holding up these efforts. The reopening of old wells can quickly supplement oil supplies where exploration and drilling activities take considerable time.

In summary, this amendment cannot reduce consumer fuel prices, it will not significantly affect the profits of the international oil giants, and it can discourage the opening of many abandoned wells. It does provide a spur to exploration and drilling although these efforts require time to bear fruit. The amendment appears to be an attempt to mildly slap the majors on the hand, minimize impact on medium and small producers, and provide a little window dressing for irate constituents.

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

Mr. ANDERSON of Illinois. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will listen to this proposition for a moment, the stripper wells were not covered under this act, they are not covered under the Dingell amendment, and they are not covered under my amendment to the Dingell amendment.

The example which the gentleman gave of a well that was a stripper well which went out of production and came back into production is this: It is simply exempted from the Allocation Act and from the Economic Stabilization Act. There is nothing under this act which alters the exemption of stripper well coverage in those original acts. The stripper wells are excluded from this act, as is the other production.

Mr. ANDERSON of Illinois. Mr. Chairman, I will not yield further.

I think this simply illustrates the danger of legislating in this manner, adopting this kind of an amendment in this fashion on this floor, because as I read and interpret that amendment, if that well was closed down, unless it exceeds the original production and gets back up to more than five barrels a day, that oil is going to be classified as new oil. Therefore it is going to be rolled back.

Mr. ECKHARDT. If the gentleman will yield further, that is absolutely incorrect. The definition of a stripper well in the Allocation Act which was before our committee is a well producing less than 10 barrels per day.

Mr. ANDERSON of Illinois. The gentleman is now not speaking of this act; he is speaking of the earlier act that was passed in December of last year.

Mr. ECKHARDT. Through the colloquy of myself, Mr. HORTON, and Mr. HOLIFIELD, it was clearly established that this act does not give any additional authority beyond the authority which existed in the previous act.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MOSS. I move to strike the necessary number of words.

I would point out, Mr. Chairman, to those very anxious and nervous colleagues who were not present here during the debate today or yesterday that their haste ill becomes them, as the effort to knock out this rollback provision ill becomes this House. We have been told that we face a stalemate, and that means, of course, that we are stopped because two parties come into disagreement. The rollback provision in this bill is significantly different than the rollback provision in the bill vetoed by the President, but I do not believe that in order to resolve that stalemate, if it continues, that it is incumbent upon this House that it yield totally to the Executive. Yet that is precisely what it is being urged to do.

Maybe the Members do not get the message, but I can tell them that the disenchantment with the Congress arises over its ready willingness to grant blank-check authority to the Executive and to avoid making any determined definition of policy on its own part. Some of that criticism has come in recent days from some of my distinguished colleagues on this side of the aisle. They cannot have it both ways. They cannot criticize us for not paying attention to the details of legislation, and at the same time criticize us for just unburdening everything onto the President. I do not want to unburden everything onto the President, or the Administrator.

If there is to be a rollback, I want it to be a rollback mandated here. I would prefer that there was much more detail in this legislation. I believe that we have a responsibility as a legislative body to give directions.

I do not know who is going to be in the Office of the Administrator of Energy in the next week. I can tell the Members, though, that when I was a boy in school, we used to have the "Simon says" sayings. I have been listening to Simon's sayings for quite a number of days, and Simon has been saying clearly and loudly that we need to give 2 cents more here, 4 cents more here, and 5 cents more here. I have yet to hear Simon say a single, damned word that makes sense about resolving scarcity or dealing with the need for more equitable distribution of supplies. But I do know that lines grow longer across this Nation.

Prices escalate ever higher. My friend from California (Mr. HOLIFIELD) says 67 cents. Up my way it is 69 cents, 69.9 cents a gallon for gasoline, and it is going to keep going higher. If Mr. Simon continues to say, my judgment is that he will resolve the problem of scarcity by a dollar a gallon gasoline and that will cause enough of the lower paid portion of our economy to move out of the market so that they will not be demanding gas. It will take some of the more comfortable ones and reduce significantly their ability to demand gas.

We are yielding here not only to Mr. Simon says and the entreaties of the chairman of the committee not to do anything to thwart the President's demand that we let him dot the "i's" and cross the "t's," but we are ignoring the needs of the American people.

Mr. RHODES. Mr. Chairman, I would like to remind my good friend from California who preceded me in the well that this is not the last bill we are going to have on energy. This is a housekeeping bill. It is not an energy bill. It is a bill to provide a means for the Federal Energy Administration to get going. If we want to take care of prices, if we want to take care of excess profits, we will have plenty of chance to do it. This is not the proper vehicle.

Mr. Simon, whose name has been kicked around on the floor by many of the Members here, said to me the other day, "You know, I used to think I was a good administrator and I would be if I had anybody to administer." Actually, he said, "I have been unable to recruit people to do this job."

He is working many hours a day and many of his staff, who have come with him on loan, are actually working many

hours a day. Mr. Simon is having difficulty recruiting staff because the Federal Energy Office right now is operating under a mere Executive order.

What this bill seeks to do is give FEA a reason for being, so that people can come aboard and do the very important job we need to do. We need to conserve energy. We need to make rules and regulations for conservation and utilization of energy. We need to do the planning which is necessary to develop new sources of energy for this country.

We do not want to keep this country in the posture of trying to divide a scarcity. What we want to do is put it in a position where there will be plenty of energy for everybody. An essential first step to accomplish this is the enactment of this bill for the Federal Energy Administration.

Now, as I mentioned, there will be other bills coming along. I think that the way to deal with excess profits is to do it in the ordinary way. The Committee on Ways and Means, I am told, is working very hard on a bill to control excess profits resulting from the energy crisis.

I submit, Mr. Chairman, that this is the way to handle this problem. After all, we should not deal with prices so much as we should deal with excess profits. I say that all profit is not excess and all profit is not bad. If we are going to do the things in this country, and make the investments which we must do in order to provide the energy sources for the future which we must have, it will be necessary to invest some $20 billion within the next few years in refineries and new wells and the like. We cannot do that unless we make some profits; so the way to measure whether or not these companies have overcharged is not by what they make today or what the prices are, but what the profit is at the end of the year.

This is the type of bill which the Committee on Ways and Means will bring out and which I dare say will definitely result in reduction of the cost of gasoline to the consumer.

But, it will result in reduction in cost without reduction in gasoline. May I again remind my colleagues that what we are trying to do in this country right now is to produce more energy, to produce more gasoline; not to produce less. Frankly, I do not know of any way to produce more by rolling prices back at this particular stage of the game. It may be that prices are going too high, but if they have, we handle it in the ordinary way by excess profits tax, which I am sure the Ways and Means Committee will bring out and which I am sure the House will pass and the Senate will adopt.

Mr. Chairman, let me just say one thing about the attitude of other people, who are not Members of this body, on this bill. I have been trying to find out today if the rollback amendment is acceptable. I find it is not acceptable. It is similar to the provision which caused the veto of the Emergency Energy bill.

I do not think the people of this country want another veto. I think they want legislation. I think they want more gasoline and more energy. This is not yielding to the executive, because, as my good friend from California knows, if there is a necessity to bring out a bill to roll back prices later on, he will have the vehicle to do it. Do not do it on a housekeeping bill. That is all I ask.

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

Mr. RHODES. Mr. Chairman, I yield to the gentleman from Florida.

Mr. FREY. Mr. Chairman, I thank the gentleman from Arizona for yielding to me.

Mr. Chairman, I have supported the rollback provisions, and frankly was ready to override the veto. However, it appears at this point that we are at a point where we have the basic choice of either killing this legislation or passing it and at least getting something we can go to the American people with.

This does not mean that I have changed my desire to have a rollback. I believe in this, but I do not necessarily think we can get there from here. Let us take what we can, and let us go back again as far as I am concerned and roll back in another provision.

Mr. ECKHARDT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, to pass this bill without passing the amendment that has to do with the rollback is to create a cornucopia without fruit; is to produce a watchdog without teeth; to produce an automobile without a gasoline tank.

We can talk all we want to about it being just a vehicle, but the people of the United States are prepared now for us to produce a vehicle which carries something to them.

Mr. Chairman, it is somewhat difficult for me, a Member from the Southwest, to take this odd position and to talk in favor of a rollback, but I think it is necessary for every Member of this House to try to weigh the equities involved in the nature of a rollback which we put into effect. It must do two things. It must cut back prices of gasoline and of diesel fuel that is used in trucks, the diesel fuel that is costing the fishermen of my coast so much money that they are going out of business unless something is done.

Therefore, I am for a rollback. I voted for a rollback in the Committee of the Whole. I shall vote for a rollback here in the full House, but when I support that rollback, I want to answer the legitimate contentions that have been made by elements of the oil industry, and have indeed been made by the President of the United States.

That is, that such a rollback should not prevent those who produce 80 percent of the new oil, those who run the risk of exploration, from continuing to run that risk and continuing to gain the capital necessary in order to bring that deep oil up, to bring in oil from offshore.

Now, I know that my good friend, the gentleman from Kentucky, is going to say that 30,000 barrels a day is a "pretty big man." Sure it is. But it is a puny midget compared to the major oil companies.

I am not here to support persons in the oil industry merely because they are little. I am here to try to support a competitive oil industry, in which an oligopoly composed of a few giant oil companies is controlling the production of oil and cutting off the flow of oil from overseas.

Incidentally, the New York Times recently ran an article saying that foreign production in foreign ships controlled by U.S. corporations was standing off in the harbor of New York and the oil oligopoly was refusing to deliver that oil because they did not like the allocation provisions of our law.

I am for creating a situation in which we have healthy competition with those major companies. That is the reason I offered the Eckhardt amendment to the Dingell amendment. I think it is the answer to the problem of bringing oil to the surface.

Mr. Chairman, I believe it is a good bill, and I believe this is a good amendment.

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

Mr. ECKHARDT. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I wish to correct my colleagues. There are certain facts which I regret the ranking minority member did not understand and which his colleagues do not understand.

First of all, the amendment does not cover stripper oil. That should be plain.

Second of all, it decontrols new oil produced by everyone who produces less than 30,000 barrels a day. This will provide an incentive, as the gentleman from Texas has pointed out.

Last of all, it will provide a significant rollback on old oil which must continue to be produced and even continue to be produced by those whose oil would be decontrolled by the Dingell-Eckhardt amendment.

Last of all, it does something else: It rolls back prices, which it does fairly. It rolls them back to what the Administrator of FEO has said is the long-term price of oil. It will save the American people something like $4 billion a year. It will roll back the cost of gasoline about 4 cents a gallon.

That is what it does, and if the Members have heard complaints about inadequacy of supply, they can say it is going to stimulate new production and it is not going to decrease production. We get the best of all worlds under this amendment.

Mr. CARTER. Mr. Chairman, I move to strike the last word in order to answer the gentleman.

The CHAIRMAN. Is the gentleman seeking recognition?

Mr. CARTER. I am, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. CARTER. Mr. Chairman, as the House well knows, I have voted for every rollback until the present time. I voted for the rollback yesterday, but I find to my sorrow that I was wrong. I want to tell the Members why.

This so-called Dingell-Eckhardt amendment would exempt 30,000 barrels a day for one company. They say that is not much.

I want to tell the Members that the largest oil well in Texas, Old Spindletop, produced 25,000 barrels per day. This is big production, and right there is a loophole through which you could throw the entire Capitol if it were possible.

It is a tremendously bad amendment. It is not, as they say, a rollback at all.

Now, let me go into the figures concerning this. Thirty thousand barrels a day would mean 900,000 barrels in 1 month, and in 1 year, it would mean 10.8 million barrels, and if it is selling at $10 a barrel, it would be $108 million for one 30,000-barrel-a-day production, and one company.

I submit to the Members that there are 50 to 100 of these producers in the United States today, and that the profit for one producer in a year would be $72 million, and for 100 such producers it would be $7.2 billion.

For that reason, my friends, I say to you that this rollback is not a true rollback, and I mean it from here—the heart. If you will come up with a true rollback, I will vote for it as I have voted for others, but this is not a true rollback.

I do say that it is an escape valve for many large oil companies throughout the country. You know, we could listen to some of our lawyers here. They know how to hunt loopholes and find them. I say that this is a loophole for the large companies.

Therefore, today I am going to vote against this because it is not a true rollback. I urge the people of this House who really know the feeling of the people in this country to vote against this amendment if it is brought up for a separate vote.

Mr. MILFORD. Will the gentleman yield?

Mr. CARTER. I am glad to yield to the gentleman.

Mr. MILFORD. Will the gentleman be able to tell me what companies he is talking about? In Texas the average stripper wells take about 8 barrels a day.

Mr. CARTER. We are not talking about strippers in this case. I thought it was necessary to bring this up and clear the air on it, because I feel you should know the truth on this matter and I am telling you the truth.

Mr. ANDERSON of Illinois. Will the gentleman yield?

Mr. CARTER. I yield to the gentleman.

Mr. ANDERSON of Illinois. I want to congratulate the gentleman on his frank statement and also point out that Standard Oil of Ohio reported domestic crude oil production of 25,000 barrels per day in 1973. So your famous Dingell-Eckhardt amendment would mean that a big producer like Standard Oil of Ohio is in the clear.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know everybody wants to vote and I know it is time to quit and I am very reluctant to enter into this debate at this late hour. However, I am going to take my full 5 minutes, so you may as well listen just a little bit, if you will, please.

Mr. Chairman, I have been sitting in the Committee on Ways and Means all of this week and all of last week and really almost since before the Christmas holidays during the period that we have been working on this problem of energy production and taxation. I know it is a very complicated problem.

When I first started on this problem I voted for a rollback, back in December I think it was. I have come to the conclusion that that was an unwise vote.

I hope that if you do not want to listen to all I have to say, you will at least take advantage of all the hours I spent sitting and thinking and listening to other people arguing about this.

We have tinkered around with our wonderful capitalistic system so long that we have overmedicated the baby and have gotten ourselves into a mess. The mess we find ourselves in right now is that we cannot get a piece of legislation passed by which we can move forward. We need to do that. We need to separate our problems and deal with them one at a time. So, if for no other reason, I believe we should separate the rollback from this particular problem and move ahead, but I am convinced the wisest thing to do with the petroleum and energy companies is to tax them just as we do other businesses in the United States and not separate them out or do anything else to them. I am going to stick to that principle and try to make it possible for the Members of this Congress to vote like that when we get an energy bill from the Ways and Means Committee.

I think that is the wisest and soundest way to proceed. I think the less we begin to monkey around with this system and let the system work, the better off we will be.

So I would urge all of the Members who are interested in getting an increased gasoline supply for the consumers as rapidly as possible, and to get on with the production of more fuel so as to make us as nearly self-sufficient as we can possibly become, to quit tinkering with the system.

I think that the Committee on Ways and Means is going to come out with a sound proposal, and one that will allow us to start to tax these oil companies like everybody else is taxed. And that is the real problem when it come to the petroleum corporations. We cannot regulate the price of the oil because the price is set on the world market, and it is set by demand and supply. We have been fooling around with this for a year now, and it has not worked. Each time we have fooled around with it we seem to dig ourselves in deeper. I say to my colleagues let us vote down the amendment offered by the gentleman from Michigan (Mr. DINGELL) and let us get on with the business. I pledge to the Members that I will try to get a bill out here by which we can tax these oil companies as they ought to be taxed, and I think that we are about to get such a bill.

Mr. ROUSSELOT. Mr. Chairman, today we are being asked to pass H.R. 11793, the proposed Federal Energy Administration Act. Passage of this legislation would supposedly, "conserve scarce energy supplies, insure fair and reasonable consumer prices for such supplies, promote the expansion of readily-usable energy sources, and assist in developing policies and plans to meet the energy needs of the Nation."

Mr. Chairman, there are many reasons why I rise in opposition to H.R. 11793. Let me outline a few: first this Congress is again going to be responsible—if this bill passes, and it appears it will—for creating an agency that will do constant battle with the free market system and will hamstring the ability to provide adequate supplies of energy to consumers in this country; second, it is basically, an anti-free-market bill; third, the Members of this House well know that there are already too many laws on the books in this field. Over-legislation kill by the Federal Government, and a bloated Federal bureaucracy, have contributed to the energy-shortage problems, not solved them. This bill we are asked to vote for today moves in precisely the wrong direction by strangling the very system that has produced the lowest prices of any nation in the world; fourth, in my judgment, this bill, in the name of protecting the consumer, is really basically anti-consumer in that it takes away the decisionmaking power of the consumer and gives this power to the Federal Government.

In a free market the consumer is king. I only wish that all Members of the House had taken the time to read carefully all 38 pages of this legislation because there are numerous phrases transfering vast amounts of power to this agency. And, fifth, the alternative to this bill is the free market system, and the Congress should be working actively to allow this free enterprise system to work instead of constantly finding ways of hamstringing and interrupting it.

Mr. ROY. Mr. Chairman, I strongly support the amendment offered by my distinguished colleague (Mr. ALEXANDER), which establishes May 15, 1973, as the base period price for propane.

This amendment will correct the unfair and inequitable burden being borne by propane consumers in Kansas and throughout the country. Over the course of the past year, propane users have been confronted with skyrocketing price increases, in some instances as much as 520 percent, of this fuel.

Ironically, these price increases have come not as a result of any shortage in the supply of propane; nor have they come as a result of any distribution problems. Rather, the soaring propane price increases have come as a result of the pricing policies initiated by the Cost of Living Council and the Federal Energy Office.

Up until a few weeks ago, the pricing regulations governing propane permitted refiners to pass through added produc-

tion costs—totally unrelated to the production of propane—to propane consumers. In effect, propane users have been underwriting the production costs of other fuels.

Needless to say, this has placed a patently inequitable burden upon the shoulders of propane users. I know in Kansas, a vast majority of rural residents use this fuel to heat their homes, harvest their crops, power their trucks, and dry their grain. The Federal Government, through these regulations, has been asking this segment of the population, as well as individuals living on fixed incomes, to assume the additional costs tacked onto propane prices.

On February 4, I introduced legislation to correct this situation. While my bill differed from the amendment before us now in that it established a base period reflecting the highest price of the refiner between December 1, 1972, and January 31, 1973, I think that the May 15, 1973, date is quite workable, and will have the effect of reducing propane prices throughout the country.

On February 5, some 51 of my colleagues joined me in an appeal to Federal Energy Office Administrator, William E. Simon, for FEO to go beyond its February 1 propane pricing regulations which froze the price of propane at its highest level in history. FEO did respond to our collective concern with a "clarification" of its regulations. However, propane prices still have not been reduced to the levels that had been anticipated.

I feel that a permanent legislative solution is warranted. Mr. ALEXANDER'S amendment offers the needed relief to propane users in Kansas and throughout the country. I rise in support of this amendment.

The CHAIRMAN. If there are no further amendments, to be offered, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. FLYNT, Chairman of the Committee of the Whole House on the State of the Union, reported that the Committee having had under consideration the bill (H.R. 11793) to reorganize and consolidate certain functions of the Federal Government in a new Federal Energy Administration in order to promote more efficient management of such functions, pursuant to House Resolution 788, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole?

Mr. HOLIFIELD. Mr. Speaker, I demand a separate vote on the amendment at page 19 at the end of line 7, which was offered by the gentleman from Michigan (Mr. DINGELL) as amended by the amendment offered by the gentleman from Texas (Mr. ECKHARDT).

The SPEAKER. The Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment offered by Mr. DINGELL: Page 19 at the end of line 7 strike the semicolon and add the following: "The Administrator, in exercising the functions transferred by this Act, may not fix the price for domestic crude oil higher than the price prevailing in the United States on May 15, 1973, plus $1.30 per barrel; or $5.25 per barrel plus 35 per centum thereof, if he finds it consistent with the purposes of this Act, *provided however*, That no limitation on mandate contained herein shall apply to or affect any producer of new crude petroleum who, together with all persons who control, or are controlled by or under common control with such producer, produces net to his working interests not more than 30,000 barrels of crude oil per day, so as to prevent such producer from selling that new crude petroleum without respect to the ceiling price. However, if the amount of crude petroleum produced and sold in any month subsequent to the effective date of this section is less than the base production control level for that property for that month, any new crude petroleum produced from that property during any subsequent month may not be sold pursuant to this paragraph until an amount of the new crude petroleum equal to the difference between the amount of crude petroleum actually produced from that property during the earlier month and the base production control level for that property for the earlier month has been sold at or below its ceiling price.

(2) For the purposes of this subsection, (A) the term "base production control level" for a particular month for a particular property means:

(i) if crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;

(ii) if crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12.

(B) the term "property" means the right which arises from a lease or from a fee interest to produce domestic crude petroleum.

(C) the term "new crude petroleum" means the total number of barrels of domestic crude petroleum produced and sold from a property in a specific month less the base production control level for that property.

Mr. HORTON (during the reading). Mr. Speaker, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The question is on the amendment.

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

RECORDED VOTE

Mr. ECKHARDT. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 216, not voting 52, as follows:

[Roll No. 70]

AYES—163

Abdnor	Grover	Peyser
Abzug	Gude	Pike
Adams	Gunter	Price, Ill.
Addabbo	Hanley	Rangel
Andrews, N. Dak.	Harrington	Rees
	Harsha	Regula
Annunzio	Hechler, W. Va.	Reuss
Aspin	Heckler, Mass.	Riegle
Barrett	Heinz	Rinaldo
Bennett	Helstoski	Rodino
Bevill	Hicks	Roe
Biaggi	Holtzman	Rogers
Biester	Howard	Roncallo, N.Y.
Bingham	Hungate	Rooney, Pa.
Blatnik	Johnson, Calif.	Roush
Boland	Jones, N.C.	Roy
Brademas	Jones, Tenn.	St Germain
Breckinridge	Jordan	Sarasin
Brinkley	Kastenmeier	Sarbanes
Brown, Calif.	Kluczynski	Scherle
Burke, Calif.	Koch	Schroeder
Burke, Mass.	Kyros	Seiberling
Burlison, Mo.	Latta	Sikes
Carney, Ohio	Leggett	Slack
Chisholm	Lent	Snyder
Clancy	Lujan	Staggers
Clark	Luken	Stanton, James V.
Cohen	McDade	
Conte	Macdonald	Stark
Conyers	Madden	Steele
Cotter	Mathis, Ga.	Stokes
Coughlin	Matsunaga	Stubblefield
Cronin	Mazzoli	Stuckey
Culver	Meeds	Studds
Daniels, Dominick V.	Metcalfe	Symington
	Mezvinsky	Thompson, N.J.
Delaney	Miller	Thone
Denholm	Minish	Tiernan
Dent	Mink	Udall
Dingell	Mitchell, Md.	Van Deerlin
Donohue	Mitchell, N.Y.	Vander Veen
Drinan	Moakley	Vanik
Dulski	Mollohan	Vigorito
Eckhardt	Morgan	Waldie
Edwards, Calif.	Moss	Walsh
Eilberg	Murphy, Ill.	Wampler
Fish	Murtha	Whalen
Flood	Natcher	Wilson, Charles H., Calif.
Foley	Nedzi	
Ford	Nichols	Wolff
Gaydos	Nix	Wylie
Giaimo	Obey	Yates
Gilman	O'Hara	Yatron
Ginn	Owens	Young, Ga.
Grasso	Patten	Zablocki
Green, Pa.	Perkins	

NOES—216

Alexander	Conlan	Gray
Anderson, Calif.	Corman	Green, Oreg.
	Crane	Gross
Anderson, Ill.	Daniel, Dan	Gubser
Andrews, N.C.	Daniel, Robert W., Jr.	Guyer
Archer		Haley
Arends	Danielson	Hamilton
Ashbrook	Davis, Ga.	Hammer-schmidt
Ashley	Davis, S.C.	
Bafalis	Davis, Wis.	Hanrahan
Baker	Dellenback	Hansen, Idaho
Bauman	Dennis	Hansen, Wash.
Beard	Derwinski	Hastings
Bergland	Devine	Hillis
Blackburn	Dickinson	Hinshaw
Boggs	Dorn	Hogan
Bolling	Downing	Holifield
Bowen	Duncan	Holt
Bray	du Pont	Horton
Breaux	Edwards, Ala.	Hosmer
Broomfield	Erlenborn	Huber
Brotzman	Esch	Hutchinson
Brown, Mich.	Eshleman	Ichord
Broyhill, N.C.	Evans, Colo.	Jarman
Broyhill, Va.	Evins, Tenn.	Johnson, Colo.
Buchanan	Fascell	Johnson, Pa.
Burgener	Findley	Jones, Ala.
Burke, Fla.	Fisher	Kazen
Burleson, Tex.	Flowers	Kemp
Butler	Flynt	Ketchum
Byron	Forsythe	King
Carter	Fountain	Kuykendall
Casey, Tex.	Frelinghuysen	Landgrebe
Cederberg	Frenzel	Landrum
Chamberlain	Frey	Lehman
Chappell	Froehlich	Litton
Clawson, Del	Fuqua	Long, La.
Cleveland	Gettys	Long, Md.
Cochran	Gibbons	Lott
Collier	Goldwater	McClory
Collins, Tex.	Gonzalez	McCloskey
Conable	Goodling	McCollister

McCormack	Price, Tex.	Steed
McEwen	Pritchard	Steelman
McFall	Quie	Steiger, Ariz.
McKay	Quillen	Steiger, Wis.
Madigan	Railsback	Stephens
Mahon	Rarick	Symms
Mallary	Rhodes	Talcott
Mann	Roberts	Taylor, Mo.
Maraziti	Robinson, Va.	Taylor, N.C.
Martin, Nebr.	Robison, N.Y.	Thomson, Wis.
Martin, N.C.	Roncalio, Wyo.	Thornton
Mathias, Calif.	Rose	Towell, Nev.
Mayne	Rousselot	Ullman
Melcher	Roybal	Vander Jagt
Michel	Runnels	Veysey
Milford	Ruppe	Waggonner
Minshall, Ohio	Ruth	White
Mizell	Ryan	Whitten
Moorhead, Calif.	Sandman	Widnall
Moorhead, Pa.	Satterfield	Wilson, Bob
Mosher	Schneebeli	Winn
Myers	Sebelius	Wright
O'Brien	Shipley	Wydler
Parris	Shriver	Wyman
Passman	Shuster	Young, Alaska
Patman	Sisk	Young, Fla.
Pepper	Skubitz	Young, Ill.
Pettis	Smith, Iowa	Young, S.C.
Poage	Smith, N.Y.	Young, Tex.
Powell, Ohio	Spence	Zion
Preyer	Stanton, J. William	Zwach

NOT VOTING—52

Armstrong	Griffiths	Podell
Badillo	Hanna	Randall
Bell	Hawkins	Reid
Brasco	Hays	Rooney, N.Y.
Brooks	Hébert	Rosenthal
Brown, Ohio	Henderson	Rostenkowski
Burton	Hudnut	Shoup
Camp	Hunt	Stratton
Carey, N.Y.	Jones, Okla.	Sullivan
Clausen, Don H.	Karth	Teague
Clay	McKinney	Treen
Collins, Ill.	McSpadden	Ware
de la Garza	Mills	Whitehurst
Dellums	Montgomery	Wiggins
Diggs	Murphy, N.Y.	Williams
Fraser	Nelsen	Wilson, Charles, Tex.
Fulton	O'Neill	Wyatt
	Pickle	

So the amendment was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. de la Garza against.

Mr. Murphy of New York for, with Mr. Montgomery against.

Mr. Rooney of New York for, with Mr. Hébert against.

Mr. O'Neill for, with Mr. Pickle against.

Mr. Brasco for, with Mr. Brooks against.

Mr. Clay for, with Mrs. Griffiths against.

Mr. Podell for, with Mr. Hanna against.

Mr. Reid for, with Mr. Teague against.

Mr. Rosenthal for, with Mr. Charles Wilson of Texas against.

Mr. Rostenkowski for, with Mr. McSpadden against.

Mr. McKinney for, with Mr. Ware against.

Mr. Williams for, with Mr. Wyatt against.

Mr. Fulton for, with Mr. Shoup against.

Mr. Badillo for, with Mr. Camp against.

Mr. Carey of New York for, with Mr. Brown of Ohio against.

Mrs. Collins of Illinois for, with Mr. Don H. Clausen against.

Mr. Burton for, with Mr. Treen against.

Mr. Dellums for, with Mr. Henderson against.

Mr. Hawkins for, with Mr. Karth against.

Mr. Diggs for, with Mr. Wiggins against.

Until further notice:

Mr. Randall with Mr. Fraser.

Mrs. Sullivan with Mr. Stratton.

Mr. Jones of Oklahoma with Mr. Mills.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the amendment in the nature of a substitute reported from the Committee of the Whole House on the State of the Union.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

MOTION TO RECOMMIT OFFERED BY MR. ROUSSELOT

Mr. ROUSSELOT. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ROUSSELOT. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ROUSSELOT moves to recommit the bill H.R. 11793 to the Committee on Government Operations.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

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

RECORDED VOTE

Mr. HORTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 353, noes 29, not voting 49, as follows:

[Roll No. 71]

AYES—353

Abdnor	Burlison, Mo.	Dulski
Abzug	Butler	Duncan
Adams	Byron	du Pont
Addabbo	Carney, Ohio	Edwards, Ala.
Alexander	Carter	Edwards, Calif.
Anderson, Calif.	Casey, Tex.	Eilberg
Anderson, Ill.	Cederberg	Erlenborn
Andrews, N.C.	Chamberlain	Esch
Andrews, N. Dak.	Chappell	Eshleman
Annunzio	Chisholm	Evans, Colo.
Archer	Clark	Evins, Tenn.
Arends	Clawson, Del	Fascell
Ashley	Cleveland	Findley
Aspin	Cochran	Fish
Bafalis	Cohen	Fisher
Baker	Collier	Flood
Barrett	Conable	Flowers
Beard	Conlan	Flynt
Bennett	Conte	Foley
Bergland	Conyers	Ford
Bevill	Corman	Forsythe
Biaggi	Cotter	Fountain
Biester	Coughlin	Frelinghuysen
Bingham	Cronin	Frenzel
Blatnik	Culver	Frey
Boggs	Daniel, Dan	Froehlich
Boland	Daniel, Robert W., Jr.	Fuqua
Bolling	Daniels, Dominick V.	Gaydos
Bowen	Danielson	Gettys
Brademas	Davis, Ga.	Giaimo
Breaux	Davis, S.C.	Gibbons
Breckinridge	Davis, Wis.	Gilman
Broomfield	Delaney	Ginn
Brotzman	Dellenback	Goldwater
Brown, Calif.	Dennis	Gonzalez
Brown, Mich.	Dent	Goodling
Brown, Ohio	Derwinski	Grasso
Broyhill, N.C.	Devine	Gray
Broyhill, Va.	Dickinson	Green, Oreg.
Buchanan	Diggs	Green, Pa.
Burgener	Dingell	Grover
Burke, Calif.	Donohue	Gubser
Burke, Fla.	Downing	Gude
Burke, Mass.	Drinan	Gunter
		Guyer
		Haley
		Hamilton
		Hammer-schmidt
		Hanley
		Hanna
		Hanrahan
		Hansen, Idaho
		Hansen, Wash.
		Harrington
		Harsha
		Hastings
		Hechler, W. Va.
		Heckler, Mass.
		Heinz
		Helstoski
		Hillis
		Hinshaw
		Hogan
		Holifield
		Holt
		Holtzman
		Horton
		Hosmer
		Howard
		Huber
		Hungate
		Hutchinson
		Ichord
		Jarman
		Johnson, Calif.
		Johnson, Colo.
		Johnson, Pa.
		Jones, Ala.
		Jones, N.C.
		Jones, Tenn.
		Kastenmeier
		Kazen
		Kemp
		Ketchum
		King
		Kluczynski
		Koch
		Kuykendall
		Kyros
		Landrum
		Latta
		Leggett
		Lehman
		Lent
		Litton
		Long, La.
		Long, Md.
		Lott
		Lujan
		Luken
		McClory
		McCloskey
		McCollister
		McCormack
		McDade
		McEwen
		McFall
		McKay
		Macdonald
		Madden
		Madigan
		Mahon
		Mallary
		Mann
		Maraziti
		Martin, Nebr.
		Martin, N.C.
		Mathias, Calif.
		Matsunaga
		Mayne
		Mazzoli
		Meeds
		Metcalfe
		Mezvinsky
		Michel
		Milford
		Miller
		Minish
		Mink
		Minshall, Ohio
		Mitchell, Md.
		Mitchell, N.Y.
		Mizell
		Moakley
		Mollohan
		Moorhead, Calif.
		Moorhead, Pa.
		Morgan
		Mosher
		Murphy, Ill.
		Murtha
		Myers
		Natcher
		Nedzi
		Nichols
		Nix
		Obey
		O'Hara
		Parris
		Passman
		Patman
		Patten
		Pepper
		Perkins
		Pettis
		Peyser
		Pike
		Powell, Ohio
		Preyer
		Price, Ill.
		Price, Tex.
		Pritchard
		Quie
		Quillen
		Railsback
		Rangel
		Rees
		Regula
		Reuss
		Rhodes
		Riegle
		Rinaldo
		Roberts
		Robinson, Va.
		Robison, N.Y.
		Rodino
		Roe
		Rogers
		Roncalio, Wyo.
		Roncallo, N.Y.
		Rooney, Pa.
		Rose
		Roush
		Roy
		Roybal
		Runnels
		Ruppe
		Ruth
		Ryan
		St Germain
		Sandman
		Sarasin
		Sarbanes
		Satterfield
		Scherle
		Schneebeli
		Sebelius
		Shipley
		Shriver
		Shuster
		Sikes
		Sisk
		Skubitz
		Slack
		Smith, Iowa
		Smith, N.Y.
		Snyder
		Staggers
		Stanton, J. William
		Stanton, James V.
		Stark
		Steed
		Steele
		Steelman
		Steiger, Ariz.
		Steiger, Wis.
		Stephens
		Stokes
		Stubblefield
		Stuckey
		Studds
		Symington
		Talcott
		Taylor, Mo.
		Taylor, N.C.
		Thompson, N.J.
		Thomson, Wis.
		Thone
		Tiernan
		Towell, Nev.
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vander Veen
		Vanik
		Veysey
		Vigorito
		Waggonner
		Waldie
		Walsh
		Wampler
		Whalen
		White
		Whitten
		Widnall
		Wilson, Bob
		Wilson, Charles H., Calif.
		Winn
		Wolff
		Wright
		Wydler
		Wylie
		Wyman
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Ga.
		Young, Ill.
		Young, S.C.
		Young, Tex.
		Zablocki
		Zion
		Zwach

NOES—29

Ashbrook	Dorn	Poage
Bauman	Eckhardt	Rarick
Blackburn	Gross	Rousselot
Bray	Hicks	Schroeder
Brinkley	Jordan	Seiberling
Burleson, Tex.	Landgrebe	Spence
Clancy	Mathis, Ga.	Symms
Collins, Tex.	Melcher	Teague
Crane	Moss	Thornton
Denholm	Owens	

NOT VOTING—49

Armstrong	Hawkins	Podell
Badillo	Hays	Randall
Bell	Hébert	Reid
Brasco	Henderson	Rooney, N.Y.
Brooks	Hudnut	Rosenthal
Burton	Hunt	Rostenkowski
Camp	Jones, Okla.	Shoup
Carey, N.Y.	Karth	Stratton
Clausen, Don H.	McKinney	Sullivan
Clay	McSpadden	Treen
Collins, Ill.	Mills	Ware
de la Garza	Montgomery	Whitehurst
Dellums	Murphy, N.Y.	Wiggins
Fraser	Nelsen	Williams
Fulton	O'Brien	Wilson, Charles, Tex.
Griffiths	O'Neill	Wyatt
	Pickle	

So the bill was passed.

The Clerk announced the following pairs:

On this vote:

Mr. Hays for, with Mr. Dellums against.

Mr. O'Neill for, with Mr. de la Garza against.

Until further notice:

Mr. Hébert with Mrs. Griffiths.

Mr. Rooney of New York with Mr. Hawkins.

Mr. Rostenkowski with Mr. Rosenthal.

Mr. Murphy of New York with Mrs. Sullivan.

Mr. Brasco with Mr. Clay.

Mr. Fulton with Mr. Burton.

Mr. Henderson with Mr. Montgomery.

Mr. Pickle with Mr. Podell.

Mr. Fraser with Mr. Carey of New York.

Mr. Brooks with Mr. Mills.

Mr. Hunt with Mr. Nelsen.

Mr. O'Brien with Mr. Wyatt.

Mr. McKinney with Mr. Ware.

Mr. Hudnut with Mr. Wiggins.

Mr. Whitehurst with Mr. Williams.

Mr. Reid with Mr. McSpadden.

Mr. Randall with Mr. Jones of Oklahoma.

Mr. Badillo with Mr. Charles Wilson of Texas.

Mr. Stratton with Mr. Don H. Clausen.

Mrs. Collins of Illinois with Mr. Camp.

Mr. Karth with Mr. Shoup.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION TO MAKE CORRECTIONS IN THE ENGROSSMENT OF H.R. 11793

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that the Clerk be authorized to make technical corrections in punctuation, section and subsection numbers, and cross references in the engrossment of H.R. 11793.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1 minute.)

Mr. RHODES. Mr. Speaker, I take this time to ask the distinguished majority leader if he could inform the House of the program for the rest of this week and next week.

Mr. McFALL. Mr. Speaker, if the distinguished majority leader will yield for that purpose, there is no further legislative business today and at the close of the announcement of the program for next week I will ask unanimous consent to go over until Monday.

The program for the House of Representatives for next week is as follows:

On Monday, District day, there are no District bills, and there will be a series of committee funding resolutions as follows:

House Resolution 778, funds for the Committee on Merchant Marine and Fisheries;

House Resolution 789, funds for the Committee on Veterans' Affairs;

House Resolution 790, funds for the Committee on Armed Services;

House Resolution 793, funds for the Committee on Science and Astronautics;

House Resolution 797, funds for the Committee on House Administration;

House Resolution 800, funds for the Committee on Banking and Currency;

House Resolution 810, funds for the Committee on Agriculture;

House Resolution 814, funds for the Committee on Post Office and Civil Service;

House Resolution 846, funds for the Committee on Government Operations; and

House Resolution 855, funds for the Committee on Education and Labor.

On Tuesday, we will consider H.R. 69, Elementary and Secondary Education Act Amendment, general debate only with a modified open rule and 4 hours of general debate. We will be unable to complete the bill because of the rule that was granted until the following week when we will begin the 5-minute rule.

Wednesday and the balance of the week, we will consider the following bills:

H.R. 12341, transfer of State Department property in Venice with an open rule and 1 hour of debate;

H.R. 12465, Foreign Service Buildings Act supplemental authorization with an open rule and 1 hour of debate;

H.R. 12466, State Department supplemental authorization, with an open rule, and 1 hour of debate;

H.R. 3858, Anti-Hijacking Act of 1973, subject to a rule being granted; and

H.R. 12471, Freedom of Information Act Amendment, subject to a rule being granted.

Conference reports may be brought up at any time and any further program will be announced later.

ADJOURNMENT OVER UNTIL MONDAY, MARCH 11, 1974

Mr. McFALL. Mr. Speaker, I ask unanimous consent that when the House adjourn today it adjourn until Monday, next.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. GROSS. Mr. Speaker, reserving the right to object, I assume that means the House will adjourn for this week without taking a vote on the pay increase bill for Members of Congress, the Federal Judiciary and the hoopla's in the executive branch of Government.

Mr. McFALL. The gentleman is correct. I would say in response to the gentleman's question that, sorrowfully, the whole thing was killed over in the Senate yesterday. It would be futile for us to try to revive it here on this side.

Mr. GROSS. Does the gentleman say that sorrowfully he is making this statement?

Mr. McFALL. Yes, sorrowfully it was killed on the other side. I am in favor of the pay raise. If I had an opportunity to vote for it on this side, I would have voted for it.

Mr. GROSS. I can say to my distinguished and good friend from California that there is sorrow on the part of some Members on this side that they have not had an opportunity to vote to kill this pay raise; but I thank the gentleman for his answer and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. McFALL. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

TAX RULING REVOKED IN BIG ITT MERGER

(Mr. MOSS asked and was given permission to address the House for 1 minute, to revise and extend his remarks, and to include three news articles.)

Mr. MOSS. Mr. Speaker, in the morning papers today there was carried the story of the Internal Revenue Service's reversal of a ruling given in the ITT acquisition of Hartford Insurance.

I think it was clear from the beginning that ITT failed to meet the conditions imposed by IRS; but I think that the reversal of that ruling is due in a major measure to the dogged determined efforts of our colleague, the distinguished gentleman from Texas (Mr. PICKLE) who has not for one moment let up his efforts to bring about this reversal and it is a reversal in the public interest.

I enclose the following newspaper articles:

[From the Washington Post, Mar. 7, 1974]

TAX RULING REVOKED IN BIG ITT MERGER

(By Morton Mintz)

The Internal Revenue Service yesterday revoked a controversial tax ruling that cleared the way in 1969 for International Telephone and Telegraph Corp. to acquire Hartford Fire Insurance Co.—the largest merger in American history—by allowing for a tax-free exchange of shares.

The rare IRS action was announced in New York by ITT, which immediately requested domestic stock exchanges to suspend trading in its stock until further notice.

The IRS action—taken less than six weeks before the statute of limitations was to expire—has jarring implications for ITT,

which ranked ninth among industrial corporations in sales in 1972.

Stockholders became liable for deferred capital gains taxes of about $100 million, unless the revocation is successfully challenged in the courts, according to Reuben Robertson, III, a Ralph Nader aide who had asked the IRS in April 1972, to revoke the ruling.

However, the exchange of Hartford shares worth about $1 billion for ITT shares was accomplished with what Rep. Jake Pickle (D-Tex.), another persistent critic of the ruling, has called "extreme misrepresentation." If he is correct, experts say, stockholders could sue ITT for reimbursement. One group of Hartford stockholders is already litigating and is asking federal court in New York to unscramble the merger.

ITT said that it was in "complete disagreement" with the revocation, that it would promptly seek a court review, and that it expected to be sustained.

The company also said the ruling "will not affect the Hartford acquisition." Pickle said the effects of the IRS action on the merger are a matter of "pure speculation."

The revocation may trigger new congressional inquiries into how, in less than a week, ITT got a ruling that survived for two years in the face of a recommendation for reconsideration made a year ago by the IRS district office in New York and persistent attacks by such critics as Pickle and Robertson.

For ITT's chief executive officer, Harold S. Geneen, the revocation comes at a time when he is reportedly already a target of a bitter power struggle within the giant multinational firm.

Moreover, the office of the Watergate special prosecutor is known to be on the brink of obtaining indictments in connection with intervention by high Nixon administration officials to settle antitrust cases against ITT so as to preserve the ITT-Hartford merger.

Yesterday's IRS action was believed to be unrelated to the impending indictments, which are expected to involve a pledge by ITT of up to $400,000 for the 1972 Republican National Convention.

As part of the settlement, which was reached with the Justice Department on July 31, 1971, ITT consented to spin off Avis Rent-a-Car, of which it is a 52 per cent owner. Yesterday, the New York Stock Exchange said it had suspended trading in Avis—which emphasized that the ruling did not directly concern it—as well as ITT.

ITT common at the moment of suspension was selling for $27.875 a share, down from the Tuesday close of $28. The high during 1973–74 was $60.375.

The IRS refused to go beyond the revocation, saying that it never discussed either its private rulings or their withdrawal, which in this case is retroactive.

The ruling, which was made by the agency's national office here in October, 1969, was described by Pickle yesterday as "an example of laundering stock in a foreign country without full disclosure so that a tax liability could be avoided."

The ruling involved a block of 1,741,348 shares in Hartford that ITT proposed to sell to Mediobanca, an Italian bank, before Hartford stockholders were to vote on the merger. The IRS ruling served as an inducement to Hartford stockholders to vote for the merger, because—if the sale were in fact genuine—they would be freed from capital gains taxation.

The issue turned on whether the sale to Mediobanca was "unconditional," as required by law for the capital-gains advantage to be realized and as ITT claimed.

The Securities and Exchange Commission has never regarded the sale to Mediobanca as genuine. The New York office of the IRS was understood to have advised Washington last year that disclosure to stockholders and possibly to the IRS had been "inadequate."

[From the New York Times, Mar. 7, 1974]

IRS Revokes 1969 ITT Tax Ruling That Led to Hartford Fire Co. Merger: Action Could be Costly to Holders of Stock

(By E. W. Kenworthy)

Washington, March 6.—The Internal Revenue Service revoked today a tax ruling it gave the International Telephone and Telegraph Corporation in 1969 that enabled the multinational conglomerate to acquire the Hartford Fire Insurance Company a year later in the largest corporate merger in the nation's history.

The revocation of the ruling, which is retroactive, could cost shareholders who exchanged their shares of Hartford stock for I.T.T. stock and estimated $35-million to $100-million in capital gains taxes that had been deferred under the ruling.

The $1.5-billion Hartford Fire acquisition had long been planned by I.T.T.'s president, Harold S. Geneen, and he regarded the prize as the crown of the conglomerate empire he has put together in the last 15 years.

Revocation of the ruling was announced by I.T.T. today in New York and subsequently confirmed by the Revenue Service in Washington. Neither made any immediate comment.

I.T.T. said later that it was in "complete disagreement" with the action of the I.R.S. and that it would appeal the revocation in court.

In response to inquiries, it also said that it was satisfied that the revocation of the ruling would not affect the Hartford acquisition.

Tax regulations provide for revocation of a ruling if the I.R.S. decides that the original ruling was "in error" or "not in accord with the current views of the service."

However, tax lawyers pointed out here today that it was not usual for the I.R.S. to revoke a ruling retroactively, as it did today, unless it discovered that the taxpayer requesting the ruling had misstated or omitted "material facts" in its application, or unless facts subsequently developed by the I.R.S. proved to be "materially different" from the facts on which the ruling was based.

These lawyers said, further, that there was precedent for retroactive revocation of a ruling, but no precedent in such a massive case affecting so many stockholders in a merger.

Last April 17, the New York district office of the I.R.S. had recommended to the services's headquarters that the 1969 tax ruling, long a matter of controversy among tax lawyers, be revoked.

In the last three months, Representative J. J. Pickle, of Texas, who is the ranking Democrat of the investigations subcommittee of the House Commerce Committee, has been pressing Donald C. Alexander, I.R.S. Commissioner, to act on the New York office's recommendation. Mr. Pickle pointed out to Mr. Alexander that, unless the service acted by April 15, the statute of limitations would run out on the original ruling and no recovery of taxes would be possible.

Mr. Pickle asserted to Mr. Alexander that there was material in the files of the Securities and Exchange Commission that cast doubt on the legality of the 1969 ruling, and he raised the question as to whether the ruling had been made under White House pressure.

Mr. Pickle also asked Leon Jaworski, the special Watergate prosecutor, to look into circumstances surrounding the ruling and the possibility of political pressure on the I.R.S. Mr. Jaworski replied that he would do so. Mr. Pickle also asked the Congressional Joint Committee on Internal Revenue Taxation to look into the matter, and the committee is doing so.

Favoritism has no place

Today Mr. Pickle said:

"For months I have maintained that I.T.T. had not met the conditions of a 1969 I.R.S. tax ruling. The decision to revoke the ruling is one more step in restoring our people's faith in government. Favoritism has no place in our government processes."

Reuben B. Robertson, a lawyer associated with Ralph Nader, the consumer advocate, who unsuccessfully waged battles in state and Federal courts to prevent the merger, said:

"It must now be disclosed how I.T.T. managed to get this illegal ruling in the first place and what was the role of White House pressure on the I.R.S. We believe full Congressional hearings should now be held on this case."

I.T.T. said in its announcement that it had asked all domestic stock exchanges to suspend trading in the company's stock until further notice. The New York Stock Exchange announced suspension of trading in I.T.T. stock and its subsidiary, Avis, Inc.

I.T.T. said it would have a further statement when it was told the reasons behind the revocation. Last April, when I.T.T. announced that the New York office of the I.R.S. had recommended revocation, it said that a reversal of the ruling would result in a one-time charge "that would not be material to the ability of I.T.T. to continue its growth in sales and earnings." This statement was reaffirmed by a company spokesman today.

Unless charges of fraud are later brought by the Government and sustained in court action, it is thought unlikely that revocation of the tax ruling would not threaten the merger itself. The merger was finally approved by the Justice Department in a consent decree in July, 1971,—after the actual merger, and after the Government had brought suit to require I.T.T. to divest itself of Hartford and two other acquisitions.

The 1969 tax ruling was an integral part of I.T.T.'s strategy for the Hartford take-over. To get the necessary approval of Hartford shareholders, I.T.T. had devised a two-proned plan.

First, it would give Hartford shareholders a 28 per cent premium on the exchange of I.T.T. for Hartford stock. Second, it would ask the I.R.S. to rule the exchange not subject to immediate capital gains taxes.

The Tax Code provides for such a tax-free exchange on condition that the acquiring company "unconditionally" sell its own shares in the company to be acquired before the stockholders vote on the merger.

To pressure Hartford executives into agreeing to the merger, I.T.T. had bought 141,348 Hartford shares, 8 per cent of the outstanding stock. I.T.T. had paid prices often substantially above the going market price to acquire these shares, and an immediate sale to satisfy the law would have entailed a loss of about $3.2-million.

[From the New York Times, Feb. 26, 1974]

I.R.S. Cover-Up Charged On U.S. Favors for ITT; Representative Pickle, in Letter to Jaworski, Says Revenue Agency Refused To Divulge Tax Data on Disputed 1969 Takeover

(By E. W. Kenworthy)

Washington, February 25.—Representative J. J. Pickle has accused the Internal Revenue Service of playing a part in what he calls the "cover up" of Government favors extended to the International Telephone and Telegraph Corporation.

In a letter last Tuesday to the special Watergate prosecutor, Leon Jaworski, Mr. Pickle, Ranking Democrat of the House Commerce Subcommittee on Investigations

charged that the revenue service "is refusing to divulge any information" on a controversial tax ruling in 1969. The ruling not only assured International Telephone's takeover of the Hartford Fire Insurance Company but also enabled the conglomerate to gain a large profit.

The subcommittee has been investigating all aspects of the merger.

Mr. Pickle charged that "for nearly one year" the national office of the tax agency had done "nothing with a recommendation [last April 17] from its New York office that the somewhat questionable, earlier ruling be revoked."

The Internal Revenue Service declined to comment on Mr. Pickle's letter to Mr. Jaworski and on another making the same charges to the Commissioner of Internal Revenue, Donald C. Alexander.

RULING APPEALED

However, the tax agency previously told Mr. Pickle that it would neither disclose the reasons for the recommendation of the New York district office, nor discuss any investigation as a result of it, nor make public "any final decision" reached.

Mr. Pickle told Mr. Jaworski that the revenue service, in refusing to give information, was extendng to tax rulings the requirement of the law that tax returns be kept confidential.

The agency's interpretation has been successfully attacked in the United States District Court here under the Freedom of Information Act. Last June, Judge Aubrey E. Robinson, Jr., held that rulings were not part of returns "but documents generated by the agency" and therefore subject to public disclosure. The tax agency has appealed the ruling.

Mr. Pickle concluded by asking Mr. Jaworski to investigate "for possible improper outside influence" in the original ruling and "for possible wrongful efforts to cover up this matter." Reminding the prosecutor that last Nov. 27 he had promised "to delve into all those areas of the I.T.&T. case where impropriety existed," Mr. Pickle urged haste. The statute of limitations will run out April 15. In a letter to Mr. Jaworski last November, Mr. Pickle suggested there had been "White House involvement" in the ruling.

The Texas Democrat attached to the letter to Mr. Jaworski another one written the same day to Commissioner Alexander. It said that "evidence mounts each day that Government favors were given to I.T.&T. on a quid quo basis," and asked "was your agency, and is your agency, part of this sad story?"

This was a reference to the purported pledge of $200,000 to $400,000 by I.T.&T. for the 1972 Republican National Convention. It came coincidentally with a settlement of an antitrust suit that allowed I.T.&T. to retain the Hartford Fire Insurance Company. It also referred to the fact that the Securities and Exchange Commission hastily removed some documents to keep them from Congressional committees. Those documents disclosed meetings that I.T.&T. officials had with administration officials.

"I would think," Mr. Pickle said, "that you would do everything in your power to remove the cloud hanging over the I.R.S. on this matter."

NO IMMEDIATE TAX

The ruling was connected with the conglomerate's plan to effect a merger by an exchange of the corporation and Hartford shares. To get the required approval of Hartford shareholders, the conglomerate had a two-part strategy. First, it would give Hartford shareholders a 28 per cent premium on the exchange. Second, it would ask the Internal Revenue Service to rule that the exchange would not be subject to an immediate capital gains tax.

The tax code provides for such a tax-free exchange if the acquiring company "unconditionally" sells its own shares in the acquired company before the stockholders vote on the merger.

Before the vote, I.T. & T. had acquired 1,741,348 Hartford shares. An immediate sale of these, however, would have entailed a loss of about $3.2-million because the conglomerate paid above-market prices to obtain them.

Therefore the corporation arranged a transaction with Mediobanca, an Italian bank, under which the bank would "buy" the shares without putting up any money and "resell" them later when the price rose, remit the proceeds and dividends to I.T. & T. and collect a fee for its service.

A $5.9 MILLION PROFIT

The tax agency took only seven days to approve this transaction as meeting the law's requirement for an immediate "unconditional" sale and to give the requested ruling. Many tax attorneys, including two former I.R.S. Commissioners who wish to remain anonymous, and also presumably lawyers in the New York district office, have regarded the transaction as a device to avoid the loss entailed in an immediate, unconditional sale by paying a "parking fee."

On Mediobanca's "resale," the timing of which was controlled by the conglomerate investment bankers, Lazard Freres, I.T. & T. made a profit of about $5.9-million after paying the bank a $2.1-million fee.

POSTPONEMENT OF URBAN MASS TRANSIT BILL HURTS MILLIONS OF URBAN DWELLERS

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

Mr. BIAGGI. Mr. Speaker, it is with a deep sense of outrage and indignation that I rise to express my strong opposition to the arbitrary and tragic decision made yesterday by the House Rules Committee to indefinitely postpone consideration of the House-Senate Urban Mass Transit bill. This direct slap in the face to the millions of urban dwellers who depend so heavily on mass transportation cannot be tolerated.

This critical and urgently needed piece of legislation which had originally passed the House and the Senate and which had been the subject of extensive conference committee action, has been cynically destroyed by those who consider themselves to be the spokesmen of this body for determining the future of mass transit in this Nation.

What do we find to be the reasoning behind this decision? One of the more common objections to the bill was that it was weighted too heavily in the favor of big cities. Yet to that I inquire, where do the distinguished members of the committee think the majority of mass transit users reside? Perhaps the committee feels they are located in Calumet, Ind., or Oshkosh, Wis.

No, my fellow colleagues, they are located in New York, in Boston, and Chicago and even right here in Washington. Yet as a result of the committee's action, the people of these areas through their elected representatives will not even have the opportunity to vote upon legislation which would pump in desperately needed funds to keep these beleaguered systems in operation.

The desperate hand of the Nixon administration was felt in this decision. The President apparently feels that his version of a mass transit bill which will deprive our major cities of up to $80 million in mass transit operating subsidies is better. Perhaps it was coincidence that on Monday a $60 million grant for highway construction was awarded to Lake County, Ind., the same area which the distinguished chairman just happens to represent.

I resent these games of politics being played with the people of New York City and other major cities as the losers. There are less than 7 weeks left before an emergency loan provided by the New York State Legislature runs out, and with it so does the 35-cent New York City subway and bus fare. The likelihood then is that the fare will go to 60 cents which would be a fatal blow to this already ailing system.

As I consider the consequences of this decision on the millions of Americans who rely on mass transit, I wonder why it is so simple for other "special interest" bills to sail through the Rules Committee. Is it more important that we extend the boundaries of the Golden Gate National Recreation Area or perhaps establish the Big Cypress National Preserves? I say no. The future of our mass transit system is infinitely more important and I feel that the full House should have the opportunity to determine this. Therefore, I call upon the committee to reconsider this ill-founded decision and get this bill on the floor without further delay.

AD HOC COMMITTEE ON THE DOMESTIC AND INTERNATIONAL MONETARY EFFECT OF ENERGY AND OTHER NATURAL RESOURCE PRICING

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

Mr. REES. Mr. Speaker, the Committee on Banking and Currency this morning authorized the creation of the Ad Hoc Committee on the Domestic and International Monetary Effect of Energy and Other Natural Resource Pricing.

With the advent of the $11.65 posted price for Arabian oil, we are facing a serious domestic and international monetary crisis.

If the Arab boycott were lifted today and the United States resumed normal exports of oil, the new pricing could result in a negative balance of payments for the United States of from $8 to $12 billion over the next 12 months. The effect is far more severe on most other importing countries because this country produces about 70 percent of its oil domestically.

It is estimated by economists for the International Monetary Fund that by 1980 the Persian Gulf countries could have control of as much as 70 percent of the world's international monetary reserves.

On the attached table 2b there is an estimate of OPEC country government revenues projected to 1980. What will these countries do with these increased funds? Most of the oil-exporting countries have small populations, so much of their revenues will be placed in invest-

ments outside their own countries. This could have a great effect on monetary movements and on the domestic economies of countries receiving the funds for internal investment.

There is the problem of the effect of negative balance of payments on currencies from oil importing countries, and the currencies' relationship with other currencies regarding international payments.

Table 5 is a projection of the oil import bill for developing countries. In most cases the economies of these countries would be bankrupted by the high cost of oil. Their hard currency reserves and their export earners simply will not take care of even the minimal necessary imports of oil.

The bankrupting of the economies of the developing countries would have an immediate adverse effect on the political stability of such countries faced with stagnated economies, unemployment, and starvation.

The purpose of the ad hoc subcommittee would be to study the present situation, project it into the future, and then see what policies might be designed to minimize the effect of pricing both domestically and internationally.

The subcommittee would also look into the other commodities which are imported by the United States, such as copper, tin, bauxite, and iron ore; first to ascertain if the same situation could exist as exists with the arbitrary price increases of the OPEC countries; and, second, to see what might be done to prevent this from occurring.

The first task of the subcommittee would be to gather all presently available pertinent information for publication into background papers. This will be essentially a staff undertaking utilizing the expertise of experts in the general field.

The committee would then have a series of seminar-type hearings, probably beginning in the summer.

Any policy decisions or specific legislation recommended by the ad hoc committee would be referred to the full Committee of Banking and Currency for reference to the appropriate legislative subcommittees. The table follows:

TABLE 5.—OIL IMPORT BILL OF DEVELOPING COUNTRIES: INCREMENTAL EXPENDITURES 1970–80 DUE TO THE EFFECT OF THE INCREASE IN PRICES SINCE 1970 ON INCREASED VOLUME [1]

[In millions of U.S. dollars]

	1970	1971	1972	1973	1974	1975 [2]			1980 [2]		
						Low	Medium	High	Low	Medium	High
Major exporters of manufactures:											
Fast-growing exporters:											
Brazil	55	96	222	1,085	1,255	1,300	1,340	2,360	2,965	3,585	
Korea	32	52	148	850	1,090	1,125	1,165	2,155	2,690	3,245	
Slow-growing exporters: Argentina	8	11	15	60	55	60	60	335	425	515	
Large developing countries:											
India	40	74	203	1,090	1,330	1,380	1,425	2,895	3,600	4,290	
Pakistan	11	18	42	210	235	245	250	385	475	565	
Bangladesh	4	6	15	75	80	85	85	130	165	195	
Other countries: [3]											
Uruguay	6	9	25	120	135	140	145	230	290	350	
Turkey	18	32	77	425	505	520	540	960	1,175	1,400	
Morocco	5	10	24	175	200	205	210	375	475	575	
Ghana	2	4	11	55	65	70	70	120	150	180	
Kenya	4	7	18	90	105	110	115	195	240	290	
Sri Lanka	5	9	24	120	135	140	140	230	285	340	
Philippines	27	45	118	580	670	690	715	1,110	1,390	1,665	
Thailand	19	32	83	400	455	470	485	815	1,020	1,220	
Sub-total, developing countries	240	405	1,025	5,335	6,315	6,540	6,745	12,295	15,345	18,415	
Total, all developing countries	540	900	2,290	11,635	13,580	14,040	14,500	25,395	31,720	38,080	

[1] The incremental expenditure is the difference in price between the base year and current year, multiplied by the quantity in the current year.

[2] Demand is assumed to be price inelastic. Foreign exchange constraints may necessitate reduction in some countries' oil imports.

[3] The 25 hardcore least developed countries would be included here. No example is given, as individually they are by their nature users of energy in an absolute sense although their oil import burden could be heavy in a relative sense.

Source: Bank estimates.

TABLE 2B.—ESTIMATED OPEC [1] GOVERNMENT REVENUES, 1960–80

[In millions of U.S. dollars]

Country	1960	1965	1970	1971	1972	1973	1974	1975			1980		
								Low	Medium	High	Low	Medium	High
Saudi Arabia	355	655	1,200	2,101	2,988	4,915	19,400	22,150	22,850	23,500	36,300	43,450	50,550
Kuwait	465	671	895	1,439	1,600	2,130	7,945	8,450	8,700	9,000	10,250	12,250	14,300
Abu Dhabi [2]		33	233	418	538	1,035	4,800	6,400	6,550	6,750	12,400	14,750	17,150
Qatar	54	69	122	185	247	360	1,425	1,600	1,650	1,700	2,400	2,900	3,350
Iraq	266	375	521	840	802	1,465	5,900	7,300	7,550	7,750	13,650	16,750	19,800
Iran	285	522	1,093	1,934	2,423	3,885	14,930	16,600	17,100	17,600	25,650	30,700	35,750
Algeria [2]			381	440	680	1,095	3,700	4,100	4,250	4,350	4,750	5,750	6,700
Libya [2]		371	1,295	1,846	1,705	2,210	7,990	9,750	10,050	10,400	10,550	12,850	15,100
Nigeria [2]			410	883	1,200	1,950	6,960	8,250	8,500	8,700	11,350	14,250	17,100
Indonesia	(3)	(3)	185	284	480	830	2,150	2,100	2,200	2,300	2,400	2,950	3,500
Venezuela	877	1,135	1,404	1,751	1,933	2,800	10,010	10,200	10,550	10,850	12,100	14,500	16,900
Total	2,303	3,831	7,742	12,120	14,515	22,675	85,210	96,900	99,950	102,900	141,800	171,100	200,200

[1] In November 1973 Ecuador became a member of OPEC, and Gabon an associate member; they are not included in the present analysis.

[2] Libya and Abu Dhabi started production in 1961 and 1962 respectively. Algeria and Nigeria started production in 1958, but no comparable figures are available for them for the earlier years at this time.

[3] Not available.

Note: Compound annual growth—1960 to 1965, 10.7 percent; 1965 to 1970, 15.2 percent; 1972 to 1973, 56.2 percent; 1973 to 1974, 275.8 percent; 1970 to 1975, 65.0 percent; 1975 to 1980, low 7.9 percent, medium 11.3 percent, high 14.2 percent; 1973 to 1980, low 30.0 percent, medium 34.0 percent, high 36.0 percent.

Sources: 1960–70, Petroleum Information Foundation, 1971–80 Petroleum Economics Ltd. and bank estimates.

I add for the RECORD a copy of the resolution and also background material on the purpose of this Ad Hoc Committee.

Resolved that an *ad hoc* committee on the Domestic and International Monetary Effect of Energy and other Natural Resource Pricing as outlined in the attached proposal by Congressman Rees be established, that membership on the committee be divided on the party ratios as in the House and that necessary staffing, funding and travel authorization be set up by the Chairman consistent with the rules of the House and Committee on Banking and Currency.

VETERANS' EDUCATION AND REHABILITATION ACT

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

Mr. CONLAN. Mr. Speaker, I want to take this opportunity to comment on the unanimous adoption in the House of H.R. 12628, the Veterans' Education and Rehabilitation Act.

Unfortunately, because of a long standing commitment in Arizona, I was not able to be present for the votes on final passage of this timely measure. I believe that this bill will help relieve the financial burdens facing veterans who

want to pursue their educational and vocational training, and I support this effort.

Mr. Speaker, I wish to go on record that had I been present for Rollcall No. 34, the vote on final passage of H.R. 12628, I would have voted "yea."

PRESIDENTIAL COOPERATION

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

Mr. WAGGONNER. Mr. Speaker, after having read the accounts of the President's response through his attorney Mr. St. Clair in yesterday's court proceedings and after having listened to the President's press conference of last night, I can personally say that I am pleased that the President has pledged to cooperate with the inquiry being conducted by the House Judiciary Committee. This is all that a reasonable man can ask of the President. Undoubtedly, there will be some for whatever their reason, will say that the President ought to do more, but most of those people will not be satisfied with anything short of resignation or impeachment. I would suggest that they take note of the statement made by Special Prosecutor Jaworski on February 26 that the Office of the Special Prosecutor now knows the "full story" of the Watergate affair. Taking Mr. Jaworski's statement at face value—and I do not know of anyone who has questioned his veracity—it would seem, I am convinced, that the President has cooperated fully with the Special Prosecutor and has provided the information requested to complete the investigation.

ROSCOE C. PENNINGTON: A VALIANT NAVY MAN REMEMBERED

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

Mr. VAN DEERLIN. Mr. Speaker, I am pleased to report to the House that the Navy will name an important new nuclear submarine training center after the late CPO Roscoe C. Pennington, who was a constituent of mine.

Chief Pennington was among 129 who were lost when the submarine *Thresher* went down on April 10, 1963, in the Atlantic off Boston. As many of our colleagues will recall, it was the worst peacetime submarine disaster in the history of the Navy.

On this coming April 10, the 11th anniversary of that tragedy, the Navy will dedicate Pennington Hall, a submarine ship control training facility at the Naval Submarine School in Groton, Conn.

Fittingly, the main speaker for this occasion will be Rear Adm. Dean L. Axene, the first commanding officer of the *Thresher* and now deputy chief of Naval education and training.

Guests will include Mrs. Pennington and their son Gregory, now 17 and a standout student and athlete at Francis Parker High School in San Diego.

Chief Pennington's last words to his then small son, by letter and phone, were, "Above all, get a good education."

Gregory took this advice to heart. He has been honored by inclusion in the 1973–74 edition of "Who's Who Among American High School Students" and contacted by some 50 colleges interested in having him enroll. On his way back to California, after the dedication ceremonies, he plans to stop off for a visit at one of those schools, the University of Notre Dame.

The new training center is an especially fitting memorial to Chief Pennington, for it is intended to assure that we never again have another catastrophe like the sinking of the *Thresher* and, 5 years later, the nuclear submarine *Scorpion*.

And the Navy could not have found a more appropriate individual to receive this honor than the late Chief Pennington.

Only 39 when he died, Mr. Pennington had spent 20 years in the Navy, with practically all of his career in submarines.

During World War II, he had extensive underseas combat duty.

In the early 1960's, with the introduction of nuclear power to the submarine force, Chief Pennington was among the first men selected to attend the early military and civilian nuclear power schools.

In June 1961, after completing nuclear power training, he was assigned as the *Thresher*'s leading chief reactor technician. Later that year, he was part of a team sent to the David Taylor Model Basin to evaluate the *Thresher*'s performance. He held numerous decorations and for a time traveled the country as a recruiter for the Navy's nuclear power program.

Pennington Hall, completed last month, will house eight nuclear submarine ship control trainers. The $500,000 facility was developed in specific response to the loss of the *Thresher* and *Scorpion*, in order to increase the effectiveness and safty of personnel picked for the nuclear submarine service. As I understand them, the trainers will simulate actual conditions at sea, and even anticipate problems in ship control systems.

At this point, I include a fact sheet prepared by the Navy on Pennington Hall which also recounts highlights of Chief Pennington's distinguished career:

BRIEF SHEET ON PENNINGTON HALL DEDICATION

NAVAL SUBMARINE SCHOOL,
Groton, Conn.

Pennington Hall, which will house eight nuclear submarine ship control trainers, was completed in February of this year. Dedication ceremonies are scheduled for 10 April 1974, in honor of those men lost in USS *Thresher* (SSN 593), and USS *Scorpion* (SSN 598). Rear Admiral Dean L. Axene, Deputy Chief of Naval Education and Training, first Commanding Officer of *Thresher*, will be the principal speaker.

Following the loss of *Thresher* and *Scorpion*, plans were formulated under the direction of the Chief of Naval Operations to institute an Emergency Ship Control Training Program to increase the effectiveness of safety of personnel serving in or destined for duty in high speed attack class nuclear submarines. The training devices which are installed in or planned for Pennington Hall will be utilized for the initial and advanced diving and ship control training for officers and enlisted men reporting to submarine duty. These realistic devices permit the simulation of ship control casualties and evolutions, some of which are either too dangerous or complex to routinely practice at sea. This new facility is to be named in honor of Chief Electrician's Mate (Submarine Qualified) Roscoe Cleveland Pennington, a veteran of twenty years service, who lost his life in the *Thresher* disaster.

Chief Petty Office Pennington was born 3 October 1924 in Fort Worth, Texas, where he attended local public schools prior to his entering the U.S. Navy in January 1943. Chief Petty Officer Pennington was assigned to submarine duty during World War II and participated in six war patrols in the submarines USS *Sea Dragon* (SS 194) and USS *Spikefish* (SS 404). He also served in the USS *Sea Dog* (SS 401), USS *Tilefish* (SS 307), USS *Cusk* (SS 348), USS *Chivo* (SS 341), and USS *Ronquil* (SS 396) and saw service in the Pacific area during the Korean conflict.

In May 1960 Chief Petty Officer Pennington was assigned to the Portsmouth Naval Shipyard where he served as Electrical Division Chief. With the introduction of nuclear power to the submarine force, Chief Petty Officer Pennington was one of the first to be selected to attend various military and civilian nuclear power schools. In June 1961, after completing nuclear power training, he was assigned as *Thresher's* Leading Chief Reactor Technician. In September of that same year he was sent to the David Taylor Model Basin where he assisted in evaluating *Thresher's* performance. Because of his outstanding performance of duty as a submariner and his knowledge of the submarine nuclear power program, Chief Petty Officer Pennington was selected as a member of a Submarine Force Motivation Team. The team toured the country to inform high school students of the opportunities available to them in the Navy's Nuclear Power Program.

During his twenty years of service, Chief Petty Officer Pennington was awarded the Submarine Combat Pin, Good Conduct Medal, Asiatic-Pacific Medal, American Theater Medal, American Defense Service Medal, Navy Occupation Medal with Asia Clasp, Korean Service Medal, National Defense Service Medal, and the World War II Victory Medal.

Chief Petty Officer Pennington's son Gregory, an honor student and varsity athlete at Francis W. Parker High School in San Diego, will be an honored guest at the dedication ceremony. Greg has been selected for inclusion in the 1973–74 edition of "Who's Who in American High School Students" and plans to enroll in college this fall.

THE DECLINE IN ETHICAL STANDARDS: A COMMENTARY ON THE INCREASING REJECTION OF PERSONAL RESPONSIBILITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 15 minutes.

Mr. KEMP. Mr. Speaker, the New York State Bar Journal, in its January 1974 issue, featured a perceptive commentary on the decline in the exercise of ethical criteria by individuals within recent years—a decline the results of which are now visibly manifest through disclosures of individual abuses of the public trust. Such abuses are not only predictable but also inevitable in any age which rejects the paths of self-discipline and personal responsibility for the easy paths of relativism and situational ethics.

This informative article was authored by Prof. Robert E. Hayes, of the California State University at Long Beach. Professor Hayes is a political scientist there, one obviously motivated by concerns which transcend the classroom lecture.

Upon its reading and rereading, I am struck by the relevance of this article—of our day—to one of the profound observations of the 17th century English philosopher, John Locke, to wit:

The end of the law is, not to abolish or restrain, but to preserve and enlarge freedom. For in all the states of created beings capable of laws, where there is no law there is no freedom. For liberty is to be free from restraint and violence from others; which cannot be where there is no law: and is not, as we are told, a liberty for every man to do what he lists. (For who could be free when every other man's humour might domineer over him?) But a liberty to dispose, and order as he lists, his person, actions, possessions, and his whole property, within the allowance of those laws under which he is, and therein not to be the subject of the arbitrary will of another, but freely follow his own.

Mr. Speaker, I commend this article to the attention of all my colleagues, for this issue should transcend political or partisan considerations. Excerpts from the article follow:

SUBTLE JUSTIFICATIONS GIVEN FOR LAW VIOLATIONS

(By Robert E. Hayes)

An essential foundation for both law and morality is that individuals ought to be held responsible for their conduct. Nevertheless, this standard of personal responsibility is increasingly rejected—rejected especially in many current subtle justifications offered for illegality. But despite voluminous commentaries on law violations, particularly on violations in the name of political protest, a vital omission exists. Absent is an evaluation of many of the subtle justifications given for law violations.

Identification of the justifications is often a problem. Seldom will persons directly and openly justify lawbreaking. Instead, justifications are usually presented without acknowledgment and often even with disavowals.

Understandably reluctant to say: "I endorse lawbreaking" or "I support law violations by some individuals," some persons achieve the equivalent by two common methods. One is to disavow in form that which is endorsed in substance. For instance, commonly prefacing ideas which support and justify illegality are such assertions as: "I don't justify lawbreaking, but . . .," "I don't condone violence, however . . .," "I deplore what they have done, nevertheless . . .," and "I don't agree with them, yet. . . ." This is a typical tactic to promote a position under the guise of rejecting it. The other method of semisurreptitiously supplying justifications is to do so under a spurious claim of objective description. Commonly introduced by such expressions as: "They say," "They believe," and "They feel"—that which follows has only the form, not the substance, of objective analysis. And advocacy, instead of impartial description, is its predominant characteristic. Using a "card-stacking" approach, this tactic "describes" one position favorably and with little or no effective criticism; whereas the opposing position, if even acknowledged to exist, is usually "described" inaccurately, unfavorably, and unjustly. Thus, the "description" is tantamount to advocacy. Furthermore, this "descriptive tactic" provides an escape hatch for its users because they say, if challenged, "I'm not justifying or endorsing these ideas, *I'm merely describing them.*"[1] To reiterate, the standard for identification of justifications should be the total effect of the words used.

USE OF TRUISMS AND PLATITUDES

Truisms and platitudes, matters upon which most persons agree or at least proclaim agreement, include both factual descriptions and popularly accepted objectives. Common truisms are: "wrongs and injustice occur," "grievances are to be found," and "serious problems exist." Common platitudes are: "justice must be advanced," "crime curbed," "education improved," "pollution fought," "protest heard," "opportunities improved," "liberty enhanced," "poverty eliminated," "human needs met," and so forth. Surely the expression of these ideas neither evinces courage, nor reveals insight, nor, without more, contributes to society's betterment.

Commonly part of a strategy of diversion, truisms and platitudes elicit a general favorable response which promotes acceptance of controversial ideas.

So, often expressed is the view: "We agree with their goals. We differ only on their methods (i.e., means)." *Only* on the means?

EXCUSE BECAUSE OF GROUP MEMBERSHIP

Membership in certain categories is a major justification given for illegality by individuals, e.g., justifications are commonly based on age (e.g., young), activity (e.g., student), cause supported (i.e., "good"), race or ethnic group (i.e., certain minorities), and economic position (e.g., poor). Individuals and conduct falling within such classifications are thus given a claim for both a justification for illegality and for full or partial exemption from laws. Three parts of this justification are identifiable. First, is the acclaim for the group or category.

Note however that plaudits are, in practice, reserved for those who support *"good"* causes and are inapplicable to illegal action by youth or others who support other causes. Second, is the assumption that mere membership in certain groups endows those individuals with the group virtue. Thus, *all* members are held to possess the real or purported virtues of the particular group. And incidentally, none of the group's vices. Third, and most important, is the implicit assumption that these group virtues can and should fully or partially justify illegalities or exemptions from laws.

Mere membership in a particular group enlisted in a particular cause cannot and must not be permitted to justify illegality or full or partial exemption from laws. Individuals violate laws, generations do not. Whatever the nature of any generation, whatever the varied virtues an individual may in fact possess, every individual should be held accountable to the laws. We must reject any selective exemptions from laws, and any law-recognized privileged elites. Our standard should be the standard of our law, that guilt is personal.[2] Our objective should be an ideal of law, "the law speaks to all in the same way," lex uno ore omnes alloquitur.

SHIFT OF GUILT TO OTHERS

A third tactic is the shift of guilt to others. These others are nearly any and all persons and groups *except* the law violators. For held to be the *real* malefactors are *not* the lawbreakers, but rather others variously termed: the older generation, the politicians, the Establishment, the System, the Government, and the Society.[3] Usually an integral part of this tactic is (1) the almost total absence of criticism, much less condemnation, of the lawbreakers and (2) a sharp moral differentiation between the group to which the particular lawbreaker belongs and the other groups selected as scapegoats.

Especially important in the sweeping condemnation of others is the accusation of hypocrisy. Used to symbolize a fault far beyond hypocrisy in its traditionally-accepted sense, this charge has become a shorthand summary for the broadest repudiation of the older generation, the System, Society, and so forth.

Essential to these arguments are two major assumptions: (1) that a comparison of hypocrisy with illegality is valid and (2) that one wrong will justify another. For the first assumption to be valid, sufficient substantive similarities must exist. They do not. Instead there are great dissimilarities in fundamentals, i.e., a general allegation of the hypocrisy of an entire generation contrasted with factually-established illegality of specific individuals. For the second assumption to be acceptable requires the endorsement of the concept of one wrong excusing another, thus repudiating the legal maxim, injuria non excusat injuriam. This we must reject if we are to hold all men legally accountable for their conduct, and if we are to uphold uniform and proper enforcement of law; for otherwise, arbitrary, selective law enforcement is sanctioned and law-recognized special privilege is endorsed.

ASSERTION OF A MUTUALITY OF GUILT: "THE THEORY OF BOTH SIDES"

When the unlawful conduct is particularly gross and blatant and when blanket excuse or exoneration for it appears unattainable, another tactic is often used. This, for want of a better name, I will call the theory of both sides. The theory's apparent purpose and clear effect are to distribute guilt (legal or moral or both) so widely that neither legal nor moral guilt can be effectively fixed upon anyone. This result is founded upon two major implicit or explicit claims: (1) that both sides in conflict have guilt and (2) that because of this, a legal or moral parity exists between the two.

Permeated with invalidity, the both sides theory usually contains at least three often inter-related errors. First is the theory's implicit claim that guilt of one side will reduce or nullify the guilt of the other side. Not so. Mutuality of guilt, unless inter-related and in accord with existing legal rules, must be held irrelevant to a determination of legal responsibility. The guilt of one side must not be allowed to absolve or mitigate the guilt of the other. And, to reiterate, it is a maxim of the law that "injuria non excusat injuriam." A good society rejects a concept of wrong excusing wrong. A just society requires that *all* persons be held to answer for their wrongful conduct.

Second is the use of invalid comparisons. They are invalid because the two things compared differ in fundamentals; and these common major differences are contrasts between lawful and unlawful, speech and con-

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[1] *E.g.*, Heard, "Memorandum to President Nixon," *N.Y. Times*, July 24, 1970, at 34 cols. 1–6; Douglas, *Points of Rebellion* 88, 89 (Vintage ed. 1970). See *Final Report of the National Commission on the Causes and Prevention of Violence* (Eisenhower Commission Report) 210, 211 (1969); *Crisis at Columbia* (Cox Commission Report) (Vintage ed. 1968).

[2] ". . . under our system of law individual guilt is the sole basis for deprivation of rights." Murphy dissent in *Korematsu* v. *U.S.*, 323 U.S. at 240 (1944); "Now, if any fundamental assumption underlies our system, it is that guilt is personal and not inheritable." Jackson dissent *id:* at 243.

[3] *E.g.*, Clark, *supra*, note 6, generally and comments: "we have failed," "We are guilty" at 5, "our hypocrisy" at 18, "our inhumanity," "national hypocrisy" at 25, "the crime of a society that" at 27, "We cultivate crime, breed it, nourish it." at 50, "our failure" at 229; Heard, *supra* note 2; Hersey, *supra* note 6; Roger Wilkins, *supra* note 7; Jackson, *Soledad Brother* 48, 92 (Bantam ed. 1970).

duct, general and specific, moral and legal, and opinion and fact. By ignoring or obscuring these vitally important distinctions, the both sides theory characteristically uses spurious comparisons.[4]

Third is a broad fallacy, central to the both sides theory. This is the implicit assumption and claim that such things as reasonableness, justice, and perhaps even truth and wisdom, are invariably located at some midpoint between two rival positions. Of course, in *some* instances reasonableness and other virtues may be so located, but certainly not in all. And certainly not as used in the both sides theory. Otherwise, we are compelled to hold that there is an acceptable middle ground or compromise position between lawbreaking and law enforcement or between the law violator and the law complier.

USE OF DECEPTIVE TERMINOLOGY

Basic issues are often misrepresented by inaccurate and emotion-biased words which "stack the cards" in favor of illegality. This is not a justification as such given for illegality but instead a means to strengthen the justifications.

Mere use of emotion-evoking words is not the wrong. Rather it is when these words are inaccurate or used as a substitute for thought. Of particular harm is their substitution for thought because emotion, of course, can be incompatible with the use of reason.

A common manipulation of thought by word misuse is two-sided. First, negative eliciting words are replaced by positive, neutral, or only mildly negative eliciting words, e.g., "activist" for criminal, "militancy" for illegality, "protestor" for law violator, "student unrest" for campus crime, and "dissentor" for lawbreaker. Second, used to describe the opposite side, i.e., the side to be discredited, are negative or pejorative terms, e.g., "hardline," "repressive," "punitive," "provocative," "harsh," and "vindictive." Certainly, any of these words *may* be used accurately and properly. Whether they are should be determined by the facts and circumstances.

ERRONEOUS VIEWS OF LAW ENFORCEMENT

Two common errors are made about law and law enforcement. One is the failure to distinguish between lawful and unlawful force and violence. To some persons all violence and force are to be *equally* condemned. And it's often said that "force solves nothing." But consider this: Sirhan used force and violence to kill Robert Kennedy; violence and force were used to subdue Sirhan; force was and continues to be used to hold him. Are we to make no crucial distinction between these two uses of force and violence? If not, destroyed is the crucial differentiation between law violation and law enforcement. And, this is, in fact, a prime objective of the apologists for illegality.

A second common error is the failure to acknowledge coercion as a fundamental part of law. In the absence of law-compliance, law-compulsion is required. Opposition to proper law enforcement is necessarily opposition to law, including law-protected rights and liberties. Without coercive authority laws become merely suggestions or admonitions. Why else do we have police, jails, and legal sanctions in general?

SUMMARY AND CONCLUSION

Measured by the criteria of logic and law, the justifications here given for illegality are invalid and unreasonable. Furthermore, their predominant characteristic, the rejection of the standard of individual responsibility, subverts the very foundation of morality as well as that of law. Yet harmful as is a general rejection of this standard, even worse is the more common *selective* rejection. By this, some persons are held to be fully or partially exempt from legal and moral responsibility, whereas others, e.g., police, businessmen, public officials—are to be held to the strictest and highest standards of both legal and moral responsibility; on them are bestowed no excuses, no compassion, no justifications, no understanding. Thus, to those they favor, the apologists for selective illegality apply a standard of moral and legal relativism; whereas, to others, especially those they oppose, they apply a moral and legal absolutism—dogmatic and unyielding.

A central part of the current assault upon traditional authorities, this promotion of general and selective non-responsibility for individual conduct, is done typically in the name of freedom. Yet it is, in actuality, one of the gravest threats to freedom. Because disregarded or unrecognized is the indispensable inter-relationship between freedom and responsibility, and between liberty and order. Often absent is a recognition that liberty and freedom depend upon an acceptance of the virtue in obligation, the merit in duty, and the vital necessity of responsibility.

Especially ominous, then, is that the increased abandonment of individual responsibility is supported, intentionally or not, by ideas of numerous honest, intelligent, influential, and decent men, by men possessed of advantages denied to so many others, by men who ought to know better. They, far more than others, should recognize the natural and probable effect of their words; they, far more than others, should comprehend the danger of the subversion of law itself. On the other hand, when some of them supply justifications for illegality, obscure the central issues, and direct general hostility toward law enforcement, while presenting the apologetics for the law violators, we can, with reason and truth, judge their ideas to be an aid and abetment to illegality, we can, with good cause, fix upon them a moral responsibility.

So justifications given for illegality present lawbreakers with a gift usually eagerly accepted. Yet the price to society for that gift is a corrosion of something precious but perishable, the letter and spirit of the law. To recognize this and to view law and its tradition as the foundation for a good and a just society is not to hold law as sacrosanct. Rather it is simply to acknowledge the absence of better alternatives to law; it is merely to yield to common sense and the lessons of human history; and, it is only to recognize law as a repository of high principle, a shield against injustice, and an indispensable instrumentality for the advancement of mankind.

[4] *E.g., Final Report, supra* note 2 at 209, 210; *Campus Unrest, supra* note 14 at 1, 5, 6, 8, 9, 10.

CONGRESSIONAL COUNTDOWN ON CONTROLS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oklahoma (Mr. CAMP) is recognized for 5 minutes.

Mr. CAMP. Mr. Speaker, I think it has finally become obvious to almost everyone that our 3-year experiment with economic controls has been a failure, resulting in a weakened economy where shortages in every area are becoming a daily fact of life. The administration, through Cost for Living Council John Dunlop, has indicated that controls are no longer necessary or desirable.

However—and this is a big "but"—Dunlop further stated that controls should remain on the oil and health care industries. Mr. Speaker, I do not think I need to point out the situation we have with energy which was brought about to a great extent by government interference. But let us look at the health care industry. In my State of Oklahoma, people are beginning to believe that it is the intent of Washington to completely close down all small and rural hospitals by imposing regulation after regulation which cannot be met without a large administrative staff and, simultaneously, slapping stringent controls on pricing.

Let us not tamper any further with the economy. Let us act now to remove all wage and price controls and return this country of ours to the supply and demand system which made it great.

THE NATIONAL EQUAL EDUCATIONAL OPPORTUNITIES ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANDERSON) is recognized for 30 minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I am today introducing the "National Equal Educational Opportunities Act of 1974." This legislation is similar in most respects to legislation earlier introduced by Congressmen UDALL and PREYER (H.R. 10991), the main difference being that I have attempted to define what shall be considered to be a denial of equal educational opportunity, and, I have established a priority listing of remedies to be used by the courts and departments and agencies of the Federal Government in correcting specific denials of either equal educational opportunity or equal protection of the laws. I am especially indebted to Prof. Alexander Bickel of the Yale Law School who has contributed the most to this legislation and who has worked closely with Congressmen UDALL, PREYER and myself on this important issue.

I testified to the need for such legislation back on July 31, 1972, before the House Education and Labor Committee. At that time, I expressed the opinion that the lower courts were floundering about in the uncharted grey area between de jure and de facto school segregation, and that increasingly, decisions were being handed down "in a highly varied, inconsistent and unpredictable manner." Moreover, it was my feeling that many lower courts were stretching the meaning of de jure segregation far beyond any reasonable interpretation of the duty to insure equal protection of the laws, so as to encompass novel concepts which, in my view, have little basis in the 14th amendment or in the directives of the Supreme Court which govern its application. In short, it was my opinion that these courts had gone far beyond simply attempting to remedy constitutional violations and had ventured into the realm of social policy over which the courts have no jurisdiction. To quote from my testimony:

Certainly, a highly pluralistic, mobile society like our own will be so much the better off in the long run if we can find ways to reduce racial isolation in the schools and provide educational environments in which every student has the opportunity to achieve his full potential. But these are public policy objectives to be agreed upon and implemented by school boards, city councils, State legislatures and the Congress itself; they are not constitutional rights to be vindicated by

the courts. To wrap them in the constitutional mantle and to insist they be achieved through the courts only provoke popular reactions posing grave risks to our constitutional system, and further defer the day when the majority of this Nation can be convinced of the rightness and necessity of this course of action of making the right social policy decisions.

Mr. Speaker, it was in a similar vein that I joined last July with a bipartisan and biracial group of Members of this body in a statement of principles on this subject. At the core of that statement was our recognition that the executive and Congress had forfeited their responsibilities in this area, and that this was the primary reason that many school systems are now being administered under judicial decree. It was our feeling that the Congress has the power and duty to establish a legislative framework for addressing the underlying problems which have given rise to these well-intentioned yet oftentimes excessive judicial remedies. Only by giving local communities and school officials the means and incentives to develop alternative solutions can we hope to reduce such disruptive judicial interference.

It is with this in mind, Mr. Speaker, that I am today introducing the "National Equal Educational Opportunities Act of 1974." The purpose of this legislation is to improve the quality of education in public elementary and secondary schools throughout the Nation and reduce achievement disparities between racial and socioeconomic groups in the schools; facilitate where possible a reduction of the concentration of such groups in certain schools, including the prevention of resegregation, primarily by means other than extensive cross-transportation; reduce and eliminate any educational ill-effects resulting in schools having such concentrations; and specify remedies for U.S. courts, departments, and agencies to correct denials of equal protection of the laws or equal educational opportunity.

Supreme Court Justice Powell perhaps made the best case for such legislation in his concurring opinion in the Denver case last June when he wrote:

> The existing state of law has failed to shed light and provide guidance on the two issues addressed in this opinion: (i) whether a constitutional rule of uniform, national application should be adopted with respect to our national problem of school desegregation and (ii) if so, whether the ambiguities of *Swann*, construed to date almost uniformly in favor of extensive transportation, should be redefined to restore a more viable balance among the various interests which are involved. With all deference, it seems to me that the Court today has addressed neither of these isues in a way that will afford adequate guidance to the courts below in this case or lead to a rational, coherent national policy.

Justice Powell went on to write:

> It is well to remember that the course we are running is a long one and the goal sought in the end—so often overlooked—is the best possible educational opportunity for all children. Communities deserve the freedom and the incentive to turn their attention and energies to this goal of quality education, free from protracted and debilitating battles over court-ordered student transportation. The single most disruptive element in education today is the wide-spread use of compulsory transportation, especially at the elementary grade levels. This has risked distracting and diverting attention from basic educational ends, dividing and embittering communities, and exacerbating rather than ameliorating inter-racial friction and misunderstanding.

And he concluded his opinion by saying:

> It is time to return to a more balanced evaluation of the recognized interests of our society in achieving desegregation with other educational and societal interests a community may legitimately assert. This will help assure that integrated school systems will be established and maintained by rational action, will be better understood and supported by parents and children of both races, and will promote the enduring qualities of an integrated society so essential to its genuine success.

Mr. Speaker, the bill which I am proposing today does address those two issues which have yet to be resolved by the Court: It does lay down a uniform national policy on the problem of school desegregation, and it does clear up the ambiguities left by the Swann decision on the transportation question by restoring a more viable balance among the various interests involved. Moreover, it does refocus our attention on what should be our primary goal—insuring the best possible educational opportunity for all children. It would permit communities the freedom and incentives to devote their full energies to this goal while assuring that integrated school systems will be established and maintained through rational action and within a framework which does balance other legitimate community and individual interests.

DENIAL OF EQUAL EDUCATIONAL OPPORTUNITIES

Title I of my bill defines what acts shall be considered as denial of equal educational opportunity and equal protection of the laws. These include not only the deliberate segregation of students on the basis of race, color, or national origin among or within schools, but the failure to take affirmative steps, consistent with those remedies enumerated in title III of my bill, to remove vestiges of discrimination due to official action. Such acts shall include school construction, abandonment or siting alteration within a district with the intent of, or having the natural, probable, foreseeable or actual effect of increasing segregation, or the creation of attendance zones with the same result. Other acts which shall be considered as denials include: failure to take appropriate action to overcome language barriers, or cultural, social, economic, or other deprivations that impede equal participation by students in instructional programs; discrimination in faculty and staff employment practices, conditions, and assignments; failure to provide for the voluntary transfer of students from schools in which their race is in a majority to schools in which their race is in a minority; and maintenance of practices and provisions of resources in schools having a concentration of minority groups which are less favorable than those at other schools. Under this title, the Secreatry of Health, Education, and Welfare shall issue regulations setting forth measures to achieve compliance; and any person or the Attorney General alleging that any policy or measure of a local educational agency is in violation of this title may bring a civil suit in the appropriate U.S. district court for equitable relief.

STATE EQUAL EDUCATIONAL OPPORTUNITIES PLANS

Title II of my bill requires that each State submit to the Secretary a plan for his approval to carry out the purposes of this act. The plan shall provide for the creation of a State advisory council, with majority representation by parents of schoolchildren, including proportional representation from parents of minority group schoolchildren. The advisory council shall advise the State educational agency on policy matters relating to the administration of the State plan, and prepare an annual evaluation report which, along with the comments of the State agency shall be forwarded to the Secretary.

By the same fashion, the plan provides for the establishment of local advisory councils, again with majority representation from parents, to advise local educational agencies on their participation in the State plan.

The State plan shall be submitted to the Secretary by June 30, 1975, shall be developed in consultation with local educational agencies and the State advisory council, and shall define goals consistent with the purposes of this act and provide for the full attainment of those goals by a date approved by the Secretary, but no later than August 30, 1985.

The State plan shall include some or all of the following components: provision for a majority transfer plan on either an intradistrict or interdistrict basis; and open communities educational resources compensation program providing payments to any school district in which students from minority families comprised not more than 10 percent of total school enrollment during the 1975–76 school year; a school district reorganization plan which may include redrawing zone boundaries, pairing and clustering of schools, establishing educational parks and magnet schools; and cooperative arrangements between schools where factors of distance, locations, and contiguity make this feasible, for common use of existing school facilities and for the construction of new joint facilities, including educational parks.

The State plans shall also assure that in each year of the operation of the plan, substantial progress will be made toward meeting the purposes of this act; specify how additional State financial assistance will be made available to local educational agencies implementing court-ordered desegregation plans; specify how current ESEA programs are integrated with the plan; specify the procedures to be used by the State educational agency in coordinating the efforts of local agencies which are desegregating or voluntarily integrating; specify what procedures will be used by the State educational agency for involving on an equitable basis children enrolled in private nonprofit schools in the programs funded

under this act to the extent that their participation will assist in achieving the purposes of this act; and assure that the State educational agency will require each local educational agency to report to it annually on its implementation role in implementing the State plan.

To fund the various programs instituted under the State plans, this bill authorizes $200,000,000 in fiscal year 1976, $500,000,000 in fiscal 1977, and $750,000,000 in each fiscal year thereafter. The legislation establishes formulae for the distribution of these funds. Finally, under this title, States are permitted to file in the circuit court of appeals if dissatisfied with the Secretary's final action with respect to approval of their State plan.

REMEDIES

Title III of my bill contains a priority listing of remedies available to the courts, departments, or agencies of the United States for a denial of equal educational opportunity or equal protection of the laws. In this connection, my bill clearly specifies that the court, department, or agency "shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws." The reason for this clause is the tendency on the part of many lower courts to embrace what has been termed the "total taint theory," that is, even if there are only isolated instances in which it is shown that there is segregation due to some official action, such as those set forth in title I of my bill, the whole system is considered in violation and therefore a systemwide, or even metropolitan-wide remedy is required. I think the total taint theory and the resulting excessive remedies fly in the face of *Swann* in which Justice Burger, writing for the majority, said:

> It is important to remember that judicial remedies may be exercised only on the basis of a constitutional violation. As with any equity case, the nature of the violatiton determines the scope of the remedy.

In the *Denver* case the court held that if segregation in one part of the school system was found to be the result of official action, school officials were obliged to demonstrate that other schools in the system were not segregated also by official action. And, in that same decision, Justice Powell wrote in his concurring opinion:

> I would hold, quite simply, that where segregated public schools exist within a school district to a substantial degree, there is a prima facie case that the duly constituted public authorities . . . are sufficiently responsible to impose upon them a nationally applicable burden to demonstrate they nevertheless are operating a genuinely integrated school system.

But Justice Powell was careful to point out that:

> An integrated school system does not mean—and indeed could not mean in view of the residential patterns of most of our major metropolitan areas—that every school must in fact be an integrated unit. A school which happens to be all or predominantly white or all or predominantly black is not a "segregated" school in an unconstitutional sense if the system itself is a genuinely integrated one.

The first section in this title is aimed at reaffirming the *Swann* rule: let the remedy fit the violation. Further, under title III of my bill, courts would require implementation of remedies in the following descending order: first, assigning students to the school closest to their place of residence; second, good faith participation in and reasonable progress in the implementation of an approved State plan under title II of this bill by the local educational agency involved; and third, transportation of students to school other than the one closest to their home. In other words, every effort would first be made to preserve the neighborhood school concept in fashioning a remedy, and, if this is not sufficient, good faith participation and progress in a State plan would be. Transportation would only be used as a last resort.

And, with respect to transportation, no court could order such a remedy if it poses a risk to the health and safety of the students involved, significantly impinges on the educational process, or involves transportation to significantly inferior schools.

Furthermore, no remedy could substantially increase during any school year the average daily distance to be traveled, the average daily time of travel, or the proportional average daily number of students to be transported by an educational agency for all students in the sixth grade or below, over the comparable averages for the previous year. Nor could there be a substantial increase in the same averages for students in the seventh grade or above unless it is demonstrated by clear and convincing evidence that no other method under the priority listing of remedies will provide an adequate remedy for the denial of equal educational opportunity or for the denial of equal protection of the laws. And any such transportation remedy shall only be considered temporary until a long term plan is developed as provided in title II of this act.

Again, this is essentially a statutory rendition, clarification, and elaboration on the *Swann* rule relating to proper limits on transportation plans. In that decision the Court held that the age of the children should be a factor, as should the time and distance involved in travel if it is so great "as to either risk the health of the children or significantly impinge on the educational process."

Mr. Speaker, unlike some legislation which has been introduced, my bill does not deprive the courts of utilizing transportation as a remedy. But it does prescribe limits on the use of that remedy, and it does make it a remedy of last resort. I think it is far preferable to define, prescribe, and proscribe remedies by statute than it is to deprive the courts of their jurisdiction in certain cases or of particular remedies in those cases.

There can be no question about the constitutionality of my priority prescription of and proscription on judicial remedies in desegregation cases. We are talking here about denials of equal protection of the laws under the 14th amendment, and that same amendment provides in section 5 that, "The Congress shall have power to enforce, by appropriate legislation, the provisions of this article."

Mr. Speaker, as Justice Powell pointed out in the *Denver* case, the existing state of the law has not yet addressed itself in a uniform way to the national problem of school segregation nor to the problem of extensive busing in the larger context of legitimate community and educational interests. Because the Supreme Court has not squarely faced these issues, the lower courts have been riding off in all directions in a state of confusion and conflict. And, as Justice Powell put it:

> In the absence of national and objective standards, school boards and administrators will remain in a state of uncertainty and disarray, speculating as to what is required and when litigation will strike.

The "National Equal Educational Opportunities Act" which I am introducing today is aimed at filling that vacuum—of establishing a national uniform policy as to what constitutes illegal school segregation and a nationally uniform set of remedies for correcting both denials of equal educational opportunities and equal protection of the laws. Moreover, this legislation addresses itself to the underlying problems and inequities of our educational system and our overriding goal of providing quality, desegregated education for all our children. I think this Congress has not only the power but the duty to promote these goals through this legislation. The answer lies not in passing constitutional amendments or legislation to simply eliminate remedies; instead, the answer lies in legislation which will encourage local school systems to solve the problems which have prompted these judicial remedies and thereby to reduce judicial interference in educational and social policy. I urge prompt congressional action on this legislation.

I include the following:

SUMMARY OF THE "NATIONAL EQUAL EDUCATIONAL OPPORTUNITIES ACT"

(Introduced by Mr. ANDERSON of Illinois)

SECTION 2. STATEMENT OF FINDINGS

The Congress finds that the maintenance of racially dual school systems is a denial of equal protection of the laws; we are approaching the time when all school systems will be unitary; once desegregation has been achieved, school systems are not required to make annual adjustments in the racial composition of student bodies due to demographic changes; the courts have failed to develop clear, rational, uniform and reasonable guidelines for fashioning remedies to correct denials of equal protection of the laws, sometimes resulting in excessive transportation plans which may pose a threat to the health and safety of students and interfere with the educational process; inequality of education persists in schools having high concentrations of children from minority group and low-income families.

SECTION 3. PURPOSE

The purpose of this Act is to reduce achievement disparities between racial and socio-economic groups in the schools; facilitate a reduction in the high concentration of such groups in certain schools, including the prevention of resegregation without extensive cross-transportation; reduce poor educational conditions in schools in which such concentrations persist; and

specify guidelines for appropriate remedies to correct denials of equal educational opportunities, and equal protection of the laws.

TITLE I—DENIAL OF EQUAL EDUCATIONAL OPPORTUNITIES

Section 101. No state or educational agency established by the state shall deny equal educational opportunity to an individual on account of race, color or national origin by: deliberate segregation of students on the basis of race, color or national origin among or within schools; failure in such instances to take affirmative steps consistent with Title III of this Act to remove vestiges of discrimination due to official action; construction, abandonment, alteration or other siting of school facilities within a district with the intent of, or having the natural, probable foreseeable and actual effect of increasing segregation; creation of attendance zones or policies with the intent of or having the probable effect of increasing segregation; transferring a student outside an attendance zone with the intent of or having the probable effect of increasing segregation; failure to take appropriate action to overcome language barriers, or cultural, social, economic or other deprivations that impede equal participation by students in instructional programs; discrimination in employment, employment conditions or assignment to schools of faculty and staff; failure to provide opportunity at the beginning of a school year for a student to transfer from a school in which his race is a majority to a school in which his race is a minority; and maintenance of practices and provision of resources in schools having a concentration of minority groups which are less favorable than those at other schools.

Section 102. The Secretary of Health, Education and Welfare shall issue regulations further setting forth measures to be taken to achieve compliance with this section.

Section 103. Any person having reasonable cause to believe that a local educational agency's policy is in violation of section 101 may bring a civil action in the appropriate U.S. district court for equitable relief. If a court finds such a violation has occurred, it shall order the rescinding of such policy and affirmative action to be taken to cure the effects of such policy.

TITLE II—STATE EQUAL EDUCATIONAL OPPORTUNITIES PLANS

Section 201. Each State shall prepare and submit to the Secretary for his approval a plan to carry out the purposes of this Act.

Section 202. Such plans shall provide for: the establishment of a State advisory council appointed by the governor and consisting of businessmen, educators, parents and representatives of the general public. A majority of the council shall consist of parents of public school students, with proportional representation of parents of minority group children. The council shall advise the state on the development of and policy matters arising in the administration of the State plan. The council shall also submit through the State educational agency and to the Secretary an annual evaluation report. The plan submitted by the State shall also provide for the establishment of local advisory committees, similarly constituted as the State advisory council, for the purpose of advising the local educational agency on its participation in the State plan.

Section 203. The State plan shall be submitted to the Secretary by June 30, 1975; it shall be developed in consultation with local educational agencies and the State advisory council; and shall define goals consistent with the purpose of this Act as set forth in Section 3, and provide for the attainment of these goals by a date approved by the Secretary, but in no event later than August 30, 1985.

Section 204. State plans shall include means for implementing some or all of the following components: voluntary majority transfer plans on either an intra-district or inter-district basis; an open communities educational compensation program; school district reorganization plan which may include redrawing zone boundaries, educational parks and magnet schools, and cooperative arrangements between school districts.

Section 205. State plans shall assure that substantial progress will be made in each year of operation of the plan toward meeting the purpose of this act; specify how additional state financial assistance will be made available to local educational agencies carrying out court-ordered desegregation; specify how other ESEA programs are integrated with the plan; specify the procedures to be used by the State educational agency in coordinating the desegregation or voluntary integration efforts of local agencies; assure that local agencies will report annually to the State agency on the implementation of the plan, and that the State will report annually to the Secretary on the overall State implementation of the plan.

Section 206. There are authorized to be appropriated for carrying out this Title not in excess of $200,000,000 for fiscal year 1976, $500,000,000 for fiscal year 1977, and $750,000,000, for each fiscal year thereafter.

Section 207. The Secretary shall approve any State Plan which meets the requirements of sections 201 through 205, and shall not finally disapprove any such plan without first affording the administering agency reasonable notice and opportunity for hearing.

Section 208. Any State dissatisfied with the Secretary's final action with respect to the approval of its plan may file a petition for review with the U.S. court of appeals for the circuit in which the State is located.

TITLE III—REMEDIES

FORMULATING REMEDIES; APPLICABILITY

Section 301. In formulating a remedy for a denial of equal educational opportunity or a denial of the equal protection of the laws, a court, department, or agency of the United States shall seek or impose only such remedies as are essential to correct particular denials of equal educational opportunity or equal protection of the laws;

Section 302. A consideration and finding shall be made on the efficacy of the following remedies in correcting such denial, in the priority order in which they appear:

(a) assigning students to the school closest to their place of residence;

(b) good faith participation in and reasonable progress in the implementation of an approved State plan under Title II of this Act by the local educational agency involved;

(c) transportation of students to school other than the one closest to their own home;

Section 303. No court, department or agency of the United States shall, pursuant to section 302, order the implementation of a remedy that would:

(1) pose a risk to the health and safety of the students involved, significantly impinge on the educational process, or involve the transportation of students to schools significantly inferior to those which such students would, in the ordinary course, have attended; or

(2) substantially increase during any school year the average daily distance to be traveled, the average time of daily travel, or the proportional average daily number of students to be transported by an educational agency for all students in the sixth grade or below, over the comparable averages for the preceding year;

(3) substantially increase during any school year the average daily distance to be traveled, the average daily time of travel, or the proportional average daily number of students to be transported by the educational agency for all students in the seventh grade or above, over the comparable average for the preceding school year, unless it is demonstrated by clear and convincing evidence that no other method set out in section 302 will provide an adequate remedy for the denial of equal protection of the laws or equal educational opportunity that has been found by such court, department or agency. The implementation of a plan calling for increased transportation, as described in this subsection, shall be deemed a temporary measure and such plan shall be ordered in conjunction with the development of a long term plan as provided in Title II of this Act.

VOLUNTARY ADOPTION OF REMEDIES

Section 304. Nothing in this Title prohibits an educational agency from proposing, adopting, requiring or implementing any plan of desegregation, otherwise lawful, that is at variance with the standards set out in this Title, nor shall any court, department or agency of the United States be prohibited from approving implementation of a plan which goes beyond what can be required under this Title, if such plan is voluntarily proposed by the appropriate educational agency.

TITLE IV—GENERAL PROVISIONS

Section 401. Definitions.

Section 402. Not more than one percent of the annual appropriation under this Act shall be available to the Secretary for evaluation of the programs, activities and projects authorized by this Act.

LEST WE FORGET—MIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GROVER) is recognized for 10 minutes.

Mr. GROVER. Mr. Speaker, at a time when we as a nation are beset by varied domestic problems, we need to pause and remember that American servicemen are still missing in action throughout the lands of Southeast Asia. Perhaps, I speak with more cause than others in this body, since one of these heroes, of recent date determined killed in action, Danny Nidds, is related to my next door neighbor, and another, Marine Capt. Walter Schmidt, is the son of my college classmate, "Peewee" Schmidt; but together with many of my colleagues in the House and the Senate, I feel that our missing men must not be allowed to rest in the background of our minds or become eclipsed by other pressing issues of the day. Indeed, when the fate of 1,100 Americans remains unknown in Indochina, it becomes quite apparent that there exists another "pressing issue."

As contained within the Vietnam agreement of January 27, 1973, the Communist side was required to provide information on those men missing in action and to return the remains of any that died while held captive. But today, more than a year since the peace accord was signed in Paris, Communist officials throughout Southeast Asia have done very little to aid in the search for the missing, return the bodies of those that died while in captivity, or ease the burdens of the families concerned.

During the past months, the various military services have made a number of MIA death determinations, even though very few bodies of those determined to have died have been located and identified. In many instances, the Communists have refused to permit the American-operated Joint Casualty Resolution Center to enter certain areas where some of the missing men are thought to be. In Laos alone, 317 American servicemen were originally listed as missing in action or prisoner of war. When the POW's were released early last year, however, only 10 men captured in Laos were among those that returned. Subsequently, the question many people began asking was: What happened to the others? During the war, there were reports of men being observed ejecting from aircraft that had been shot down over Southeast Asia. Some of these men were later seen being captured on the ground by enemy forces. A number were even photographed while being held captive, but did not turn up among those released. A nagging and haunting concern thus develops: If these men were seen alive at one time, then where are they now? This is just one of the many questions that we should seek answers to from the Communist officials in Southeast Asia.

Today, throughout America, there are various organizations and agencies concerned with the plight of the MIA's and their families. A delegation from one of the national organizations interested in POW/MIA affairs recently returned from Laos after attempting to obtain details on some of the missing men. Although their visit resulted in very few encouraging developments, it did display an unceasing commitment on their part to learn more about those still missing. Some groups have petitioned government officials and their elected representatives to do more in determining the fate of the MIA's. One such group, the National League of Families of POW's/MIA's ordered their Board of Directors to ask all Representatives and Senators to take a public position on the MIA issue by the use of mailings, newsletters, and local newspaper columns and to speak out on the subject at every opportunity. Certainly, these suggestions merit a large measure of consideration on the part of all of us in Congress, for to do less would be undeserving to the families and friends of the missing men.

In conclusion, Mr. Speaker, all of us in positions of public responsibility here in Congress and in other parts of the Government should attempt to sway world public opinion to the side of the MIA's. If the world community would encourage the placing of various sanctions on those parties that have been and are continuing to be uncooperative in the search for those that are missing, then quite possibly positive results would ensue. The issue of our MIA's in Indochina is not exclusively an American one. For, in reality, it is a humanitarian issue and one that should transcend the boundaries and political ideologies of individual nations.

TOO MUCH MONEY FOR THE PENTAGON

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Michigan (Mr. RUPPE) is recognized for 5 minutes.

Mr. RUPPE. Mr. Speaker, I read in Tuesday's Wall Street Journal an interesting article by Mr. Richard J. Levine entitled, "Congress Smiles on the Pentagon Again." Mr. Levine cites Secretary of Defense James Schlesinger's statement that the proposed Federal budget contains at least $1 billion for projects which were allowed by the Office of Management and Budget for the purpose of stimulating the economy. Chairman MAHON of the Appropriations Committee has estimated that the figure is actually around $5 billion. While it indeed makes a difference whether the figure is $1 billion or $5 billion and while it can rightly be questioned whether the military budget should be manipulated for this purpose, I believe the question goes much deeper.

It is axiomatic that the more the Government spends, the greater the chance taxes may need to be raised; something I am sure we all want to avoid. So we are forced to think in terms of priorities. I have always felt that an adequately financed military should be one of our top priorities, and I have no qualms in giving the Pentagon the money that is needed so that we can all feel safe. But OMB has allowed here a padding of the Pentagon budget for a purpose that bears little relevancy to our national defense.

It is especially hard for me to accept this action in light of the great deal of impounding of funds that can be accredited to the Office of Management and Budget in the heavenly name of fighting the flames of inflation. For example, last year, the administration impounded $150 million in grant funds for rural water and sewage programs under the Farmers Home Administration. Funds are badly needed for the construction of projects to collect and treat sewage. The States, in general, and my State of Michigan, specifically, are being forced to allocate most of their Water Pollution Control Act funds for sewage treatment systems in the heavily populated areas. This leaves the smaller, rural communities and areas with few funds for their water and sewage. The funds appropriated by the Congress would have helped them tremendously, but OMB decided this expenditure was inflationary. I contend that the expenditures would have strongly stimulated the economy of northern Michigan.

I am all for keeping down or, if possible, halting the rate of inflation, and I am all for stimulating the economy, and I am all for an adequate defense budget, but I am for doing these things in such a way that makes sense. It just defies logic that money is unnecessarily put into one agency that does not need it for the purpose of stimulating the economy, but a much lesser amount of money is denied to programs on the grounds of inflation, when that money is desperately needed. It is inconsistency such as this that causes the American people to lose their respect for our governmental processes. In a time when our prestige is at a low point, it is hard for me to believe that OMB would allow such an action in light of its past stances.

Let us spend money wisely. Let us continue to think in terms of priorities. Let us continue to improve the lives of those people we represent. Let us continue to stimulate the economy. But, most importantly, let us do all these things in such a way that makes sense, is not contradictory, and provides the American people with what they need with as little waste as possible.

IMPROVE THE SSI DISABILITY TEST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. STEELE) is recognized for 5 minutes.

Mr. STEELE. Mr. Speaker, I am introducing legislation today that would remove a heavy financial burden from State and local governments under the supplemental security income program. At present, the law defines disability in such a way as to require a determination that the disability will last at least 12 months. This is a very strict definition, and that is, in fact, much stricter than the definitions that were in effect in many States prior to the implementation of the SSI program. I propose that the 12-month requirement be reduced to 3 months.

When we passed the SSI program, Congress told the States that the Federal Government was going to assume the financial burden for welfare payments to the elderly, blind, and disabled. This program was supposed to replace the old age assistance—OAA—and other State/Federal programs. However, in States where disability was formerly defined in a more liberal manner than 12 months, the costs of maintaining persons with a 3- or 6-month disability will now fall completely on the States and localities, without the aid of any Federal matching funds.

In Connecticut alone, it is estimated that it will cost $3 to $5.5 million annually to fill this gap. In my view it is grossly unfair to penalize those States that had an established definition of disability which was broader in its scope than the final uniform definition established under SSI. Because no Federal funds at all are available for this category of people, local welfare rolls will be expanded and the local burden increased.

It was my understanding that, on the contrary, it was the intent of Congress to federalize welfare for the elderly, blind, and disabled. It is very easy to frustrate that intent by setting eligibility standards so high that States must, in good conscience, fill the gap themselves.

I by no means mean to imply that I disapprove of the SSI program in general. I supported it on the floor and believe that it is an excellent means for improving the standard of living for

those covered. But it is the responsibility of Congress to rectify this serious problem in the program.

SSI was meant to relieve the burden from State and local government as well as to improve the standard of living for those needy individuals covered by the program. Long before SSI many States had independently determined that in many cases disability payments were merited when a person would be unable to work for less than a year. I believe that the Federal Government has the duty to defer to the judgment of the various States on this definition and enact a 3-month disability definition into the SSI program.

TANZANIAN DEVELOPMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 5 minutes.

Mr. DIGGS. Mr. Speaker, on the morning of February 28 the House Foreign Affairs Subcommittee on Africa had breakfast with the Ambassador of Tanzania, the Honorable Paul Bomani, who gave a short talk on the Tanzanian approach to development. I would like to insert for the thoughtful attention of my colleagues the text of his speech:

SPEECH BY HON. PAUL BOMANI, AMBASSADOR OF TANZANIA

I have a dilemma caused by time (the time available for my talk). I find ten minutes is too much for anyone to utilize, if there is nothing to be said.

But, on the other hand, when you have to describe a New Nation's development strategy, it is next to impossible to make a fair assessment or balanced presentation within such a short time.

It could be easy perhaps for a visitor returning from Tanzania to be able to talk about the country's development because of the superficial knowledge that one tends to acquire, and snap conclusion one is tempted to make, after a short visit to a country.

My predicament is accentuated by the fact that I have lived and worked all my time in Tanzania. Most of the time I was not a mere spectator. And what I'm going to tell you, and I hope somehow, perhaps I will succeed in conveying this to you: is my interpretation of Tanzania's approach to Development.

Tanzania, like most African countries attained independence during the decade of the 1960's. If there is one phenomenon that has been most prevalent in these countries since independence, it is the determined efforts of the leaders and people of these countries to transform the economy of their countries and to bring about a higher and better standard of living for their peoples. In short, every one of these countries has been striving to attain rapid economic development. All along this has been the theme. The political slogans, party manifestos, all carried the message of the promised land, "Freedom and Plenty."

Although Tanzania has one of the shortest histories of colonial rule—73 years of combined Germany and British rule had with it all the complex of problems, change over of administration from Germany colonial territory to a British mandate. With the British mandate, of course, there was at least a promise of eventual granting of independence to the native people.

The 42 years under British rule did not see much of development for two reasons—one, the feeling of impermanence mitigated against development of any kind in Tanganyika. The economy of the country was treated as an appendage to the white settlers economy of Kenya.

It is also necessary to note there that Tanzania had at independence, so to speak the lowest of everything. The per capita was the lowest—$58, the appalling infant mortality, every 1000 children born, 175 died within the first year. Only 40 percent of our children could go to school. Life expectancy was 35.

So, the kind of development that I can talk about under these circumstances cannot be the conventional or orthodox Economics—where the development is measured by GNP or GDP. Where infra-structure, social or economic and the investment propensity could be applied as a yardstick to measure progress. You will be lost if you attempt to equate the situation with say the post war Europe situation. And yet with Europe a reconstruction programme under the Marshall plan was quickly established and institutions like the International Bank for Reconstruction and Development and Monetary Fund were established mainly to deal with the situation.

The task of a post colonial territory was first and foremost of building a nation, creative work of building everything almost from nothing. The creating of self confidence was part of development work. Boosting of the morale of the office messenger was a development activity. The oppressed people needed morale boosting and reassurance just as much as the farmers needed their rain.

Let us also remember that the Afrikan man who took over these problems is the same man, who, only yesterday was branded with indignities, excluded from world affairs, kept in the background, stripped of everything, and alien in his only land, forced to sit destitute on his riches. This same man now has to rise before the eyes of world to take his rightful place.

The greatest task of mobilising the people, particularly, the youth, who must be totally re-orientated and liberated from the colonial mentality, channeling their energies and consciousness to creative work and moulding their outlook so that they can regain their lost confidence and become creators and guardians to their fatherland was the top priority job for the party and the Government.

All I am saying is that the development of new Tanzania was not development of things or change of environments. It was first and foremost the building of a completely new society, a new man. This new man must be forged through a new dynamic socialist culture rooted in ujamaa activity and consciousness.

This for Tanzania meant a new thinking and new philosophy. The Arusha Declaration is the product of that new philosophy of development, that forges a viable alternative to authoritarian compulsion on the one hand, and the laissez-faire capitalism on the other.

The British administration was mainly involved in two things, first, they were concerned about the maintenance of law and order and two, tax collection. In short the first 10 years of post independence era saw the major thrust and pre-occupation of our new nation (and quite rightly so) to consolidate the national sovereignty and to build a unified nation.

Talking of One Nation I want to remind you what Disraeli said in 1845 about the British Nation, he was addressing the two opposing parties, he said and I quote: The slogan of both parties "One Nation" has not been achieved and that there were still two British Nations "the rich and the poor."

The British still maintain the two nations. Last week you must have seen the leader of the opposition Harold Wilson addressing political rallies with a big banner on top of the Union Jack calling for a "One Nation."

Tanzania had to avoid from the start the creation of two nations within one country, nations of the rich and the poor. The African Ujamaa which is an economic concept based on the African realities of the African traditional society, the family unity and collective life, where group interests will take precedence over individual interest seems to us to give the answer. The economic objective of Ujamaa is based on the global goal to create a humane society through development process. The strategy of this development has its target at economic and social change, aimed at transforming rural life without destroying the good tradition of African life.

The main economic targets being to eradicate poverty, unemployment and underemployment and income inequalities. The outcome of these efforts are clear. We have now in Tanzania new rural society embracing over 5000 new villages with a total population of 2 million people living and working together, enjoying for the first time modern facilities and amenities never before obtained in rural districts.

The World Bank has been satisfactorily responsive to this new dynamic and unique development approach. So far we have received long term soft loans for our rural development projects amounting to a little over $60 million for integrated schemes aimed at providing a new productive capacity in rural area including social services such as schools and health facilities and the provision of clean water. In addition to this we have received about $40 million for roads and other infrastructure development within the last 18 months.

It seems however odd to us that at a time like this when the developing countries are able to prepare plans, and where we have restructured institutions to meet the new challenges of development, and while we have reached such a high peak of appetite and capacity to implement development programs, the world trend is moving just to the opposite direction. What would have been fitting for this momentous occasion would have been a new thrust towards injecting capital for development to countries that are trying to help themselves with the same sense of urgency and vigour as it was in the Marshal plan days.

The World Bank and its branches are trying to do just that. And to a certain extent the AID.

But, while appreciating these efforts on part of the Bank I feel I will be failing in my duty, if I did not mention here, the great disappointment, developing countries left, including Tanzania when the Congress of the U.S.A. refused to approve the request for funds to replenish IDA fund. This to us is a serious drawback in our development journey. We only hope that it will be realized soon enough, that by withholding funds, Congress would, almost be condoning a new alliance of co-existence with poverty, ignorance and disease. And delaying the day when it should not be necessary yet for another mercy mission of food handouts to Africa.

But the world trend seems clearly to be even more disturbing in as far as foreign aid and technical cooperation is concerned. For quite some time now I have been waiting to hear something about the outcome or the implementation of the famous Pearson Report, which was christened with a quiet sounding title and rightly too, as the "Partners in Progress". This important report which was endorsed by U.N. and which professed to give the world a new charter of development cooperation and a new hope;

when it recommended that the developed nations should allocate at least 1% of their G.N.P. for development, if development equilibrium could and should be achieved at the end of the century; this piece of timely advice seems to have been buried and forgotten under the massive documents of U.N. And nobody is talking about that anymore. I wonder why, or maybe we are trying to do too many things at a time. For whatever the lapses and reasons, justifiable or otherwise, we could attribute this to neglect to inertia or sheer apathy. Still the fact remains that the poor countries of the Third World are suffering, and will continue to suffer more if the right decisions are not taken on these matters before it is too late.

The question again arises, when is it too late, and who is going to determine when we should cooperate and work together once again as partners for progress? I would like to leave this question in the competent hands of the leaders sitting around here with us. My last plea is that you will convey our feelings to our colleagues, that the World of today demands for cooperation and interdependence.

On the other hand there is the talk of national self reliance that one hears from time to time. We from the developing world consider this to be a romantic legacy of the past, difficult to achieve for any nation, better relegated to academic reappraisal. The truth is: modernity and modern life is a syndrome of involvement and interdependence and whether we like it or not, it is the only viable choice for a better future we have. Let us take it.

Thank you.

ELK HILLS OIL AND ANTITRUST VIOLATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. Moss) is recognized for 15 minutes.

Mr. MOSS. Mr. Speaker, discharge petitions have been filed regarding proposed opening up of Navy's Elk Hills, Calif., oil reserve. Such petitions seek to extract legislation affecting this facility from the House Armed Services Committee and bring it to the floor. While I do not question sincerity governing such attempts, they are ill-advised, ignoring evidence of potential profiteering by big oil at public expense, plus an antitrust situation so volatile as to constitute the boldest single attempt to pick the public purse on record.

Today, no safeguards against such depredations exist, either in the legislation in question or these petitions. If the latter succeed, Elk Hills would be opened for 1 year to oil production of 160,000 barrels daily. This is the President's repeatedly announced goal. In such a situation, Navy's oil will go to one or two major oil corporations. Profits will largely accrue to those companies while our energy equation remains unaltered. I possess the most conclusive evidence to support these allegations, and am ready to reveal it to members before they sign any discharge petition.

One company has an inside track to profit from openup legislation as now constituted; Standard Oil of California—Socal. In February, 1974, this company—was successfully sued by the Justice Department at Navy's request, for illegally draining Elk Hills oil reserved for national defense emergencies. Nor is this the first time Socal has been in litigation for doing the same thing at this reserve. Even now an appeal is slated for March 11 argument on a similar previous drainage case. In this situation, the Asphalto case, Government sustained loss of millions of barrels of oil.

Throughout the Elk Hills equation we encounter Socal stacking odds against Government. Today this reserve is so encumbered with questionable contracts and one-sided agreements favorable to this company that any open-up must vastly enrich Socal without comparable benefit to the taxpayer. Here are examples.

Socal operates Elk Hills for Navy, yet was not low bidder on its operating agreement. Socal also owns the only sizable pipeline connecting up with and leading out of that reserve, guaranteeing it a stranglehold on any oil shipments, should production commence.

Navy's share of the reserve is 80 percent. Socal owns 20 percent, and kept that percentage only by entering into a unit plan agreement for operation of the reserve with Navy. Otherwise, Socal would have lost its holding within the reserve entirely by Federal confiscation years ago. That 80-to-20 split applies to extraction of oil from the reserve. Should it be opened, Navy's 80-percent share of any production cannot be stored, for Elk Hills' storage capacity is a minimal 500,000 barrels. Production would have to be sold at auction. In such a situation, small bidders would have no competitive chance against giants such as Social and Shell. Today Shell owns a Navy contract for excess production of oil from Elk Hills, awarded in 1970. That contract requires investigation. In the 1970 bidding, Shell and Socal submitted exactly identical bids, yet no antitrust action was then taken by Justice, even though a recommendation was made to act. Today that contract with Navy is still in force. Navy assured me it will be canceled, but Assistant Secretary of the Navy Jack Bowers has taken no action yet.

Any such oil auction, therefore, could have only one foreordained result; one or another industry giant would claim Navy's 80-percent share at prices set by them through domination of the oil market and oil pricing in nearby fields; a long established and criticized fact of economic life in those parts.

Under terms of proposed openup legislation supported by discharge petitions, Socal could enter Elk Hills and commence extracting its 20-percent share of oil, because such an openup would be for other than a wartime emergency. Congressional approval of this openup through discharge petition would amount to unilateral abrogation by Navy of the unit plan contract now governing the reserve. Navy would then be immediately forced into major maintenance and offset production within the reserve. Also, under the unit plan contract, Socal owes Navy a long-deferred debt of some $24 million in unpaid cost and production balances. Opening the reserve for other than war would allow Socal to sue, seeking forgiveness of its debt because of Navy's initiative, forced by congressional approval. And even though the company has offered pious disclaimers of such intent, no legal protection against such a move exists for Navy to utilize should the contingency arise.

Socal offers a dreary record on which to base promises in addition to what I have already listed. A major Aramco shareholder, it actively implemented King Faisal's demand during the October worldwide U.S. military alert to cut off all petroleum supplies from our forces abroad. It was also recently held in contempt by a committee of the California State Legislature, because of alleged rigging of auctions on oil produced from State-owned lands, with resulting cuts in State revenues.

Any Elk Hills openup would require a minimum of from 90 to 120 days, during which time some $30 million would be expended to undertake production. Most of these costs would be borne by taxpayers, with minimal guarantee of return. Nor is there any certainty that any Elk Hills oil, contradicting a popular misconception, would actually reach consumers. According to recent Navy testimony, this oil would probably serve as a tradeoff for foreign oil to supply American military units abroad. This was stated by Assistant Secretary Bowers to our colleague, OTIS PIKE, last week in hearings before his Special Subcommittee on Oil Reserves.

Elk Hills pumping, once commenced, would be categorized as new production, and hence exempt from all price controls. Should it fall into the hands of the majors, its price can only be imagined. For a starter, it could only move to market through Socal's pipeline, and documents I have already released, including a 1970 letter from Deputy Attorney General Kleindienst, indicate that this in itself constitutes a blatant antitrust situation.

New oil today, unencumbered by controls, brings about $10 per barrel. Production of 160,000 barrels daily for 1 year, as envisioned by the President and legislation in question, would total some 58,400,000 barrels. Multiplied by 10, that would yield a value of $584 million. Socal, owner of 20 percent, would immediately receive $116.8 million by the end of the year. This does not take into account whatever significant profits, probably at least another 15 percent, the company would extract for the remaining 80 percent on the open market after purchasing it from Navy.

One further strange element figures into the Elk Hills equation; attitude of the White House. In 1970, Kleindienst informed Mr. Mayo, then head of the Bureau of the Budget, of the ominous antitrust situation surrounding the Elk Hills reserve. He warned of the role of big oil. Presumably the President was informed, for those comments were made in response to an administration bill to swap Santa Barbara Channel oil leases for Elk Hills production. Last fall, as part

of my ongoing inquiry into the Elk Hills situation, I informed the President in writing of my discoveries. No action has been taken. However, the President continues to press for the Elk Hills 1-year open up, which is in reality a handing over to Socal of the largest, most valuable energy resources our Nation still possesses. Here are strange doings, indeed, calling for further probing by proper investigative bodies of Congress.

I have in my possession further complete documentation dealing with antitrust aspects of Elk Hills. They are potentially even more revealing than what I have already released. Before further attempts are made, however well meant, to open Elk Hills to commercial exploitation, Members would do well to explore all the facts bearing on this antitrust situation. At this point I submit an April 1970 letter from then Deputy Attorney General Richard Kleindienst to then Director of the Bureau of the Budget Robert Mayo, warning of and delineating the antitrust situation:

OFFICE OF THE
DEPUTY ATTORNEY GENERAL,
Washington, D.C., April 10, 1970.

Hon. ROBERT P. MAYO,
Director, Bureau of the Budget,
Washington, D.C.

DEAR MR. MAYO: This is in response to your request of March 11, 1970 for the views of the Department of Justice on the legislation proposed by the Department of the Interior "To terminate and to direct the Secretary of the Interior and the Secretary of the Navy to take action with respect to certain leases issued pursuant to the Outer Continental Shelf Lands Act in the Santa Barbara Channel, off shore of the State of California".

At the outset, consideration should be given to whether the termination of the leases in question may be expected to accomplish the objectives of the legislation and whether such termination is the best way to accomplish those objectives. As you know, a number of leases in the Santa Barbara Channel are not to be cancelled. Three of these, referred to in section 2, are to be continued in production to prevent significant seepage which will occur if the producing wells are all shut down. Although reduced, some risks will continue from the operation and maintenance of these wells and oil handling. Moreover, unitization of the three continued leases as authorized by the proposal may entail further development drilling to define more fully the outlines and content of the unitized formations. Additionally, a number of leases in the area will remain in private hands for drilling and development, some of which development is already under way. These risks should be assessed in the light of the substantial participation by the Federal Government which is contemplated and which would place on the United States significant responsibility for any subsequent spillage.

Also, consideration should be given to the possibilities of increasing the risk of pollution from other sources. For example, substantial refinery capacity has been built on the coast adjacent to the Channel area. To the extent local crude oil is insufficient for operation, oil will be shipped in from outside the area. Since Santa Barbara production was contemplated as a major local source of supply, and inland California production is dwindling, failure to develop the Channel area will correspondingly increase the need for crude oil shipped in by tanker. Recent experience indicates that tanker handling of crude oil may well involve risks as great as those of offshore production.

A second major consideration which must be kept in mind relates to the precedent which may be established by the termination of these leases. A substantial part of the future domestic crude oil supply of this country lies in offshore areas. As noted in the Report of the Cabinet Task Force on Crude Oil Imports, these reserves are important to national security. It is possible that in future instances in which substantial oil spillage occurs as a result of offshore operations, requests will be made for similar "buy outs" and limitation of exploration, development and production. The Government would be in the anomalous position of paying substantial amounts to limit exploration, development and maintenance of important national security reserves.

The proposal to use Navy Reserve oil to pay for the Santa Barbara leases presents additional problems. The rate of production required from Naval Petroleum Reserve Numbered 1 (Elk Hills), for the scale of payments contemplated to the Santa Barbara leaseholders, would substantially alter the character of that field as a "reserve". As it now stands, only minimal production has been taken from the shallow zones. The deeper zones have been fully developed but withheld from production. The contemplated five year period of heavy production would deplete considerably both the shallow and deep reserves. Whether the maintenance of such reserves is an appropriate military security policy is a question which should be examined directly, not indirectly as here proposed. In any examination of the military security problems involved, the views of the Department of the Navy would, of course, be of prime importance.

In this regard, the bill amends in effect the laws concerning Naval Petroleum Reserves, 10 U.S.C. 7421, *et seq.* However, the exact nature of any amendments should be made as specific as possible. For example, it is not clear whether the provisions of Section 3(d) of this bill, providing for sale of oil from Naval Petroleum Reserve Numbered 1 "pursuant to the provision of . . . [this bill]", would except such sales from the requirements of 10 U.S.C. 7431(3) that specified Congressional committees must be consulted prior to sales of oil from petroleum reserves. This particular illustration involves not only a matter of substance, but sticky questions of committee jurisdiction.

Moreover, it should be noted that under existing law, 10 U.S.C. 7426, the United States and the Standard Oil Company of California have entered into two agreements with respect to the production of petroleum from Naval Petroleum Reserve Numbered 1. The 1944 Unit Plan Contract, as amended, unitized for production purposes lands held by the company and the United States. It can be terminated by the United States, but such termination would leave the company free to produce as it wished for its own account. The second agreement is an operating agreement whereby Standard acts as a unit operator for the limited production now permitted from the Reserve. Since these agreements were made in contemplation of continuance of this field in reserve status, its use for immediate production would require substantial changes in both agreements.

Section 3 authorizes the Secretary of the Interior to negotiate settlements with the leaseholders as to mineral interests for which accurate valuations under existing circumstances would be most difficult. Any agreement arrived at in such negotiations would involve large sums of money and highly disputed valuations. Lacking any substantial exploratory drilling to define the extent of the oil formations underlying the cancelled leases, or the oil content or producibility of those formations, assertions of value made by the Government and the individual leaseholders may be expected to vary quite widely. Settlements made would be fairly arbitrary, and consequently difficult for the leaseholders to justify to their stockholders or creditors, or for the Government to justify to the public. Furthermore, any settlements acceptable to the leaseholders would probably require the Government to pay large sums in excess of the leaseholders' original bonus payments and subsequent expenses, particularly where any exploratory work could be asserted as indicating a possibility of substantial oil discovery.

On the other hand, of course, if no settlement can be negotiated the alternative would be the defense of complex litigation instituted by the leaseholders for just compensation. The provision in the bill with respect to such litigation calls for it to be maintained in "the appropriate United States district court". Under existing law, a Federal district court does not have jurisdiction to hear a case for the taking of property without just compensation if the claim is for more than $10,000 (28 U.S.C. 1346). To confer jurisdiction upon a Federal district court, it is necessary to remove the monetary ceiling provided for in 28 U.S.C. 1346 for actions brought under the bill. We would suggest that the bill confer upon the United States District Court for the Central District of California exclusive jurisdiction of litigation authorized by it. Also, the one year limitation for the institution of litigation (Sec. 4) would appear to be inadequate to permit advance meaningful negotiation, and, in fact, the ascertainment of the facts and expert opinions essential to both negotiation and litigation.

Also, section 4 states that a judgment shall be paid within a period of 60 months. In our judgment, permitting the Government to defer for five years the payment of compensation for property taken by it may be held violative of the Fifth Amendment.

The proposed legislation provides that payment can be made for the cancelled leases, "at the option of the holder" either in "money or in oil equivalent in value . . ." If money is chosen a leaseholder shall be paid from an account established from money acquired through sale of Elk Hills production "on the open market". Where election is made to take "oil equivalent in value" the Secretary of the Navy is directed to deliver Elk Hills oil and that oil shall be valued at "the prevailing wellhead price at Naval Petroleum Reserve Numbered 1 on the date of delivery."

A problem of valuation of the Elk Hills oil is present under either alternative. Under the money alternative, the question is whether the Navy can sell the oil on the open market at a fair market price. While the Navy could, of course, purport to make the oil available on arms length competitive bids, lack of opportunity for effective competition with respect to oil on the Reserve would prevent establishment there of a fair market price.

Standard Oil Company of California is in a controlling position with respect to such oil sales. It is owner of a substantial interest in the unitized Reserve, operator under the Unit Plan, and the largest producer and purchaser in the locality, indeed in the entire State. Moreover, Standard owns the only pipeline connected to the field, which any purchaser of Elk Hills oil must use for the first link in transportation to any refinery. The Standard line, however, is a private carrier, handling only oil owned by that company. Consequently, in order to move the oil, any purchaser must make arrangements

for sale to Standard and repurchase from it at the delivery point. These factors constitute a serious limitation of the opportunity of competitors of Standard to bid.

As an alternative, the Navy might conceivably seek to use as a standard for fair market price the price for similar oil elsewhere off the Reserve. This approach, itself, has built-in problems. Even if a fair market price for wellhead oil could be so determined, it is possible that Standard, which controls the pipeline out of the Reserve, would not carry the oil under terms which permit sale of the oil at such a price. Of course, the relationship between the Navy and Standard may prompt Standard to provide reasonable terms for transportation.

Under the "oil equivalent" alternative, the question is whether "the prevailing wellhead price" at the Reserve is equivalent to the fair market price, because of Navy participation or otherwise, or whether it is not equivalent because arbitrarily set by Standard which, as noted, is in a dominant status as to purchases in the area. Again, there would remain the question whether purchasers could obtain favorable enough transportation terms from Standard to permit them to utilize this alternative.

Standard's large interests in many of the Santa Barbara leases to be terminated compounds the difficulties. These interests are shares in joint ventures with other large major companies. Consequently, such companies might attempt to continue their joint status and claim payment for their Santa Barbara leases in the form of Elk Hills oil. This could place a dominant share of the Elk Hills oil in the hands of joint ventures composed of major producers. Since the Elk Hills oil constitutes a large potential share of area production, joint control of that share could have a serious adverse effect on competition.

Also, the joint venturers might argue under this proposal that as a matter of law, "the prevailing wellhead price" is the price that Standard would set by agreement with its partners, since, in other fields, it is the purchasing pipeline at the wellhead which ordinarily sets the prevailing wellhead price; and Standard is the purchasing pipeline. If this argument were successful the companies could drive the Elk Hills wellhead price down, while still maintaining it at a higher price at the point where delivery is actually made to the refineries. Therefore, joint determination of price could have undesirable consequences to the Navy, to firms competing with Standard and its partners and to the consuming public.

Conceivably, the chances of establishing a competitive price for Elk Hills oil could be somewhat improved if the proprietary pipelines of Standard and the connecting lines off the Reserve of other integrated companies were to be compelled to act as public carriers. A possible source of authority for such action lies in the provisions of the Mineral Leasing Act requiring the Secretary of the Interior to grant pipeline permits for right-of-way across public lands only upon condition that such pipelines perform as common carriers. While we have not had an opportunity to examine the permit situation as to the pipelines involved, or to review action by the Department of the Interior on such permits, the presence of substantial areas of public land in the State might make it possible to subject such pipelines to permit authority.

Section 1 of the bill makes reference to termination of lease OCS–P–0235 which was held by Humble Oil and Refining Co. That company filed a notice to relinquish that lease in December, 1969, and by a Decision dated January 30, 1970, the Bureau of Land Management held it had been relinquished effective the date Humble filed its notice. The reference to this lease should be deleted.

In conclusion, it is the view of the Department of Justice that if protection of the environment in this situation uniquely requires termination of the outstanding leases, this could best be accomplished by authorization to the Secretary to negotiate compensation by cash payment from funds appropriated for that purpose. Further, provision should be made to confer exclusive jurisdiction on the United States District Court for the Central District of California of suits in which compensation is claimed but negotiated settlement cannot be reached.

Sincerely,

RICHARD G. KLEINDIENST,
Deputy Attorney General.

[From the Los Angeles Times, Mar. 6, 1974]

UNITED STATES WARNED IN 1970 NOT TO OPEN ELK HILLS

(By Richard T. Cooper)

WASHINGTON.—The Justice Department issued a secret intragovernment warning four years ago against opening up the Navy's Elk Hills oil reserve, according to a document released Tuesday by Rep. John E. Moss (D–Calif.).

Release of the document was timed to coincide with a bid by three other California congressmen to force quick House action on opening the reserve. Moss opposes that action.

The Justice Department warning, contained in a seven-page letter by then Deputy Atty. Gen. Richard G. Kleindienst, argued that the Navy's reserve would be "considerably" depleted and that the government would have serious trouble getting a fair price for its oil.

Also, the letter said, subsequent legal maneuvering eventually could permit Standard Oil of California, which operates Elk Hills for the Navy, to begin draining the rich oil pool without restrictions.

Kleindienst's letter, written to Robert P. Mayo, then–Bureau of the Budget director, on April 10, 1970, specifically was concerned with an Administration proposal linking the naval reserve and problems in the Santa Barbara Channel, but his analysis appears applicable to the present Elk Hills situation.

The effort Tuesday to force action on opening the reserve to commercial development came in the form of a discharge petition filed by Rep. Alphonzo Bell, a Los Angeles Republican, Rep. James C. Corman, a Van Nuys Democrat, and Rep. William B. Ketchum, a Paso Robles Republican whose district encompasses Elk Hills.

Rep. Silvio O. Conte (R–Mass.) joined Bell, Corman and Ketchum in sponsoring the discharge petition.

A House resolution authorizing increased production from Elk Hills is bottled up in the House Armed Services Committee, whose chairman, Rep. F. Edward Hébert (D-La.), opposed tapping the military reserve.

The petition, if signed by 128 representatives, would force Hébert to let the resolution go to the floor for consideration by the full House.

A similar resolution has passed the Senate.

Bell, dismissing critics' concern that Standard of California will have unfair competitive advantages and reap huge profits if the reserve is opened, said "that's the tail wagging the dog."

"We're in a crisis and we need this," he said. Standard Oil, which owns a 20% interest in Elk Hills, "could profit," Bell acknowledged, but he asserted that the Navy and U.S. taxpayers would profit far more.

Bell estimated that, using secondary recovery methods, Elk Hills could yield 3 billion barrels of oil, enough to "provide major production for 15 to 25 years."

Although the petition sponsors tied their action to the present gasoline and fuel oil shortages, Bell said he does not expect substantial new production from Elk Hills before 1975. Pipelines and other existing facilities presently are inadequate to handle the additional 160,000 barrels a day that would be allowed by the House resolution.

The resolution would limit additional production to one year, but Bell said "I'm talking about opening it up for as long as we have the energy crisis we have today," a period he said could stretch five to 10 years.

By then, Bell asserted, military requirements can be met from Alaska and from oil shale.

In the meantime, he argued, Elk Hills can provide civilian markets with needed quantities of low-sulfur oil and gasoline.

Bell, who owns substantial stock in the Bell Petroleum Co. of California, said, "There is absolutely no business or personal advantage to me or to Bell Petroleum" in opening the reserve. He said his position "transcends personal or business associations."

Critics have not questioned Bell's motives, but assert that Standard of California is uniquely positioned to exploit the opening of Elk Hills.

As present operator of the reserve and owner of the only pipeline serving it, a spokesman for Moss said, Standard can fend off competition and virtually dictate sales terms.

Kleindienst, in his 1970 letter, reached similar conclusions. He said "the lack of opportunity for effective competition with respect to oil on the reserve would prevent establishment there of a fair market price."

"Standard Oil Co. of California is in a controlling position with respect to such sales," Kleindienst said. He asserted that under some circumstances the oil companies could "drive the Elk Hills wellhead price down" while charging higher prices to refineries receiving the oil.

The issue of establishing a fair market price is critical because the Navy lacks adequate storage capacity for oil produced under an accelerated program and would have to sell it, probably to Standard of California.

LABOR—FAIR WEATHER FRIEND—VI

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 5 minutes.

Mr. GONZALEZ. Mr. Speaker, despite the accusation of the Labor Council for Latin American Advancement, I do have some firm friends in labor, and even within the latter organization. When the LCLAA decided to attack me, it did so without the knowledge of these friends, and certainly without their participation. In fact, I think that one reason the attack on me was not cleared with the LCLAA board of directors was that the organizers of this nasty little event knew that they might not be able to convince the board that they were doing the right thing; in other words, they did not want to have to defend their action.

Some members of the board would have undoubtedly stood for the truth. One of these was Linda Ramirez, who lives in San Antonio and who certainly should know what the score is as far as I am concerned. If anybody on the board had a right to know that I was being at-

tacked, it should have been this person, but as it turns out, she was as much surprised to hear that I was supposedly harboring antiunion thoughts as anybody. She learned about the attack only some time after it took place; and she was mad about it.

Linda Ramirez is one in the labor movement who knows me well. She is also on the executive board of the LCLAA. And this is what she thought about the LCLAA's attack on me:

SAN ANTONIO AREA
PUBLIC EMPLOYEES LOCAL 2399,
San Antonio, Tex., January 7, 1974.

RAY MENDOZA,
President, Labor Council for Latin American Advancement, Washington, D.C.

DEAR BROTHER MENDOZA: I took my vacation on December 17, 1973 and was gone from the City. Today, I returned to my job and have just read your press release dated December 19, 1973, in which you vigorously condemn Congressman Henry B. Gonzalez of San Antonio for "His Union Busting Attitude."

I was at first shocked and dismayed to see the Press Release from the LCLAA office in Washington, D.C., but now I am angry. I can only conclude that you are not aware of the seriousness of your unfounded accusations against Congressman Gonzalez. You have indeed set up the LCLAA as an instrument of lies and vicious attacks upon the innocent, and friends of Labor.

As a member of the LCLAA Executive Board from San Antonio I am indignant and resent that you did not consult with me and other Executive Board Members from San Antonio, before you released such a false, misleading and vicious attack upon a man that has stood with Labor even when it was most unpopular to do so.

Congressman Gonzalez is an Honorary Member of my Union, AFSCME Local 2399, and is one of the few Texas public officials to give 100% support to Labor throughout his public career. He has proven time and time again his support for and in behalf of Organized Labor and the Working People's right to human decency and economic justice.

I do not recall the LCLAA Executive Board having given you or Brother J. F. Otero any authority to make vicious accusations without documentation against anyone, much less a friend of the Workers of Mexican descent.

I am not taking "Farah's" side and I am not against the Farah Strikers, but I am against you taking the prerogative to speak for the LCLAA as a whole. As a member of the Executive Board, I again state, you did not have the authority to make the accusations you made against Congressman Gonzalez, because you do not have the facts. You owe Congressman Gonzalez an apology, if he will accept it, for the grave injustice you have heaped against him.

Your immediate action to correct this matter is expected.

Sincerely and fraternally,
MRS. LINDA RAMIREZ,
Executive Board Member, Labor Council for Latin American Advancement.

GOVERNOR SHAPP AND THE TRUCKERS' STRIKE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MORGAN) is recognized for 10 minutes.

Mr. MORGAN. Mr. Speaker, our Nation recently faced a grave crisis when the independent truckers went on strike to protest the severe effects of the energy shortage upon their ability to earn a decent living. Gov. Milton Shapp of Pennsylvania stepped forward to provide the leadership necessary to resolve the problems and avoid a potentially disastrous situation.

At the recent 16th Annual Legislative Conference of the United Steelworkers of America, which was held in Pittsburgh, Pa., the following resolution concerning Governor Shapp was adopted. I commend it to your attention:

RESOLUTION

Whereas: The Commonwealth of Pennsylvania and the Nation faced a serious and ever more critcal threat to the economy as 1974 dawned. The fuel shortage was acute and fuel prices were increasing at an alarming rate. The Nixon Administration, although long on rhetoric, remained motionless, providing no leadership. Where leadership from Washington should have existed, there was a vacuum, resulting in increased unemployment and growing difficulties in the task of purchasing food and other household commodities for families from empty shelves at local stores. The truck operators, who for months had sought relief from Washington without success, were desperate because of fuel shortages and spiralling fuel costs, and exhausted from their search for fuel to complete trips. With the absence of leadership from Washington, the vacuum it created erupted into violence, carrying the threat of even greater shortages and rising costs for a population already strained by the difficulties of the year past. Despite these circumstances, Governor Milton J. Shapp stepped forward to give leadership by calling together the Governors of the several states. In what was a leadership vacuum, the leadership of Milton J. Shapp sparked life. While recognizing the legitimate grievances of the truckers, he did at the same time take firm action in Pennsylvania to guarantee public safety and maintain order. Through his leadership and statesmanlike conduct, negotiations were initiated and resulted in an agreement. Violence was kept to a minimum—the road to disaster was avoided. Needed products again are being transported across the nation—the crisis has been stabilized.

Therefore, be it resolved: That even though additional positive action principally on the federal level, is needed during the next few weeks to insure a permanent solution to this problem, the Sixteenth Annual Conference of the Legislative Committee of Pennsylvania, United Steelworkers of America, formally recognizes and commends Governor Milton J. Shapp for assuming national leadership in a crisis, and further acknowledges his personal sacrifice and statesmanlike conduct during the negotiations to avert a situation which might have developed into a national disaster.

Be it further resolved: That this Resolution shall be made public so that not only members of the United Steelworkers of America, but also all Pennsylvanians and all Americans will be aware of his accomplishments.

Be it finally resolved: That this Resolution shall be submitted to a Member of the Commonwealth's Congressional Delegation for the purpose of being made part of the CONGRESSIONAL RECORD so that history may record his successful effort.

THE FEDERAL SURPLUS PROPERTY AND ECONOMIC DEVELOPMENT ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. MURPHY) is recognized for 10 minutes.

Mr. MURPHY of New York. Mr. Speaker, I introduce today the Federal Surplus Property and Economic Development Act which is intended to correct the damage done to our cities and to restore jobs to those Federal employees dumped by the Government as a result of the oftentimes inhumane procedures used to dispose of excess Federal property.

This legislation, which so far has 24 cosponsors, should have across-the-board support from all Members of Congress. It will help Congressmen by providing financial assistance to their districts if they contain property which has been or will be discarded by the Federal Government.

The passage of this bill will benefit State and local governments by allowing faster economic development of newly acquired surplus properties which would otherwise lie dormant for long periods. It will also benefit the Federal Government by providing a greater economic gain in the long run than is realized under the present system of sale of surplus property.

Under present law, land that the Federal Government has abandoned—"surplus property"—can be sold only at a price set by the General Services Administration. However, if the property is to be used for a park, a health facility, or certain education facilities, the land with improvements and structures can be transferred to State or local governments without charge.

The passage of my proposed amendment would allow for a credit on the purchase price of surplus property equal to the amount of benefit accruing to the Federal Government if the property is used for economic development. The bill strictly limits the use of this credit to economically underdeveloped areas and further limits the credit to those projects which will ultimately result in a decrease in the unemployment rates of the persons in that area.

The benefits accruing to the United States from the application of such a credit are numerous, but the primary benefit is an increase in employment, and therefore an increase in the tax base.

A major reason I have made this proposal is that the Federal Government is in part responsible for some proportion of the unemployment which this bill seeks to alleviate. The facility which has been abandoned and declared surplus by the Federal Government normally employed civilians and military personnel, sometimes many thousands of them. Upon closing that facility these employees are usually discharged and most of them are never reemployed by other Federal agencies. A new project taking over the facility will provide jobs for those federally discharged employees and thereby lessen the adverse economic and social effects on the community as a result of the discontinuation of a particular enterprise.

I believe that municipalities which have been the host of Federal facilities

that are subsequently abandoned by the Government should have the opportunity to make use of this land in a way that is most beneficial to the community. This includes economic development as well as recreational and educational use.

I believe the limited resources of a community should not be exhausted in acquiring property from the Federal Government which no longer wants the property, but should be primarily expended in the redevelopment of that property. For example, New York City will benefit considerably by the passage of this bill. It will allow the city to obtain the Brooklyn Army Terminal which they have been seeking for years. A reimbursement of approximately $24 million would be received by the city from the purchase in 1967 of the Brooklyn Navy Yard. Both of these facilities were precipitously dumped by the Federal Government without any regard for the consequences to New York City and the people involved. The Navy yard is already being developed by the Economic Development Administration and similar plans are underway for the Army terminal contingent upon the city's ability to obtain it.

The city has for years actively utilized the Brooklyn Army Terminal through the leasing of four piers and the railroad track. This has been done, however, under adverse circumstances. The industrial complex along the shorefront to the northeast of the Brooklyn Army Terminal represents one of the largest commitments to maritime, manufacturing, shipping, and trucking uses within any municipality in the world. This area still retains the potential of being one of the region's major stable industrial and job-producing centers. My legislation would allow the revitalization of the area with the money the city would have had to use to purchase the property under the old procedures. Such development of the area will further entice private development and the creation of new jobs.

I believe that my legislation is particularly important today when we are attempting to reduce Federal expenditures. The benefits of this bill extend to every community and every State which has a Federal facility in addition to those which have facilities which are already abandoned.

MEZVINSKY TESTIMONY ON FOOD PRICES AND ADVERTISING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, I am pleased to include in the record today testimony which the gentleman from Iowa (Mr. MEZVINSKY) presented this morning before the Senate Commerce Subcommittee on Consumers which is conducting oversight hearings on the Federal Trade Commission.

Mr. MEZVINSKY is a member of the Monopolies and Commercial Law Subcommittee which I chair and which held hearings last summer to investigate rising food prices.

Mr. MEZVINSKY's testimony for the FTC oversight hearings is an important followthrough on major aspects of our food price hearings. I commend his thoughtful presentation to your attention:

TESTIMONY OF CONGRESSMAN EDWARD MEZVINSKY

MARCH 7, 1974.

Mr. Chairman, I believe that oversight of the FTC properly begins with obtaining from the agency an understanding of its sense of where it wants to be headed, how it chooses its cases, whether it has any formal guidelines for initiating cases, and how it evaluates the success of cases it has concluded. I am afraid, however, that you are going to find that the FTC does not have a very good sense of its own direction.

At least, this is the conclusion I think is justified from FTC testimony last summer at Food Price Hearings held by the Monopolies and Commercial Law Subcommittee of the House Judiciary Committee, of which I am a member. Last summer, Commissioner Engman was able to give us no indication that the FTC had a game plan for dealing with industries like the food industry that are highly concentrated and whose monopoly profits, where they exist, have a direct effect on the quality of living standard of our people. Congressional and consumer prodding has finally resulted in recent indications that the FTC now has underway a broad investigation of the food industry that may result in antitrust action. Let us hope that this investigation will really turn out to be effective in breaking up the anticompetitive situations that add on monopoly overcharges to the prices we have to pay for our food and other products.

That these monopoly overcharges exist is not disputed by the FTC, which two years ago compiled a list of estimated monopoly overcharges in 100 selected industries. From the FTC list and figures, one can calculate that Americans overpay at least $2.6 billion annually for food. Although the FTC contends that its figures are not accurate because of a lack of data, it is likely that their figures are far too low. The Monopolies and Commercial Law Subcommittee heard testimony this summer that suggested the food overcharge price tag probably runs much higher.

The FTC seems very embarrassed that this report, which was prepared for internal policy planning, ever reached the public in a partial version released in April 1972. Only after much pressure from our subcommittee did the Committee reluctantly make the full study available to us with a request for confidentiality. The FTC claims the monopoly overcharge data is imprecise and easily misunderstood. These data deficiencies ought to be cleared up now that the Alaska Pipeline Bill makes it possible for the Commission to obtain line of business and other information it deems pertinent without having its requests vetoed by the Office of Management and Budget.

Instead of getting bogged down about the issue of imprecise data, we ought instead to be able to get a straight answer from the FTC about whether the premise of the study is correct.

Do consumers fork out large sums of money for monopoly overcharges? Do the 100 industries listed in the study really enjoy monopoly profits? If the FTC stands behind the concept of the study—we should be expecting it to follow through with industry profiles and draw up battle plans for controlling those industries it believes add monopoly overcharges to consumer costs. Because the demand for food is, as the economists say, inelastic—an increase in price does little to discourage its purchase—anticompetitive developments are particularly serious in the food industry.

What has the FTC been doing about this for the past two years? All I can tell is that they have been backing off from accepting any responsibility for the implications of the study. The only exception is a soon-to-be-published economic report on the dairy industry. If the purpose of the monopoly overcharge study was to pinpoint for policy planning those industries which inflict the greatest costs on consumer products, let us ask the FTC for more economic reports on those industries high on the list.

The FTC admitted to our subcommittee that there has been less emphasis on food in their study programs since 1969 because the changes that have taken place in the food industry since the mid 60's have been less dramatic than those that took place earlier.[1] They told us that the data prepared by the National Commission on Food Marketing in 1966 is still adequate. I need not remind you that the Food Marketing Commission recommended that the FTC should make a continuing review of market structure and competition in the food industry.[2]

Since the Report of the National Commission on Food Marketing, we have had well-documented evidence of the growing concentration and mergers in the food industry. Market concentration is the best single, generally available measure for evaluating the importance of monopoly in industry. Significantly, between ¼ and ⅓ of all food industries fall into the classification of "very highly concentrated" oligopolies, that is where four firms control 75% or more of the market. By comparison, only 9% of all U.S. manufacturing industries fall within this class.[3]

The tendency for market power to accumulate in fewer and fewer hands is no idle threat to the food industry. Not only is there increasing market concentration in individual areas of food production, there is also an accelerating tendency to conglomerate mergers within the industry.

The FTC has made no study of changing industry concentration since 1969 when it published a study "On the Influence of Market Structure on Profit Performance of the Food Manufacturing Industry." Figures available then indicated that the 50 largest food industry corporations controlled close to 50% of total food manufacturing assets in 1965, up from 41 percent in 1950.[4] An estimate by an FTC economist at a recent Senate hearing on food prices before the Subcommittee on Monopoly of the Select Committee on Small Business suggested that the 50 largest food manufacturing corporations probably control close to 60% of assets now.[5] This acceleration of power is being accomplished almost solely by mergers. Many of the acquired companies have been our largest food manufacturers in a product line, household words to all of us because of their large advertising budgets.

I am familiar with the Subcommittee's concern about the FTC's exercise of its jurisdiction over false and misleading advertising. I would like to suggest to this subcommittee that you ought to demand from the FTC increased attention to the effect of advertising on industry concentration and thus on prices.

It is significant to observe what happens to a company's advertising after it is acquired by a conglomerate. Almost immediately, the average amount of advertising expenditure for the acquired brand doubles.[6] Studies indicate that this in turn increases concentration. First of all because it makes it hard-

er for new competitors to enter the market. New firms must be prepared to spend as much or probably more than their leading, heavily advertised competitors if they are to break into the market successfully and offer competition. Second, concentration increases because the profit margin and sales of heavily advertised firms increases as advertising expenditures increase.

One of the greatest advantages powerful conglomerates have is their advertising budgets. The amount of money a company is able to spend so directly affects its profits that company incentive is toward budgeting for advertising, not in lowering prices or raising quality.

In 1964, the 50 largest food manufacturers accounted for nearly 90% of TV advertising done by food manufacturers.[7] At that time, food industry concentration was lower than it is now. Since 1966, the FTC has not obtained any figures to show the extent to which large companies control advertising.

When the FTC held a major hearing on advertising in 1972, taking weeks to hear all witnesses, not one economist was called. There was no discussion of the importance of advertising as both a cause and effect of concentration. This seems to me an incredible oversight. The best the FTC has done so far has been to have under consideration a recommendation made by the National Commission on Food Marketing that it investigate advertising rates and discounts,[8] and to have proposed a study of advertising and its effects on concentration.[9] Your subcommittee might ask the FTC for a status report on this study. I suggest that the effect which advertising expenditures has on prices is of such importance that the FTC ought to consider it a priority issue.

Maybe the subcommittee ought to encourage the FTC to develop some guidelines regarding advertising where it is clearly the cause of industry concentration. There are a number of food industries with brand name products to which this would apply—soft drinks, cereals, soups, crackers and cookies, and processed fruits and vegetables, for instance. How this could be done should be the object of an FTC study, but let me suggest several possibilities.

The FTC requires pre-merger notification of food retailers and wholesalers with annual sales in excess of $100 million so that it can determine whether competition also will be adversely affected by the merger. Why could it not also consider determining whether competition is being adversely affected by advertising expenditures of companies spending a high percent of sales on advertising?

I think the FTC should be encouraged to study the problem of advertising with the intention of working out a solution to what is a real and major contributing factor to higher prices and production costs.

Last Friday, Mark Silbergeld of Consumer's Union made the point that Congress must accept some of the responsibility for the FTC's lack of policy planning because it has not demanded basic and sound priorities and action. I think his point is well taken. I hope that my observations will help us to provide a prod in the right direction.

FOOTNOTES

[1] Exhibit C. Testimony of the FTC. Hearings before the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary, House of Representatives. Ninety-Third Congress, of Food Price Investigation, p. 701.

[2] The National Commission on Food Marketing concluded in its final report: "In order that the Congress, the executive branch, and the public will be fully informed, we believe that the Federal Trade Commission should be charged with making a continuing review of market structure and competition in the food industry and report annually thereon to the Congress." National Commission on Food Marketing, *Food from Farmer to Consumer* (1966), p. 107.

[3] Joe S. Bain, *Industrial Organization* (John Wiley and Sons, 1959), pp. 124–133.

[4] Statement by Russell C. Parker, Asst. to the Director, Bureau of Economics, Federal Trade Commission. Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate on The Role of Giant Corporations in the American and World Economies. Part 6. Corporate and Food Prices. December 10, 1973.

[5] *Ibid.*

[6] *The Structure of Food Manufacturing*, Technical Study No. 8, National Commission on Food Marketing, June 1966. A study prepared by the staff of the FTC for the National Commission on Food Marketing, p. 126.

[7] *Ibid.*, p. 66.

[8] Appendix 12. Hearings before the Monopolies and Commercial Law Subcommittee, *Op. Cit.*, p. 702.

[9] U.S. House of Representatives, Committee on Appropriations, Subcommittee on Agriculture, Environmental and Consumer Protection Appropriations, Hearings on Fiscal 1973 agency appropriations, April 18, 1972, pt. 4, p. 504.

THE PROPOSAL FOR A "NO-CONFIDENCE" VOTE ON THE PRESIDENT, AND A SPECIAL ELECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 15 minutes.

Mr. REUSS. Mr. Speaker, on February 14, 1974, I introduced House Joint Resolution 903, a constitutional amendment to allow Congress, by an extraordinary majority, to vote "no confidence" in the President, and thus compel a prompt election to test the mandate of the people.

The amendment would avoid the present unsatisfactory choice between a disturbing and vaguely defined impeachment, and the impasse that arises from a President who has lost the capacity to govern well but whom the Congress and the public are reluctant to impeach.

An excellent explanation of my proposal is contained in the following article by Richard L. Strout in the Christian Science Monitor for February 22, 1974:

WASHINGTON.—The year is A.D. 1975. A new constitutional amendment by Rep. Henry B. Reuss (D) of Wisconsin, is in effect. It permits the ouster of an American president by a "no confidence" vote. Here is how it works:

The House votes "no confidence" in the chief executive by an extraordinary three-fifths majority. (If all 435 members voted this would be 261.) The Senate does the same. (It would need 60 votes.)

The president would at once step aside. He would not be succeeded by a member of the rival party, however, as he would be under the parliamentary system. He would be succeeded by the vice-president—a member of his own party. The new president would function until a special presidential election was held. This would occur within the next 90 to 110 days.

Mr. Reuss provides variations on when, and whether, this special presidential election would occur.

If the "no confidence" vote came in the last year of a president's term, Congress, in its discretion, could decide to have no special election at all.

If the "no confidence" vote occurred in a year of normal midterm congressional elections (like 1974, for example) the presidential race would simply be added to the congressional race. The president thus elected would take office the next January and would serve four years.

If the special election occurred at any other time Congress would specify when the new term would start, but not less than 60 or more than 75 days following the election.

There is one other notable aspect of the Reuss proposal. An ousted president would be permitted to run again. The two-term limitation of the 22nd amendment would not prevail. The theory is, of course, that in fairness an ousted president should be given opportunity to seek vindication.

The Reuss amendment illustrates the ferment of discussion going on here. Isn't there some better way of dealing with a president who has lost credibility? It coincides with the British election. To oust a king you behead him. To oust a president you impeach him. But to oust a prime minister, or to decide not to, you simply hold a three-week election. In the British election each party gets five 10-minute telecasts, each candidate for Parliament has a spending limit of roughly $3,000, and there are no huge campaign funds delivered in $100 bills in attache cases! Well, the English are peculiar.

Congressman Reuss when he introduced his proposal last week specifically said that he did not want it to apply to the present situation. He was just trying to get away from the cumbersome impeachment procedure and to offer a future plan that was half way to parliamentary "no confidence."

The Founding Fathers feared an overweening president. They invented the separation of powers to control him. They threw in impeachment as a kind of club to make him mind his manners. Judging by debates, they regarded impeachment as a political instrument, and an "impeachable offense" as something very loose and broad. Times have changed since then and the chief executive, particularly in recent years, has become increasingly powerful so that the present awe of the office might surprise Founding Fathers Washington, Franklin, Hamilton, Madison et al.

The Reuss proposal doesn't seem very likely to be adopted. But most people would be glad if some more flexible fire escape could be devised for our present dilemma.

The reaction to my proposal has been overwhelmingly favorable. A sample follows:

Charles D. Potter of Takoma Park, Md.:

Your proposal to modify our political system by providing for a "no-confidence" vote is a good one, in my estimation. It represents the best (and easiest) compromise between the American and British systems.

Richard R. Howe of New York:

I am highly enthusiastic about this proposal and would like to offer my services to do whatever I can, as a member of the New York Bar and a concerned citizen, to help this proposal to receive maximum exposure and consideration in the coming months... [S]omething along these lines is strongly needed as a means of avoiding future Watergates—and, for that matter, Vietnams as well.

Paul H. and Virginia H. Jordan of Michigan:

We share your belief that our present resources for dealing with governmental crises are quite inadequate and are much interested in your proposed solution.

Harold V. Bell of Dallas:

You seem to be on the right track . . . This would seem to be a good counterbalance to the vast accretion of presidential power in the last forty years and the strong voter bias in favor of the incumbent at election time.

Philip Dunkelbarger of Massachusetts:

This to me is the only way to effectively deal with the inertia and lack of confidence that our present government is experiencing.

Elizabeth R. Young of Washington, D.C.:

I agree with you that a change is vitally needed . . .

George Charles Bruno of New Hampshire:

Your proposed amendment would combine the best features of the presidential system with the most useful feature of the parliamentarian system. I urge you to press forward with your proposal.

D. H. Miller of Milwaukee:

Your idea of a confidence referendum sounds good. It would certainly let a President know he can't withhold evidence and defy the people.

Mrs. T. J. Brennan of California:

The Constitutional amendment . . . is long overdue, as is evidenced by the predicament we now find ourselves in. Our present system is a mess!

Elda E. Purdon of Florida:

We feel this procedure would keep the incumbent on his toes and less apt to use his presidential powers in a dictatorial manner.

Bruce E. Scott of Chicago:

It is absurd and pitiable that the most powerful, democratic nation the world has ever known cannot remove its prime political leader when it has lost confidence in that leader, and replace him with another.

Franklin Jones of Texas:

Although I have retired, I yet am interested in seeing some means of getting rid of a President short of what might be equated with the burning down of a barn to get rid of the rats.

E. L. Lancaster of Texas:

I feel this is a much better approach, as you do, to provide a change in our government rather than impeachment, while congressional power is restored.

Mrs. Phyllis Paine of Iowa:

Your "no-confidence vote" has considerable merit as a *just* way to solve our dilemma—an ineffective leader to be judged by a Congress not without blame.

George H. Skau of New Jersey:

I am intrigued by your proposal and it does have the advantage of making sure that a President has adequate support from Congress in his governing of the nation.

G. McArthur of New York City:

I write to congratulate you on the practicality and common sense of your suggestion of a lack of confidence amendment. Coming as I do from Canada where one can see how smoothly this system works, I heartily approve and I will write my own congressman and some others to urge support for your proposal.

Mrs. Aaron John Brumbaugh of Florida:

This would seem simpler and more effective than our present impeachment arrangement which can drag on for years. "A crisis a day keeps impeachment away" seems to be the tactic used by President Nixon.

Rainer Fried of Omaha:

I am pleased to learn about your proposed constitutional amendment for a possibility of a vote of no confidence of the President by Congress. This is a democratic procedure badly needed.

Arnold Robbins of East Northport, New York:

It was especially heartening to hear that you have been instrumental in trying to alleviate a glaring weakness in our Constitution by having a congressional or country-wide vote on whether our President continues to have the confidence of the people. It is enlightened representatives of the people like you who give the feeling that there is still hope for a democracy.

Among the unfavorable reactions:

John H. Prugh of New Jersey:

Are you really going to propose a constitutional amendment to permit Congress to vote "no confidence" is the President and order a special election to replace him? Might be OK if the President were given authority to dissolve the Congress (House and Senate) and order new Congressional elections.

Ned Watson of Ohio:

This may be a fine idea. Now it seems necessary that you also dream up an easy method that we taxpayers can eliminate any House and Senate member in which we have lost confidence.

Vincent P. Judkins of New Jersey:

I suggest that you include in the same bill the opportunity to remove from office any and/or all legislators also.

Ruth L. Stecher of Ohio:

What kind of partisan idiotic legislation are you proposing? Why can't you spend your time and effort on legislation that is of vital importance to the citizens of this country?

Norman Cox of Ohio:

Having elected a President for a four-year term of office, we should let him serve that time. This "loss of confidence" malarkey could be used as an excuse to get rid of any public servant, whether he be right or wrong. Impeach if the evidence warrants.

THE COMMODITY FUTURES TRADING COMMISSION ACT OF 1974

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. TIERNAN) is recognized for 5 minutes.

Mr. TIERNAN. Mr. Speaker, I would like to applaud the House Agriculture Committee for their favorable report of H.R. 13113, the Commodity Futures Trading Commission Act of 1974. This is a vital piece of legislation if we plan to prevent manipulative practices in the commodity futures market.

The present authority, the Commodity Exchange Authority, is woefully understaffed, so that in truth effective regulation does not exist.

The CEA employs approximately 160 people to oversee trading of almost $400 billion annually. On the other hand, the Securities and Exchange Commission employs approximately 1,600 people to oversee a market that trades $204 billion annually. We have seen the SEC uncover gigantic swindles of investors' funds in the Vesco, Equity Funding and Seaboard cases. But with almost no regulation of the futures markets, who knows what swindles are going undiscovered. Sadly, the victims of these swindles are the American consumers who pay for the speculators activities in the form of higher food prices.

The urgency of this bill is highlighted by the tight supply situations in wheat and corn. These tight markets will make it easier for speculators to step in and corner the market. This only means higher prices to the consumer.

The bill reported by the Agriculture Committee will put some teeth into commodity regulation. The independent agency, with its own legal staff, will be an effective way to police these markets. I urge the Rules Committee to act immediately to bring this bill to the floor.

WAYNE AYRES WILCOX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. HAMILTON) is recognized for 5 minutes.

Mr. HAMILTON. Mr. Speaker, the tragic statistics and personal grief and sorrow that are associated with the worst civilian airline crash in history have been, I am sure, on the minds of many Members this past week. Certainly any disaster that is fatal for over 300 people in just a few seconds deserves a moment of pause and a detailed investigation of the causes.

Dr. Wayne A. Wilcox, his wife and two of his four children were on that Turkish plane in its fatal flight. Since assuming the chairmanship of the Subcommittee on the Near East and South Asia, I have become familiar with the high standards of Dr. Wilcox's scholarship, his intimate knowledge of the states of South Asia and his ability to relate the enormous economic, social and political problems of that area in a meaningful way to the American audience. American scholarship on South Asia, the Department of State and all interested in that part of the world will feel Wayne's loss.

Born in Pendleton, Ind., and educated at Purdue and Columbia University, Wayne Wilcox spent several years traveling in and writing on India, Pakistan, the new state of Bangladesh, Burma, Ceylon and Nepal. In between trips to that region, he consulted with the Department of State and developed a relationship which, no doubt, led to his sabbatical from American academia in 1971 and his becoming the U.S. Cultural Attache in London over a year ago. He served our Government with excellence, dedication and a sense of humor.

To his two surviving children, I offer my deepest sympathies and remain as-

sured that they will be able to overcome the enormous tragedies that have occurred to their family partially through the realization of the service their parents gave to this Nation and the fact that many others also share their loss.

IMPACT AID

(Mrs. MINK asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. MINK. Mr. Speaker, the impact aid program—Public Law 815 and Public Law 874—is without a doubt the most effective general aid Federal program of financial assistance to our schools. H.R. 69—Elementary and Secondary Education Amendments of 1974—which the House will consider next week contains a 1-year extension of this program. All other programs are extended for 3 years until fiscal year 1977.

H.R. 69 as reported also specifically excludes impact aid from the automatic 1-year extension provision which extends all other expired authorizations of Federal education programs for 1 year beyond the stated expiration dates.

Presumably, the reason for this untoward threat is to cause a serious review of this program by the Congress. I do not believe we can accomplish this review under the threat of an immediate expiration date of this program. As it is, the program has been seriously crippled by drastic cutbacks in funds in recent years.

When H.R. 69 comes up for House consideration, I intend to offer an amendment which would eliminate these discriminatory provisions in the bill. My amendment would extend impact aid for 3 years, through fiscal year 1977, and would delete those provisions in the bill which excludes impact aid from the automatic 1-year extension under the General Education Provisions Act.

The amendment I intend to offer is as follows:

Amendment to be offered by Mrs. MINK to H.R. 69: "On page 84, line 14, strike out '1975' and insert in lieu thereof '1977'. On page 84, strike out lines 14 through 16 beginning with the word 'Section' on line 14."

"On page 84, line 20, strike out '1975' and insert in lieu thereof '1977'. On page 84, strike out lines 20 through 23 beginning with the word 'Section' on line 20."

TRIBUTE TO JULIA BUTLER HANSEN

(Mr. YATES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. YATES. Mr. Speaker, I am sorry that I was not able to join in the roundup of tributes on Tuesday night to our good friend and distinguished colleague JULIA BUTLER HANSEN, but in the tradition of JULIA's great West, late strays are always taken in.

It was shortly before JULIA's forebears were migrating from the eastern United States to their home to be near the west coast that the famous French historian, Alexis de Tocqueville was traveling through America on the trips which he later wrote about in his book, "Democracy in America." Shortly before his return to France he was asked to what he ascribed the prosperity and strength of America. His reply was instantaneous:

The prosperity and strength of America rests upon the superiority of its women.

JULIA BUTLER HANSEN is in that tradition. It is not fashionable these days to use the term "lady" but I know of no other term that better describes her. She is a great lady. I have sat next to her on the Interior Subcommittee of the Appropriations Committee for the last 2 years as its ranking member, and it has been a joy and a privilege to experience her wit, her wisdom, and her chairmanship. I use the word "experience" advisedly, for one does not watch or listen or follow her as she threads her way through the appropriations hearings. She is a presence rather than a person, totally in command of the budget and of the witnesses because she knows as much or more than the witnesses who appear before the subcommittee—and they know it.

The breadth of her knowledge, the variety of her interests, the scope of her interrogation are incredible. The Interior Subcommittee was designed with JULIA BUTLER HANSEN in mind, ranging as it does through the national parks, the Nation's great forests, the mines and minerals, and energy resources of the country to the cultural endeavors of the Kennedy Center, the Smithsonian Institution, and the National Endowment for the Arts and Humanities.

I would venture that no Member of Congress from the beginning of the legislative branch has done as much for the American Indian as has JULIA BUTLER HANSEN. She grew up with them and among them in Washington. She feels deeply the wrongs committed upon them from administration after administration through the history of this country, and she is determined to see that they receive the education, health, housing—all the blessings which flow to all Americans. She has fought to replace the brutalities and cruelties with genuine sympathy, understanding, and care.

Much has been said and correctly so, about her ability as a legislator. She is one of the ablest proponents of that art that I have seen in my years in Congress, using her personal charm and skills to persuade opposing factions to reason together.

Although she is normally a warm and giving person, she is tough and determined in legislative combat, as I found out some years ago in my effort to cut out the appropriation for the SST. JULIA fought me because the SST was an integral part of the prosperity of the State of Washington and JULIA keenly protects the interests of her constituents and of her State.

It took 4 years to win the SST fight and I give JULIA credit for this because Members who would normally be expected to vote against the program were persuaded not to do so by JULIA. Her influence was pervasive and telling. Now, that fight has been forgotten, and since that time my service on the subcommittee has brought a close friendship with her which I cherish.

JULIA BUTLER HANSEN has many attributes. She is a distinguished poet and author in her own right, she appreciates the visual arts and has shown me proudly the paintings by her mother of early Cathlamet. She is a patron of the arts and humanities and has fostered and built the Endowments to the high place they now enjoy.

I regret most sincerely JULIA's decision to retire from the House, but I respect it. I know how deeply she loves her home in Washington and how much she wants to return to her flowers, her trees, and the great outdoors—in short to become a woman of the West again. I would hope, Mr. Speaker, that some day I might visit her at her home in Cathlamet to witness at first hand the wonders of the West to which she is so devoted. Certainly, we would welcome her with open arms on such occasions as she returns to our midst here in the House.

LIBERALISM FACES DRY AND STONY GROUND

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

Mr. DEVINE. Mr. Speaker, Prof. Reo M. Christenson, political science department, Miami University of Ohio, a political liberal but moral conservative recently had an article published in the Ohio State University student newspaper, the Lantern.

Our colleagues, Mr. Speaker, and particularly the professed liberals should read Dr. Christenson's article which follows:

LIBERALISM FACES DRY AND STONY GROUND

For decades, most social scientists have been political liberals. Apparently, this was less true during the pre-New Deal period; apparently, it will also be less true in the decades ahead.

Modern political liberalism rests on an optimistic view of man and of the potential for social reform. The optimism was fed by faith in science, in education, in government.

Despite the traumatic impact of World War I and the Great Depression, the New Deal brought a resurgence of liberal optimism because its programs actually worked.

Social security, unemployment compensation, child labor laws, the Wagner Act, the Wages and Hours Act, the SEC, FHA, FDIC, HOLC, CCC, TVA, etc. were either successful or appeared to be so.

Their performance, reinforced by John Maynard Keynes' economic formulations and the sociologists' views of man's infinite malleability, helped make the period from 1930 to 1970 the Age of Faith—in government.

Few believers were more devout than the social scientists.

Now, things are changing—and probably in a fundamental way. A wide variety of forces, developments, experiences and prospects are altering the political and economic complexion of the nation, eroding the optimistic premises which nourish liberal thought.

America's intervention in Vietnam, initially approved by most liberals, has unforgettably demonstrated the perils of attempting to reshape the tangled internal affairs of other countries.

Combined with the collapse of democratic governments in South Korea and the Phillippines, Vietnam has effectively demolished liberal illusions about America's capacity to develop democracies in societies whose traditions and institutions are ill-suited to popular government.

The general failure of our foreign aid programs (the Marshall Plan excepted) has brought further disillusionment.

Not only have our aid programs usually failed to achieve their economic ends, but where they have been most successful—as in Taiwan and South Korea—they have primarily aided the entrepreneurial classes and the large landowners, while perpetuating or elevating right-wing dictators.

During the past decade, the failure or exceedingly modest achievements of most Great Society programs have raised great doubts about the government's capacity to materially approve the status of the American poor—a prime liberal desideratum.

The poverty program, manpower training programs, public housing, urban renewal, the Appalachian program, day care experiments—none have worked very well.

Today, neither the government nor the social scientists know where to go from here. Nor do they know how to significantly narrow the income gap between blacks and whites or deal with the economic decline or the desperate social problems of the inner city—including crime, alcoholism and drug abuse.

We have learned, however, that whenever we seem to solve one problem, we frequently create another. Ask the ecologists!

We may have great difficulty from here on increasing our real standard of living.

Steeply rising energy costs, the high price of coping with pollution, the massive appropriations needed to prevent further social and economic deterioration of the inner city, the declining percentage of the work force engaged in manufacturing (where increases in man-hour output tend to be much greater than in the "service sector"), the dwindling importance attached to the work ethic—all suggest that higher living standards will not be easy to come by in the years ahead. That, in turn, will constrict the scope of liberal programs.

Our confidence in the beneficence of science and technology has long been ebbing; they are no longer seen as midwives to an inevitably brightening future.

Like man himself, these twins are seen as deeply dualistic, equally capable of improving or worsening our lives.

As for social research, its seeming incapacity to guide us in any major policy area has added to our pessimism.

Our former faith in education as a cureall has all but vanished.

The Coleman Report, Christopher Jencks' recent jolt ("Inequality"), the failure of school integration, of Headstart, of compensatory education programs and of other plans to eliminate the educational backwardness of slum children—all these add to our dismay and bewilderment.

Painfully but inescapably, we are coming to see how hard it is for government to reshape people's lives in ways regarded as socially constructive.

The environmentalists have dominated academe for many years; now the geneticists and other critics are challenging their comfortable assumptions and reminding us of the stubborn rule of the given. (Women's Liberationists will yet learn this depressing truth.)

In religion, the "social gospel" has clearly crested, and the major churches are awakening from their dreams that man's problems could largely be solved by economics and political action.

There is fresh emphasis on the preeminent importance of solid personal values and of constructive interpersonal relationships in private life.

If the fallout from the "sexual revolution" proves as disappointing as now seems likely, it will produce further liberal disenchantment.

President Nixon's shocking abuses of executive power have brought about renewed appreciation of the value of checks and balances (an essentially conservative concept); the liberal faith that ever-increasing increments of presidential power would surely lead us upward and onward has been dealt a heavy blow.

Finally, the demonstrated incapacity of socialism to fulfill its promise rounds out the future. Neither the young nor the old in modern societies see salvation in socialism, communism, anarchism or any other politicalism.

No matter how reluctantly they face it, realistic liberals must concede that lean days lie ahead. Where the liberal zeitgeist once moved inexorably over the land, leaving its mark on almost every idea, value and institution, now a conservative zeitgeist seems destined to leave as little untouched in its counter-sweep.

Not that liberalism will die. As long as men yearn for economic and social justice in an essentially free society, the liberal impulse will live.

But that impulse must seek nourishment for the foreseeable future in dry and stony ground.

YEAR 1 OF REVENUE SHARING

(Mrs. CHISHOLM asked and was given permission to extend her remarks at this point in the RECORD and to include extraneous matter.)

Mrs. CHISHOLM. Mr. Speaker, in the CONGRESSIONAL RECORD of February 20 there was included a statement of my feelings concerning the impact of the Nixon administration's revenue-sharing program on minority people. Since then a magnificent report on the same topic, printed in the January 1974 edition of the magazine Race Relations Reporter, has come to my attention. The report expounds in detail on many of the arguments which I put forth in my February 20 statement, and is reprinted here:

YEAR 1 OF REVENUE SHARING—A SPECIAL REPORT

This special section on revenue sharing was conceptualized and coordinated by RRR staff member Cynthia Jo Rich, who has been working on the project for the last three months. In the following pages she reports on the most common criticisms and defenses of revenue sharing, the prospects for minority in-put, and the Administration's plans to push ahead down the same road with its program of special revenue sharing.

In addition, RRR's regional correspondents assess the revenue sharing picture in their areas. Alan Cunningham reports from Denver on the shock that prevailed in that city when local leaders discovered that revenue sharing money was not, as they had assumed, new money—but instead was more than offset by cutbacks in categorical federal programs, many of which had been aimed at the poor. Eleanor Clift reports that the South, like the rest of the nation, has not used its revenue sharing money for the poor, but she says there is some faint hope for change. Correspondent Anthony Bristow reports that the massive categorical cutbacks have not yet hit New York, and that revenue sharing has been a fairly quiet issue there. In Los Angeles, black Mayor Tom Bradley is stuck with the legacy of his predecessor, Sam Yorty, but seems to favor a different set of priorities. And in Chicago, revenue sharing has backfired on Mayor Richard Daley, and has provided minority leaders with what could be their most effective tool yet for attacking police department discrimination.

First, an overview by Cynthia Jo Rich . . .

THE PROS AND CONS

(By Cynthia Jo Rich)

There are many critics of the Nixon Administration's State and Local Fiscal Assistance Act of 1972, better known as revenue sharing. So many that some observers may wonder where the program's proponents are hiding.

Since revenue sharing has been the law only a scant year, it is plausable to assume the criticism results mostly from calculated assumptions, rather than facts—although some back-up information has surfaced, mainly against the program's alleged lack of concern for social welfare.

Harold Himmelman of the 10-year-old Lawyers Committee for Civil Rights Under Law, headquartered in Washington, D.C., warned participants at a recent seminar on revenue sharing that without careful monitoring by citizens, revenue sharing "will become a primary vehicle to perpetuate racial discrimination in the United States—the kind of discrimination we thought we had ended 10 years ago."

In its "National Priorities Alert," the Washington-based Coalition for Human Needs and Budget Priorities quotes Congressman Charles W. Whalen (R-Ohio) as saying: "It is evident that general revenue sharing offers less 'new money' than advertised, and it is being financed, in part, through cessation of existing categorical commitments. Had I been aware last year that Congress was being 'led down the primrose path,' I would have voted against HR 14370."

While serious inequities have already resulted from the program, it must be remembered that general revenue sharing funds make up only about 3–5 per cent of the average city's budget. But it is generally agreed by politicians and minority leaders who have studied the issue that for better or for worse, the program provides an incentive for people to begin to organize and get involved in planning city budgets and to familiarize themselves with the main characters in the nation's city halls.

For their part, this time, the knowledgeable cannot be charged with leaving it up to the poor and minority communities to wake up to their responsibilities under revenue sharing. This time, even if they still can't make the proverbial horse drink, they are leading him to the water. According to the November "Focus" newsletter of the Joint Center for Political Studies, a recent checklist of national organizations involved in revenue sharing activities includes 38 such organizations.

The Clearinghouse on Revenue Sharing has just been established under joint sponsorship of the National Urban Coalition, the League of Women Voters, the Center for Community Change and the Center for National Policy Review.

Every major civil rights organization, the National Business League and the National Black Police Assn. reserved parts of their agendas for revenue sharing this year. And training organizations such as the Scholarship Education and Defense Fund for Racial Equality (SEDFRE), the Urban Training Center for Christian Mission, the Joint Center,

itself, and others, are conducting seminars lasting for days on the subject. These organizations are making it possible for ordinary people to get to the seminars and take information back to their communities.

The basic tenets of revenue sharing are simple enough. Congress has endorsed a program to return $30.2 billion in federal income tax collections to states, counties, townships and cities (a total of 38,000 localities) over a five-year period to be spent in nine broad areas: public safety, environmental protection, public transportation, health, recreation, libraries, social services for the poor and aged, capital expenditures and financial administration. The nine areas criterion represents one of the few restrictions placed on use of the money, and even that restriction does not apply to the amount states receive.

Title VI of the 1964 Civil Rights Act prohibits use of federal funds (including revenue sharing) for discriminatory projects, but according to a Joint Center for Political Studies December, 1972, article on revenue sharing, "this is a very general provision which has proven difficult to enforce, and is further complicated by the revenue sharing regulation's requirement that governors are responsible for securing compliance."

The other program restriction is that revenue sharing money may not be used to match federal grants.

The formula for disbursement of the funds is complicated. It takes into account the locality's inverse relative per capital income, its tax effort and its population. Ask federal officials to explain the formula more carefully, and they present the kind of advanced calculus rendering that prompted Will Myers of the Advisory Commission on Intergovernmental Relations to quip, "if we didn't have computers, they would probably have come up with an understandable formula."

The population component is derived from the 1970 Census, which the Bureau of Labor Standards admits is off. The census undercount, estimated to be about 7.7 per cent for blacks alone, raised enough of a hue and cry in the nation to become an issue by itself. Use of the 1970 figures in the computation of revenue sharing allocations, although seen as a relatively unimportant component by some federal officials, has led to the preparation of at least one court action on behalf of Newark, N.J., which may, the plaintiffs say, have a ripple effect across the nation.

In an attempt to offset wholesale corruption, the revenue sharing law provides that each jurisdiction receiving funds must publish in the local press a statement outlining how it spent its revenue sharing funds, and must alert the media of its intention to publish the statements. Localities are also mandated to send a quarterly "Planned Use Report" to the federal Office of Revenue Sharing. But, according to the law, monies do not have to be spent according to planned use. Further, there are no provisions for community input on revenue sharing expenditures, as there were under the old OEO community action programs, even though the mechanism for such in-put is there: The community action programs trained a cadre of black and Spanish-speaking leaders who have strongly influenced the political life of the major cities.

Of particular chagrin to critics of the plan is the fact that the Office of Revenue Sharing is staffed by a total of five professionals (2 part-time). The entire staff, including clerical employees, is made up of about 50 persons. How, the critics ask, can 50 persons monitor reports of 38,000 localities each fiscal quarter?

The Office of Revenue Sharing answers that it intends to selectively audit a percentage of the reports each quarter.

ORS director Graham Watt is jubilant about the program's implementation. Like other administration spokesmen, he does not talk about revenue sharing's implications for minorities and the poor. He talks instead about history and the program's philosophical causality.

"One of the most original and durable constitutional concepts that emerged from the American Revolution," Watt said to an audience of locally elected officials at the December meeting in San Juan of the National League of Cities, "was the concept of federalism . . . refusing to sacrifice effective national power but still conceding the reserved powers of the states and the people. That federalism is alive today," he said, "and is demonstrated by the general revenue sharing program. Revenue sharing gives meaning to the words, 'new American Revolution.' "

Watt, whose dress is impeccable and whose speaking and debating style are high-handed and patronizing, allows his voice to ebb and flow over words and phrases with the confidence and precision of the accomplished orator he is. His audience in San Juan seemed hesitant to challenge him.

The Office of Revenue Sharing director supports this air of confidence with data he says his office gathered:

"Since the first revenue sharing checks were written a year ago, nearly $10 billion of federal funds has been returned to state and local governments," he said. "Most of this money already has been spent to meet local and state needs as these needs have been identified by *responsible* (his emphasis) local and state officials.

"The word we get from the National League of Cities and from other major public interest groups indicates that you like the strings-free form of federal aid that comes to you from the Treasury Department's Office of Revenue Sharing.

"We hear you when you say, 'give us the funds and let us take the responsibility for making decisions about where to use the money.'

"Your response to revenue sharing is gratifying to those of us who have long believed that we must reverse the trend that was making state and local governments beholden to Uncle Sam for the essentials. City governments had been reduced to being supplicants for federal money. You were forced to compete for the always limited grant money available in categorical programs. This assumes," Watt added sympathetically, "that you knew of the existence of the aid for which you might apply."

He was referring here to an issue the Nixon Administration has highlighted under the borrowed rhetorical banner, "Power to the People." The contention is that the power of local people will be heightened if local officials have more latitude to spend money as they see fit. Under categorical programs, federal money went out based on an application and the satisfactory evidence of need. Many jurisdictions, because of affluence, indifference, inexperience or other reasons, did not apply for and did not receive federal grant money. Under general revenue sharing, every municipality gets a share of the pie—because the pie exists. Many black mayors, minority groups, and other organizations are now pushing for a revision of the revenue sharing law that would provide that federal funds be given out based on need. These groups admit that under the old categorical programs, sometimes only the flair of an applicant's application got him a grant, but they believe even that is preferable to the no strings provisions of the current revenue sharing law.

Watt continues:

"Occasionally, on its own initiative, a recipient government will write or call to volunteer more information about how it has put the money to work. The village of Milford in upstate New York, for example, wrote to tell us: 'It was decided to appropriate the revenue sharing funds for replacement of village equipment which has not been replaced previously due to lack of funds. . . . We have been operating with snow plow equipment purchased in 1946. Our present truck, which is used to haul garbage, (for) street cleaning, and other various village maintenance, has been in service for 10 years. This revenue sharing fund is most welcomed.' "

Watt cited an allegedly unwieldy provision of the revenue sharing law which requires that municipalities publish statements of planned use of funds in local newspapers. He quoted this letter he received from Aberdeen Township in Brown County, South Dakota:

"Nothing personal intended, but our Township officers question the wisdom of all these forms and paying over $50 each time one is published. . . . 'We have spent the taxpayers' money for many years without publishing it in a newspaper.' "

Many Alaskan villages and Indian tribes, Watt said, have no newspaper whatsoever and need relief from the strict publication requirement of the law. If minority groups say there are too few safeguards on the law now, Watt's statement hints at a possible further easing of requirements.

At the end of his presentation, Watt, who shared the platform with revenue sharing critic, Pablo Eisenberg, a former OEO program director, told the mayors:

"Ours is the most dynamic urban program on the federal scene today. We shall be responsive . . . but firm in our determination to retain that which is of fundamental importance to our program as the keystone of New Federalism. We shall take our inspiration from those . . . first Federalists 200 years ago . . . whose dedication to the cause of freedom still quickens the heart beats of all peoples everywhere."

Eisenberg, who endured snide remarks from the panel's moderator, New Orleans Mayor Moon Landrieu, and put-downs from all but three of the 17 locally elected officials who stood at aisle microphones during the question and answer period, told the group that minorities regard general revenue sharing with "ambivalence, anxiety, suspicion and even distaste."

He began the sentence with, "it is no secret to most of you," but started looking uncomfortable when at the conclusion of his remarks, the group gave a rousing round of applause to one mayor who told Eisenberg:

"Mr. Eisenberg, I don't know where you get your figures, but I speak for all the members of the National League of Cities in saying we just don't believe you. Let us take care of these capital improvements first," the mayor said, "then we'll get to some of those things you're talking about."

Eisenberg said the anti-revenue sharing perspective of minorities stems "partly from the fact that revenue sharing, long the private preserve of government officials, has only recently become a public issue.

"The concept of greater local control without strong federal guidelines and guarantees has little or no appeal to disadantaged citizens who suffered under such control a few years ago and were able to obtain some relief and increased opportunities, only because of federal categorical programs and federal intervention.

"The failure of the Administration to honor its promise to you that revenue shared dollars would be additional money has done a great deal to reinforce public anxiety and skepticism. Linked with categorical program cutbacks, impoundments and freezes," Eisenberg said, "general revenue sharing is seen

by many as a part of a national effort to abandon federal responsibility for national problems of poverty, housing, employment and race. Its effects are being viewed as a redistribution of federal resources not from the haves to the have-nots, but from the poor to the more affluent."

Eisenberg took a swipe at his co-panelist, Graham Watt, in charging the Office of Revenue Sharing with a lack of will to pursue aggressively the civil rights provisions of the revenue sharing law. He said that while ORS is authorized to delegate a part of its civil rights enforcement tasks to other federal agencies, it has not yet established such written agreements with other agencies, nor has it developed a clear and forceful policy against civil rights offenders.

"The Office of Revenue Sharing appears reluctant to use the deferral of funds or the threat of deferral as a lever to enforce compliance," Eisenberg charged. "A case in point is Chicago, where three organizations filed an administrative complaint to ORS asking that revenue shared funds for the city be deferred until the police department, which receives approximately 74 per cent of the city's revenue sharing entitlement, ends its discriminatory personnel practices. ORS refused to defer funds for Chicago pending the resolution of the complaint and sent the next revenue sharing payment to the city. It says it is reviewing the case, but almost three months have elapsed without any word about the progress of the review."

Eisenberg said existing revenue sharing legislation should be changed to include requirements for special, well publicized public hearings on use of funds, a redistribution of funds based on need, tax rate reduction to benefit the poor and aging only and provisions for civil rights complaint reviews within a specific time period.

Immediately after Eisenberg's talk, Mayor Landrieu quipped:

"Mr. Eisenberg, the safe passage off the island that we promised you is still good until 5 p.m."

Another revenue sharing critic, New York University professor Robert Lekachman, offered in the June 25 issue of *Christianity and Crisis* a history of Nixon's New Federalism. According to Lekachman, two progressive Democratic economists, Walter W. Heller, chairman of President Kennedy's Council of Economic Advisers, and Joseph Pechman, finance specialist based at Washington's Brookings Institution, authored the revenue sharing plan in 1964.

"Taking Lyndon Johnson seriously as a peace candidate," Lekachman writes, "Heller and Pechman assumed rapid termination of American involvement in Southeast Asia and continuation of high levels of output and employment. The prospect implied one of life's pleasanter perplexities: what ought to be done with an annual fiscal dividend to the Treasury of some $13 billion, a major consequence of sustained economic growth?"

Lekachman says Heller and Pechman thought it unwise to promote the use of a $13 billion Treasury excess towards social welfare, since Congress would probably then find it more politically attractive to use the money for tax reduction.

"For liberals," Lekachman continues, "(tax reduction) was a bad idea for . . . public needs were too pressing, state and municipal services too sketchy and the public sector too meagerly supported to allow additional tax reduction. Revenue sharing was a politically glamorous alternative."

Heller and Pechman came up with an idea to return two per cent of the annual income tax revenue base of about $300 billion, which would amount to about $6 billion of new money to lesser units of government. Their plan was to continue federal grants-in-aid at current or higher levels and to use revenue sharing money to support better schools and hospitals, improved police and fire protection, reduction in sales and property tax or a combination of these.

But high on the list of complaints of the critics of the current plan is that revenue sharing money is not new money. While Nixon is offering about $5.2 billion in revenue sharing this year, he has impounded funds already promised by federal agencies, instituted a national moratorium on housing programs, begun dismantling the Office of Economic Opportunity and cut back social welfare programs. In addition, the general revenue sharing law places a $2.5 billion ceiling on federal outlays for social services.

"What the president gave with one hand," Congressman Walter Fauntroy said in a November speech, "he took away with the other."

Lekachman says that although the original revenue sharing plans died with the Johnson Administration's Viet Nam escalation and subsequent fiscal deficit, Nixon probably picked up the plan in its revised form because, "the way to capitalize upon the attitudes of (silent majority) Republicans is to dissolve the political alliances, which have grown up since the New Deal, between the social service bureaucracies of HEW, Labor, HUD and OEO and their clients among Blacks, Chicanos, migrants, welfare families and other losers in the superbowl competition of American Life."

HOW THE SYSTEM WORKS: THE CASE OF DENVER, COLO.

(By Alan Cunningham)

DENVER.—It seemed almost like Christmas in October one day in 1972 when members of the Denver city council got together for an uncharacteristically joyous budget session. As a rule, such moments aren't jubilant. The pressure of splitting a finite number of dollars while facing a seemingly infinite number of outstretched hands is often enough to turn the most generous city councilman into an Ebenezer Scrooge—at least until the ink on the next year's final budget is dry.

But that October day was different. Somewhat in the manner of children who have found themselves in an unattended candy store, the ordinarily sober-minded gentlemen enjoyed the thrill of putting back many of the dollars they had deleted earlier from a host of city programs. Scrooge, for this day, was dead. In the space of two hours, the councilmen, restoring a dollar here and a dollar there, had succeeded in swelling the projected spending for this year's general fund by $1.6 million. And they didn't stop there.

There was money, and lots of it, just waiting to start its flow down the pipeline from Washington to the Rockies. True, the valve hadn't been turned on yet, but that was just a matter of time. The long-awaited revenue sharing bill had cleared both houses of Congress and was on its way to Richard Nixon's desk. Denver had already been assured of getting $22 million by the end of 1973. Half of that, some $11 million, was due to arrive in a matter of weeks.

Councilman James J. Nolan, an habitual watchdog of spending, was one of those who had doubts. Democratic Mayor Bill McNichols also tried to avoid sounding as if he had thrown caution to the winds. But he did not quite carry it off. "Maybe it's too soon to dream too far ahead," the mayor declared, "but we don't have to have nightmares anymore."

Nightmares of the sort to which he referred had marred the sleep of most city officials since the fall of 1971, when a management analyst in the budget office drew up an unsettling fiscal forecast. Noting that the gap between revenue and spending was beginning to open up at an alarming rate, the analyst warned that it could easily grow to a yawning chasm of nearly $30 million by 1975 unless some unforeseen windfall should come along.

And now here it was. Who could blame a Democratic mayor for setting aside his partisan suspicions of the Nixon Administration when it handed him such sweet dreams in place of those ugly ones?

Councilman Nolan saw it otherwise. He lectured his colleagues, saying they shouldn't squander this unexpected inheritance, lest the nightmare merely be postponed rather than dispelled. The morning Rocky Mountain News also chided the councilmen editorially, intoning: "We would not count any chickens before they hatch."

Such conservative warnings, of course, were unnecessary. The eggs did hatch, and revenue sharing funds did arrive in the expected amounts. But the arrival was followed soon afterward by the sudden and unexpected news of fund cutoffs in many specific federal grant programs, to which revenue sharing had been seen as only a supplement.

Even before that stunning development, however, McNichols dropped his own bombshell on the city council. In the final days of October, 1972—only two weeks after the jubilant councilmanic restoration of all those dollars to various departmental budgets—the mayor's office announced that he had decided how the city was going to spend the entire $22 million in revenue sharing money. Virtually all of it was earmarked for capital construction projects.

Neither the Democrats nor the Republicans on the 13-member council were pleased. Councilman Don Wyman, a Republican, said he had taken it for granted some of the money would be used to give property taxpayers some relief. Councilman Bill Roberts—a Democrat and one of two blacks on the council—responded that the original aim of revenue sharing had been to "meet some of the urgent needs of the nation's inner cities."

McNichols said he expected the councilmen to go along without much opposition. In his view, such projects as street repair, two new fire stations and elm disease control were, indeed, urgent needs of the Mile High City.

Several of the projects had recently been deleted from an $87-million bond package approved by voters the previous month. These were taken out on the assumption that the voters might defeat the whole package if it were too big.

Later, Councilman Roberts used his newsletter to describe his view of what happened, both before and after the Nixon Administration announced its sweeping moratoriums on further funding for many of the Johnson Era social action programs:

"As you can see," he wrote, "the October budget does not account for the cutbacks the federal government subsequently inflicted on health, day care, youth and social service programs."

Roberts' next observation is a telling one. "I will be frank in confessing that none of us had any idea that the annihilation of certain federal programs would follow the receipt of the revenue sharing check."

He continued: "We all assumed that revenue sharing was 'extra' money we could spend as we saw fit—perhaps to supplement federal programs *of our choice*, perhaps to subsidize existing local programs or to develop new ones to combat problems unique to Denver or conceivably to fund components of all three.

"We never imagined we would have to use it to absorb programs dumped by the federal government."

The councilman went on to note that he had been to a National League of Cities revenue sharing seminar only a short time earlier in Washington, D.C., and had found the others there held the same assumptions as he.

"We were hoodwinked by the federal government," he concluded.

When it came to action, however, there was now a new enemy closer to home. And, although partisan politics consistently rears its head in the affairs of Denver's allegedly nonpartisan council, Democrat Roberts decided to do battle with the mayor. He and a small group of activists, each of whom was equally infuriated by both the federal cutbacks and the mayor's priorities, began to plot a palace revolt. Privately, they vowed to make things difficult for McNichols, whom they referred to as the architect of a plan for "$22 million worth of curb and gutter work."

By spring, Roberts and his cohorts had quietly put together a coalition. It included disgruntled employes of the city's health centers and mental health programs—both of which faced drastic cutbacks—as well as several student lobbyists from the University of Denver's School of Social Work and a grass-roots delegation from most of the neighborhood action centers.

They confronted the mayor with a moderately militant stance, telling him it would be a travesty to ignore social programs during the process of distributing the city's revenue sharing money. Otherwise, they said, the poor, sick and dispossessed would remember the year 1973 as one in which the federal goose gobbled up her golden eggs, rather than delivering new ones.

McNichols gave an inch. He agreed to reconsider his original plan to omit social programs outright. One of his aides hinted that as much as $6 million might be made available to restore some of the monies lost to the Nixon moratorium.

On top of that, the mayor told Roberts he would appoint a 25-member citizens' advisory council to aid city officials in evaluating the expenditure of these funds. But he reminded them that the federal act which provided for revenue sharing was explicit in limiting the percentage of that money which could be spent for social programs.

The advisory group was to be made up of a dozen members appointed by the mayor and 13 others, each of whom would be named by a city councilman. Six others from various sources found their way on to the panel by the time it went to work.

As Joe Dodds, a 44-year-old psychology professor from DU recalls it, they were given little time. Members of the citizen group were told that their job was to recommend ways in which the money could be distributed during the final six months of 1973. As the mayor's aides explained it, it was already too late for the first half. "We had from April 16 to June 4, about six weeks," Dodds said recently.

Dodds was appointed to the panel by a city councilman who did not represent his district and did not know him. An acquaintance of his, Mrs. Thelma Hutt, was one of the mayor's appointees, but her kinship to the man who appointed her was not any closer than Dodd's was.

"I had been on the mayor's program policy advisory board for the Model Cities program," she explained a few weeks ago. "He phased that out, and when it came time to name people on this new advisory council, all but one of his appointees was left over from this other group."

She quickly added: "But he ended up with a mixed bag he didn't expect."

As Mrs. Hutt tells the story, some on the advisory group were cynical at the start, predicting the whole effort would be futile. Others, more loyal to the mayor, insisted it was to his credit that he had appointed such a committee and urged the rest to keep an open mind.

Soon, those who did not already know about the continuing rift between mayor and council discovered that it was difficult to work on such an advisory panel without being clearly labelled either as the property of McNichols or that of the council.

"We felt like a volleyball sometimes," she said. "Everybody on the council referred to us as the mayor's group."

She deemed this peculiar in light of the fact that the council appointees had those named by McNichols outmanned by one. But she, Dodds and at least one other member of the advisory group—a black building contractor whose last name also is Dodds—eventually concluded the cynicism and the label, had some justification. Lewis R. Dodds Jr., the contractor, said it quickly became evident to him that the main function which he and his fellow members were expected to carry out was to respond to the wishes of the mayor. He angrily announced that he considered himself a delegate of the city's poor people, including Chicanos—a group he regards as far worse off than Denver's black citizenry.

It was the mayor's duty to respond to the people, not vice-versa, he said. McNichols soon discovered there were other mavericks on the advisory panel, including Mrs. Hutt.

The panel spent its six weeks listening to fund appeals from representatives of day care, health, housing, manpower and other programs. Joe Dodds came to learn that many who were lobbying hardest for various fund restorations were those, other than the ultimate beneficiaries, who had a vested interest.

"Most of us felt there ought to be an advocate for human services. Contractors are pressing for housing projects and so on, but nobody is there to lobby for human needs. And so you have the day-care people fighting housing people fighting manpower people for the same scraps."

To some extent, he now feels the intramural fighting slackened during those six weeks and some of the city's heretofore competitive programs began trying to work together. It may have been the only success the advisory group could really claim.

Ultimately, panel members submitted a detailed list of recommendations for spending nearly $5.1 million of the Washington windfall on various programs in four basic areas: social service, health, community development and manpower.

In each category, they placed various programs under several levels of priority. Top priority meant panel members had the audacity to suggest that a program's funding should be increased instead of cut. Their largest single recommendation was that the city's neighborhood health centers be given almost $2.5 million of the money, slightly increasing their previous year's budget. Day-care centers, the city housing authority and two programs to provide jobs for teen-agers also were accorded this "more, not less" priority.

A *Wall Street Journal* reporter visited Denver to learn what the city was doing with its revenue sharing funds. The New York writer went away with a favorable, but not necessarily accurate, impression. He filed a story saying Denver was the first city in the nation to engage its citizens so intimately in the process of determining priorities for spending its revenue sharing funds. Members of the advisory group snickered when they read it.

Not long after the article appeared, McNichols submitted his final proposals for the use of such funds. For the most part, the advisory group's priorities were ignored.

In mid-July, of this year, councilmen approved the mayor's scaled down plan for diverting some general revenue sharing funds from capital construction to social service programs. The plan called for the city to spend about $2.9 million on such things—$2.2 million less than the advisory group proposed. Large sums were cut from the requests for neighborhood health services, housing programs, child care and other programs.

"It was almost as if the mayor didn't even read our recommendations," Joe Dodds said in early December. "It was an exercise in futility."

Doggedly, a few of the citizen group's members continued to meet on an unofficial basis. They had become convinced of one thing: that the advisory process was a good one, even if it had not borne much fruit this time out.

In the final days of October, a letter went to the mayor and the city council. It was signed by 26 of the 31 persons who had served on what was formerly called the Citizens Federal Grant Advisory Council.

"To the best of our knowledge," one passage of it read, "no action on our recommendations has been taken." Nonetheless, it urged that the process of allowing citizens to make such recommendations be allowed to continue.

As of Dec. 1, nobody at City Hall had bothered to reply. And even if they did, there was a catch to it. The 1974 budget already had been approved without even a token thought of using this year's $13.6 million revenue share for social programs. Most went into the general fund, but about $3 million was set aside for a reserve to help make ends meet in 1975.

THE QUESTION OF MINORITY INPUT

(By Cynthia Jo Rich)

Public safety—police and fire protection—ranked first on the latest official scoreboard of where the nation's general revenue sharing monies are going.

Data included in the Office of Revenue Sharing's Sept. 24 publication, "General Revenue Sharing—the First Planned Use Reports," show that 33,076 responding state and local governments (of a total of 38,000) plan to spend $696.40 million (or 23.5 per cent) of the $2.96 billion disbursed in the third entitlement period (Jan. 1, 1973 to June 30, 1973) on public safety and $651.43 (or 22.0 per cent) on education.

These results reflect a change from speculation surrounding the two earlier entitlement periods. Since the money for these two periods was granted retroactively, the most official results the Office of Revenue Sharing has are those from a survey made in April, 1973. Released in June, the survey concluded that most of the state and local government revenue sharing funds up to that time were earmarked for capital projects, tax relief and other non-recurring expenditures. According to the survey, respondents were afraid revenue sharing monies would not continue to flow, and chose not to include on-going projects in their budgets that might have to be terminated after the five-year revenue sharing bill expires.

Results from the most recent report at first glance seem to indicate a trend away from these "safe" projects and may hint at a greater success on the part of community groups in having their voices heard.

But a closer examination of the expenditures shows that, since local governments are

prohibited by law from using revenue sharing monies to pay operating and maintenance costs of education, the "education" money is going into capital projects related to education, such as bricks and mortar—not scholarships.

Most of the $696.40 million earmarked for public safety represents plans of more densely populated northeastern regions of the United States. Big cities are using their funds to pay the costs of operating police and fire departments. In areas that are less densely populated, the survey shows, priority is given to building public transportation facilities, especially roads; and government facilities, like office buildings.

Housing, community development and social services, according to the report, are receiving only about five per cent of the revenue sharing pie.

The exception is that on Indian reservations and in Alaskan native villages, more money is being spent on programs to provide social services to the poor and aged than is being spent by any other type of government.

Mayor Moon Landrieu of New Orleans is quoted in a *New York Times* article as saying the small social services investment results more from the nature of the law than a lack of loyal concern.

Landrieu explained that the Administration imposed freezes, cuts and eliminations of urban programs only after revenue sharing passed. "And this," he said, "is another reason you find a lack of allocation of general revenue sharing into social services. . . ."

The apparent lack of attention to social services prompted Boston's Mayor Kevin White to say at the July convention of the National Association for the Advancement of Colored People:

"So it appears that because no federal strings were attached and because local coalitions of concerned black people and needy urban ethnics could not demonstrate effective political organization that local politicians took the most comfortable and predictable course of action. They succumbed to obvious citywide political pressures. They succumbed to hardware priorities and physical needs. And they deferred, and in some cases they never even considered programs for social services and impacted areas of the disadvantaged poor."

In an attempt to at least get more revenue sharing money into the inner city treasuries, the caucus of black mayors and city officials (of the National Black Caucus of Locally Elected Officials) at the June 19 meeting of the U.S. Conference of Mayors pushed through the resolutions committee a policy statement that would pledge the mayors to work to force the federal government to correct the data on which revenue sharing allocations are based. They point out the data should reflect the Census Department's admitted error in counting the population in the 1970 Census.

But it is generally agreed that changing the revenue sharing allocation by the revision of the census route is unwieldy, unlikely and time-consuming.

The answer to how minorities are to get a piece of the action, echoed by a myriad of public and private agency officials, is that minorities must get themselves *involved*.

In "The Budget Is Where It's At," contained in NTIS, the publication of the American Society of Planning Officials, Frank S. So offers a primer to persons with little or no experience in confronting elected officials:

"In most cities," So writes, "the budget process starts with the budgeting director. He usually is the one who figures out how much revenue will be taken for the upcoming year. He then gives this estimate to the mayor or city manager, who looks it over and decides how much can be spent by all the city departments. Then the maneuvering starts. . . . During the maneuvering, your local organization should be active, putting pressure on whoever you can to consider your (project). . . ."

It is this kind of basic instruction that minorities—historically and systematically excluded from knowledge of the inner workings of the city hall—are just beginning to get.

Alicia Christian, for example, of the Coalition for Human Needs and Budget Priorities, offered elementary advice to an audience of about 100 adults at the November Urban Training Center for Christian Mission's seminar on revenue sharing in Washington, D.C.

". . . So you can't find out when that bill is going to get out of conference," Miss Christian said to the mostly black participants from all over the country. "Everytime you think it's going to get out of conference another issue comes up. You say, 'I'm concerned about this staff, but how can I tell people to send wires and telegrams and act on this and I don't know when anything's going to happen?'

"O.K., so you have to get clear time frames from the people you are dealing with. If they say, 'we're going to study this issue' you may want to say, 'Well, we want some clear action on this within 30 days, and we're mobilizing our people for Nov. 2. Nov. 2 we'll be down here with our 20 representatives and the 20,000 people they represent behind them to get a response to the issues that we're concerned about. . . .'

"Meanwhile," Miss Christian continued, "you get your lawyers together and you explore your legal options; 'What is our legal recourse? How much political clout do we have to make them deal with our demands . . .?'

"You let it be known your people intend to be very much involved in the elections this year; and make sure that person's (voting) record is well distributed in the community.

"You should also know when storm trooper tactics are necessary. If they're totally unresponsive—and votes mean numbers—and they have to see your numbers to know your votes, then get your troops down there. And that means that the troops that you get have to be very much a part of that planning process—and this is where the grass roots folks come in. . . ."

Even with such nuts-and-bolts instructions going on, some of the more vocal high figures, like Kevin White, sound awfully pessimistic about the prospects of a timely and sizeable minority impact on the revenue sharing program. Continuing his speech at the NAACP's annual convention, he said:

"We have to quickly accelerate political organization and develop workable political coalitions at the local level if we are to prevent the New Federalism from turning into the old doctrine of States' Rights.

"There will be those who will say that great strides have already been made in terms of local and statewide politices and that the political task is under control. Well, I too am encouraged by the recent advances in the number of black elected officials. But I cannot share any euphoria about the absolute numbers; and I do not share the confidence that adequate progress on all fronts is well under way."

White pointed to statistics that show the number of black persons holding elected office has doubled in the last four years, an increase of 1,500 black elected officials representing a 121 per cent gain. But he cited other statistics that show the 2,500 elective offices held by blacks represent only one-half of one per cent of the more than half-million elective offices in the country.

Acknowledging the 16 members of the Congressional Black Caucus, White pointed to the fact that only three blacks hold offices by statewide balloting in the country: Wilson Riles, California's Superintendent of Public Instruction; Secretary of State Richard Austin of Michigan; and U.S. Senator Edward Brooke of Massachusetts.

Most discouraging to Mayor White, he said, are statistics relating to black voter participation in the 1972 national elections: Only 44 per cent of voting blacks actually went to the polls, compared to an overall turnout for all races of 55 per cent. Black voter participation was not only 10 per cent below the national average, but 14 per cent below black participation four years earlier. One out of three blacks eligible to vote still is not registered.

On the positive side, the mayor cited the victories of Tom Bradley in Los Angeles, and Andrew Young, Ronald Dellums and Barbara Jordan, who won Congressional seats in areas with large white populations. Blacks, he said, now have the potential of determining the outcome of 86 Congressional races throughout the country, including 58 Congressional districts where blacks make up 25 per cent or more of the population, and 20 Congressional districts where the number of blacks of voting age is roughly two and a half times the margin of victory for the winning candidate in 1972.

"These figures are impressive," White said, "and the potential political strength which they represent nationally could move whole new social and economic agendas. But so long as black political participation remains below the level of whites . . . numbers will reflect only future potential and not realistic political power.

"To develop this political strength and sophistication at the local level will be no simple task. It will require skill and dedication to a broad political strategy; increased black voter registration; larger turnouts on election day; many more talented blacks involving themselves as candidates in the local political arena; broader coalitions with urban ethnics and the white working class who share in disadvantage and poverty; greater ability to build lasting and viable political organizations, organizations that can provide incentives and rewards for political participation at the grass-roots level," White said.

"We have no greater enemy in facing this challenge than indifference," he said, adding, "and we have no greater obstacle than complacency."

It is not simply complacency that lessens minority impact. Mayor Charles Evers pointed to another problem, at the recent Southern Conference of Black Mayors in Tuskeegee, Ala. Speaking from among an audience of black southern mayors (who govern townships of from 250 residents to 50,000) to a panel of federal officials that had just finished describing a maze of programs available to would-be complaining minorities, the mayor of Fayette, Miss., said:

"We know we're ignorant; that's why we're here. We want you to show us what to do. A Johnny Ford (mayor of Tuskeegee, Ala.) or a Charlie Evers—we can make it—but some of us here have been wood pulp haulers and cotton pickers all our lives. If you don't just about take us by the hand and show us how to do it (get a fair share of federal funds)—if you don't take us from point A to point B, we just won't get it. . . ."

"It reminds you," said one conference participant, listening to Evers and observing the response of the federal officials, "of a lyric in the song, 'Deliver the Word' (by the popular vocal group, 'War'): 'but they don't see the urgency; that this is an emergency.' "

If it is comforting for some, it is probably unsettling for other minority group members to hear such minority spokesmen as Vernon

Jordan, Ralph Abernathy and Roy Wilkins say the old confrontation tactics—one method that seems to have gotten results in the past—no longer work, and that the movement is now in the political councilmanic chambers and city halls. A lot of minority people are skeptical of the priorities of city officials.

Kansas City City Manager John Taylor, who is white, raised the same issue last summer at a revenue sharing conference in Atlanta:

"Part of the attitude of councilmen is 'we are the spokesmen for the citizens.' Elected officials in general tend not to like 'citizen participation,'" Taylor said.

City managers, he said, have to do a selling job. Taylor gave the example of a Community Action Program he managed to get approved by his own city council.

"Part of it was just putting it in the budget. It makes sense to come to John Taylor and say, 'We need this.'" But, he warned, smiling, "budget officers can be guys who get very uptight. They like to do things where you can measure the output. Mobs of people in council chambers doesn't do much. They're used to that by now."

How does he go about selling the city council?

"I guess the President did that," Taylor said, "no money for urban renewal; moratorium on housing; model cities to be reduced and ended . . . the President said all those programs haven't worked. Then he said the crisis is over.

"One of the biggest things in selling the council was that I had social programs in the budget and the council had to get a majority to disapprove it. If you can get it in a form where they have to vote against it, that's helpful. They have to vote on a budget document. If they are going to amend the budget, it means work. If the mayor and the manager agree on something, they can get it through," Taylor said.

"I don't tell people in Kansas City this," Taylor continued. "If a councilman gets a call from six people he thinks the whole world thinks that way. Not six young black militants who all hang around together; not six people from the same block; six different people. I'm talking about the white middle class who thought we should do something about social ills during the 60s, who have now turned to other problems like water pollution. Councilmen are going to listen to white businessmen quicker than they're going to listen to poor blacks. It's a fact of life," he shrugged, "you need those kind of people."

REGIONAL REPORTS: HINTS OF CHANGE IN THE NEWEST SOUTH

(By Eleanor Clift)

ATLANTA.—When Richard Nixon outlined his "New Federalism" philosophy in the President's 1971 State of the Union Message, he said, "I reject the patronizing idea that the government in Washington, D.C., is inevitably more wise, more honest, and more efficient than government at the local or state level." While his words proved prophetic in some ways, the final verdict on revenue sharing is not. In the South, where half the black population lives, the first windfall of revenue sharing has gone largely for capital improvements that have done little to better the lifestyle of the poor. But there have been exceptions.

In Birmingham, Ala., the city held several public hearings, each drawing several hundred people. These participants, most of them black, were organized by the Jefferson County Committee for Economic Opportunity. "They lobbied for the poor, that's what they did," declared Edward Coberly, a city official. "They didn't have too much luck at the beginning, but now we're beginning to channel some money to them for specific projects like day care." Birmingham, like most cities, spent the bulk of its revenue sharing on capitol projects. But, says Coberly, "Now that we've bought all the garbage trucks we need and covered all the critical ditches, I see a trend where more money will be put into social services and health care."

In Atlanta, Ga., it took a court order to stop Mayor Sam Massell's plan to rebate revenue-sharing funds to property owners via their water bills (see *RRR*, Vol. 4, No. 9). Maynard Jackson, then the city's vice-mayor, was a vocal critic of Massell's approach to revenue sharing. Now that Jackson is newly elected as Atlanta's first black mayor, he will get a chance to do things differently. The rumor is that he will create a Department of Human Resources to take over directly the social-service programs now carried out by myriad agencies. Though revenue-sharing money would likely be used to fund such a department, it should be noted that the demands on a city like Atlanta, now half black, are gargantuan. For example, Economic Opportunity Atlanta filed a request back in November for $2.3 million. It is one of the many casualties of the Nixon Administration's dismantling of President Johnson's "Great Society." Other agencies and organizations asking the city for money range from the Women's Chamber of Commerce to the Citizens Advisory Council for Urban Development.

Besides the changing of the guard from Massell to Jackson, attitudes toward revenue sharing played a significant part in electing a white alderman over her black opponent. The black candidate, Henry Dodson, had supported water-bill rebates while Panke Bradley fought unsuccessfully for day care and parks. While blacks voted heavily for Dodson, they provided a magin of victory to Mrs. Bradley—a margin that the Voter Education Project's John Lewis attributes partly to her stand on revenue sharing.

Statewide, Georgia has suffered greatly under the guise of revenue sharing. While the administration was giving money away with one hand, it was taking much more back with the other in the form of discontinued programs. What was touted as extra money for states and localities became a replacement for social-service monies that were no longer available. For example, under federal Title 4–A, Georgia lost $75 million worth of programs for day care, community health, retarded children and job training. In the same period of time, revenue sharing totaled $30 million. Gov. Jimmy Carter, while a zealous critic of the president's tactics, felt his hands were tied. A former nuclear submarine commander, Carter applied his mathematical mind to the problem at hand and used revenue sharing to convert the state from bond financing to cash payment. Some of the money saved in interest was funneled into worthy programs, but it was hardly a trickle.

About 130 of the nation's small towns, villages and townships have told the Treasury Department's Office of Revenue Sharing to stop sending revenue-sharing checks. Benton, Ala., sent back more than $3,000, pleading that "the amount received . . . was not worth all the red tape." And Santa Claus, Ga., said it did not have a full-time clerk to keep up with the rules and regulations. Actually, revenue-sharing red tape is minor compared to other federal programs. Aside from the usual periodic reports, where-the-money-goes must be published in local newspapers to keep the citizenry informed, on the record at least.

Rims Barber, the assistant director of the Delta Ministry in Jackson, Miss., surveyed 76 local governments in his state to find out where the money was going. He found that 75 per cent of it went for policemen, sewers and roads. And less than one per cent went for social service, education and economic development. "The fact of the matter is, most of the money is sitting in the bank," he reported with disgust.

Apparently, local Mississippi governments figured out a way to spend only 40 per cent of what they got, while the state government had spent only one per cent of its $38 million by mid-November of last year. The state easily explained the laxness in terms of the nature of the expenditures. Since it is all going for capital improvements, the money—while not exactly spent—is tied up in preliminary plans and drawings. When the legislature meets in January, it is expected to pass another capital improvements program of some $65–70 million to be covered by future revenue-sharing installments.

Francis Geoghagen, Mississippi's budget director, insists, "The only pressures we noticed in the '73 session were for various kindergarten programs. There was no pressure from the social programs. The vehicle for seeking a share is hard to locate. How do you go about getting your request before the legislature? I think that has been their problem." As for the state, Geoghagen regards social-service programs as an illogical place for revenue sharing. "After all," he says, "they might quit and withdraw the federal money and leave it to the state to either pay the bill or be unpopular and discontinue it."

The Delta Ministry is working with community groups in Mississippi in a fledgling effort to forge their lobbying strength. But Rims Barber admits he feels "fairly pessimistic. . . . We can't mount for day-care centers and health centers the kind of lobby that the highway people can." The accounting shows that the state gave $200,000 more to the National Guard than it did to black colleges. And way more ($6.4 million compared to $700,000) has been allocated for the football stadiums and field houses of colleges and universities. There have been some small commitments to human services here and there, such as money for renovating rundown day-care centers. And the local board of supervisors of Bolivar County gave $10,000 to the Delta Community Health Center. "It won't replace the two million they lost from the feds," says Barber, "but it was helpful in one program for pregnant and lactating mothers."

The Delta Community Hospital and Health Center, which served 120,000 people in a four-county area, became a political football between OEO and HEW and Mississippi Gov. William Waller. After much to-ing and fro-ing, the hospital was given a six-months federal phase-out grant with a February termination date. The health center will continue to function but in a greatly scaled-down version. All that will be left is a skeleton of 14 vehicles (compared to 68) for emergencies. Gone are all the lofty commitments to preventive health care for the poor.

In the state's capital, Jackson, revenue sharing is subsidizing an ailing bus system as well as funding capital projects. Leonard Lockley, the city controller, defends that choice of expenditures. "We think we are doing the things the majoriy of the people want. We're talking about parks and re-surfacing of streets nad baseball diamonds. This is desperately needed."

North Carolina did a lot of one-time spending for things like police equipment and firehouses and streets—many of the things voters had rejected in recent bond issues. Winston-Salem even managed to scrape together $249,300 for tennis courts, prompting a democratic state senator to complain, "Local governments are putting it all into police pistols, tennis courts and junk."

But Howard Lee, the black mayor of Chapel Hill, N.C., is using $300,000 of his

city's revenue sharing for a housing trust fund. He hopes to offer interest-subsidy loans for low- and moderate-income people to either remodel or purchase new homes. Lee, who was recently re-elected by a 5-to-1 margin, says that, "New Federalism is bringing a new kind of pressure on us to be more creative, but we found that when the revenue-sharing checks came in we were worse off than before. Enough money has not been made available. It's not getting where it's most needed."

Although Lee remains critical of revenue sharing, and most communities in his state and others have done precious little for minorities with the money, hope is popping up along with another version of "New South" politics. In Raleigh, N.C., a 52-year-old black funeral home operator unexpectedly beat a white businessman for the mayor's seat. Along with Mayor Clarence Lightner come new city council members that include an outspoken environmentalist, a former anti-poverty worker and several neighborhood activisits. In a city long controlled by business interests (a former mayor was simultaneously one of the city's biggest developers), the new government means new priorities—perhaps for revenue sharing too.

Still—as of the moment—the minority side of the revenue-sharing ledger is way out of kilter. And there are a lot of disheartened people who have fought the battle for the last year and lost. One of them is Attorney Dan Paul, who headed up the now defunct Mayor's Committee on Revenue Sharing in Miami, Fla. "We had about the same effect as dropping a rose petal down the Grand Canyon and listening for an echo," he says. "We all received little plaques, which I threw in the wastebasket. We were just window dressing to let them spend it the way they wanted. They never paid any attention to us." Despite alternative suggestions from the Citizens Committee, the city of Miami spent 60 per cent of its revenue sharing on salary increases for firemen and policemen—raises normally financed through the ad valorem budget. Paul charges that, "Revenue sharing has destroyed 20 years of social planning and regional planning by passing out money to governments that have nothing to do with running the programs. We'll have nothing but more rhetoric and more bandaids in the future. I don't see any hope."

Sharing that suspicion of revenue sharing, the Atlanta-based Southern Regional Council secured grants from three foundations to study governmental decentralization—including revenue sharing. "As the Great Society is being dismantled in Washington," explained a staffer, "we're trying to find out whether it's being picked up by anybody and who's calling the shots."

When the American Institute of Planners (city and regional) met in Atlanta last October, the delegates concluded in a session on "New Federalism and the Poor" that revenue sharing includes no strong federal rules to protect minorities, no significant requirements for citizen participation and no compunction to educate citizens, especially the poor, so they can participate in political decision-making.

Their conclusions were phrased even more bluntly by a black Atlantan, old enough to have grown up through the fifties and sixties: "The federal government has been the salvation of minorities for the last 20 years. Why should I believe that people like Maddox, Wallace, Long and Stennis are suddenly going to be sensitive to our needs. There's just no way."

LA: Spending Yorty's Legacy

(By Nolan Davis)

Los Angeles.—Black Mayor Tom Bradley of Los Angeles inherited a basketful of fiscal frustrations from his predecessor, conservative ex-Democrat Sam Yorty, and high on the list appears to be Yorty's choice of how the city should spend its General Revenue Sharing allocation. At present, LA has slightly more than $59 million in GRS money, of which $49 million is to go to the police and fire departments and another $7.5 million is set for capital improvements. Missing entirely are any funds to aid the poor and the aged, but there has been little that Bradley could do about it.

By the time the new mayor came to power last year, the Yorty regime already had used more than half of its $35.9 million GRS allotment for 1972–73 to close the gap in its own deficit. This left some $24 million in LA's GRS till. To that was added $35 million in 1973–74 shares, bringing Bradley's total GRS "inheritance" to $59 million. But Mayor Yorty and the city council had already decided how the money would be spent.

Nevertheless, Bradley quickly demonstrated, to the surprise of no one, that he brings to the office of mayor a different set of priorities than those which guided Yorty. Moving first to sove GLACAA (Greater Los Angeles Community Action Agency), the city's anti-poverty agency, from Nixon Administration cutbacks, Bradley joined with officials of Los Angeles County to grant GLACAA $6 million—enough to keep the agency alive until June 30. The county's contribution came from its own slice of revenue sharing funds. But the city had to take its contributions from general reserve funds since its GRS money was already otherwise allocated.

"The $3.1 million from the county and $2.9 million from the city have saved us," says GLACAA spokesman Gwendolyn Moore. "Actually these contributions give us more than we're getting from OEO. The city-county funding gives us $1 million a month, whereas we were getting only $830,000 a month from OEO."

The importance of GLACAA is underscored by the fact that it is the umbrella over 104 anti-poverty agencies serving 250,000 poor people annually in an area encompassing 75 per cent of Los Angeles County's sprawling 4,000 square-mile basin. GLACAA's programs range from Head Start to the Neighborhood Youth Corps and programs for senior citizens and even drug addicts.

As a result of GLACAA's being saved (for the moment at least), local reaction to the disbursement of revenue-sharing monies is minimal. And, as in most cities, the "little" man is not yet aware of what revenue-sharing really means. City officials aren't either. But GRS spending has as critics here, and most are inclined to direct their criticism at the White House, rather than city hall. Says Jerome Seliger, lecturer in public administration at the University of Southern California: "I don't think we can blame Bradley because he sort of inherited this. Like other big-city mayors, he's sort of in a trick-bag. And the federal government hasn't provided him—or any mayors—with any guidelines. You've got a lot of people in Los Angeles looking for bread because the Nixon Administration's played this little trick on the mayors. Essentially, last year Nixon told the mayors: 'We'll give you your tax monies back, but we're going to cut off your categorical grants from agencies like HUD and HEW and Agriculture—everything but Highways.'

"This resulted in a windfall from the small towns; it's okay for places like Santa Rosa (Calif.) up north or Rossmoor Leisure World (a well-to-do retirement community in nearby Laguna Hills) which have homogeneous populations, are relatively middle-class and have good tax bases. In fact, these places still haven't spent their GRS money. Other cities, meanwhile, are spending the money on visible things—hardware for the police and fire departments. Fortunately, Los Angeles is so big and so populous that community groups have been organized enough to put pressure on City Hall and make it give them something.

"In essentially taking money out of one pocket and putting some of it back in the other, the government has proceeded on the assumption that one, local government is representative and two, knows local problems better than people in Sacramento (the state's capital) and Washington. But I ask: Can five men on the board of supervisors represent 8 million people? Another aspect is this: assuming that local government is representative, how do you keep them honest? Without federal guidelines, you have no protection."

California gets more than $550 million a year for the next five years under the General Revenue Sharing Act. The state government keeps a third of this and disburses the rest to the cities and counties. LA officials contend that as the state's largest megalopolis (710 square miles), the city should receive a larger share of the GRS pie than it's getting. Under current federal formulae, LA gets only $35 million yearly. Yet it contains almost 11 per cent of California's population, and if it received 11 per cent of the money its yearly share would be more like $50 million a year. City officials aren't happy about this. In fact, some of them think the state should not get anything at all.

"I believe in the position of the National League of Cities which was several years ago that you ought to give the money to the cities and not let it pass through the states," says Chuck Moffitt, administrative assistant to Bradley. "We feel that revenue sharing really should concentrate on some of the ills of major cities and certainly the Nixon Administration is not paying a great deal of attention to the cities these days, judging from what it's done to the budgets of HUD and other agencies concerned with the cities."

Los Angeles gets most of its money from taxes. Biggest tax is the property levy, which accounts for $234 million or 33.8 per cent of this year's budget. Next largest is sales taxes—$83.7 million or 12.1 per cent. Business taxes ($54.5 million; 7.6 per cent) and lesser levies such as building permits, fees, fines and special licenses ($47 million; 6.8 per cent) are next respectively.

As yet, Los Angeles has no involvement of "grassroots" residents in deciding what monies are due them. This is especially true in the case of the revenue-sharing monies. And since Bradley's hands were tied when it came to the current GRS outlays, the new regime did not "inherit" any already structured vehicles through which to communicate with the poor, the aged and the jobless. It's still in the "committees forming" stage.

Says Bill Elkins, mayoral aide for community relations and youth programs: "We are convinced that if the lifestyle of the people—and I mean *all* of the people who live in the Los Angeles basin—is to be substantially changed, that if we're going to be about the business of trying to improve the delivery of social services, for all people irrespective of their ethnicity, we're going to have to have the real involvement of people who live at the indigenous community base in the decision-making process with respect to the programs that go on in their communities.

"We see them participating on advisory boards, but beyond that we see them on commissions. For example, the city has never had a really viable senior citizen's advisory board that has access to the power structure. Over the course of the last three years, we have been putting together such a committee. I'm very hopeful that it will even be escalated to the level of a commission, which would give it more dignity. We have done the same thing with respect to youth; there has never been a viable youth advisory board. We are taking care to make certain that all ethnic groups are represented and

all socioeconomic groups are represented to support them so that they can become an advocate for their own concern and again, give them direct access to the power structure so that it has to listen and has to implement some of the things that they're talking about.

"This is what we mean by 'community action,' not just some groups out there that you roll out as advisories when the funding sources inquire whether you have any involvement."

WAITING FOR THE CRUNCH

(By Anthony T. Bristow)

NEW YORK.—According to New York City officials, the Watergate scandals have undercut federal efforts to curtail various social programs and have enabled the nation's largest city to utilize its sizeable share of revenue sharing funds in other areas of budget allocation.

And while federal guidelines allow these funds to be used for a broad range of municipal responsibilities, the funds in New York City have primarily been used in two general areas—to subsidize the city's financially ailing mass transit system and to improve the uniformed services, including public safety and sanitation.

Since the program as initiated in 1972, New York's share of revenue sharing has amounted to $319 million. These funds have gone into a municipal budget that includes over $10 billion for operating expenses and a separate $2.6 billion capital budget.

Richard Bing, director of the Office of Federal-State Review of the City's Bureau of the Budget, said "the law is rather general" in terms of purposes for which the funds can be used. "The law states that it can be used for public safety, environmental protection, public transportation, health, recreation, libraries, social services and financial administration," he said. "But there are only two general categories which this city has used the funds for."

He explained that revenue sharing money was used to "subsidize the fare" of New York's sprawling subway system "to the tune of $100 million" during the current fiscal year. The subsidy applied only through the end of 1973, however, and the city has been frantically attempting to find other sources of funds to prevent a sharp increase in the fares in early 1974. Last summer, William Ronan, head of the Metropolitan Transit Authority in New York, predicted that the fare would rise from 35 cents to at least 60 cents if other funds were not provided.

The revenue sharing monies have also been used by the city's administration to beef up its uniformed services. One impact of the use of funds in this area was the lifting of a general freeze on hiring in the police, fire and sanitation departments. The freeze remained in effect for all other city agencies.

"The things we have used the money for to date are things that no one has criticized us for," asserted Bing. "And there has been an awful lot of pressure to use the money [in this way]."

Asked about the use of revenue sharing funds in the social programming area that had been threatened by the Nixon Administration's proposed cutbacks in early 1973, Bing said the cutbacks "never came about" in New York's case. Because of "the Watergate effect, or whatever you call it," he explained, "we've received additional funds from the federal office that administers the Model Cities program. The community action program . . . is still going on. So the hard problem we thought we were going to face did not come about. We are in better shape fiscally from a federal standpoint than we thought we were going to be. . . ."

Bing admitted, however, that federally-funded social programs are going through a crucial "transition period" and he said the question of their continuation posed "a problem for next year's budget." Whether revenue sharing funds might be used to fill gaps created by future cutbacks in categorical federal programs is an open question, Bing said, and any decision would have to be made by New York's new mayor, Abraham Beame, who took over the reins of city government on January 1.

"I assume that if the Mayor decided there were certain priority things he wanted to maintain," Bing continued, "the law allows him the discretion to use revenue sharing funds—it's a very open program." But he added that prediction are risky in the unsettled world of U.S. politics, "so I would say anything can happen."

New York's use of federal revenue sharing funds has been in areas that restrict input by community groups, but the city has been experimenting with ways to increase involvement by local communities in the fiscal process. In what has been described as the beginnings of an innovative "grass-roots" budgeting process, the city's Planning Commission recently submitted a $1.8 billion capital expense budget for fiscal 1974–75 that is based on significant input from the 62 local planning boards in the city's five boroughs. The proposed capital budget, which details the projected cost of every school building, street paving project, and park improvement, as well as scores of other capital expenditures, was based on priorities submitted by each of the local boards.

John E. Zuccotti, chairman of the city-wide planning board, said that of the 308 projects requested by the local boards, 125 have been included in the submitted budget to be "fully funded or are being added to the budget or moved up in budget status." He said that another 51 projects, which "aren't in a stage that's ready for construction," will be reviewed by the board next year for possible funding.

Calling the process the "beginning of a community budget," Zuccotti said the kinds of projects listed in the budget reflect an emphasis by local boards on renovating and upgrading existing facilities rather than constructing new ones.

The innovative process of community input in the capital budget process has been widely applauded by city and civic agencies which consider the Planning Commission's design a model for a broader community voice in all phases of city budget review and allocation. Herbert Ranschburg, assistant director of the Citizens Budget Commission, a non-governmental watch-dog group that monitors city spending, said the process implemented by Zuccotti's commission hopefully signals the end of the exclusion of community residents from the budget review process.

"The old era of father knows best in capital budgeting could be on the way out," Ranschburg said. "If we want meaningful decentralization in New York City, this is the way to get it."

Agreeing, Bing said that the Planning Commission's formula has "worked extremely well. From what I understand," he said, "the local planning commissions performed, in some cases, with distinction. And some people who had some suspicion of the program were very happily surprised at the individual local planning districts . . . that they presented sound, concise proposals."

But, Bing noted, the "idea of decentralized budgeting" is a very "complex topic and something that cannot be treated very lightly because there are a number of problems involved with it." He pointed out that the implementation of community input was "much simpler" under the capital budget review process where there were already established community boards "and the lines are much better defined."

But if decentralization and community involvement can be extended, it could help New York avoid the lack of citizen input—and particularly minority input—that has characterized the use of revenue sharing money by other cities around the country.

A LEVER FOR CHANGE IN CHICAGO

(By Robert McClory)

CHICAGO.—U.S. Rep. Ralph Metcalfe (D-Ill.) has frequently and publicly stated that the Chicago Police Department is "rotten to the core." Along with virtually every other leader of the black and Latin communities, he has blasted the city administration for refusing to respond to a torrent of citizen complaints about brutality and police hiring procedures. A series of scholarly studies, reports, and recommendations, issued during the past two years, have regularly encountered official silence. Mayor Richard Daley would occasionally dismiss the criticism as "politically motivated" but aside from minor shakeups in the police department (when the heat was really on), the status quo remained undisturbed.

Now, however, some significant changes may be coming. And a major vehicle for change is Chicago's federal revenue sharing money. Since December, 1972, the city has received approximately $128 million from the U.S. Treasury Department in general revenue sharing. The first $60 million was for the 1972 calendar year. The remainder consisted of quarterly payments of about $17 million each for 1973. With minor adjustments for population shifts, the city is anticipating that about $17 million will continue to flow in quarterly throughout 1974. In his recently approved budget, Mayor Daley is counting on that money, which will represent approximately seven per cent of the overall billion-dollar city outlay.

When the money was first allocated, it went into the corporate purposes fund. Thus, it could have been spent for almost any approved city purpose. But Daley and the City Council decided to apply about 10 per cent of it for the public library, the tuberculosis sanitarium, and building demolition. The remaining 90 per cent was earmarked to pay salaries of police and some firemen.

That decision was made despite the fact that at the same time the revenue sharing money started to flow, President Nixon's cutbacks in social service and urban aid programs began seriously to affect the city. According to one study, Chicago received $120 million less in 1973 than in 1972 in direct and indirect federal allocations. And there will be no reversal of the trend in 1974. Ninety per cent of the $120 million had been aimed at the city's poverty pockets. Last year, Chicago suffered a $9 million reduction in federal housing money, a $20 million reduction for community development, $10 million for Model Cities, $1.8 million for day care, $4 million for mental retardation, and almost $20 million for community mental health.

Organizations like Operation PUSH vigorously protested the cuts, and even sponsored a downtown anti-Nixon parade in July. But few publicly suggested that all, or even a part, of the city's revenue sharing money should be used to prop up the faltering social welfare programs. Daley, for his part, handled the situation skillfully—denouncing the federal cutbacks, after announcing from the start that Chicago's revenue sharing allotment would go to the general fund and thus make it unnecessary to initiate a proposed property tax increase. Homeowners extolled the mayor's "wise decision," while the poor directed their anger and criticism almost exclusively at the federal government.

But however smoothly things seemed to be going for Daley in the beginning, the mayor may be coming now to regret his own priorities. For he has inadvertently handed Chicago's minority leaders what could be their most effective tool yet for challenging discrimination in the city's police department.

The Afro-American Patrolmen's League, the Chicago NAACP, and the Joint Committee on Mexican-American Affairs have prepared a suit against the Treasury Department, demanding that the $68 million the city is slated to receive from revenue sharing in 1974 be withheld. The basis of the suit is the charge that recruiting, hiring, and promotion practices of the police department are in clear violation of the Civil Rights Laws.

Already teams of Treasury Department investigators have visited Chicago, studying police and fire department records. There is a strong possibility, according to legal experts, that the Treasury Department will cut off the flow of federal money to Chicago on the basis of the charges. Such a development would not cripple the city or the police department, since Mayor Daley could undoubtedly find $68 million from some other source to take up the slack. But Daley is assuredly not eager to approach the 1975 mayoral campaign with a clear federal finding of discrimination in his police or fire departments hanging from his neck.

To be sure, the mayor already has plenty to contend with. The Justice Department last year brought lawsuits against both the police and fire departments, charging similiar discriminatory personnel practices. Both those suits, however, may not be settled, or even get into the courts, for another year or two. The suit directed at the revenue sharing money is simpler and should get a quick decision, which could provide irreparable embarrassment to Daley and his supporters.

The plaintiffs contend that it is not necessary to wait until the Justice Department lawsuits are settled before the Treasury Department withholds the money. Since the Law Enforcement Assistance Administration (LEAA), an arm of the Justice Department, has already made two administrative findings of discrimination against the police department, plaintiffs argue, the revenue sharing money (at least the vast majority allocated to the police department) should be stopped immediately.

Although blacks represent 33 per cent of the population of the city, they comprise only 16 per cent of the sworn officers on the 13,500-man police force. Spanish-speaking, who represent seven per cent of the population, make up only one per cent of the sworn officers on the department.

The LEAA report, issued in 1972, concluded that the disproportion is no accident. "In key areas," it said, "the hard data shows that blacks and other minority members are being adversely affected by the present personnel system. Current procedures and practices do tend to have adverse impact on minority group members, both as entry candidates and as departmental personnel."

The LEAA study hit four specific areas of alleged overt discrimination: recruitment, training, promotion, and discipline.

The detailed LEAA findings went virtually unheeded by the city. Last May, one year after they were issued, Herbert Rice, director of LEAA's Civil Rights Compliance Office, declared, "Discussions and correspondence with the officials of the City of Chicago have not resulted in a commitment by these officials to undertake significant steps to achieve what this agency believes to be voluntary compliance with the civil rights laws and regulations affecting the Chicago police department. . . . LEAA has referred this matter to the Civil Rights Division of the Department of Justice for such actions as it deems appropriate."

To no one's surprise, the Justice Department filed its suit last Aug. 15, incorporating the basic allegations of the LEAA study. The specific purpose of the suit was to deny the Chicago police department a $20-million yearly allocation from the LEAA, which is not revenue sharing money.

Mayor Daley quickly responded, "I think it is a political suit." And city attorneys, anticipating a long, drawn-out legal battle, started the slow preparation of briefs, motions, and responses.

Meanwhile, the Chicago Law Enforcement Study Group, a research unit centered at Northwestern University, produced a devastating 87-page study, which claimed that the police department not only does not have a psychological testing program to weed out disturbed or racist recruits, but has, in fact, systematically dismantled a model program instituted here in the late 1960's by former police Supt. D. W. Wilson. The researchers declared that under Wilson's successor, James B. Conlisk Jr., all full-time psychologists employed by the police department had been terminated, all working relations with outside consultants had been cancelled, and the personnel division's budget severely cut. Chicago, it was claimed, remains the only one of the five largest cities in the country without an effective program of screening police applicants for emotional stability.

The study also charged that "the civil service written examination is an antiquated, culturally biased IQ test, the primary consequence of which is to screen out a disproportionate number of minority group members."

The issue of psychological tests took on special relevance in a report on the misuse of police authority issued last summer by a committee convened by Congressman Metcalfe. Two psychologists, formerly with the police department, testified before the committee that whenever emotional or personality defects are discovered in a probationary Chicago policeman, he is not removed from duty but assigned to a "stress area" (usually a black or Latino community) where he gets a lot of fast street experience. The purpose, said the psychologists, is "to make or break" these calculated risks. One of the psychologists, Dr. Arnold Abrams, commented, "I am sure that some of them come out of it and somehow manage to cope, but for most it is an extremely stressful situation and makes it very difficult on the neighborhood they are working in."

As with the LEAA findings, the study group report and the Metcalfe report evoked only categorical denials from Mayor Daley and his top police officials. As usual, silence greeted several lawsuits filed by civil rights groups in the wake of these studies.

Mayor Daley's critics charge that the result of what one black policeman called "medieval and empty-headed recruitment and training policies," is a police department that is smug, impervious to criticism, and brutal to the minority communities. Indeed, the most vociferous objections during the last two years have not been directed so much at personnel policies but at their results in the street. Police harassment of black and brown civilians, the extraordinary eagerness of the police department's Internal Affairs Division to dismiss complaints—all these comprise the fuel for the current crisis of confidence.

Three months ago, while the suit against the revenue sharing money was being prepared, the Afro-American Patrolmen's League (AAPL) and the Chicago NAACP made a formal request that the Treasury Department, in the light of the evidence, take voluntary action against the Chicago police. Although the Treasury Department stalled, Mayor Daley has since shown himself a little less intransigent on the subject of police reform.

In October, he accepted "reluctantly" the resignation of hard-line police Supt. Conlisk, but has rejected the temptation to name instantly another Conlisk-type in his place. Daley says he will appoint the best man he can find even if that means someone from outside Chicago. In early December, when Chicago's three largest and most prestigious associations of lawyers demanded that the mayor appoint an independent investigative agency to probe police misconduct, Daley did not rush to the defense of the police. Instead, he shattered precedent by stating publicly, "We know we have a problem with the Chicago police." He then met with representatives of the lawyers' groups and discussed creative compromises. In addition, the city's acting police superintendent announced in mid-December a series of reforms, including the hiring of psychologists to review the department's testing program and a reevaluation of the police Internal Affairs Division's self-investigation methods.

But the plaintiffs in the Treasury Department lawsuit declare they are not going to be lulled into slumber by vague verbal agreements. "We think this revenue sharing issue is the handle we've been looking for," says Renault Robinson, executive director of the AAPL. "And we're not going to let go now."

If revenue sharing does provide the leverage, it will be a monumental victory for Robinson, a 30-year-old traffic patrolman whose assignment until shortly after the revenue sharing suit was prepared, was guarding the alley behind police headquarters. During Robinson's first five years on the force, he was considered a "cinderella cop,"—a good Negro, who piled up an impressive series of awards and commendations. But when he formed the AAPL in 1968 and started crusading for reform from within, the awards stopped. He has since been suspended on 70 occasions, on charges ranging from not having his hat on, to accidentally firing his weapon. In 1970 he was suspended for one year and the police department made an unsuccessful attempt to fire him. In 1971 he returned to duty, serving as a downtown traffic cop until last spring when he publicly questioned a series of police shootings of black youths. It was then that he was relegated to the alley.

During the last three years, Robinson has been involved in a dozen legal attacks on police procedures, and hardly a week passes without his trenchant comments on the latest alleged brutality case. In the minority community, Robinson has become a symbol of persistence and determination to change the system.

Last November, 2,000 of his friends and supporters gathered at McCormick Place for the annual AAPL dinner, at which 21 of the nation's black mayors were honored. Robinson's experiences have also been duly noted by the Treasury Department investigators whose recommendations may decide whether or not the revenue sharing flow will be shut off. Recently, the civil rights specialist on the investigating team declined to comment on what conclusions he has reached. But he admitted that the police department's punitive attitude toward Robinson certainly made the department look "ridiculous and vindictive."

Now, with the Treasury Department's interest aroused, Robinson has been returned to traffic duty—thus feeding speculation that Chicago officials are feeling the pressure.

Five years ago, when the AAPL was in its infancy, one of Robinson's superiors cautioned him not to make a "federal case" out of a little racial discrimination. But now—with revenue sharing as the handle—that is precisely what he has decided to do.

SPECIAL REVENUE SHARING

(By Cynthia Jo Rich)

Watergate foiled the president's plans for making special revenue sharing the law just in time for the holiday season. But he still sees the plan as an idea whose time has come, and has high hopes for passage by Spring thaw.

Special revenue sharing would mean the return of about $7.2 billion in federal income tax receipts to localities in fiscal 1974—July 1 through June 30. The money would substitute for about 70 so-called "categorical" programs, administered by 7 federal agencies: Programs like Manpower Training and Development, JOBS, Neighborhood Youth Core, Model Cities, Community Action, and others.

Like general revenue sharing, the special revenue sharing program has generated enough controversy that, coupled with the woes of Watergate, special revenue sharing has had to take up temporary residence on the back burner of Congressional priorities. A lot of people don't seem to think the program is so special after all; but others are guessing that at least some parts of it will be made into law.

Special revenue sharing means 70 programs would be grouped under four general headings: education (HR5823 and S1319 or "The Better Schools Act"), manpower, law enforcement (HR5613 and S1234 or alternate bill HR5746) and community development (HR7277 and S1743, "The Better Communities Act"). Bloc grants would be sent to states and localities to use as they see fit with almost no strings attached.

Proposed in 1971, the Manpower component is the only one of the four areas of special revenue sharing that actually came to a vote. The 91st and 92nd Congress failed to pass the proposal.

In a speech made several months ago, Nixon, angered at the action of Congress, announced his decision to halt attempts at getting congressional approval of the bill. Instead, he said, Congress' action had "forced" him to allow the Manpower Development and Training Act, which expired in June, to die; and to institute manpower revenue sharing through "extension of existing legislative authorities via administrative consolidation."

So manpower revenue sharing begins July 1, and by that time, federal officials say they expect to have some guidelines available for use of the money.

Local governments with populations of at least 100,000 will be eligible for the bloc grants. According to the Bureau of National Affairs, smaller units of government may be eligible if they are "contiguous," or form a labor market area, or want to join together their populations to equal 100,000.

State and local governments in fiscal 1974 would receive $950 million, or about 71 per cent of the first year's manpower funding of $1.34 billion. The rest of the money, $390 million, will be kept for federal research and development and technical assistance while transition from the federal to the local levels is completed.

Overall, the Manpower Administration budget will be reduced from the $4.24 billion of fiscal 1973 to $3.01 billion in fiscal 1974, a reduction of $1.23 billion or about a 26 per cent reduction.

By a confusing and contradictory provision known as the "hold harmless principle" localities are assured by the Nixon administration that the first year, nobody's total manpower allocation will fall below 85 per cent of the 1973 level.

In addition to these cutbacks, under special revenue sharing, three contractors with the Department of Labor—The National Urban League, Opportunities Industrialization Center and Jobs for Progress, Inc.—have been notified that the Department does not intend to renew contracts for programs they operate. If these organizations plan to continue their manpower-related activities, although they are national organizations, they will have to submit their plans to local officials for approval.

Under law enforcement revenue sharing which has not yet become a reality either though Congressional or administrative action, $891 million, an increase of $36 million over fiscal 1973, would be available to local governments to reduce and prevent crime and delinquency and to encourage comprehensive planning, improved management, research and development within law enforcement agencies.

The existing Law Enforcement Assistance Act of 1968 requires federal officials to approve state law enforcement plans as a precondition to funding. The new legislation would eliminate that requirement, except that states would have to develop three-year plans to be updated annually. The Law Enforcement Assistance Administration (LEAA) would be required to review and comment on state plans, and submit their comments to Congress to be published in the Federal Register.

Eighty-five per cent of law enforcement revenue sharing money would go to states and 15 per cent would be retained for LEAA spending.

An estimated 30–32 education programs under special revenue sharing would be grouped into education bloc grants to be used by localities for disadvantaged and handicapped children, vocational education, education of federal employes and support services. Programs of the Elementary and Secondary Education Act of 1965—like Headstart—and most programs under the Adult Education Act of 1965 would be eliminated. The administration proposes $2.5 billion for special revenue sharing's education component for fiscal 1974. An additional $244 million is proposed for school lunch programs.

Opposition in Congress to the education piece of special revenue sharing stems more from the possibility of reduced funding than over the idea of consolidation.

Community development, the last quadrant of special revenue sharing would distribute $2.3 billion among urban areas to be used at the discretion of local officials for activities like rehabilitation of buildings, removing health hazards, purchase of property, or whatever else would help improve the community. Under the Better Communities Act, 90 per cent of the allocation would be spent for community improvement in cities and counties; 8.2 per cent would go to states and 0.9 per cent would be administered by the Department of Housing and Urban Development (HUD).

The act would scrap Urban Renewal, Model Cities, Neighborhood Facilities, Basic Water and Sewer Facilities, Open Space and Land Grant programs and others.

Over the President's criticism, both houses of Congress have refused to consider the Better Communities Act until the President sends down his housing proposal to substitute for the housing moratorium he instituted.

Nixon, in his second State of the Union message, insisted his housing proposal is forthcoming, but accused the Congress of being "so interested in continuing programs that are proven failures that we are unable to gain a full hearing for new approaches that clearly deserve a chance."

The whole harmless principle applies to the Better Communities Act. It promises that no jurisdiction will get less money under community development special revenue sharing than it did under the categorical programs.

Among those who endorse the President's special revenue sharing plan is Frederick Malek, deputy director of the Office of Management and Budget and formerly deputy director of the Committee to Re-elect the President (CREEP).

Malek, who admits revenue sharing is "a very hotly debated issue" told an audience at the July 23 annual convention of the National Urban League in Washington, D.C., "I think it should be."

Malek called the special revenue sharing plan "very essential reform, totally in harmony with the needs of our time," and said, "I think if we give it half a chance to succeed, it can revitalize and restrengthen American government."

Tracing the development of what he termed "vast bureaucracies" in Washington over the past 30 years, Malek said:

"The larger these bureaucracies got, the more isolated they got from the very people they were trying to serve. The unfortunate result among the people of this country was a great deal of cynicism—a loss of faith in government's ability to solve problems. A part of the new federalism is to reverse this trend by bringing more power and more decision-making to the localities," Malek said.

"I think we've got to realize," he continued, "that the America of the 1970's is not the America of the New Deal and it's not the America of the 1960's. Today, the elderly, the poor and the minorities know how to work out their own dilemma. They know that their voices are heard and they know that no local politician can ignore their power or their demands."

Malek said four goals of the new federalism are the elimination of time-consuming forms required under categorical programs, more (local) flexibility, equitable distribution of funds and increased citizen participation.

"I don't know how you feel about it," he said, "but I for one would much rather see the taxpayers' dollars going right to the recipients rather than a certain per cent of it being siphoned off and going into the pockets of the bureaucracies in this structure that we built up."

Malek, a former Green Beret with a masters in Business Administration from Harvard, admitted there are a lot of "yes . . . buts" on the issue of special revenue sharing.

"'Yes, I agree with the goals . . . but won't the localities discriminate?' Well," he told the audience, "the answer to that one is they better not. The responsibility of the federal government to assure non-discrimination in financially assisted programs is very clear, and I hope there is no doubt in anyone's mind as to what the law requires in this area; and let there be no doubt about the intention of this administration to enforce fully both title VI of the Civil Rights Act and the non-discrimination protections contained in the general and special revenue sharing bills.

"Another 'yes . . . but,'" Malek said, "'Yes the proposal makes sense . . . but will the money *really be* spent in the best interests of the community?' A lot of people don't seem to trust the judgment of the state and local elected officials to spend these funds in ways that are going to help the poor people. They're concerned that the money will be spent in ways to help the middle class build tennis courts and bridle paths . . . I don't buy this line of reasoning, and I don't know if you ought to either. It seems to me that the disadvantaged in a given community," Malek said, "can do a hell of a lot more by electing the mayor of that community; they can have a hell of a lot more influence on that than they can in electing the president. I think that this being the case, they have a lot more political clout dealing with the locally elected officials, and they can bring a lot more political heat to bear than they can on a national level."

Malek pointed to the elections of Mayor Kenneth Gibson of Newark, N.J., and former Cleveland mayor, Carl Stokes, and said the recent elections of blacks to political office "is very ample evidence to me that the voice of the disadvantaged is heard and that they have a heck of an impact in the election of local officials."

With four objections, another source of support for special revenue sharing was the 41st United States Conference of Mayors, held in June. HUD Undersecretary Floyd Hyde's lobbying band of federal officials tried hard for a Conference resolution of approval for special revenue sharing. And the mayors

pledged to seek to convince Congress to make these basic revisions in the special revenue sharing proposal.

1—Assure that no city would fall below a certain level of federal aid in the future. (Complaints have already begun that the bill, as submitted, makes it possible for federal money to be reduced after the first year.)

2—Remove a provision that sends some federal money to state governments to distribute.

3—Include a requirement in the bill that cities receiving federal money use it to meet national goals for housing, slum clearance and improvement of community facilities.

4—Guarantee enough federal loan assistance to allow cities to plan projects too expensive to fund with a single year's grant.

Some of the critics of special revenue sharing are as acid as Professor Robert Lekachman of New York City University who calls the plan "a second, if somewhat politer, form of Jim Crow."

"Until Watergate," Lekachman says in *Christianity and Crisis*, "this mean-spirited design look perilously near success. For the moment, the odds have shifted against Mr. Nixon. But if he surmounts this latest crisis, the special revenue sharing battle will remain to be waged."

Other critics of the plan, such as The Joint Center for Political Studies' president, Eddie N. Williams, say that special revenue sharing is a "socio-political experiment which could rip off the poor and blacks."

On the same platform with Malek, Williams, who was formerly director of the Center for Policy Study and vice president for public affairs at the University of Chicago, and a foreign service reserve officer at the U.S. Department of State, methodically told the audience of over 1000:

"It is the question of the *unrestricted* (his emphasis) use of revenue sharing funds—the absence of relevant federal standards and guidelines, the absence of national objectives, the absence of assurances that funds will be applied to the most pressing urban needs; it is this unresolved question that many of us find so troubling."

Williams, who agrees with Woodrow Wilson's warning, "centralization is not vitalization," said "however . . . it seems to me that in a pluralistic society, particularly in one which admits having some hangups about the race, creed, color, national origin and sex of some of its people, unrestricted federalism, as embodied in the special revenue sharing proposals, could result in a tyranny of the majority.

"Those innocents," he said, "who assume that the current version of special revenue sharing will assure the protection of minority interests show little understanding of the political culture in which they live. Nor do they seem to realize that in both design and potential effect, special revenue sharing is reminiscent of the withdrawal of federal troops from the South after Reconstruction."

Williams, former director of the Office of Equal Employment Opportunity, and a Congressional fellow of the American Political Association, told the gathering:

"Any plan which lets the federal government off the hook in terms of assuring the welfare of all Americans is an invitation to disaster.

"We can ill afford," he continued, "to lapse into complacency and be lulled into a false sense of security by the rhetoric of 'Power to the People,' whether it spills from the lips of Stokeley Carmichael or Richard Nixon. Certainly, it is not reassuring to note that this rhetoric comes close to the rhetoric of States' Rights."

Williams, who noted planned use reports that indicate some communities are debating whether to spend general revenue sharing monies on tennis courts, bridle paths or a dog pound, said, "there is a lesson here on special revenue sharing. If local perceptions of priorities are totally at odds with national goals, which do recognize the needs of the poor and minorities, then concern over local governments' willingness to meet these needs is heightened. These examples," he said, "are but the latest evidence that minorities and the poor cannot rely exclusively on the states and localities to see to it that their needs are met."

Williams termed it "absolutely essential" that special revenue sharing programs meet four key tests:

1—They must contain explicit national goals which take into account the needs of the poor and minorities. Where possible they should provide financial incentives to governments which strive to meet these goals.

2—There must be a reasonable application and review process which will ensure that those localities most needing funds actually receive them and that those that receive them actually use them consistent with the national objectives.

3—There must be explicit and binding civil rights protections written into the law, which take full account of the continuing need for federal enforcement.

4—There must be strong provisions for effective community participation in the decision-making process.

Of the Better Communities Act, Williams said: "It leaves us feeling the way one does after viewing 'Last Tango in Paris'—there is much to be desired. . . . You see a hurt put on the cities where we are and a bonanza for the suburbs where we ain't."

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. HUDNUT (at the request of Mr. ARENDS), for Monday, March 11, on account of Interstate Commerce Commission hearing in Indianapolis.

To Mr. DELLUMS (at the request of Mr. O'NEILL), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAFALIS) to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. CAMP, for 5 minutes, today.

Mr. ANDERSON of Illinois, for 30 minutes, today.

Mr. GROVER, for 10 minutes, today.

Mr. RUPPE, for 5 minutes, today.

Mr. STEELE, for 5 minutes, today.

(The following Members (at the request of Mr. MILFORD) and to revise and extend their remarks and include extraneous matter:)

Mr. DIGGS, for 5 minutes, today.

Mr. MOSS, for 15 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. MORGAN, for 10 minutes, today.

Mr. MURPHY of New York, for 10 minutes, today.

Mr. RODINO, for 10 minutes, today.

Mr. REUSS, for 15 minutes, today.

Mr. OWENS, for 10 minutes, today.

Mr. TIERNAN, for 5 minutes, today.

Mr. HAMILTON, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROSENTHAL, and to include extraneous material, on his amendment offered in the Committee of the Whole today.

Mr. DINGELL to revise and extend his remarks in connection with section 5, under the 5-minute rule today.

Mrs. CHISHOLM, to extend her remarks in the body of the RECORD, notwithstanding the fact it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $2,037.75.

Mr. ROUSSELOT, to extend his remarks immediately preceding the vote on H.R. 11793 today.

(The following Members (at the request of Mr. BAFALIS and to include extraneous material:)

Mr. WINN.

Mr. STEELMAN.

Mr. KEMP in three instances.

Mr. WHALEN.

Mr. WYMAN in two instances.

Mr. DERWINSKI in three instances.

Mr. ESCH.

Mr. HOSMER in two instances.

Mrs. HOLT.

Mr. BROYHILL of Virginia.

Mr. ANDERSON of Illinois in two instances.

Mr. FINDLEY in five instances.

Mr. HAMMERSCHMIDT.

Mr. BAKER.

Mr. NELSEN.

Mr. QUIE.

Mr. SYMMS.

Mr. ZWACH.

Mr. SPENCE.

Mr. SHOUP in five instances.

Mr. ROBERT W. DANIEL, JR.

Mr. BOB WILSON in six instances.

Mr. RAILSBACK.

Mr. BROTZMAN.

(The following Members (at the request of Mr. MILFORD) and to include extraneous matter:)

Mr. MOLLOHAN.

Mr. RONCALIO of Wyoming.

Mr. RARICK in three instances.

Mr. GONZALEZ in three instances.

Mr. LEGGETT.

Mr. STOKES in three instances.

Mr. BADILLO in three instances.

Mr. MOSS.

Mr. EDWARDS of California.

Mr. MURPHY of New York.

Mr. MCCORMACK.

Mr. O'NEILL.

Mr. CHAPPELL.

Mr. HANNA in two instances.

Mr. PATTEN.

Mr. LITTON.

Mr. DORN in two instances.

Mr. ANDERSON of California in two instances.

Mr. VANIK.

A BILL AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. HAYS, from the Committee on House Administration, reported that that committee did on March 6, 1974 present to the President, for his approval a bill

and joint resolution of the House of the following titles:

H.R. 8245. An act to amend Reorganization Plan No. 2 of 1973, and for other purposes; and

H.J. Res. 905. A joint resolution extending the filing date of the 1974 Joint Economic Committee report.

ADJOURNMENT

Mr. MILFORD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 33 minutes p.m.), under its previous order, the House adjourned until Monday, March 11, 1974, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2003. A letter from the Secretary of the Navy, transmitting a report on the progress of the Naval Reserve Officers Training Corps flight instruction program for fiscal year 1973, pursuant to 10 U.S.C. 2110(b); to the Committee on Armed Services.

2004. A letter from the Acting Deputy Assistant Secretary of the Interior, transmitting notice of receipt of an application for a loan and grant from the Central Nebraska Public Power and Irrigation District, Holdrege, Nebr., pursuant to section 10 of the Small Reclamation Projects Act of 1965; to the Committee on Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DULSKI: Committee on Post Office and Civil Service. Report on improved management in the Federal Government (Rept. No. 93-880). Referred to the Committee of the Whole House on the State of the Union.

Mr. BOLLING: Committee on Rules. House Resolution 963. Resolution providing for the consideration of H.R. 69. A bill to extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes, (Rept. No. 93-881). Referred to the House Calendar.

Mr. WALDIE: Committee on Post Office and Civil Service. S. 2174. An act to amend the civil service retirement system with respect to the definitions of widow and widower (Rept. No. 93-882). Referred to the Committee of the Whole House on the State of the Union.

Mr. STRATTON: Committee on Armed Services. S. 2770. An act to amend chapter 5 of title 37, United States Code, to revise the special pay structure relating to medical officers of the uniformed services; with amendment (Rept. No. 93-883). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 12503. A bill to amend the Controlled Substances Act to provide for the registration of practitioners conducting narcotic treatment programs. (Rept. No. 93-884). Referred to the Committee of the Whole House on the State of the Union.

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 3858. A bill to amend sections 101 and 902 of the Federal Aviation Act of 1958 to implement the Convention for the Suppression of Unlawful Seizure of Aircraft; to amend title XI of such act to authorize the President to suspend air service to any foreign nation which he determines is encouraging aircraft hijacking by acting in a manner inconsistent with the Convention for the Suppression of Ulawful Seizure of Aircraft; and to authorize the Secretary of Transportation to suspend the operating authority of foreign air carriers under certain circumstances; with amendment (Rept. No. 93-885). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANNUNZIO:

H.R. 13312. A bill to extend to all unmarried individuals the full tax benefits of income splitting now enjoyed by married individuals filing joint returns; to the Committee on Ways and Means.

By Mr. ARENDS:

H.R. 13313. A bill to authorize the disposal of rutile from the National stockpile and the supplemental stockpile; to the Committee on Armed Services.

By Mr. BAFALIS (for himself, Mr. ABDNOR, Mr. BROYHILL of Virginia, Mr. CHAPPELL, Mr. COLLINS of Texas, Mr. DUNCAN, Mr. FULTON, Mr. GOODLING, Mr. HOSMER, Mr. HUDNUT, Mr. KETCHUM, Mr. MILFORD, Mr. ROUSSELOT, Mr. WHITEHURST, Mr. YOUNG of Alaska, Mr. YOUNG of Florida):

H.R. 13314. A bill to amend section 1201 of title 18 of the United States Code to impose penalties on the acceptance of a benefit extorted through kidnaping and on assisting in the distribution of such a benefit; to the Committee on the Judiciary.

By Mr. BRINKLEY:

H.R. 13315. A bill to amend title XI of the Social Act to repeal the recently added provision for the establishment of Professional Standards Review Organizations to review services covered under the medicare and medicaid programs; to the Committee on Ways and Means.

By Mr. BROYHILL of North Carolina:

H.R. 13316. A bill to impose a tax on windfall profits by producers of crude oil; to the Committe on Ways and Means.

By Mr. DICKINSON (for himself, Mr. BEVILL, Mr. BUCHANAN, Mr. FLOWERS, and Mr. NICHOLS):

H.R. 13317. A bill to require passport applicants to swear to an oath of allegiance to the United States as a condition precedent to being granted a passport; to the Committee on Foreign Affairs.

By Mr. ESHLEMAN:

H.R. 13318. A bill to amend the Small Business Act to provide for loans to small business concerns affected by the energy shortage; to the Committee on Banking and Currency.

By Mr. GILMAN:

H.R. 13319. A bill to prohibit discrimination on account of sex or marital status against individuals seeking credit; to the Commmittee on Banking and Currency.

By Mr. HÉBERT (for himself and Mr. BRAY) (by request):

H.R. 13320. A bill to amend the provisions of title III of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

By Mr. HEINZ:

H.R. 13321. A bill to amend section 428(a) of the Higher Education Act of 1965, as amended, and section 2(a)(7) of the Emergency Insured Student Loan Act of 1969, to better assure that students will have reasonable access to loans to meet their postsecondary education costs, and for other purposes; to the Committee on Education and Labor.

By Mr. HEINZ (for himself, Mr. HARRINGTON, Mrs. BOGGS, Mr. FRENZEL, and Mr. LEHMAN):

H.R. 13322. A bill to amend the Community Mental Health Centers Act to revise the various programs of assistance authorized by that act and to extend it to the fiscal year 1976; to the Committee on Interstate and Foreign Commerce.

By Mr. HEINZ (for himself, Mr. STEELMAN, and Mr. PRITCHARD):

H.R. 13323. A bill to establish a National Center for the Prevention and Control of Rape and provide financial assistance for a research and demonstration program into the causes, consequences, prevention, treatment, and control of rape; to the Committee on Interstate and Foreign Commerce.

By Mr. HELSTOSKI:

H.R. 13324. A bill to amend title II of the Social Security Act to provide that the remarriage of a widow, widower, or parent shall not terminate his or her entitlement to widow's, widower's, or parent's insurance benefits or reduce the amount thereof; to the Committee on Ways and Means.

H.R. 13325. A bill to amend title II of the Social Security Act to provide that an individual who resides with and maintains a household for another person or persons (while such person or any of such persons is employed or self-employed) shall be considered as performing covered services in maintaining such household and shall be credited accordingly for benefit purposes; to the Committee on Ways and Means.

H.R. 13326. A bill to amend title II of the Social Security Act to reduce from 20 to 5 years the length of time a divorced woman's marriage to an insured individual must have lasted in order for her to qualify for wife's or widow's benefits on his wage record; to the Committee on Ways and Means.

By Ms. HOLTZMAN (for herself, Mr. BRASCO, and Mr. WOLFF):

H.R. 13327. A bill to make it clear that the bonus value of food stamps is to be included in the "hold harmless" amount guaranteed to recipients of supplemental security income benefits under the Social Security Amendments of 1972, so as to assure that recipients in cash-out States do not suffer reductions in the benefits they actually receive; to the Committee on Ways and Means.

By Mr. KAZEN:

H.R. 13328. A bill to provide that, after January 1, 1974, Memorial Day be observed on May 30 of each year and Veterans Day be observed on the 11th of November of each year; to the Committee on the Judiciary.

By Mr. KYROS (for himself and Mr. COHEN):

H.R. 13329. A bill to amend the Federal Food, Drug, and Cosmetic Act to include a definition of food supplements, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MATHIS of Georgia (for himself, and Mr. WALSH):

H.R. 13330. 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. MAZZOLI:

H.R. 13331. A bill to postpone the effectiveness of certain U.S. district court orders; to the Committee on the Judiciary.

By Mr. MURPHY of New York (for himself, Mr. HELSTOSKI, Mr. METCALFE, Mr. BOLAND, Mr. EILBERG, Mr. SHOUP, Mr. MCDADE, Mr. JOHNSON of Pennsylvania, Mr. LEGGETT, Mr. THOMPSON of New Jersey, Mr. MAYNE, Mr. WON PAT, Mr. FASCELL, Mr. CRONIN, Mr. BIESTER, Mr. DAVIS of Georgia, Mrs. CHISHOLM, Mr. WHITE, Mr. RIEGLE, Mr. SARBANES, Mr. YATRON, Mr. MOAKLEY, Mr. DULSKI, and Mr. KYROS):

H.R. 13332. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to provide for the assignment of surplus real property to executive agencies for disposal, and for other purposes; to the Committee on Government Operations.

By Mr. O'BRIEN:

H.R. 13333. A bill to amend title VII of the Older Americans Act relating to the nutrition program for the elderly to provide authorization of appropriations, and for other purposes; to the Committee on Education and Labor.

By Mr. PEYSER:

H.R. 13334. A bill to amend section 428 of the Higher Education Act of 1965 to better assure that students will have reasonable access to loans to meet their postsecondary education costs; to the Committee on Education and Labor.

By Mr. ROYBAL:

H.R. 13335. A bill to amend the Internal Revenue Code of 1954 to increase to not less than 9 cents per mile the standard mileage allowance which may be used in determining the amount of the deduction allowed for expenses paid or incurred for the operation of an automobile in connection with the rendition of services to a charitable organization; to the Committee on Ways and Means.

By Mr. SHOUP:

H.R. 13336. A bill to amend section 101 of title 23, United States Code, to prohibit the impoundment of highway funds; to the Committee on Public Works.

H.R. 13337. A bill to amend title 38 of the United States Code in order to provide that all Federal retirement and similar payments be disregarded in determining annual income for purposes of the veterans' pension laws, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. THOMPSON of New Jersey:

H.R. 13338. A bill to amend the Public Health Service Act to provide for programs for the diagnosis and treatment of hemophilia; to the Committee on Interstate and Foreign Commerce.

By Mr. WHALEN:

H.R. 13339. A bill to amend title II of the Social Security Act to provide that increases in monthly insurance benefits thereunder (whether occurring by reason of increases in the cost of living or enacted by law) shall not be considered as annual income for purposes of certain other benefit programs; to the Committee on Ways and Means.

By Mr. WHITE (for himself and Mr. RUNNELS):

H.R. 13340. A bill to amend section 141 of title 13, United States Code, to provide for the transmittal to each of the several States of the tabulation of population of that State obtained in each decennial census and desired for the apportionment or districting of the legislative body or bodies of that State, in accordance with, and subject to the approval of the Secretary of Commerce, a plan and form suggested by that officer or public body having responsibility for legislative apportionment or districting of the State being tabulated, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. ANDERSON of Illinois:

H.R. 13341. A bill to provide for affording equal educational opportunities for students in the Nation's elementary and secondary schools; to the Committee on Education and Labor.

By Mr. FORD (for himself, Mr. LANDGREBE, Mrs. GRASSO, Mr. THOMPSON of New Jersey, Mr. HAWKINS, Mr. LEHMAN, Mr. O'HARA, Mr. MEEDS, Mr. QUIE, Mr. TOWELL of Nevada, Mr. STEIGER of Wisconsin, Mr. ERLENBORN, and Mr. HANSEN of Idaho):

H.R. 13342. A bill to amend the Farm Labor Contractor Registration Act of 1963 by extending its coverage and effectuating its enforcement; to the Committee on Education and Labor.

By Mr. KING:

H.R. 13343. A bill to amend the Internal Revenue Code of 1954 to permit taxpayers to utilize the deduction for personal exemptions as under present law or to claim a credit against tax of $200 for each such exemption; to the Committee on Ways and Means.

By Mr. LEHMAN:

H.R. 13344. A bill to provide financial assistance to the States for improved educational services for handicapped children; to the Committee on Education and Labor.

By Mr. LONG of Maryland:

H.R. 13345. A bill to amend the Internal Revenue Code of 1954 to provide an additional income tax exemption to a taxpayer supporting a dependent who is mentally retarded; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 13346. A bill to amend title 5, United States Code, with respect to the retirement of certain law enforcement and firefighter personnel, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. METCALFE:

H.R. 13347. A bill to terminate the Airlines Mutual Aid Agreement; to the Committee on Interstate and Foreign Commerce.

By Mr. PRICE of Texas:

H.R. 13348 A bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. RANGEL:

H.R. 13349. A bill to amend title XVI of the Social Security Act to provide that support and maintenance furnished to a handicapped child under the age of 18 who is living in another person's household shall not constitute income to such child for purposes of determining his or her eligibility for supplemental security income benefits, and to reduce the extent to which such support and maintenance constitutes income for such purposes in any other case; to the Committee on Ways and Means.

By Mr. RODINO:

H.R. 13350. A bill to stimulate and to increase competition in the refining sector of the petroleum industry; to the Committee on Interstate and Foreign Commerce.

By Mr. ADAMS:

H.R. 13351. A bill to amend the Federal Property and Administrative Services Act of 1949 to provide for the use of excess property by certain grantees; to the Committee on Government Operations.

By Mr. OWENS (for himself, Ms. CHISHOLM, Mr. HECHLER of West Virginia, Ms. HOLTZMAN, Mr. PATTEN, Mr. REES, and Mr. UDALL):

H.R. 13352. A bill to provide for congressional reforms and to strengthen the role of Congress as a coequal branch of Government, and for other purposes; to the Committee on Rules.

By Mr. STEELE:

H.R. 13353. A bill to amend title XVI of the Social Security Act to reduce from 12 to 3 months the minimum duration of illness or injury which may qualify an individual (on the basis of disability) for supplemental security income benefits; to the Committee on Ways and Means.

H.R. 13354. A bill making an appropriation to Radio Liberty to provide for initiating broadcasting in Baltic languages into the Union of Soviet Socialist Republics; to the Committee on Appropriations.

By Mr. BOB WILSON:

H.R. 13355. A bill to revise the boundary of Cabrillo National Monument, Calif., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ROONEY of Pennsylvania:

H.J. Res. 932. Joint resolution to designate the first week in April of this year as "National Boys' Clubs Week," to the Committee on the Judiciary.

By Mr. SIKES (for himself and Mr. KEMP):

H.J. Res. 933. Joint resolution asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day"; to the Committee on the Judiciary.

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

H.J. Res. 934. Joint resolution to enable the United States to organize and hold an international conference in the United States in fiscal year 1974 and authorize an appropriation therefor; to the Committee on Interstate and Foreign Commerce.

By Mr. LENT:

H. Con. Res. 442. Conference resolution offering honorary citizenship of the United States to Alexander Solzhenitsyn and Andrey Sakharov; to the Committee on the Judiciary.

By Mr. HALEY:

H. Res. 959. Resolution to amend House Resolution 163 authorizing the Committee on Interior and Insular Affairs to make investigations into any matter within its jurisdiction, and for other purposes; to the Committee on Rules.

By Mr. HAMMERSCHMIDT:

H. Res. 960. Resolution expressing the sense of the House that the Economic Stabilization Act of 1970 should not be extended beyond its present expiration date; to the Committee on Banking and Currency.

By Mr. LONG of Maryland (for himself, Mr. FULTON, Mr. HILLIS, Mr. PREYER, Mr. WOLFF, Mrs. MINK, Mr. BADILLO, Mrs. HECKLER of Massachusetts, Mr. JONES of North Carolina, Mr. TAYLOR of North Carolina, Mr. HUNGATE, Mr. MOAKLEY, Mr. ADDABBO, Mr. DIGGS, Mr. GUDE, Mr. PEPPER, Mr. MATHIS of Georgia, Mr. SARBANES, Mr. DUNCAN, Mr. ABDNOR, Mr. THOMPSON of New Jersey, Mr. MOSS, Mr. NEDZI, Mr. BOLAND, and Mrs. BURKE of California):

H. Res. 961. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

By Mr. LONG of Maryland (for himself, Mr. HEINZ, Mr. ROYBAL, Mr. MATSUNAGA, Mr. DANIELSON, Mr. ASHLEY, Mr. ALEXANDER, and Mr. ROSE):

H.R. 962. Resolution to authorize the Committee on Interstate and Foreign Commerce to conduct an investigation and study of the importing, inventorying, and disposition of crude oil, residual fuel oil, and refined petroleum products; to the Committee on Rules.

By Mr. BROTZMAN:

H. Res. 964. Resolution creating a standing Committee on the Environment; to the Committee on Rules.

By Mr. OWENS (for himself, Mr. GINN, Mr. HECHLER of West Virginia, Mr. WON PAT, Mr. BAFALIS, Mr. KING, Mr. DUNCAN, Mr. BAUMAN, Mr. DE LUGO, Mr. LOTT, Mr. FRENZEL, Mr. JONES of North Carolina, Ms. SCHROEDER, Mr. CLEVELAND, Mr. WHITEHURST, Mr. RIEGLE, Mr. PEPPER, Mr. STUDDS, Mr. GUNTER, Mr. COHEN, Mr. MCKAY, Mr. WALDIE, Mr. KYROS, Mr. ICHORD, and Mr. BLATNIK):

H. Res. 965. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the tourism industry; to the Committee on Interstate and Foreign Commerce.

By Mr. OWENS (for himself, Mr. ROE, Mrs. BOGGS, Mrs. HECKLER of Massachusetts, and Mr. LEHMAN):

H. Res. 966. Resolution to express the sense of the House with respect to the allocation of necessary energy sources to the tourism industry; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII,

370. The SPEAKER presented a memorial of the Senate of the Commonwealth of Massachusetts, relative to student fares on airlines; to the Committee on Interstate and Foreign Commerce.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. LUJAN:

H.R. 13356. A bill for the relief of Gloria Chavez; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 13357. A bill for the relief of Mrs. Dorothy Hinck; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

399. The SPEAKER presented a petition of Miro Nohavec, Franklin Lakes, N.J., relative to redress of grievances; to the Committee on the Judiciary.

SENATE—*Thursday, March 7, 1974*

The Senate met at 10 a.m. and was called to order by Hon. DEWEY BARTLETT, a Senator from the State of Oklahoma.

PRAYER

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

Eternal Father, we thank Thee for the love which "suffereth long and is kind—doth not behave itself unseemly, seeketh not her own, is not easily provoked, thinketh no evil, rejoiceth not in iniquity but rejoiceth in the truth." Show us the lesson of history that as with men so it is with nations "whom the Lord loveth he chasteneth." In our time of discontent and confusion may we seek to understand others as we would be understood by them. May we trust those who repose trust in us. May we seek to serve rather than be served. Above all else may we have faith in Thy providential care over the nation which covenants to know and to do Thy will. And may we have peace in our souls and be at peace with all men.

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 7, 1974.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. DEWEY BARTLETT, a Senator from the State of Oklahoma, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

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

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

The ACTING PRESIDENT pro tempore. The nominations on the Executive Calendar will be stated.

THE JUDICIARY

The second assistant legislative clerk read the nomination of Thomas E. Stagg, Jr., of Louisiana, to be U.S. district judge for the western district of Louisiana.

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

DEPARTMENT OF JUSTICE

The second assistant legislative clerk read the nominations in the Department of Justice as follows:

Carla Anderson Hills, of California, to be an assistant attorney general.

Hosea M. Ray, of Mississippi, to be U.S. attorney for the northern district of Mississippi.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

NATIONAL LIBRARY OF MEDICINE

The second assistant legislative clerk proceeded to read sundry nominations in the National Library of Medicine.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The ACTING PRESIDENT pro tempore. Without objection, the nominations are considered and confirmed en bloc.

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

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

LEGISLATIVE SESSION

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

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

ORDER OF BUSINESS

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

Mr. GRIFFIN. No, Mr. President, thank you.

FAIR LABOR STANDARDS AMENDMENTS OF 1974

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 2747, which the clerk will state.

The second assistant legislative clerk read as follows:

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.

The Senate resumed the consideration of the bill.

Mr. GRIFFIN. Mr. President, what is the pending question?

The ACTING PRESIDENT pro tem-