impeachment evidence. However, when public sessions are held, they should be open to all media.

The national interest in the impeachment proceedings is overwhelming. The public should be kept as fully informed as possible, as fully informed as the broadcast media can keep them. We hope Congress sees it the same way and modifies its rules accordingly.

SUPPORT FOR S. 628 REAFFIRMED

HON. JEROME R. WALDIE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 29, 1974

Mr. WALDIE. Mr. Speaker, as the result of an apparent mechanical failure of the electronic vote recording system, my vote in support of S. 628 was not recorded. For the record, I would like to make it clear that I continue to support S. 628, for which I was floor manager in the House of Representatives on Wednesday, April 24, 1974.

SENATE—*Tuesday, April 30, 1974*

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. EASTLAND).

PRAYER

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

NATIONAL DAY FOR HUMILIATION, FASTING, AND PRAYER—TUESDAY, APRIL 30, 1974

Hear the words of the 139th Psalm: *"Search me, O God, and know my heart: try me and know my thoughts; and see if there be any wicked way in me, and lead me in the way everlasting."*

Let us pray:

O God, our Creator, Redeemer, and Judge, to whom all men and nations are accountable, in all our humanity and imperfection, we bow in Thy presence today seeking Thy forgiveness. We have offended against Thy holy laws. We have left undone those things which we ought to have done; and we have done those things which we ought not to have done. Forgive us, good Lord, and by Thy Holy Spirit equip us as we lead in affairs of state so also to lead in morality and in things spiritual.

Almighty God, who has blessed this Nation beyond measure, forgive us if we have been unmindful of Thy providence, cold in our love of Thee, callous in our attitude toward others, insensitive to the claims of Thy Spirit. Forgive us for our love of ease, our devotion to things, our absorption with pleasure, our unbridled pursuit of profits. Deliver us from all falsehood and idolatry, from all covetousness, from hard bargaining and ruthless competition. Save us from class warfare and class hatred, from racial antagonism, from self-serving partisanship, from living to ourselves alone, and from putting our trust in our own strength when our trust should be in Thee.

May a new life and a new spirit be born in this Nation, shaping our conduct and directing our destiny. Make us a new people for new times. By Thy higher wisdom, guide the President and all who are in authority over us, and all citizens of the Republic, that this Nation, born in Thy faith and nourished in Thy truth, may seek to serve Thy great purposes for mankind. Help us, O Lord, not only to pray for but to believe in Thy forgiveness and in the resurrection of a cleansed and renewed nation. Amen.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, April 29, 1974, be dispensed with.

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

ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, the Senate is very much aware of the fact that the period between the hours of 10 a.m. and noon today has been set aside for statements in connection with the provisions of Senate Joint Resolution 183, proclaiming April 30, 1974, as the National Day for Humiliation, Fasting, and Prayer.

The Senate will return to its regular business at the hour of noon today.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

SENATE JOINT RESOLUTION 183—NATIONAL DAY FOR HUMILIATION, FASTING, AND PRAYER

The PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to 2 hours of discussion on the National Day for Humiliation, Fasting, and Prayer as provided for by Senate Joint Resolution 183.

The distinguished Senator from Iowa (Mr. HUGHES) is recognized.

Mr. HUGHES. Mr. President, I ask that the resolution be reported.

The PRESIDENT pro tempore. The resolution will be stated.

The assistant legislative clerk read as follows:

S.J. RES. 183

Joint Resolution to proclaim April 30, 1974, as a National Day for Humiliation, Fasting, and Prayer.

Whereas it is the duty of nations, as well as of men to owe their dependence upon the overruling power of God, to confess their sins and transgressions, in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations are blessed whose God is the Lord; and

Whereas we know that we have been the recipients of the choicest bounties of Heaven; we have been preserved these many years in peace and prosperity; we have grown in numbers, wealth, and power as no other nation has ever grown; but we have forgotten God; and

Whereas we have forgotten the gracious hand which preserved us in peace, and multiplied and enriched us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own; and

Whereas intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us; and

Whereas we have made such an idol out of our pursuit of "national security" that we have forgotten that only God can be the ultimate guardian of our true livelihood and safety; and

Whereas we have failed to respond, personally and collectively, with sacrifice and uncompromised commitment to the unmet needs of our fellow man, both at home and abroad; as a people, we have become so absorbed with the selfish pursuits of pleasure and profit that we have blinded ourselves to God's standard of justice and righteousness for this society; and

Whereas it therefore behooves us to humble ourselves before Almighty God, to confess our national sins, and to pray for clemency and forgiveness: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress hereby proclaims that April 30, 1974, be a "National Day of Humiliation, Fasting, and Prayer"; and calls upon the people of our Nation to humble ourselves as we see fit, before our Creator to acknowledge our final dependence upon Him and to repent our national sins.

Mr. HUGHES. Mr. President, I should like to invite the attention of the Senate to the fact that millions of Americans today are observing this day as a national day of prayer, humiliation, and fasting, on behalf of our Nation and its people.

An article appears in the Washington Post this morning, under the byline of Marjorie Hyer, entitled "Millions To Pray For U.S. Today," which indicates that 33 States have followed the suggestion of this resolution, and their Governors have issued proclamations declaring a day of prayer, humiliation, and fasting, as of April 30, 1974.

I have also been informed that dozens of mayors across the Nation have likewise issued proclamations declaring for their cities a day of prayer, humiliation, and fasting.

Many of the churches and synagogues across our Nation have voluntarily, without publicity or solicitation, declared an appeal to their parishes and their congregations that their people observe, in their usual ways, in their synagogues, churches, and temples, a day of prayer for our Nation, a day of humiliation, seeking forgiveness for our sins, and a day of fasting, as appealing to Almighty

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God to again honor and call us to that which we have said we are.

Mr. President, I ask unanimous consent that this article in the Washington Post, by Marjorie Hyer, be printed in the RECORD.

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

MILLIONS TO PRAY FOR UNITED STATES TODAY

(By Marjorie Hyer)

Millions of Americans will pause sometime today to spend a few moments in reflection and prayer for their country.

The unanimous vote of the Senate last Dec. 20 to designate April 30 as a National Day of Humiliation, Fasting and Prayer has apparently brought a nationwide response unmatched for enthusiasm by anything short of major tax cuts.

Religious groups as diverse as the National Conference of Catholic Bishops, the Orthodox Church in America and the National Association of Evangelicals are backing the observance.

In Kentucky, the Rev. Dr. Thomas A. Carruth, head of the department of prayer and spiritual life of the Ashbury Theological Seminary, was so taken with the idea that he rented a wide-area telephone line to promote it.

"We expect millions of people to participate," he said in a telephone interview. "Our telephones have been ringing so hard we can hardly get any sleep around here."

Governors of 33 states have followed the suggestion of Dr. Carruth and his handful of volunteers to issue formal proclamations marking the observance.

Most of the governors were favorably disposed to the idea because residents of the states had already been promoting it from the grass roots, said Geraldine Conway, who was working with Dr. Carruth.

A National Day of Humiliation, Fasting and Prayer was the brainchild of Sen. Mark O. Hatfield (R-Ore.). A deeply religious man, the senator views the observance as an antidote to the many crises that confront the nation.

"It's to say: 'We have erred. We're distressed. We're at the end of our rope and we have no place to turn but to God'," he said in an interview.

"We have become so entranced with our scientology, with our technology, with our affluence and our materialism that we have lost our philosophy of life."

Although today is the first anniversary of major developments in Watergate—just a year ago H. R. Haldeman, John D. Ehrlichman and Richard G. Kleindienst resigned from the Nixon administration and John W. Dean III was fired—the focus of the National Day of Humiliation, Fasting and Prayer is strictly nonpartisan.

"Watergate is but a manifestation of a deeper sense of malaise in American life," Sen. Hatfield said.

Passed by the Senate just before Christmas and given no promotion outside routine mention in news dispatches, the resolution for the special day apparently struck a responsive chord in many Americans.

Without fanfare or publicity, thousands of churches and groups of churches have planned observances of the day.

Religious institutions and individuals alike have viewed it as an opportunity to do something about national problems.

Paul Reinke, a realtor in Moorestown, N.J., bought full-page ads in 15 area newspapers at a cost of "about $1,000" calling on readers to "suspend business as usual" and observe the day.

He did it, he said, because "man has tried to make a better world and has failed. We've turned away from the real source of help which is God."

Sen. Hatfield, who is a Lincoln buff, modeled his resolution for a special observance on a proclamation for a similar occasion issued by the Civil War President on April 30, 1863.

"President Lincoln did not appeal to any pretentious image of national self-righteousness; rather he called the nation to repentance," Hatfield said.

The resolution for today's observance, patterned after the Lincoln proclamation, notes that as a nation "we have been preserved these many years in peace and prosperity; we have grown in numbers, wealth and power as no other nation has ever grown; but we have forgotten God . . .

"We have failed to respond, personally and collectively, with sacrifice and uncompromised commitment to the unmet needs of our fellow man both at home and abroad; as a people we have become so absorbed with the selfish pursuits of pleasure and profit that we have blinded ourselves to God's standard of justice and righteousness for this society . . ."

Mr. HUGHES. Mr. President, from the very inception of this Nation, from the moment it was conceived by our forefathers, there has been prayer and appeal to Almighty God involved in everything this Nation has done. In the Halls where they were writing and drawing up the Constitution, the men involved in drawing it together knelt in prayer daily. Even in disagreement they knelt in prayer, and in fact locked the doors and asked God's guidance in resolving, in reconciling, and in bringing into being what has been called these last 200 years probably the greatest document of freedom ever conceived in the history of mankind. It still stands to this day, declaring the freedoms of men, including the freedom and the right to worship or not to worship.

Throughout the years, several Presidents have issued proclamations on their own, declaring particular days of prayer, of humiliation, of fasting, and of repentance. Governors of every State of the Union have called their States and their people to days of prayer, fasting, and humiliation. Mayors have done so. It has been done on every level of government.

I know not of a single inauguration of any Governor in this country or a single inauguration of any President in this country or a single inauguration of any mayor in this country in which there has been no call to prayer, in which there has not been an appeal for God's guidance. Every session of the U.S. Senate has been opened with prayer. Every session of the House of Representatives has been opened with prayer. At every meeting of the great political parties in this country there has been an appeal to God for guidance in the conduct of the affairs and business of this country.

We dare to print on our coins the words "In God We Trust," which is a dangerous statement. If we trust in God, then we appeal to the one God, the Almighty God, for guidance, even in the coin of the realm, and in what we do in purchasing, negotiating, and selling.

We arrive today, at a point in 1974, as a nation which from its inception has been committed to God, calling on God every day in prayer, at every level of the government structure. In that belief, we have come together here this morning, in the Senate of the United States, for 2 hours, on this day of April 30, 1974, because the Senate passed, without objection, the resolution which the clerk has reported to us, calling upon the people of our country, by their various customs and commitments and their own understanding of God, in their homes, in their churches, in their synagogues, and in their temples, to pray once again for the Creator's guidance of this great Nation; to pray for forgiveness of our sins; to humiliate ourselves, in the recognition that we have sinned, that we have been wrong; to observe this day as a day of fasting because God has directed us in the Holy Scriptures to fast, thereby making sacrifice to God, in believing that by this fast He will honor our appeals and prayer.

None of us takes this resolution lightly. In the observance of this day across this Nation, no one will ever know how many millions of Americans are observing this day. Many are not working. Some Members of the Senate have decided to close their offices and release their employees and are observing this day by not working, with prayer and fasting. It would have been my hope that this might have been done. But because of the differences in our country and our respect for religious freedom, and after an appeal to the leadership, it was decided that the men and women of this Government would decide for themselves how they observe this day, as we have allowed the same freedom for our people in the various States and cities of our country.

It is a day not to be taken lightly, if we still believe in a Creator, in a God. We read in the Holy Scriptures:

> In the beginning God created the heaven and the earth.
>
> And the earth was without form, and void; and darkness was upon the face of the deep. And the Spirit of God moved upon the face of the waters.
>
> And God said, Let there be light: and there was light.

God spoke and brought into creation that which we are. If we subscribe to this belief in an Almighty God who created the universe and all there is and everything that is, and believe that that God cares individually for each of us, regardless of our position or power or prestige, and if we believe that God still concerns Himself in the affairs of men and nations, and if we believe in the morality that that Deity has set out for us to follow—not only as individuals but also collectively as nations—then any observance of contemporary times would indicate to the vast majority that there is great need for prayer and humiliation, for seeking once again God's forgiveness, to repent.

What does the word "repent" mean? It means to change your ways, to change direction, to turn about and go in a different direction from that in which you are headed. It means to recognize wrongness in what we have been doing. It means to identify with the fact that we are not God but are subservient to God; that on our knees, we have communication with God; that a Divine Creator still rules the universe; and that above and beyond man and this creation is that God.

I would hope that our distinguished colleagues pause in their observance today, as they feel so called to cloister themselves in their own closets or wher-

ever they see fit, to pray to God according to their own understanding and revelation, and to identify with the needs of our Father in again directing the pathways of this great country.

If we have passed this resolution in this body believing in what it says, and if these 33 Governors have issued similar proclamations calling their States to prayer, humiliation and fasting, and if these dozens of mayors have done likewise, surely it is not a political act because if it were to be a political act, what would that mean that we are in our relationship with God Almighty Himself?

For us to take such a thing lightly, to call upon God, the Creator, to intervene in the affairs of man, particularly for those of us in positions of leadership in this country, it would be a desecration against God; it would be a desecration against God not to believe in what we are doing and not to follow through in what we have said in calling for this guidance.

Most surely the hour and the need is apparent to everyone. If anyone were to believe in the Book of Revelations and see the declaration of what the signs would be, and look across the world at the hunger and famine where tens of millions of people are hungry and facing starvation, at the pestilence, the earthquakes, the nations rising against nations, at mankind unable to find solutions for that which he seeks, where no group of nations or a single nation can guarantee or offer peace to anyone else because the alliance is built on the ability to kill rather than on the ability to love, and where we come to rely more on hatred and bitterness than on love of our brothers in this world, and where we have said we do not believe it is possible to live by the standards that are set up before us, then one must call to mind the fact that in the Book of Revelations it is said to us by the Creator that brought all of this, including us as individuals, into being, that these are the signs of those times.

But God has proven throughout the history of mankind and creation that He does not require a majority to intervene. He has proven time and time again that if just a few care, that if just a few repent, that if just a few bare their souls to God in Heaven, if just one leader cares enough to make that sacrifice, that He will intervene. In the bargaining process, He has said many times, "Find Me one, find Me three, find Me ten, and I will spare the city and the nation."

In most instances, the one, the three, or the ten could not be found and destruction did abound.

So let us not live in ignorance of the Holy Word of God in this country, but rather in the understanding that we are men and women gathered together in faith and belief, calling on the Name of Almighty God. A nation where the vast majority seem to follow Christ and call themselves Christians and believe in Jesus as the Son of God, following the words and teachings He gives, with full tolerance of those of other faiths who worship God in a different manner, it behooves us to observe what we see in this Holy Book as the Word of God. We say on Sunday that we believe—the majority of us—and the rest of the time we fail to attempt to practice, even individually, that belief, let alone collectively.

So the hour is with us today in this year of Our Lord 1974, when we have an opportunity again to turn back to our Creator in prayer, to again bare our souls, our consciences, and hearts to Him, and again to call upon God to honor, as He has always honored, His creation, and to intervene in the affairs of man that there might be justice, continued freedom, love, lack of hunger, clothing for the naked, and all the things we need in this expression of love for those with whom we have been brought to live together on this Earth.

I appreciate the fact that the Senate has expressed itself in this way. I appreciate the fact that it has been the vehicle that at least was the initial instrument through which the people of this country took over by the millions, without word from us, but unto themselves to observe this day in prayer and fasting. It is my hope that we can once again recognize our relationship to our Creator and to our Father God; that we can today have a new beginning in justice, fairness, equality, care, and concern for our brothers and sisters on this Earth; and that as a nation our leaders can rid themselves of their pride and arrogance, that all of us can dare be humble and bow before God and say, "Forgive me, for I have sinned," and that in doing this our Father will hear, and redirect us, and reguide us as a nation, because He had a hand in selecting us for these positions of power.

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

Mr. HUGHES. I am happy to yield to the Senator from Rhode Island.

Mr. PASTORE. Mr. President, I want to say as seriously as I can that I consider it to be a distinct privilege to have been on the floor of the Senate this morning to listen to the very, very inspirational dissertation given to us by our distinguished colleague from Iowa.

I would say that possibly the best speeches and dissertations known to the civilized world have been made on the floor of the Senate. And I dare say that none excels in inspiration and quality the very fine oration we have just heard from our distinguished colleague. I rise to congratulate him and I trust and I hope that all those who have heard and all those who will read this very, very fine inspirational thought will realize that man's destiny is wound up in his faith, whatever that faith may be, and his recognition of the existence of the Almighty.

As our distinguished colleague has said, this Republic was founded upon our trust in God and in our Declaration of Independence we acknowledge that God, the Creator, has created us. We always have lifted our eyes to Heaven in our democracy and today we are exhorted to remind ourselves that we are sinners, that we must become contrite, and that we must observe the fast as a sacrificial gesture—that we are serious and that we mean to amend our lives.

I congratulate my colleague for one of the finest talks I have ever heard in my life.

Mr. HUGHES. I thank my distinguished colleague from Rhode Island, and will be happy to yield to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, the Declaration of Independence, carries these words: We hold these truths to be self-evident, that all men were created. We are also aware that all authority comes from God; all governments, good or bad, are the instruments of God, and they derive their authority from Him. The great Quaker, William Penn, declared, "Man will be governed by God or ruled by tyrants."

Mention has been made of the prayers in the Constitutional Convention. It was the oldest and perhaps the wisest man in that convention who, just before that motion was made, declared:

> The longer I live, the more convincing proofs I see that God governs the affairs of man. If a sparrow cannot fall without his notice, is it possible that an empire could rise without His aid?

Thus said that great man Benjamin Franklin.

I believe that Jesus Christ is the Son of God, that He is Divine, and that He is the Savior of man. And it was He who said, "Render unto Caesar the things that are Caesar's, but unto God the things that are God's."

The Senate, by this resolution, has directed the Nation to stop and recognize the fact that not everything belongs to Caesar; that not all of the problems of man can be solved by Caesar; and also that Caesar is not without sin.

I do not think it is necessary that we, here or anyplace else, attempt to enumerate what might be termed our national sins. Such a thing might be a bit morbid.

The sovereign, all-wise God does not need our enumeration. He knows all. It will not be necessary that we provide Him with a subscription to one or more of the daily papers published in the country for Him to know what our national sins are.

Much of our activity as politicians—perhaps too much of it—is directed in the pursuit of prosperity. That might be said of individuals. We place an overvalue on things. Yet we are taught by the Son of God that we should "seek ye first the Kingdom of God, and all these things will be added." Such is the prescription for real prosperity.

Mr. President, mention has been made of the many States and cities and churches that have joined in this special day. One of the ablest, and to my mind one of the most distinguished divines in the city of Washington, is the Reverend Ben Sheldon, of the Sixth Presbyterian Church. Last Sunday he preached on the subject, "What the Bible Teaches About Fasting." I think it is fitting that we share with all of the readers of the CONGRESSIONAL RECORD that splendid sermon. I ask unanimous consent that it appear in the RECORD at this point.

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

GOD'S CHOSEN FAST

(By Benjamin E. Sheldon)

There is a qualitative difference in the proclamation that has been issued by the U.S. Senate concerning next Tuesday, April 30, as a National Day of Humiliation, Fasting and Prayer and the other resolutions and proclamations that have been made from time to time over the years, both in the tone and content of the resolution itself and particularly in its reference to fasting.

Abraham Lincoln's call to the nation during the Civil War for an expression of National Repentance and Prayer was also accompanied by a call for fasting. But as far as I know, this is the first time in 100 years that a call for national fasting has been issued.

And the reason for this is very simple: fasting is not a common practice and it is not widely understood or accepted in the American church.

But fasting was widely understood and widely practiced in Biblical times. There are in the Bible at least 86 separate references, both in the Old Testament and in the New, in 30 different books of the Bible.

Among those who fasted are Moses the lawgiver, David the king, Elijah the prophet and Daniel the Seer. Jesus fasted, as did John the Baptist and his disciples. St. Paul fasted. And this practice is not limited to men only in the Bible, for Hannah the mother of Samuel and Anna the prophetess in the temple also fasted. Church history records that Luther, Calvin, Knox, and John Wesley also engaged in this spiritual exercise, as did Dwight L. Moody, to name only a few.

I. THE BIBLE GIVES US MANY REASONS FOR FASTING

Occasions of national calamity: Then David rent his clothes and so did all the men who were with him, and they mourned and wept and fasted from morn until evening for Saul and for Jonathan his son and for the house of Israel, for they had fallen by the sword (I Samuel 1:12).

Personal affliction: "The Lord struck the child that Bathsheba bore to David and it became sick. David, therefore, besought God for the child and David fasted and went in and lay all night on the ground." (II Samuel 12:16).

Approaching danger: "Then Esther said to Mordecai, 'Go, gather all the Jews to be found in Susa and hold a fast on my behalf, and neither eat nor drink for 3 days, night and day. I and my maids will also fast as you do. Then I will go into the king and if I perish, I perish.'" (Esther 4:16)

The ordination of ministers: "And when they had appointed elders for them in every church, with prayer and fasting, they committed them to the Lord in whom they believed." (Acts 13:3)

To receive revelation from God: We read in the Book of Daniel that Daniel fasted and prayed before the Lord in order to receive revelation from God. (Daniel 9:2)

II. FASTING MAY BE ACCOMPANIED BY CERTAIN OTHER SPIRITUAL ACTS

By prayer: "Then I turned my face to the Lord God, seeking him by prayer and supplications, with fasting and sackcloth and ashes." (Daniel 9:3)

By confession of sin: "So they gathered at Mispah and drew water and poured it out before the Lord and fasted on that day and said there, 'We have sinned against the Lord.'" (I Samuel 7:6)

"The people of Israel were assembled with fasting and in sackcloth, and with earth upon their heads, and they stood and confessed their sins and the iniquities of their fathers." (Nehemiah 9:1-2)

By humiliation: "Moses lay prostrate before the Lord, forty days and forty nights; he neither ate bread nor drank water because of all the sin which the people had committed, in doing what was evil in the sight of the Lord, to provide his to anger." (Deut. 9:18)

III. TWO IMPORTANT SCRIPTURAL PASSAGES

There are as I have said, many references to fasting in the Words of God. But two Scriptures, I believe, are extremely important in this regard. The first is Isaiah 58:1-9:

Cry aloud, spare not, lift up your voice like a trumpet; declare to my people their transgression, to the house of Jacob their sins. Yet they seek me daily and delight to know my ways, as if they were a nation that did righteousness and did not forsake the ordinance of their God. They ask of me righteous judgments, they delight to draw near to God. "Why have we fasted and thou seest it not?" "Why have we humbled ourselves, and thou takest no knowledge of it?" Behold, in the day of your fast you seek your own pleasure, and oppress all your workers. Behold, you fast only to quarrel and to fight and to hit with wicked fist. Fasting like yours this day will not make your voice to be heard on high. Is such the fast that I choose, a day for a man to humble himself? Is it to bow down his head like a rush and to spread sackcloth and ashes under him? Will you call this a fast, and a day acceptable to the Lord? Is not this the fast that I choose: to loose the bonds of sickedness, to undo the thongs of the yoke, to let the oppressed go free, and to break every yoke? Is it not to share your bread with the hungry, and bring the homeless poor into your house; when you see the naked to cover him, and not to hide yourself from your own flesh? Then shall your light break forth like the dawn and your healing shall spring up speedily; your righteousness shall go before you, the glory of the Lord shall be your rear guard. Then you shall call, and the Lord will answer; you shall cry, and he will say, Here I am."

And the second passage is Jesus' own word on fasting in the Sermon on the Mount, Matthew 6:16-18:

And when you fast, do not look dismal, like the hypocrites, for they disfigure their faces that their fasting may be seen by men. Truly I say to you, they have their reward. But when you fast, annoint your head and wash your face, that your fasting may not be seen by men but by your father who is in secret, and your father who sees in secret will reward you.

A. From these two Scriptures we learn several things. In the first place we learn that fasting is not purely an "if" question. Jesus didn't say, "Now IF you fast . . ." but rather fasting is a "when" matter. Jesus said, "WHEN you fast . . ." In other words, Jesus makes it clear that he considers that fasting is valid and that it is something we will, on occasion be doing.

B. We also see, from both passages, that the practice of fasting has been in the past and, no doubt, will continue to be in the future abused, carried to an extreme, made into a formalistic gesture, causing people to be hypocrites. For that God meant to be a personal private kind of spiritual and physical exercise evolved into a public ritual that bred hypocrisy and all forms of self righteousness, and the *real* blessing was lost as the ceremony and the ritual became more and more important.

Actually, in the Bible, God only commanded one fast. He commanded the people to fast on the Day of Atonement. On that day, which we know in modern America as Yom Kippur, the people were commanded to "afflict themselves" with fasting. But by the time of Jesus the Pharisees had come to the place where they were advocating a fast twice a week, Mondays and Thursdays. Remember the story Jesus told of the self-righteous Pharisee who stood and prayed in the temple, "Lord I thank thee that I am not as other men. *I fast twice a week!*" This was the Pharisaic requirement.

We must recognize, then, that there is always the danger that any spiritual exercise that is done habitually may become an empty form, a ritual devoid of any spiritual content. But just because this danger is present doesn't mean that we should (or should I say "should *have*"?) abandoned the practice of fasting. We don't abandon prayer just because some people make it an empty form—for I am sure that some people do. That does not mean that we therefore shouldn't pray.

C. These two passages teach us how we ought to fast. "When you fast," Jesus said, "Wash your face and annoint your hair. Don't let anybody see your fasting." You know, the Pharisees would mat their heads with earth and smear ashes on their faces to give themselves a pale washed out look. They went around in public looking like the wreck of the Hesperus, so that everybody would know they were fasting. Don't be like them, "Jesus said. "Do it unto the Lord. Do it privately. Do it so that nobody knows you're doing it." And when he said to wash our faces, etc., I believe he meant that we are to go about our regular business. You can fast and go to work or carry on your regular routine. Nobody will know it but your heavenly father, but your father who sees in secret will reward you.

The passage in Isaiah also deals with this problem: Fasting had become a form, a ritual. People were doing it, but at the same time living their lives as if they didn't even care about God. Making a great show of humbling yourself; fasting and even putting ashes on your head, is NOT what pleases God.

Oh, how much the prophets dealt with this question! What pleases God is not to refrain from fasting, but to fast and at the same time to give yourself to righteousness with all your being; to be concerned with holy living and to care genuinely for the needs of the rest of the world. That's the fast I choose, says the Lord.

IV. MANY BENEFITS ARE DERIVED FROM FASTING

1. Fasting enables us to increase and intensify our devotion to God, to honor, glorify and bless him:

Say to the people of the land, "the prophet Zechariah was commanded, "When you fasted and mourned in the fifth month and in the seventh these 70 years, was it for me you fasted?" (Zech. 7:5)

And the answer of course is obvious. It ought to have been unto the Lord. But it wasn't. It was unto themselves. It was to be seen by men. It was an empty form. But if you do it right, if you do it unto the Lord, it is a means of intensifying and increasing our own personal devotion to God. Acts 13 speaks of the Christians at Antioch:

While they were worshiping the Lord and fasting the Holy Spirit said, "Set apart for me Barnabas and Saul for the work to which I have called them. (Acts 13:2)

Here we see that fasting was coupled with a worshiping of the Lord. Fasting in itself can be a spiritual act of devotion to God.

2. Fasting can be a means of gaining personal spiritual understanding and direction. Twice-widowed Elizabeth Elliott in her recent book on guidance entitled *A Sure And Certain Light*, has this to say:

One way of taking myself in hand is fasting. I have not done this often, but at times when the most difficult decisions faced me, I have found it helpful. It seems to me a sensible way of proving that I am serious.

You are after something specific from God, and although your own will may be too weak to will his will, it is at least strong enough for this one small thing. God in his mercy and fatherly love takes note of this flicker of movement toward him.

3. We fast that God may hear our earnest pleas and supplications.

"So we fasted and besought our God, and he listened to our entreaty." (Ezra 8:23)

In some mysterious manner, fasting is a way of saying, "I really mean it Lord. I'm not just mouthing prayers. I'm willing even to go without food to show you that I mean what I'm praying about." It's a way of entreating God.

4. This may surprise you: it is a way of

changing God's mind. In Jonah 3:5, 10 we read:

And Jonah cried, yet 40 days and Nineveh shall be overthrown. And the people of Nineveh believed God; they proclaimed a fast and put on sackcloth, from the greatest of them to the least. When God saw what they did, how they turned from their evil way, God repented of the evil which he had said he would do to them, and he did not do it.

Yes, the people of Nineveh, in prostrating themselves before God with repentance and fasting, were able to change God's mind. David also fasted, you recall, for the little child born to Bathsheba. But the child died, and so David got up and ate and went back to his regular routine.

. . . then David's servants said to him, "What is this thing which you have done? You fasted and wept for the child while it was alive; but when the child died you arose and ate food!" David said, "While the child was still alive, I fasted and wept, for I said, Who knows whether the Lord will be gracious to me that the child may live. But now that the child is dead, why should I fast? Can I bring him back again? I shall go to him, but he will not return to me." (II Sam 12:16–22)

V. WHAT IS "FASTING?"

"Fasting" means "not to eat." But there are several valid interpretations of this, several kinds of fasting described in the Bible.

A. *The absolute fast*—not to eat at all.

1. Paul did this after his conversion: "For three days he was without sight and neither ate nor drank." (Acts 9:9)

2. Ezra did this when he was mourning the infidelity of the returned exiles after the captivity: "Then Ezra withdrew from before the house of God, and he spent the night neither eating bread nor drinking water, for he was mourning the faithlessness of the exiles."

3. Moses did it on Mt. Sinai not once but twice.

4. Jesus did it in the wilderness after his baptism.

B. Then there is the *partial fast*

1. "Daniel ate no delicacies, no meat nor wine, for three full weeks" (Dan. 10:3) Elijah was fed by the ravens in the wilderness. John the Baptist ate locusts and wild honey. All of them ate, but not the normal fare.

C. Finally, there is the *normal or regular fast*—no food, but water or other liquids for a limited time, a few days or perhaps only a meal or two.

VI CONCLUSION

Now all of this has been prompted by the call by the U.S. Senate, the National Capital Union Presbytery, the Sixth Church Session and our own inner convictions for a day of national humiliation, fasting and prayer. We shall have a service here on Tuesday evening at 8:00 p.m. At that service we shall engage in earnest prayer, and at the same time we shall speak about the reasons why humiliation and repentence are so vital, so desperately needed in our land.

But today I am talking about fasting. I want to urge you to consider fasting on Tuesday, or at least going without 1 or 2 meals if you don't feel able to refrain from eating entirely. Or, if you prefer not to omit your regular meals, consider eating only very simply that day. I'm not attempting to prescribe what you ought to do, for that is exactly what was wrong all through the Bible. Fasting became formalistic, a ritual, prescribed by the priests, and that was not as it ought to be. It is a personal, private matter between you and the Lord.

But I suggest to you that by some tangible concrete act you let God know that you are in earnest about praying that God may spare our nation from the judgment that is impending if there is not a great change. I cannot say to you seriously enough, and I believe you in your deepest heart and convictions would share this belief, that our national need is more serious than it has ever been in terms of the kinds of immorality and evil that are taking place today.

But God has said:

If my people who are called by my name will humble themselves, and pray, and seek my face, and turn from their wicked ways, then I will hear from heaven and will forgive their sin and heal their land. (II Chronicles 7:14)

And so let us come together, in a spirit of genuine humility and repentance, seeking God earnestly, demonstrating to him that we care enough to engage in some form of fasting, and let us passionately pray for our nation and for ourselves. The expression of our seriousness in fasting will be a blessing to us and to God.

Mr. CURTIS. Mr. President, I yield the floor.

Mr. GOLDWATER. Mr. President, it is my strong belief that our religious faith lies at the foundation of America's strength and greatness, and I would certainly support any proposal or even legislation that might tend to point that out or, in another way, to bring it home to the people. I am not certain, however, that the motive of this joint resolution expressed in the language it contains stops at that point, so I cannot give it my wholehearted support as much as I would like to. For example, the resolution talks about our having made an idol out of our pursuit of our national security.

Mr. President, it was God's belief that righteous men should defend themselves, their principles and, yes, even their God and their churches, and if we did not have national security, whatever that particular word means in this resolution, then I am a bit confused. The resolution goes on to say that "We have failed to respond, personally and collectively, with sacrifice and uncompromised commitment to the unmet needs of our fellow man, both at home and abroad." Mr. President, no nation in the history of man has made such advancements to eliminate poverty as has this country.

No nation in the history of man has done as much to stamp out starvation. The major part of our budget now goes to the helping of people less fortunate than others to the point that the country faces bankruptcy because of the deficit spending required. No nation in the history of the world has ever done so much for its fellow men abroad. Witness the Marshall plan. Over $100 billion has been given to needy countries all around this world. Wheat and food stuffs and medical aid have been flown into the very heart of the jungles and on to the scorching deserts, and as far as what we have done personally, I think that is up to each man's conscience. I do my best, but I am again confused when language such as this is contained in the resolution. A spirit of humbleness and gratitude for the many blessings we have is one thing, but if there is to be any suggestion that we as a nation and people should feel humiliated, I cannot agree. I believe that among all the peoples of the Earth we have done the most to help our citizens to help themselves to develop their fullest capacities. And we have supported the cause of liberty abroad without any pursuit of ambition or conquest.

If this is to be a day of prayer, then I will pray, as I always do, for my country and for my family and for all people, but we can never have a day of humilitation in the United States as long as we continue to do what we have been doing while keeping in mind that we were endowed by our Creator with certain inalienable rights among which are life, liberty, and the pursuit of happiness. Personally, I am so darn proud to be an American that I have no room to feel humiliated. I do not like some of the things that have been going on but they do not humiliate me. They are problems brought on by years of not paying attention to morals or ethics, so I will include in my prayers a prayer that all of us elected or nonelected pay attention to these two important facets of life.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, I wonder if the Senator from Arizona will yield to the Senator from Florida for a question.

Mr. GOLDWATER. Yes. I am very happy to do so.

Mr. CHILES. Mr. President, I really am glad that the Senator brought out the point he did concerning humiliation. I think that that has caused misunderstanding on the part of the resolution, as I understand the resolution.

I think that we tend to think we are saying, by the word "humiliation," that we are ashamed of our country. I do not think that the word should mean that. I do not think that it meant that when Lincoln proclaimed a time for prayer and fasting. That, I think, has to be the genesis of this particular resolution.

When Lincoln said in that resolution that we had become too self-serving, too self-sufficient, he said:

> We have grown in numbers, wealth, and power as no other nation has ever grown. . . . We have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. . . . We have become too self-sufficient . . . too proud to pray to the God that made us!

He speaks of the need for prayer, fasting, and humiliation. Many of us do not think of Lincoln as being a person who was ashamed of his country. We do not think of the leadership he provided for us as being in any way weak or in any way groveling. However, I think in that resolution of prayer and fasting, we find much of what Lincoln found in this. There are the very same words in many instances.

So I think that to say that we could be humble before God, to say that we could stand in humility before the Almighty does not mean that we are ashamed of our country in any way. It does not mean that we humble ourselves before any other ideology or any other being. But perhaps because one of our faults is that we have become so proud, as Lincoln said, and we have become so self-sufficient, as Lincoln said, we have reached the point where we do not think that we can humble ourselves before God any more.

I think that is the kind of thing the resolution speaks to, the kind of thing we should try to make clear when we adopt the resolution or speak to it.

Mr. GOLDWATER. Mr. President, I appreciate the comments of my friend, the distinguished Senator from Florida.

I certainly think that when Lincoln called for this resolution, it was at a time much different than today. The country had just gone through probably the worst experience the world had ever gone through, and it had survived. I remind my friend, the Senator from Florida, that the country, though torn, had survived. We are in no comparable position today.

Let me comment on humility. I do not think that any person who believes in God and prays ever does so in any but a humble way.

I do not think the American people are a nonreligious people. In fact, I have seen more evidence of a rebirth of religion in this country, particularly among the young, than I have ever seen before.

I realize that there are people in this country who always have seen, and probably always will see, no place for God in the scheme of their lives and who place material acquisitions and material advances ahead of the spiritual. For these people I have only pity. So I can only hope and pray that those people may see the mistakes of the way they are living.

But what did disturb me about the resolution—and I voted for it—was the word "humiliation."

It will be grossly misunderstood by our adversaries around the world. And we did not have the number of adversaries at the time of Lincoln. Nor did we have the kind of adversaries that we have today.

So I was afraid that they might jump on this word and take advantage of it and propagandize it to the end that we will be looked upon as a country filled with but one meaning of the word "humiliation."

I think that if we had used some other word, it might have been better. I have no opposition to the purpose of this resolution. I just want to make it perfectly clear that this is one Senator who, while he understands the purpose of the resolution and stands with it, took exception to the word "humiliation," even though I know what Lincoln was getting at when he wrote those words many years ago.

Mr. CHILES. Mr. President, I thank the distinguished Senator. I think that by this colloquy we are clearing up whatever misunderstanding there could be.

I note again that Lincoln was not the first to use this language. There was a resolution or prayer and fasting by the Assembly of Virginia in 1774, signed by Washington, who was the head of the Assembly of Virginia at that time.

It is interesting to me to note that at that time it said:

Tuesday, the 24th of May, 14 Geo. III. 1774

This House, being deeply impressed with Apprehension of the great Dangers, to be derived to British America, from the hostile Invasion of the City of Boston, in our Sister Colony of Massachusetts Bay, whose Commerce and Harbour are, on the first Day of June next, to be stopped by an armed Force, deem it highly necessary that the said first Day of June be set apart, by the Members of this House, as a Day of Fasting, Humiliation, and Prayer, devoutly to implore the Divine Interposition, for averting the heavy Calamity which threatens Destruction to our civil Rights, and the Evils of civil War; to give us one Heart and one Mind to oppose, by all just and proper Means, every Injury to American Rights. . . .

So, it was stated therefore that they should observe that day. That was the day on which the Assembly of Virginia was facing the British Empire. They called themselves British-Americans. And yet they were willing to say it was a day of humiliation, prayer, and fasting.

The Americans have been fairly successful, as we see from our history and as the Senator from Arizona and I have an opportunity to stand here and discuss the matter today.

So I really think as we look at history and note that there was a resolution that Washington signed as President of the United States, in which he speaks again of the matter and points out some of the willingness to rely on the Divine Providence, in which he said on the 19th day of February 1779, as the day for public thanksgiving and prayer:

And on that day to meet together, and render their sincere and hearty thanks to the great Ruler of Nations for the manifest and signal mercies which distinguish our lot as a Nation . . . and at the same time, humbly and fervently to beseech the kind author of these blessings graciously to prolong them to us,—to imprint on our hearts a deep and solemn sense of our obligations to Him for them—to teach us rightly to estimate their immense value—to preserve us from the arrogance of prosperity, and from hazarding the advantages we enjoy by delusive pursuits—to dispose us to merit the continuance of his favors, by not abusing them, by our gratitude for them, and by a correspondent conduct as citizens and as men; to render this country more and more a safe and propitious asylum for the unfortunate of other countries; to extend among us true and useful knowledge; to diffuse and establish habits of sobriety, order, morality, and piety, and finally to impart all the blessings we possess, or ask for ourselves, to the whole family of mankind.

Again he speaks of the need for humiliation, prayer, and fasting. This is, now, Washington first as the head of the Assembly of Virginia and second as the father of our country and President of our country.

I think when we view the historical context of the resolution for prayer and fasting, we really are humbling ourselves before our Divine Maker, and no one should misinterpret those words as indicating any less resolve on our part as a country to pursue freedom.

Mr. GOLDWATER. I just wanted, as one Senator, to make perfectly clear what I am sure is the feeling of all, that we feel no humility in the fact that we are Americans.

The Senator has alluded brilliantly to prayers offered by Presidents and commanders in chief. I do not think any man who has even entered into anything even slightly dangerous, particularly battles or in my case flights, has ever done so without, in effect, humbling himself. I did not purposely fast, though sometimes I was forced to, but there was always prayer.

We do this all the time. The country is built upon a religious foundation, and I think sometimes the American people forget the words that we "were endowed by our Creator."

So I merely wanted to add to what the Senator has recited the fact that I have never known a soldier, sailor, airman, or marine who did not pray. And when we pray, we in effect humble ourselves, whether we say it or not. This is the purpose of prayer.

Fasting is something else we can indulge in or not. It is the denial of things material to our bodies and to ourselves. But I just wanted to make it abundantly clear that when we talk of humiliation, I do not want someone in a godless country saying we are ashamed of our country, and we are humiliated by being Americans.

I understand fully the religious implications. I just hope that some of our enemies around the country who do not happen to believe in any god can hear the words we are speaking today. I think they will have a better understanding of what religion means to the United States, its history, and its future.

I might close by saying that if the Senators in their supplications today have their hearts in it, and the American people have their hearts in it, and as a result we can grow in these feelings, then we have taken the greatest step forward toward strengthening ourselves against the inroads of communism, or slavery, as I like to put it, that we have ever taken. This kind of spiritual approach is stronger than any mass military effort we can ever put together.

If we have a weakness in this country, it has been, in my judgment, as I have stated, a laxness in morals and understanding of ethics; and all the tortures we have been through for the last few years would never have happened had we had people in public life and out of public life who demanded the highest level of moral and ethical conduct.

Again I thank my friend from Florida for developing this into what I think will be a very interesting passage.

Mr. CHILES. I thank my distinguished friend from Arizona. Mr. President, I wonder if the distinguished Senator from Iowa will yield for a series of questions by the Senator from Florida.

Mr. HUGHES. I am delighted to yield to the Senator from Florida.

Mr. CHILES. I first want to join with the senior Senator from Rhode Island in his remarks about the eloquent message that the distinguished Senator from Iowa, my colleague and my brother, has given on the floor of the Senate on this resolution. I think it was a wonderful statement. As always, he spoke from the heart, and I want to associate myself with his remarks.

Today is for me a sort of unique opportunity. I cannot remember, in 12 years as a State legislator and now after 3 years of having the opportunity to be a Member of this body, ever having had an occasion to stand in any of those forums and speak on this subject.

I think too many times we seem to have a feeling that it is not the proper thing to do, perhaps that it is not the manly thing to do, to acknowledge what we all seem to want to acknowledge, that we are God's children, that we do recognize that we have a divine leader and Father; that too many times we feel we cannot bring that into the affairs of government, and we get into the problem of the separation of church and state and how we could conduct ourselves in that respect, to the extent that we almost do not act. Just by the very fact that in 15 years of public life this is the first time I have ever taken the opportunity to stand up in a legislative assembly and speak to the need for divine help for our country and for ourselves as individuals, I think, recognizes that fact.

I think the resolution, therefore, gives us a tremendous opportunity in that regard. I just want to explore a few things, if I might, with the Senator from Iowa, to help me in my thinking.

Mr. HUGHES. Mr. President, if the Senator will yield for one moment, I would like to comment on what he has just said.

Mr. CHILES. Yes.

Mr. HUGHES. First, in all of my political life, since I have been holding public office, or running for public office, now, for 16 years—which in comparison with that of many of this body is only a minute—nonetheless I have witnessed a great deal of confusion around the question of the separation of church and state in the Constitution. That confusion has been so widespread that most men in political office are almost afraid to mention the Word of God in relationship with their public activities, which in my opinion is pure poppycock.

The constitutional separation of church and state is related to the laws governing the country in relationship with funding, supporting, and so on, of churches and church educational institutions, and has nothing to do whatsoever with men and women living their faith, speaking their faith, and walking their faith in relationship to the conduct of their public duties as well as their private lives. As a matter of fact, the two are inseparable, and freedom is inseparable from God, in my opinion.

Mr. CHILES. I thank the Senator for those comments. I think one of the problems that we have with the leaders in this Nation today, when we see our credibility challenged at all levels, is that we are afraid to speak out and acknowledge that we do believe in a Divine God, and what our beliefs are regardless of what they are.

Some of what I have said in some of the comments I am making comes from a person that I want to acknowledge. I wish I could remember all my sources, but Derek Prince, who is presently residing in Florida and serves as president of the Christian Growth Ministries, in Fort Lauderdale, Fla., has written a book entitled "Shaping History Through Prayer and Fasting." Some of the comments I have been making came from that book, and I wish to acknowledge it.

But I want to look back to what Lincoln had to say. As we all know, throughout Lincoln's public life he always acknowledged his complete reliance on the Divine. As we look at his life and the times in which he lived, we can see how important that had to be to him and the strength he derived from it.

But Lincoln at times was called an atheist, in one of his campaigns, as I recall, because he did not believe in any form of organized religion. I do not believe he ever joined a particular denomination or church. Does the Senator from Iowa recall?

Mr. HUGHES. Yes. I recall this. As a matter of fact, in a recent book by Dr. Trueblood on "The Spiritual Evolution of Abraham Lincoln," there is a comment on the fact that in the conduct of the campaign he was attacked as being a nonbeliever. The vast majority believed that he belonged to an organized church, though that was a matter in dispute. Some thought he had joined a church in Washington while he was President. But certainly he came under heavy attack at the beginning of his tenure as President for being a nonbeliever. And in his later days as President, because he was constantly relying on God, he was attacked from both ends of the spectrum.

Mr. CHILES. At no time was he promoting some kind of state-sponsored church. That is again what we are dealing with in this resolution. I find it interesting, in looking into the history of this resolution, to find that fasting is something very much a product of the Old Testament. Yom Kippur is a day of fasting and atonement, very much a part of the Jewish religion, as there were many other days of fasting in the Old Testament seeking reliance on the Divine.

I just wanted the Senator's comments on the fact that there has been fear on the part of some of our colleagues, perhaps, as expressed here on the floor of the Senate, that this would signal some form of weakness to say that this was a resolution of humiliation. I know that the Senator is much more familiar with the Bible than I am. But I wonder whether he recalls, with me, the passages in the Bible such as the one when Jehoshaphat had an army approaching him and he was in great fear and trepidation, because he had no army of his own to fight them off, yet he called on his people for prayer and fasting and, as I recall, they were quite successful, because before they set out to meet the opposing army, they sang and prayed and, as a result, they beat off the army that was coming on them. They did not have to fight, because the opposing army destroyed itself, and Jehoshaphat's people spent 2 or 3 days picking up the spoils.

So I wonder again whether that gives the Senator from Iowa some assurance, as it gives me, that we do not have to worry too much about some foreign nation misinterpreting this, if we are true in our intent that we are ready to humble ourselves and humilitate ourselves before our Divine Ruler.

Mr. HUGHES. I would say to the distinguished Senator from Florida that if humiliating myself before God is a weakness, then I prefer to be weak.

If asking for forgiveness and seeking repentance from the Almighty Creator is going to be embarrassing to me before other nations, then I prefer to be embarrassed.

Because the source of creation, the Creator of heaven and earth, the Guider of all mankind, the Deliverer of truth and love, has said that we should humble ourselves before the one God.

In our humility, I can hardly stand with the arrogance and fear of some other nation, regardless of how mighty it might be, regardless of how it might feel about my humility before my Creator. I cannot but honor the feelings of other men and any nation that honors and respects the differences in religious beliefs and what individual feelings may be in relationship to that. But I know that I can speak forcefully, in a different light than has been expressed, about my own feelings in relation to the Scriptures which I read, that direct me in my beliefs, as one Senator in this country, as one citizen of this Nation that I love, along with the other people in the country. There is no fear in expressing humiliation before God the Creator.

To those who do not acknowledge God, to those who do not fear God, then God is on our side. The expression of that humiliation is one that no matter how much we can do, we have not done enough.

Mr. CHILES. If I recall the words of Solomon, who is known as one of the wisest rulers of all time and one of the wisest men of all time, being the son of David and taking on the kingdom or the crown of David, as passed on to him, he was asked by God what favor he wished, because David had been held in so much favor by God.

As I recall it, Solomon said:

> So give to thy servant a heart with skill to listen so that he may govern thy people justly and distinguish good from evil. For who is equal to the task of governing this great people of thine?

So here is this man who is recorded throughout history as being one of the wisest and most skillful administrators and Governors and it seems that he sought this kind of divine help.

So I wonder again whether that admonishes us as leaders to seek help and to acknowledge that we need it, that we do not have all the wisdom ourselves, as Lincoln pointed out in his resolution, and as this resolution seems to kind of point out today.

Mr. HUGHES. Well, I know of no leader in this Nation who has not called upon God for divine guidance, not only in his capacity as Governor of the people and making recommendations and offering solutions, but also in the awesomeness of the responsibility of rising to a position of higher power. Possessed of the realization of his own fallibility and his own finiteness and his own limited capacities, contemplating—in the loneliness of his own room, if in no other

place—what we face relating to each other as men and women on his planet, he cannot but realize he needs help and guidance above and beyond that which comes from the finite, the material, the brain, and the science on this Earth. Because when we are dealing with the senses, then we are dealing with material existence. To go beyond that, we must deal in the Spirit.

As our Father said, "God is the Spirit" and we must relate to God in Spirit. That relationship is something which comes from something beyond what we can identify in the flesh.

Mr. CHILES. As the Senator from Iowa joins me in the feeling that we as leaders must try to seek this divine help and that the leaders of this country have sought that help, at the same time, is there not a great need for the people of the country themselves, who also govern in their capacity as citizen officers of this country, to offer prayers for their Governors and not just for themselves?

As we are seeing many times, we do not really use our public office to express our opinions on the Divine. Many times people think there is a need for the people to pray for their government.

Mr. HUGHES. The Scriptures themselves direct all believers to pray for the government and the leaders of government. There is a moral responsibility on the part of the people to see that they do pray for the leadership of their government. Whether we would agree in a free society with that leadership or not makes no difference at all. God indicated to us in the word that He has selected the leaders of nations. He also has directed us to pray for divine guidance and supplication. Most people accept that responsibility and occasionally remember their leaders in their prayers.

We need the prayers of all the people from the heart and the soul for carrying out our duties in the place we hold in this Government of ours.

Mr. CHILES. The Senator from Iowa pointed out very eloquently in his opening remarks what one or two believers can bring about and the responsibility, therefore, of one or two or a handful of leaders to work for their beliefs and for their country and what their responsibility could be in that regard. I wonder, because the resolution does speak of fasting, whether the Senator could think of a few selected instances of fasting and how fasting has appeared to change events of history.

I recall, as I know the Senator does much more than I, when Jonah went to Nineveh to bring a message that Nineveh was going to be destroyed, because it was an evil and wicked city. Even though Jonah had brought that message, and he had been sent to bring that message, as I recall, the ruler of Nineveh at that time immediately declared a fast and had the people wear sackcloth and ashes. They immediately began to fast; and after that fast, the Lord decided not to destroy Nineveh.

As I recall, Jonah was quite upset at the time, because the Lord had seen fit to save Nineveh, even though originally he had said that it would fall. Jonah was quite concerned, but the Lord pointed out that if people were ready to change at any time, should there be any feeling on His part that could not change His disposition or will toward those people?

I know that the Senator recalls the events of Jonah bringing the message to Nineveh, and the fast and the wearing of sackcloth and ashes, and how that changed the events of history at that time. Certainly, that would be an act of humiliation, or humbling oneself.

Mr. HUGHES. There are many times in the Old and the New Testament in which they are called upon to fast and do penance and wear sackcloth and ashes. Certainly, the Senator has just recalled one time in which God turned away His wrath.

There are also many instances of doing penance and realizing the wrongness of what we are doing in times of great success, rather than in times of apparent failure within nations. It appears in times of great abundance and great wealth, which seem to be periods of personal moral deterioration, when the people begin deteriorating in their personal morality in relationship with each other. As a result, the cloth and the fiber of the nations deteriorate, the family structure is destroyed, and so forth.

Fasting is an accepted cleansing. It is a denial. It is a cleansing before God, and has been from the beginning. Jesus, himself, declared, in casting out the demons, when the Apostles asked why they failed, that this comes about only by prayer and fasting. Fasting is referred to in the Scriptures from beginning to end.

If the Senator will yield, I should like to read at this point a chapter from Isaiah in relationship to what we are doing here today. I read from chapter 58:

> Cry aloud, spare not, lift up thy voice like a trumpet, and shew my people their transgression, and the house of Jacob their sins.
>
> Yet they seek me daily, and delight to know my ways, as a nation that did righteousness, and forsook not the ordinance of their God: they ask of me the ordinances of justice; they take delight in approaching to God.
>
> Wherefore have we fasted, say they, and thou seest not? wherefore have we afflicted our soul, and thou takest no knowledge? Behold, in the day of your fast ye find pleasure, and exact all your labours.
>
> Behold, yet fast for strife and debate, and to smite with the fist of wickedness: ye shall not fast as ye do this day, to make your voice to be heard on high.
>
> Is it such a fast that I have chosen? a day for a man to afflict his soul? is it to bow down his head as a bulrush, and to spread sackcloth and ashes under him? wilt thou call this a fast, and an acceptable day to the Lord?
>
> Is not this the fast that I have chosen? to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free, and that ye break every yoke?
>
> Is it not to deal thy bread to the hungry, and that thou bring the poor that are cast out to they house? when thou seest the naked, that thou cover him; and that thou hide not thyself from thine own flesh?
>
> Then shall the light break forth as the morning, and thine health shall spring forth speedily: and thy righteousness shall go before thee: the glory of the Lord shall be thy reward.
>
> Then shalt thou call, and the Lord shall answer; thou shalt cry, and he shall say, Here I am. If thou take away from the midst of thee the yoke, the putting forth in the finger, and speaking vanity;
>
> And if thou draw out thy soul to the hungry, and satisfy the afflicted soul: then shall thy light rise in obscurity, and thy darkness be as the noon day:
>
> And the Lord shall guide thee continually, and satisfy thy soul in drought, and make fat thy bones: and thou shalt be like a watered garden, and like a spring of water, whose waters fail not.
>
> And they that shall be of thee shall build the old waste places: thou shalt raise up the foundations of many generations; and thou shalt be called, The repairer of the breach, The restorer of paths to dwell in.
>
> If thou turn away thy foot from the sabbath, from doing thy pleasure on my holy day; and call the sabbath a delight, the holy of the Lord, honourable; and shalt honour him, not doing thine own ways, nor finding thine own pleasure, not speaking thine own words:
>
> Then shalt thou delight thyself in the Lord; and I will cause thee to ride upon the high places of the earth, and feed thee with the heritage of Jacob thy father: for the mouth of the Lord hath spoken it.

What the Prophet is saying here is a reference to sackcloth and ashes and going about our own merry way, doing business as usual, and seeking not that which is truth as he has described it when he says, "Will you call this a fast and a day acceptable to the Lord?" Then he says:

> Is not this the fast that I have chosen? to loose the bands of wickedness, to undo the heavy burdens, and to let the oppressed go free, and that ye break every yoke?
>
> Is it not to deal thy bread to the hungry, and that thou bring the poor that are cast out to thy house? when thou seest the naked, that thou cover him; and that thou hide not thyself from thine own flesh?

Then he describes the revelations of God as a result of this kind of fast. There is a simple ritual of denying a little food and putting on sackcloth and strewing ashes. But unless the heart turns back, unless the circumcision of the heart has taken place, unless you have repented, unless you have turned, unless you have changed direction, it will not be honored in the annals of the Most High. I say to the distinguished Senator from Florida: I think that is what we are talking about.

Mr. CHILES. I think that is absolutely so. I wonder if the Senator sees a parallel between that and the events that often happen in the life of the junior Senator from Florida. As long as everything is going along fine, I am in command; and it is only when things sort of go on the rocks that I start seeking a little help and that I start wanting to get some outside help, because I cannot handle it.

There seems to be a parallel between that and the situation in this country today. Things have been going along well for this country for a great number of years, and suddenly we are faced with an energy crisis and inflation and a shortage of materials, the fact that other countries are beginning to gang up and restrict what they are going to send us.

Everybody is now saying to me when I go home, in effect, "Why don't you pass some law and do away with this inflation? What is the matter that we can't pass some law and do that?"

Perhaps we have allowed the people to feel that we could govern all destinies, and we took all the credit while everything was swimming along so well and we were enjoying the high prosperity we have; and now we have to recognize that we are in a quandary. As the resolution says, we thought these things were produced by some superior wisdom and virtue of our own, and in fact they were not. In fact, now we do not know where to turn for the answers as to how to cure inflation or what to do about the energy crisis. We cannot find any law to pass that is going to take care of all the problems that seem to be besetting this country. Every government in the world is under pressure today, especially the democratic governments, or those that are trying self-government, whether it be England, France, Italy, or Denmark. You name the country, and we see the kind of pressure they are under today in their attempt of self-government.

Mr. HUGHES. Mr. President, I would say to the distinguished Senator from Florida that basically what he is saying is right. I happened to listen to the news night before last. I heard that the distinguished Governor of Maryland had decided to sign 300 bills into law that night. Having been the Governor of my own State for some period of years and having signed many bills into law, in looking back over the years I cannot imagine one of those bills that would change the heart of a single man. I cannot imagine the legislative process that has cleansed the soul and turned men about.

Yes, it is necessary to have good works, it is necessary to do good deeds, it is necessary to establish a society of law and to have men live by law. But if we lived by the word of God there would be no need for a welfare program, because then we would do as the prophet said and feed the hungry, clothe the naked, and care for the poor. If we believed and lived by the word of God we would not need massive institutions for those who violate the law, because our concern would be for the souls of others more than for our own. I would care more for how you were clothed than I, and I would care more that you were happy than I.

As I understand it, the Master said to us in relating to us His guideposts for life, "Love the Lord God with all your heart, and all your mind, and with all your soul, and love your neighbor as yourself."

How did he identify the neighbor? He identified the neighbor by telling the parable of the Good Samaritan—a neighbor is one who is different than we are. He identified the people of the earth as being our neighbors in that parable. He told us to establish our relationship in our own family structure, to be unafraid and to be able to pray with our wives and our children, to live in the structure of a family once again and to know that in that family there was a God center that mattered, and then to be able to love even one other person, as he described—just one.

If each of us loved one, it would alter the course of humanity. If we truly loved one other person as directed by the Lord, it would change the course of the human race, and if one dozen would love each other as He loves them it would change the history of the world for thousands of years to come, again because it is a revolutionary tactic we have not learned to follow.

Mr. CHILES. I thank the distinguished Senator from Iowa.

Mr. HUGHES. I thank the Senator from Florida.

Mr. President, I am happy to yield at this time to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I am privileged to be in the Chamber this morning to take note, with other Members of the Senate, of the significance of the resolution that was passed by this body. I think it is highly fitting and appropriate as has been pointed out by the Senator from Iowa, a man I have known for many years. He and I served our respective States as Governors in the early 1960's and from that time forward I have grown to admire and respect and cherish his friendship.

Mr. President, today we observe a national day of humiliation, fasting, and prayer. The day was set for observance by a joint resolution I was pleased to cosponsor with the distinguished senior Senator from Oregon.

This resolution, passed by the Senate, could well be as important as any we have considered in the 93d Congress. Some may question whether there is an Almighty. For the benefit of those who continue to question even after seeing the wonder of His works in their daily lives, I will say that: If there is a god who cares about the actions of mankind on this Earth, nothing we do here could be more important than to seek His guidance through prayer, and to offer thanksgiving for the many blessings of our country and the world.

There is evidence that many communities in every one of the 50 States will be pausing during the course of this day to reflect upon our ultimate dependence on God and to exhibit the continual need we have to seek His guidance.

The difficulty of these times underscores the necessity for the strength that can come from faith. This day, which the Senate has by resolution declared to be one of humiliation, fasting, and prayer, should permit each of us to focus more clearly upon ultimate truths.

Thy will be done.

Let each of us assess our action and examine our consciences—not on the basis of fulfilling our personal, selfish desires—but rather to see that what we do and what we think make us better instruments of Him.

Thy will be done.

The distinguished Senator from Iowa said that if we would practice what has been taught us and what we have been directed to observe in the Bible we would not need all the laws, including the welfare programs and many other programs we have. I cannot escape from the realization that although we meet now in almost continuous session from the first to the last of the year, really only 10 laws are necessary to direct and guide mankind in order that we may become better instruments of His will. If we could take into our hearts and practice in our daily lives those commandments given to us through Moses, we would need no other law, because they have been so continually true down through the ages. They cover all the ramifications of mankind's emotions and experiences as to serve adequately for a guide that is just as applicable and appropriate today as it was back in the days of Moses.

I am pleased that the Senate by resolution has decided to set aside this day to call attention to the need each of us has better to understand what God's will is, to ask ourselves more often than we are prone to do how our personal desires square with the things God would have us do, and from that comparison, from that self-examination redirect and refocus our lives in order that we can, indeed, become better instruments of His will.

Each day the Members of the Senate and of the House—of the Congress of the United States—open their deliberations by hearing a prayer offered by the respective chaplains. It is entirely appropriate that it should be this way. It is unfortunate that each of us cannot take more closely into our hearts the need to reflect upon these prayers and to cast our eyes heavenward and understand better and more clearly and deeply than we do, the relevance of God's teachings to these troubled times.

I thank my distinguished colleague from Iowa for the inspiration, for his leadership, and for the deepened faith that his deep convictions have brought to each of us.

Mr. HUGHES. I thank my distinguished colleague from Wyoming for his comments and his constant contributions to the areas of worship, faith, and prayer that we have followed privately each week since I have been in the Senate meeting privately with the Senate prayer group. The Senator from Wyoming has been a constant contributor and attendee there. I have valued his friendship these many years. It has strengthened my faith to observe his personal faith and way of life.

Mr. ROBERT C. BYRD. Mr. President, I want to express appreciation to the distinguished Senator from Iowa for what he has said here today, and also to the distinguished Senator from Florida (Mr. CHILES), to the distinguished Senator from Nebraska (Mr. CURTIS), to the distinguished Senator from Wyoming (Mr. HANSEN), to the distinguished Senator from Rhode Island (Mr. PASTORE), and other Senators.

I also wish to express my compliments and my gratitude to the distinguished senior Senator from Oregon (Mr. HAT-

FIELD), for his vision, faith, and courage in offering the resolution to which other Senators have alluded, the resolution which provides for a national day of fasting, prayer, and humiliation.

As I sat and listened to these colleagues of mine, I thought of a story by Tolstoi. Tolstoi told the story of a young man who had land hunger. He added farm to farm and land to land, but he could never get enough. One day a stranger appeared before him and promised him all of the land that he could cover in a day if he would return by sunset to the point from which he departed. The stranger pointed to the grave of the young man's father and said, "That is the point to which you must return."

So the young man started out at the break of day to get, at last, enough land. His original plan was to cover a plot of ground 3 miles square, but after he had walked the first 3 miles, he looked about him. The land looked so fertile and so level that he decided he would walk 3 more miles. Then he walked 3 more miles. Then he ran 3 more miles, and then he ran 3 more miles, until he had covered a distance of 15 miles before he turned upon the second side. He completed the second side—a total distance of 30 miles—just as the sun crossed the meridian.

All through the long afternoon, as he made his way back to the starting point, the road became less level, more hilly, stony, and more difficult. He managed to complete the third side, and he was finishing the last side of the square, he could only make his way painfully along the ground, crawling on his stomach, cut by the briers and sticks, and bleeding from the wounds made by the stones. When he was within a few yards of the starting point, he saw, ahead, at the grave of his father, the grim face of the stranger.

The young man reached the starting point just as the sun went down, but he had overtaxed his strength and he fell dead on the spot. The stranger who was called Death said, "I promised him all of the land he could cover. You see how much it is—6 feet long, 2 feet wide. I have kept my pledge."

Tolstoi told the story of many a life. I think he spoke of the lives of individuals and also of nations. He told the story of every life in which the love of self and the greed for gain shrivels the soul and leaves the life a miserable failure at last.

I believe, as I have indicated, that that story befits the lives of nations. My colleagues here today have reminded us all that our Nation was conceived and built out of a wilderness by men and women who believed in God. The Bible was their guiding light. They were men and women of many faiths, some of them not belonging to any church at all, but almost to the man, they believed that there is a Creator who governs the destinies of men and nations. We see, as we study the lives of these great men who built the Republic, this strong spiritual awareness in their words and deeds.

References have been made already to some of the great men who had a part in the building of this Republic. Franklin, at the Convention, I recall, stood to his feet one day and addressed the chair in which sat Gen. George Washington. Franklin said, "Sir, I have lived a long time. The longer I live, the more convincing proofs I see that God still governs in the affairs of men. And if a sparrow cannot fall to the ground without our Father's notice, is it possible that we can build an empire without our Father's aid?" Franklin said, "I believe the sacred writing which says, 'Except the Lord build the house, they labor in vain that build it.'" And he proposed that there be a prayer each day at the Convention; "else," he said, "we shall succeed no better than did the builders of Babel."

Here was a truly great man—Benjamin Franklin—who had already traversed the Psalmist's span of three score years and ten.

He is accorded by all men of this country as having been a man of tremendous wisdom. He was a man who stood tall among other great men—Hamilton, Madison, Washington, the Commander of the Armies at Valley Forge, the man who was destined to become the first President of the United States—and, yet, Franklin stood unabashed before that great man and in the midst of that great audience and proclaimed his solemn belief that God governs in the affairs of men. The Convention adopted his proposal and offered prayer daily. The result: the greatest document of its kind ever written—the Constitution of the United States.

As the distinguished Senator from Iowa has stated, there has never been a leader of this country, there has never been a President, who has not made reference to the great Lawgiver, to the Creator and to His plan and His governance of the destinies of men.

Webster, the great orator, asserted his belief, likewise, in the Bible.

Webster said:

> If we abide by the principles taught in the Bible, our country will prosper and go on prospering. But, if we and our prosperity neglect its instructions and authority, no man can tell how suddenly a catastrophe may overwhelm us, and bury all our glory in profound obscurity.

Robert E. Lee, a man who exemplified Christian character, referred to his belief in the Bible as follows:

> The Bible is a book in comparison with which all others are of minor importance, and which, in all my perplexities and distresses, has never failed to give me light and strength.

These were truly great men, tall men, who stood above the fog, in public duty and in private thinking. They expressed, with the honesty and humility of a trusting child, their simple faith in a higher power.

Mr. President, the distinguished Senator from Iowa (Mr. HUGHES) is an ordained minister. Time and time again he has inspired those of us who serve with him. I admire his convictions—convictions that have led him to give up his Senate seat at the end of his present term to contribute his talents to the full-time service of God and his fellow men.

I am not a minister. But I am like Paul—of all men, I am "most miserable." I recognize that we are all sinful men and women. We all have our faults and our shortcomings. And I am glad that we do take a moment in our busy lives to pause and think of the many blessings to our country that have been provided by the Great Lawgiver.

I have never seen Him, Mr. President, but I believe that there is a Creator. I have not seen electricity, either. However, I would not put my finger into an empty electric socket. The electricity is there, and I know it is there. I have not seen the wind, but I know it comes and goes. So it is with God—He exists. He has always been.

I cannot explain Him. But I believe that He is, has been, and always will be.

I was taught, as other Senators were taught, I am sure, to believe in God. We were taught by mothers, fathers, and teachers, and by the examples of others, that there is a God.

I care not what another man may believe. I care not what church he may or may not attend. But for myself, recognizing my own shortcomings, I still believe steadfastly that this Nation has been blessed by the Almighty. It has been guided by the hand of an omnipotent and divine being, an omniscient, omnipresent Creator, who had a place in His plan for the United States of America.

I was reared by very poor foster parents. I lost my mother when I was 1 year old. I had a praying foster mother. Often I have gone into the home after midnight, walked up on the porch, and seen through the window that old woman on her knees, praying. Often, after she had gone to bed, she would let me in her humble home and would cook something for me to eat. It mattered not the hour, whether it was 1 or 2 o'clock in the morning, she would prepare something for me to eat before I went to bed. After I had gone to bed, I would hear, coming from the other room, the words of her fervent prayers.

Always, when I left the house for a period of days or weeks, she would say to me: "Robert, be a good boy. I always pray for you." I have no doubt that her prayers have somewhat protected me.

I also had a Godfearing foster father—an honest, humble, hard-working coal miner.

Mr. President, that little bit of personal history constitutes the main tie that I have with religion from the beginning, a praying mother, a woman who had no degrees, who had not been to this world's colleges, who had not been to any high schools, who could scarcely write her name. But she had an unshakable, indomitable, unwavering faith. Her example and the noble example of her husband have never left my memory.

Mr. President, we as parents and grandparents, as Senators, and as men and women in places of leadership in this

country should seek to set an example for our children and posterity. We ought to express by our words and actions our belief that there is an Almighty who governs the destiny of men and nations. Our faith will there be inculcated and instilled into the plastic minds and hearts of our younger people, that they in their turn will preserve and perpetuate the spiritual awareness that has come down to us from the very beginning of our country and that has made our country great. We see the evidence of the faith of our fathers all about us—on our coins, on our currency, on our public buildings here in the Nation's Capital.

I believe that if our country is to remain a great country, it is going to have to remain a country that believes in God, and we have a duty to perpetuate the faith of our fathers.

It may be only a minority of the people of the country who will continue to pray. But, as the distinguished Senator from Iowa has pointed out, a minority has often preserved a nation. Let us remember that had there been but 10 righteous men, God would have spared Sodom. Who knows, perhaps a few—relatively speaking—mothers on their knees in this country today are keeping the United States of America free?

Last night, I passed beside the blacksmith's door,
And heard the anvil ring the vesper chime,
And looking in, I saw upon the floor,
Old hammers worn with beating years of time.

"How many anvils have you had," said I,
"To wear and batter all these hammers so?"
"Only one," the blacksmith said, then with twinkling eye,
"The anvil wears the hammers out, you know."

And so the Bible, the anvil of God's word,
For centuries, skeptic blows have beat upon,
But, though the noise of falling blows was heard,
The anvil is unharmed, the hammers gone.

Mr. HUGHES. Mr. President, I compliment and also thank the distinguished Senator from West Virginia, the majority whip, for sharing with us the deep devotions of his heart as well as the personal relationships of his family in his youth that have brought him to being the man he is and to living the faith that he lives today.

I count myself fortunate to be one who has been able to serve these few years with the distinguished Senator, but more particularly to share these few minutes with him personally as he spoke from the depth of his soul of his faith in an Almighty God and his continued belief in a Nation that believes in God and that finds its pathway through that faith.

Mr. President, I could not help recalling as I listened to the distinguished Senator from West Virginia and the distinguished Senator from Nebraska that one of the greatest dissertations I ever read on Jesus Christ was from another great Nebraskan.

I wish that I had thought to bring it with me so that I might have entered it into the CONGRESSIONAL RECORD this morning. The statement, or the speech, as it might have been, was by William Jennings Bryan, and was one of the most enlightened that I can recall ever reading. Perhaps at a later time I might be able to bring it and have it printed in the RECORD, once again to share it with my colleagues.

Mr. President, if I might, as we go into the last 10 minutes of this 2 hours that have been allocated for Members of the U.S. Senate to express themselves and their hearts in relationship to Senate Journal Resolution 183, a resolution calling the people of our Nation to a day of prayer, humiliation, and fasting, I would, in these closing minutes, just share with you some of the philosophical observations I have as I look at the history of mankind and look to the future.

I can make one observation that is relatively reliable: As I look at my colleagues around the Senate, 25 years from now at least 90 percent and perhaps more, of the Members of this body will have penetrated that veil we call death. Before the year 2000 we will know the truth of the word of God: whether we have lived by it and honored it, what the expectations are, whether death is the end, whether we are as worms, or whether in fact it is graduation day, a birthday into eternity, as the Scripture has revealed to us that it is.

If, in fact, this happens to be truth and not farce, as I believe it is, and if in fact, as the Master said to us, "If you believe in Me, ye shall never die," then it would behoove us today, in honoring our God and our Creator by this simple resolution, to look at the world and its people, His creation, and to look at the history of man's failure throughout the entire history of that creation, and of God's forgiveness, I might add, in that repeatedly He has turned back and forgiven the created.

But as I read history, every alliance of nations in history has failed. Every agreement between nations made by man in all of the history of mankind has gone into nonexistence and failed. Since the first time man picked up a club as a weapon and hit his brother over the head, from the first time he destroyed his brother until this very day, each time that he has developed a more efficient weapon he has used it against his brother. In every age and every time, whether it was the bow replacing the club or the gun replacing the bow and arrow, and then the cannon, the airplane, and the bomb, man has used that weapon. He has never failed to do it.

Now we have brought ourselves to an age where we have placed in the hands of the leadership of nations weapons with the capacity to destroy hundreds of millions of people, and in fact perhaps to devastate the Earth itself to where it will no longer be inhabitable by what we know as the human race. This is the bar of destruction that is abroad in the world today in the hands of people—the creation of God—some admittedly not calling upon a Creator or God, others acknowledging their creation by God but unable to kneel before that God who has created them.

What are we talking about when we speak of the need for humility today? We are talking about the fact that God has brought us in His time to point where we not only can, but we will, destroy ourselves without learning the facts and laws the Creator has given us to live by.

What are those facts and laws? They are very simple. First, the law given to Moses, the Ten Commandments. How many of us really live by those Ten Commandments? If we followed them, we would need little other law.

For those of us who follow the laws of Jesus Christ, what do we have that He told us to do, and how is it we can never follow those instructions?

He said to love one another. He said, "Love your enemies, and by loving your enemies you will heap coals of fire on their heads."

He did not say to build bombs to destroy or guns to kill. He said to turn and love your enemies, thereby heaping coals on their heads. He said to turn your other cheek if struck. He said if someone asks for your coat, give him your cloak also; deny not those who knock on your door and seek your help, but deny yourself in feeding the hungry and giving drink to the thirsty.

Yes, that is what He said, that and much more. And I might add in conclusion that if this seems foolish, if it seems impossible, to those who say, "It will never work, we would be destroyed," I would say that it has never been tried.

Can we simply live by faith, and thrive? I would turn to Luke 10:23:

> Then turning to the disciples he said, privately, "Blessed are the eyes which see what you see! for I tell you that many prophets and kings desired to see what you see and did not see it, and to hear what you hear, and did not hear it.

Then, if I may go back to the Master's prayer in Luke 10:21:

> I thank Thee, Father, Lord of Heaven and earth that thou has hidden these things from the wise and understanding and revealed them to babes; yes, Father, for such was Thy gracious will. All things have been delivered to me by my Father; and no one knows who the Son is except the Father, or who the Father is except the Son, and anyone to whom the Son chooses to reveal Him.

The time is with us, abroad in the Earth and in our Nation, when we must as leaders of the world, not just as leaders of our country, learn that things such as we are doing today are not a political exercise. We have not designated 2 hours to discuss a resolution on humiliation, prayer, and fasting simply because four or five men want to come upon the floor of the Senate to make an open display of their faith before mankind. We are here because it is a time when there is need for beneficence; because every elected leader of this Nation in my lifetime, when he stood and raised his hand, with his other hand on the Bible to take the oath of office, declared that the basic problems of this country were spiritual problems, that they must be met with a spiritual response, and as a nation we have failed to respond. Even though we live in the midst of the greatest abundance man has ever known, with the greatest food and fiber producing capacity, the greatest military-industrial complex, the greatest industrial capacity, the greatest educational system, the greatest capacity to commit ourselves to defense and to war, the greatest science

and technology that man has ever known, we really have not found peace in our hearts, nor have we found safety in the world, nor have we rid ourselves of fear.

What we are really dealing with is man finding God and his relationship with God in his heart. In all of time, we have failed to make that commitment. That should not be embarrassing to a nation or its people. It should bring hope in the realization that if we will try to make that commitment, God will honor that effort.

God stands behind his Word. The integrity of the Word is the Creator Himself. I believe in the Word of God but I pray that the people of our land and our Nation will honor by prayer and with humiliation and fasting the appeal for the restoration of a nation, under God, not wanting power and prestige, nor displaying arrogance, but living in humility and with love and concern for every man, woman and child on the face of the Earth.

I believe that those millions today who are observing this resolution from the heart, in appealing to their Creator in the way they know and in the religious structure they observe, know that God will honor their request and their appeal that there can, and will be, another day of beginning, a day of renewal, and a day of reconciliation.

Mr. HELMS. Mr. President, I wish I could feel adequate in participating in this discussion this morning. Actually, I came to this Chamber so that I could be the beneficiary of the splendid witness of faith so evident in the messages by my friends and colleagues. And I have been rewarded, Mr. President, as I always am when I am in the company of the distinguished Senator from Iowa (Mr. HUGHES), the distinguished Senator from Wyoming (Mr. HANSEN), the distinguished Senator from Nebraska (Mr. CURTIS), the distinguished Senator from Florida (Mr. CHILES), the distinguished Senator from West Virginia (Mr. ROBERT C. BYRD), and others who have spoken here today.

For my part, the longer I live, the more convinced I become that America's travail today is due to our departure from the faith of our fathers. So it is good that on this day, the Nation is being encouraged to ponder our spiritual heritage. I do not presume to speak for others, but in my own life, the only rough moments have come when I tried to go it alone.

I am thankful that I was reared by parents who were God fearing. I am aware that there are some who reject the idea that there is a Master who loves us, and who also will judge us. Indeed, I believe that is precisely our problem. We are so busy trying to find manmade solutions to manmade problems that we have turned away from our only real source of wisdom and strength.

So, Mr. President, if this day is the beginning of a spiritual rebirth in America, then there is the blessing of hope. I commend my distinguished colleagues who have so inspired me today, and I thank them for the blessing of their friendship.

Mr. McGEE. Mr. President, I want to take this opportunity to express my sincere support for the Senate observation of April 30 as the National Day for Humiliation, Fasting, and Prayer.

There has never been a more compelling need than now for the citizens of this Nation and their leaders to pause and humble themselves before their Maker. It is a time for reconciliation of the divisions and animosities that exist among our people. It is a time to recapture the substance of our values as a nation. It is a time to rebuild a sense of confidence in our future. It is a time for restoration of faith and trust in the leadership of our country, and conversely it is a time for the Nation's leaders to seek, once again, divine guidance and inspiration for their decisions. But most of all, it is a time to rekindle the spiritual strength of our country.

In recent years we have tended to place ourselves beyond God's judgment and wisdom. We need to renew this spiritual relationship and once again turn to our Maker as a source of strength, compassion, and healing. Amid the uncertainties of our crises now shaking the Nation, we must reach out to one another. We must turn to God for help in nurturing that human compassion which exists within us all, but which has somehow been suffocated by the personal dilemmas of each of our lives.

As we humble ourselves in a genuine spirit of repentance, we can heal these wounds and divisions; we can overcome any obstacle; we can face the future with confidence. Too often we fail to turn to the one who can help us the most in times of crisis. The time is now to turn back to our source of strength. His hand is out. Let us all reach for it and grasp it.

Mr. BARTLETT. Mr. President, as I expected, the people of Oklahoma and the United States have responded overwhelmingly to the congressional resolution designating today, April 30, as a day for humiliation, prayer, and fasting.

It has never been more important than in today's society that we as a nation pause to recognize our dependency on God.

We live in a fast, sophisticated age which tends to make us feel independent and self-sufficient.

It is reassuring to every American that we as a nation are following the leadership of the Lincoln administration by recognizing the help we need from God to face successfully the many challenges our Nation faces.

MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. JOHNSTON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the House had passed the bill (S. 1769) to reduce the burden on interstate commerce caused by avoidable fires and fire losses, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 1647) to extend the Environmental Education Act for 3 years.

The enrolled bill was subsequently signed by the Vice President.

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. JOHNSTON). Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements therein limited to 5 minutes.

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on April 29, 1974, he presented to the President of the United States the following enrolled bills:

S. 1647. An Act to extend the Environment Education Act for 3 years.

S. 2771. An Act to amend chapter 5 of title 37, United States Code, to revise the special pay bonus structure relating to members of the armed forces, and for other purposes; and

S. 3292. An Act to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic

Energy Act of 1954, as amended, and for other purposes.

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

REPORT OF NATIONAL ADVISORY COUNCIL ON CHILD NUTRITION

A letter from the Assistant Secretary of Agriculture, and Chairman, National Advisory Council on Child Nutrition, transmitting, pursuant to law, the third annual report of that Council (with an accompanying report). Referred to the Committee on Agriculture and Forestry.

REPORT OF MARITIME ADMINISTRATION

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Maritime Commission, for fiscal year 1973 (with an accompanying report). Referred to the Committee on Commerce.

REPORT ON OCEAN DUMPING AND OTHER MAN-INDUCED CHANGES TO OCEAN ECOSYSTEMS.

A letter from the Secretary of Commerce, transmitting, pursuant to law, the first annual report on Ocean Dumping and Other Man-Induced Changes to Ocean Ecosystems, October 1972, through December 1973 (with an accompanying report). Referred to the Committee on Commerce.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Revenue Sharing: Its Use by and Impact on Local Governments", Department of the Treasury, dated April 25, 1974 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED AMENDMENT TO CONCESSION CONTRACT

A letter from the Acting Assistant Secretary of the Interior, transmitting, pursuant to law, a proposed amendment to a concession contract within Grand Teton National Park (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

APPLICATION FOR A LOAN UNDER SMALL RECLAMATION PROJECTS ACT

A letter from the Secretary of the Interior, transmitting, pursuant to law, an application by the Central Nebraska Public Power and Irrigation District of Holdrege, Nebraska, for a loan and grant under the Small Reclamation Projects Act (with accompanying papers). Referred to the Committee on Interior and Insular Affairs.

CHANGE OF PROGRESS REPORT ON 5-YEAR PLAN FOR FAMILY PLANNING SERVICES AND POPULATION RESEARCH

A letter from the Deputy Assistant Secretary for Population Affairs, Department of Health, Education, and Welfare, transmitting, pursuant to law, a change in the Third Annual Progress Report on the Five-Year Plan for Family Planning Services and Population Research (with an accompanying paper). Referred to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION FROM OFFICE OF MANAGEMENT AND BUDGET

A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a draft of proposed legislation to provide for the employment and compensation of employees of the White House, and for other purposes (with an accompanying paper). Referred to the Committee on Post Office and Civil Service.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the PRESIDENT pro tempore:

A joint resolution of the Congress of Micronesia. Referred to the Committee on Foreign Relations:

"HOUSE JOINT RESOLUTION NO. 77

"A House Joint Resolution Requesting the Government of the United States to Sponsor the Trust Territory of the Pacific Islands for Membership in the Asia Development Bank

"Whereas, the Asian Development Bank is an international development finance institution established for the purpose of lending funds, promoting investment and providing technical assistance to developing member countries, and, generally, for fostering economic growth and cooperation in the Asian and Pacific region; and

"Whereas, the Trust Territory of the Pacific Islands is now eligible to become a member of the Asian Development Bank by virtue of its associate membership in the Economic Commission for Asia and the Far East (ECAFE) of the United Nations; and

"Whereas, admission to membership in the Asian Development Bank requires the sponsorship of the applicant by one of the member countries along with an undertaking by the sponsoring member country that it will be responsible for all obligations that may be incurred by the applicant; and

"Whereas, the Congress of Micronesia is prepared to authorize and appropriate all sums necessary for Micronesia to fulfill all obligations that it will incur by reason of admission to membership in the Bank and in the enjoyment of the benefit of such membership; and

"Whereas, the United States of America is a member of the Asian Development Bank and its sponsorship of the Trust Territory's application for membership in the Bank would be furthering the fulfillment of the United States obligation under Article 6 of the Trusteeship Agreement to "promote the economic advancement" of the people of Micronesia; now, therefore,

"Be it resolved by the House of Representatives of the Fifth Congress of Micronesia, Second Regular Session, 1974, the Senate concurring, that the Government of the United States of America be and is hereby requested to sponsor the Trust Territory of the Pacific Islands for membership in the Asian Development Bank; and

"Be it further resolved that certified copies of this House Joint Resolution be transmitted to the President of the United States, the Speaker of the House of Representatives and the President of the Senate of the United States Congress, the Secretary of the United States Department of the Treasury, the Secretary of the United States Department of the Interior, the President of the Trusteeship Council of the United Nations, and the High Commissioner of the Trust Territory."

A resolution adopted by the Board of Commissioners, Perry County, Ohio, praying for the provision of funds to support the Community Action Program. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 1479. A bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points (Rept. No. 93-794).

By Mr. PASTORE, from the Committee on Commerce, with an amendment:

S. 2457. A bill to amend the Communications Act of 1934, as amended, to permit the Federal Communications Commission to grant radio station licenses in the safety and special and experimental radio services directly to aliens, representatives of aliens, foreign corporations, or domestic corporations with alien officers, directors, or stockholders; and to permit aliens holding such radio station licenses to be licensed as operators (Rept. No. 93-795).

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

S. 1227. A bill to amend section 415 of the Communications Act of 1934, as amended, to provide for a 2-year period of limitations in proceedings against carriers for the recovery of overcharges or damages not based on overcharges (Rept. No. 93-796).

AUTHORITY TO PRINT PART 2 OF SENATE REPORT NO. 93-765

Mr. FONG. Mr. President, I ask unanimous consent that the minority views on S. 411, a bill to amend title 39 of the United States Code relating to postal rate adjustments, be printed as part 2 of the Senate Report 93-765.

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

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. LONG, from the Committee on Finance:

William E. Simon, of New Jersey, to be Secretary of the Treasury; and

David Robert Macdonald, of Illinois, to be an Assistant Secretary of the Treasury.

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

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

John P. Constandy, of the District of Columbia, to be Deputy Inspector General, Foreign Assistance;

Sam Y. Cross, of Virginia, to be U.S. Executive Director of the International Monetary Fund; and

Rodger P. Davies, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary to the Republic of Cyprus.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time

and, by unanimous consent, the second time, and referred as indicated:

By Mr. METCALF:

S. 3399. A bill to amend section 552 of title 5 of the United States Code (known as the Freedom of Information Act) to provide for the classification and declassification of official information in the interest of national defense. Referred to the Committee on Government Operations.

By Mr. CHILES:

S. 3400. A bill to extend coverage of the automobile assistance program and the specially adopted housing program to those veterans qualifying for assistance under section 351 of title 38, United States Code. Referred to the Committee on Veterans' Affairs.

By Mr. BAYH:

S. 3401. A bill to include laboratory fees for routine cytological tests for the detection of uterine cancer within the coverage of Federal employee health insurance plans. Referred to the Committee on Post Office and Civil Service.

By Mr. JAVITS:

S. 3402. A bill to amend the Higher Education Act of 1965 in order to provide authority to assist training of disadvantaged students for the legal profession. Referred to the Committee on Labor and Public Welfare.

By Mr. DOLE:

S. 3403. A bill to amend the Act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

By Mr. THURMOND:

S. 3404. A bill for the relief of Maria Luisa Fernandez-Martinez. Referred to the Committee on the Judiciary.

By Mr. GRAVEL:

S. 3405. A bill to direct the Secretary of the Treasury to study the impact of the cost of living in the State of Alaska on the tax burden imposed on its residents, and for other purposes. Referred to the Committee on Finance.

By Mr. GRAVEL:

S. 3406. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide flexibility in adjusting the maximum pay rate for public service jobs in high cost of living areas. Referred to the Committee on Labor and Public Welfare.

By Mr. COOK (for himself, Mr. HUDDLESTON, Mr. BROCK, Mr. PEARSON, and Mr. HARTKE):

S. 3407. A bill to amend the Act of September 23, 1940 (Public Law 815, Eighty-first Congress) to provide for disaster assistance in a manner which assures increased protection against personal injuries resulting from disasters. Referred to the Committee on Labor and Public Welfare.

By Mr. STEVENS:

S. 3408. A bill to provide that the laws restricting the coastwise trade to vessels of the United States shall not apply to certain hovercraft on routes over land or over water only as an incidental part thereof. Referred to the Committee on Commerce.

By Mr. TUNNEY:

S. 3409. A bill to amend the National Labor Relations Act, as amended, to amend the definition of "employee" to include certain agricultural employees. Referred to the Committee on Labor and Public Welfare.

By Mr. ROBERT C. BYRD (for Mr. METZENBAUM):

S. 3410. A bill to enable the United States to insure an adequate supply of food for its citizens, while providing food to foreign countries for humanitarian purposes, by establishing a Federal Food Reserve for certain designated commodities and by establishing controls on exports of such commodities. Referred to the Committee on Agriculture and Forestry.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. METCALF:

S. 3399. A bill to amend section 552 of title 5 of the United States Code (known as the Freedom of Information Act) to provide for the classification and declassification of official information in the interest of national defense. Referred to the Committee on Government Operations.

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to amend the Freedom of Information Act to provide for the classification and declassification of official information in the interest of national defense.

Companion legislation (H.R. 12004) was introduced in the House on December 18, 1973, by Chairman MOORHEAD of the Government Operations Subcommittee on Foreign Operations and Government Information, on behalf of himself and 24 other Members.

This bill reflects a great deal of study by the House Committee on Government Operations and its Foreign Operations and Government Information Subcommittee. Persons interested in the subject may wish to review Chairman MOORHEAD's remarks, at page 42297 of the CONGRESSIONAL RECORD for December 18, 1973, and House Report 93–221, dated May 22, 1973 and entitled "Executive Classification of Information—Security Classification Problems Involving Exemption (b) (1) of the Freedom of Information Act (5 U.S.C. 552)."

At this point I do not know that I would support all features of this bill. However, it is important that its provisions be conveniently available for comment during the important hearings on this subject which the Senate Subcommittee on Intergovernmental Relations will conduct. The MUSKIE and MOORHEAD subcommittees are conducting a thorough study of this extraordinarily important and complex matter.

By Mr. BAYH:

S. 3401. A bill to include laboratory fees for routine cytological tests for the detection of uterine cancer within the coverage of Federal employee health insurance plans. Referred to the Committee on Post Office and Civil Service.

Mr. BAYH. Mr. President, today I am introducing legislation to include routine coverage of Pap smears for the diagnosis of uterine cancer in our governmentwide health insurance program for Federal civilian employees. Several months ago I introduced a bill to provide similar coverage in the medicare program. I did this because routine tests are most effective in discovering uterine cancer when it is at the early stages at which cure is most likely. Thus, any measures which encourage their use are highly desirable in cutting the death rate from this disease and in decreasing the amount of money spent on the extremely costly treatment of advanced stage uterine cancer. A study several years ago by the U.S. Public Health Service concluded that the Pap test was the most cost-effective diagnostic tool in the cancer area. At that time, it was estimated that for every $1 spent on diagnosis, $9 was saved on costs of treatment and care of victims of uterine cancer. Since medical and hospital costs are significantly greater now, it is clear that the cost effectiveness of Pap smear testing is even more impressive at the present time.

It is very important, Mr. President, that we use all available means to encourage women to take this simple test. The reason I introduced my bill to include routine Pap smears under the medicare program is that covering any service under an insurance program increases usage, even when the service is relatively inexpensive, as the Pap test is. Therefore, we can increase use of the Pap test by encouraging all insurance companies to provide this coverage. While a number of insurance companies do provide this coverage, I was dismayed to discover that neither of the two governmentwide health insurance programs for Federal civilian employees do so. It seems to me that if the Federal Government is encouraging use of the Pap smear through various public health and research programs, we have a responsibility to set an example for others by encouraging female Federal employees themselves, and female family members, to have this test done.

There are currently almost 3 million Federal civilian employees. If routine coverage were extended to them, we would significantly increase the number of women who avail themselves of the opportunity to get a Pap smear at the interval recommended for their age group, either yearly or twice yearly. In addition, the example provided by the Federal coverage might encourage other group plans to adopt similar provisions. I hope that other Senators will support this effort to decrease the national mortality rate from a form of cancer over which we have a great deal of control when it is discovered early.

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

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

S. 3401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (1) and (2) of section 8904 of title 5, United States Code, are each amended by adding at the end thereof the following:

"(G) Laboratory fees with respect to not less than 2 routine cytological tests each year for the detection of uterine cancer for each female employee or annuitant, and each female member of the family of an employee or annuitant, enrolled in the Plan."

SEC. 2. The amendments made by the first section of this Act only apply to each contract entered into under section 8902 of such title, or any renewal of such a contract, which is effective with respect to any calendar year commencing at least 30 days after the date of enactment of this Act.

By Mr. JAVITS:

S. 3402. A bill to amend the Higher Education Act of 1965 in order to provide authority to assist training of disadvantaged students for the legal profession. Referred to the Committee on Labor and Public Welfare.

Mr. JAVITS. Mr. President, I send to the desk for appropriate reference a bill to amend part D of title IX—graduate programs—of the Higher Education Act of 1965 in order to permit the Department of Health, Education, and Welfare to continue supporting the training of disadvantaged students for the legal profession as previously assisted through the Office of Economic Opportunity. This is an administration proposal.

Part D currently requires that each student receive a minimum of $2,800 for each academic year of study. It also requires that at least $4,200 be paid to the institution for each disadvantaged student who receives a stipend and studies there for a profession. Under the authority proposed by this bill, the Secretary would determine the stipend levels for law students from disadvantaged backgrounds. The bill would not provide for institutional allowances for this program, but would authorize the Secretary to make grants to or enter into contracts with public and nonprofit private agencies and organizations to assist the training of disadvantaged students for the legal profession. By so doing, it would permit HEW to operate the legal education opportunity program in the same manner as it has been run for OEO. Without these revisions, the number of disadvantaged students now studying with Federal assistance in the legal education opportunity program would be reduced from over 200 to 31.

The bill provides that funds already appropriated for fiscal year 1974 shall be available for the activities authorized by the proposed amendments to part D. Thus, no additional authorization is required.

By Mr. DOLE:

S. 3403. A bill to amend the act of August 31, 1922, to prevent the introduction and spread of diseases and parasites harmful to honeybees, and for other purposes. Referred to the Committee on Agriculture and Forestry.

THE AFRICAN HONEYBEE

Mr. DOLE. Mr. President, the African honeybee represents a serious threat to our beekeeping industry and to an important part of American agriculture. Under existing law, we have inadequate protection from this threat. This is why I am introducing legislation today to strengthen protective measures by the Department of Agriculture to prevent the spread of the African honeybee into this country.

THREAT TO U.S. FOOD PRODUCTION

The spread of the African honeybee, also known as the Brazilian honeybee, could lead to a multibillion-dollar disaster for American agriculture. The African honeybee could destroy the beekeeping industry in this country, as we know it, and the impact could be not only a severe reduction of honey production, but a sharp decline in the supply of fruits, vegetables, and seed crops.

One of the most important roles of the beekeeping industry in U.S. agriculture is its part in the pollination of crops. About 90 crops are dependent upon bees for pollination. The value of farm commodities directly dependent upon insects for pollination has been estimated by the Department of Agriculture at $1 billion. Honeybees have a primary part in this pollination since present day farming operations have largely eliminated wild insect pollinators. The destruction of our honeybee population, which the African honeybee could cause, would cripple some of our most important fruit, vegetable, and seed industries. These commodities include alfalfa and onion seed production, tangerines, tangeloes, mandarin oranges, all melon and cucumber crops, apples, cherries, and other tree fruits. Crops valued at $6 billion are greatly improved by bee pollination, although they are not directly dependent upon it. It has been shown that the output of such crops as long-staple cotton are greatly enhanced by bee pollination. The loss of bee pollination could result in a decline in the level of production from these crops.

HONEY SUPPLY IN DANGER

The production of honey is also at stake with the beekeeping industry. While honey and beeswax production has a lower economic significance than the pollination role of honeybees, the sales of honey and beeswax represent a primary source of income for the beekeeping industry. Revenues from these sales have been estimated at nearly $150 million. And production levels are normally over 220 million pounds of honey and 4 million pounds of beeswax annually.

Honey has traditionally been recognized as a nutritious and delightfully tasty food. In recent years, there has been a new appreciation of honey as a "natural food." The African honeybee represents a threat to the continued production of this commodity. We could deprive ourselves of an adequate supply of honey by not taking steps to protect our honey industry. This legislation is designed to provide the additional necessary protective measures.

AFRICAN HONEYBEE TRAITS

In 1971 and 1972, a special committee, appointed by the National Research Council and the National Academy of Sciences, studied the African or Brazilian honeybee and the impact it could have in the United States. I am proud to say that Dr. Charles D. Michener, department of entomology of the University of Kansas, was chairman of this committee. The findings of the committee were that this exceptionally aggressive and ferocious strain of bees could migrate to North America and become a serious public nuisance and a major problem to the beekeeping industry.

The African honeybee was accidentally introduced into Brazil in 1957, hence the secondary name of Brazilian honeybee. The bee has since moved throughout most of South America. Although the strain has mixed with other breeds of honeybees, it has not lost its extremely aggressive traits.

DESTROY OTHER BEES

The African honeybee threatens the existence of domestic honeybees. It forages so aggressively that other strains kept by commercial beekeepers cannot compete, and in South America, domestic bees have disappeared in areas where the aggressive strain has appeared. Occasionally, the African bees completely take over the hives of other bees.

The African bee also leaves managed hives readily to migrate long distances and establish itself in new areas. This represents a dual threat to beekeepers. The African or Brazilian strain, having taken over the local bee colony, may suddenly depart, leaving the beekeeper without any producing bees, and leaving the crops in the area without a pollinating agent.

The wide-ranging and rapid-spreading traits of the African bee make it a double liability to beekeepers. It is known to spread at a rate of about 200 miles a year so that within a few years, virtually all beekeepers in this country could be vulnerable to it, especially in the Southern parts of the United States.

It is especially significant that southern beekeepers are the most exposed to the African bee because of the warmer climate and the closer geographical proximity to South America. Southern beekeepers do a great deal of breeding and development in bees. Stocks of bees produced in the South are transported to the Northern part of the country in the spring. Although it is thought that the African bee could not live in the colder temperatures in the Northern United States, it could still have a major impact on northern beekeepers because of the restocking patterns in the trade.

DANGEROUS TO PEOPLE

The African bee is especially known for its vicious attacks on animals and people. In its tour to Brazil, the special committee noted several reports of people being stung to death by this strain of bees. The bee readily attacks any human or animal which intrudes into its area. Swarms of the African or Braziiian bee in flight are especially ferocious and when more than one swarm are united, they are reported to be dangerous. The aggressive bees will follow their "victims" up to about 100 meters whereas domestic bees normally follow only about 10 meters.

The aggressive traits of the African bee could make it difficult for beekeepers to maintain the colonies. Should the African bee become dominant in this country, communities would probably begin to object to the presence of beehives in the area. Because of their sting, African honeybees as pollinating insects could become such a liability as to be unacceptable for this purpose.

PREVENT SPREAD

My bill basically strengthens two approaches to preventing introduction of the undesirable strain. Officials in the Department of Agriculture are aware of the African honeybee threat and are working to prevent its introduction. However, I believe more comprehensive action should be taken. This bill has been drawn up in consultation with the Department.

The first part of this legislation would strengthen existing law by prohibiting importation of the African or Brazilian honeybee in all its stages, from germ plasm to the adult. Presently, the law only prohibits introduction of the adult stage. This amendment will allow the

USDA to take steps against introduction of all life stages including the eggs, larvae, and pupae.

RESEARCH NEEDED

An exception is made for research purposes and I hope the Department will initiate further study on this strain, if it has not already done so. In addition to its aggressiveness, the African bee is known to be extremely hard working. It flies farther and for longer periods to find honey than the strains it replaces. It also works in a wider range of weather conditions. Many beekeepers say that the African bee produces more honey.

So further research is needed for two reasons. First, development of genetic strains to counter the African bee's aggressiveness is needed. Second, genetic research may allow the development of the productive traits of this strain in other bees. I hope the Department will be successful along this line.

COOPERATION WITH OTHER GOVERNMENTS

The second aspect of this legislation authorizes a program of eradication and control with the Governments of Canada, Mexico, and Central America. This type of cooperation already exists for other natural pestilence and for diseases. It makes sense to stop the spread of the African honeybee before it reaches our own borders and I hope the provisions of this bill will allow that to be accomplished. Programs which may be established under this bill should supplement cooperative activities between the United States and the countries of South America where the bee already exists.

Mr. President, I hope that my colleagues in the Senate will support this legislation. It is potentially beneficial to beekeepers in every State. The threat of the African bee to our honey producing industry is serious and since this bill would help reduce that threat, I hope it will receive early consideration.

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

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

S. 3403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1 of the Act of August 31, 1922, as amended (42 Stat. 833; 76 Stat. 169; 7 U.S.C. 281), is amended to read as follows:

"(a) In order to prevent the introduction and spread of diseases and parasites harmful to honeybees, and the introduction of genetically undesirable germ plasm of honeybees, the importation into the United States of all honeybees is prohibited, except that honeybees may be imported into the United States—

"(1) by the United States Department of Agriculture for experimental or scientific purposes, or

"(2) from countries determined by the Secretary of Agriculture—

"(A) to be free of diseases or parasites harmful to honeybees, and undesirable species or subspecies of honeybees; and

"(B) to have in operation precautions adequate to prevent the importation of honeybees from other countries where harmful diseases or parasites, or undesirable species or subspecies, of honeybees exist.

Honeybees imported pursuant to paragraph (2) of this subsection shall be imported under such rules and regulations as the Secretary of Agriculture and the Secretary of the Treasury shall prescribe.

"(b) Except with respect to honeybees imported pursuant to paragraph (1) or (2) of subsection (a) of this section, all honeybees offered for import or intercepted entering the United States shall be destroyed or immediately exported.

"(c) As used in this Act, the term 'honeybee' means all life stages and the germ plasm of honeybees of the genus *Apis*."

SEC. 2. Section 2 of the Act of August 31, 1922 (42 Stat. 834; 7 U.S.C. 282), is amended to read as follows:

"SEC. 2. Any person who violates any provision of section 1 of this Act or any regulation issued under it is guilty of an offense against the United States and shall, upon conviction, be fined not more than $1,000, or imprisoned for not more than one year, or both."

SEC. 3. The Act of August 31, 1922, is further amended by adding the following new sections:

"SEC. 3. The Secretary of Agriculture is authorized to cooperate with the Governments of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia, or the local authorities thereof, in carrying out necessary research, surveys and control operations in those countries in connection with the eradication, suppression, control and prevention or retardation of the spread of undesirable species and subspecies of honeybees, including but not limited to *Apis mellifera adansonii*, commonly known as the African or Brazilian honeybee. In performing the operations or measures authorized in this Act, the Governments of such countries shall be responsible for the authority necessary to carry out such operations or measures on all lands and properties therein and for such other facilities and means as in the discretion of the Secretary of Agriculture are necessary. The measure and character of cooperation carried out under this Act on the part of the United States and on the part of the Governments of such countries, including the expenditure or use of funds appropriated pursuant to this Act, shall be such as may be prescribed by the Secretary of Agriculture. Arrangements for the cooperation authorized by this Act shall be made through and in consultation with the Secretary of State.

"SEC. 4. Funds appropriated to carry out the provisions of this Act may also be used for printing and binding without regard to section 501 of Title 44, United States Code, for employment, by contract or otherwise, of civilian nationals of Canada, Mexico, Guatemala, Belize, Honduras, El Salvador, Nicaragua, Costa Rica, Panama, and Colombia for services abroad, and for the construction and operation of research laboratories, quarantine stations, and other buildings and facilities.

"SEC. 5. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

By Mr. GRAVEL:

S. 3405. A bill to direct the Secretary of the Treasury to study the impact of the cost of living in the State of Alaska on the tax burden imposed on its residents, and for other purposes. Referred to the Committee on Finance.

ALASKA TAX IMPACT STUDY

Mr. GRAVEL. Mr. President, most Americans now consider the high cost of living the No. 1 economic problem facing our country. In fact, many consider it the most critical of all problems, both economic and noneconomic.

With inflation rampant, now proceeding at the astounding annual rate of 14.5 percent, it would be amazing if people were not concerned. My constituents continually keep me apprised of the rising cost of food and other goods. Traveling back to the State often as I do, I am also repeatedly approached by individuals who wonder when inflation will subside. They relate to me the hardships it has brought them.

When I return to my State I am also brought face to face with another cost-of-living problem — the considerably greater cost of goods in Alaska than in other areas of the country. Alaskans are not only subject to the rapidly escalating prices that all Americans suffer, but also must contend with higher base prices. Many people in the lower 48 States talk with concern about a loaf of bread eventually costing a dollar. In Alaska it is a reality.

The Bureau of Labor Statistics compiles comprehensive and detailed reports on variations in the cost of living throughout the country. The Urban Family Budgets Series reports cost variations for living expenses for a family of four at three different levels. In the lower budget, the U.S. urban average cost is $7,386. In Anchorage, Alaska, the same goods would cost $11,096, or 50 percent more. Even at the exorbitant rates of inflation this country is experiencing today, it will be more than 3 years before the average U.S. cost of living reaches that experienced by Alaska right now. And, of course, by that time the cost of living in Alaska will have reached new records as well.

I have discussed this general problem with my colleagues many times, and I am sure they are well aware of our situation. Today I would like to address a more specific problem—the impact of the progressive Federal income tax structure on Alaskans. The progressive rate structure gouges Alaskans twice. On the one hand, they are required to pay much more in Federal income taxes for an equivalent standard of living. On the other, the progressive rate structure institutionalizes the high cost of living in the State, and retards progress in bringing our cost of living closer to that of other Americans.

As I stated before, Alaskans at the lower budget level of the BLS study pay 50 percent more to live than the average person. The BLS study also details the comparative costs in the budget among other categories of expenditures. The category with the greatest differential—personal income taxes—reveals that Alaskans pay 119 percent more, or over twice as much, as the average for an equivalent standard of living. Thus in relative terms, personal income taxes contribute more than any other category to Alaska's high cost of living.

People in my State must earn more to pay for added housing, food, clothing and other expenses. However, as their income increases to pay these additional costs, income taxes also increase by an even greater percentage. Consequently, we bear not only the added cost of goods and services, but a heavier tax burden as well.

Our income tax system is based on the concept of ability to pay. It is assumed that a man earning $10,000 can pay more

in taxes and should bear a greater share of the expenses of Government than a man earning $7,000. By and large this is the case. But if the person earning $7,000 lives in Buffalo, Cleveland, Kansas City, Houston, or San Diego, and the person earning $10,000 lives in Anchorage, it is not the case. In Anchorage, $10,000 will not buy as much as $7,000 in these other cities. And yet because of our tax structure, Alaskans pay not only a greater dollar amount of taxes, but a higher percentage of their income as well.

Congress must not permit this inequitable situation to continue. In an area such as Alaska, taxes should be based on real income rather than money income so that residents do not pay taxes at rates much higher than other Americans.

Because our tax laws are now so cumbersome and complex, making the needed changes requires a detailed study and an exhaustive analysis of potential methods for making cost of living adjustments. Consequently, I am introducing a bill today that will direct the Secretary of the Treasury to study this problem in depth and report back to Congress. As we must have this information to determine how best to proceed, my bill makes no changes or adjustments in tax laws. It simply directs the Secretary to provide Congress the information it needs to consider the problem and alternative courses of action. I hope my colleagues will join me in seeking the information we require.

I ask unanimous consent, Mr. President, that the text of my bill be printed at this point in the RECORD.

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

S. 3405

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alaska Cost of Living Tax Impact Study Act of 1974."

SEC. 2. The Secretary of the Treasury (hereinafter referred to as the "Secretary") shall conduct a study of the impact of the high cost of living in the State of Alaska (hereinafter referred to as "Alaska") on the tax burden imposed on the taxes paid by the residents of that State under subtitles A and B of the Internal Revenue Code of 1954 (relating to income taxes and estate and gift taxes).

SEC. 3. In carrying out this study, the Secretary shall—

(1) develop, with the advice and assistance of the Bureau of Labor Statistics, a comprehensive cost of living index to reflect the average cost of living for Alaska and major regional subdivisions thereof;

(2) determine the amount of taxes paid and the relative tax burden of residents of Alaska as compared to residents of the United States residing in the 48 contiguous States, for various budget levels in terms of purchasing power;

(3) analyze the equity of the current system of applying fixed dollar deductions, exclusions, limits, rate structures, and other amounts to taxpayers in Alaska in view of the abnormally high cost of living in Alaska;

(4) identify and evaluate alternative methods and procedures of applying cost of living adjustments to fixed dollar amounts and taxable income for taxpayers in Alaska; and

(5) consider the need, benefits, and feasibility of making the adjustments identified in paragraph (4), and in general in providing a cost of living adjustment to taxpayers in Alaska because of their abnormally high cost of living relative to taxpayers in the other States.

SEC. 4. The Secretary shall complete such study and shall submit to Congress a full and complete report thereon, together with the recommendations of the Secretary with respect to the matters included in the study, not later than one year after the date of enactment of this Act.

By Mr. GRAVEL:

S. 3406. A bill to amend the Comprehensive Employment and Training Act of 1973 to provide flexibility in adjusting the maximum pay rate for public service jobs in high cost of living areas. Referred to the Committee on Labor and Public Welfare.

ALASKA AND THE CETA PAY LIMIT

Mr. GRAVEL. Mr. President, the Comprehensive Employment and Training Act of 1973, passed by this Congress, was a large step toward changing the relative roles of the Federal and State governments in the policymaking and administration of manpower programs and funds. I supported this legislation and its objective of giving more responsibility for manpower planning to the States.

While broadening and increasing the functions of State governments, it was, of course, necessary for the Federal Government to establish standards and oversight regulations to insure that the intent of Congress in appropriating such funds will be fulfilled. The Federal Government is responsible to the citizens of this country for expending tax moneys and, thus, must provide standards for State programs.

One provision of the act, section 208 (a)(3), provides that those manpower funds used for public service jobs shall not be used to pay individuals at a rate in excess of $10,000. While I do not argue the need for this limit, in establishing one national standard, Congress did not take into account its impact on high cost-of-living areas, such as Alaska.

I do not wish to go into an extensive discussion with my colleagues on the high cost of living in Alaska, and, indeed, it is not needed, as I am sure they are well aware of the situation.

But I would like to make one comparison. Using Bureau of Labor Statistics' Urban Budget Study data, it can be determined that this $10,000 national standard is worth only $7,000 to a wage earner in Alaska in real terms. That is, to say that the buying power of a public service employee is worth 30 percent less in Alaska than in the rest of the country.

When I wrote Mrs. Blanche McSmith, Alaska State Director of the Public Employment Program, about the public service employment provisions of CETA, she provided me with a detailed analysis of the act which explains the practical ramifications of the pay rate limit in Alaska. I ask unanimous consent, Mr. President, to include her letter in the RECORD at this point.

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

STATE OF ALASKA,
OFFICE OF THE GOVERNOR,
Juneau, Alaska, March 14, 1974.

Hon. MIKE GRAVEL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: This will supplement our recent exchange of communications regarding the Comprehensive Employment and Training Act (CETA). In your last letter, you will recall your request for our evaluation of the new legislation and its relationship to solving Alaska's unemployment problem. The delay has been due to receipt of guidelines of the Public Employment Programs under Title II, which we have carefully reviewed. The guidelines as printed in the *Federal Register* only outlined regulations for the Public Employment Programs; therefore, the observations are confined to this program.

There seem to be very few differences in provisions of Title II Public Employment Programs and the existing program. However, the differences are very serious for Alaska (detailed explanation of the differences in subparagraphs). It was unfortunate this program was included in the comprehensive package. Local governments and agencies have just learned through "trial and error" to effectively render the necessary services to the long-neglected segments without a network of boards, commissions, and committees, which ofttime prove to be unwieldy, bungling, bureaucratic nightmares. This legislation calls for local, state, and national councils. In a state the size of Alaska, in order that a council be truly representative, hold meetings, and assume functions it is authorized to do, thousands of dollars are required for per diem, travel, etc., just to get together. Very often the struggle for power and prestige in such groups causes people to lose sight of the real goals of the program and divert funds for non-producing meetings that could benefit the needy persons.

The provision of making funds interchangeable from Title II to Title I would be a convenient vehicle for accomplishing unwise use of funds.

We certainly don't like to be extremely suspicious of the organizational procedures provided under this legislation; however, Alaska is crowded now with countless boards, commissions, and committees. Considering vastness and isolated areas of Alaska as well as transportation problems, it just seems likely that representation will not be effective.

(a) The salary limit of $10,000.00 a year in contrast to $12,000.00 in the existing program. Pro-rating this amount means that a participant's monthly salary would be limited to $833.00 a month. This will have a significant effect upon State agencies in view of the anticipated raise, retroactive pay, and transfer of PEP participants to Title II funding. Unless this is changed for Alaska, all of the positions would be limited mostly to positions such as the following, or similar jobs on the "lower end of the totem pole".

Funding Would Be Limited to Positions in This Group, But Only in Some Districts:

Clerk-Typist I, II, and III, Clerk I, II, and III, Custodian Workers I and II, Laborers, Accounting Clerk I, II, and III, Library, Teacher, and Laboratory Aides, Cook I, Guard I and II, Fish & Game Technician I and II, Health Information Assistant, Document Processor Clerk I, II, and III, Storekeeper I.

Positions With Salaries "Out of Reach" Under Title II Limitations Unless Agencies Make Greater Contributions:

Housing Specialist Trainee, Administrative Assistant I and II, Manpower Specialist I and II, Manpower Specialist Trainee, Assistant Equipment Operator I, II, and III, Claims Investigator, Claims Examiner, Oceanographer, Laboratory Assistant, Eligibility Worker, Correctional Officer Trainee, Social Worker I, II, and III, Maintenance Mechanic, Auto Mechanic Helper, Policemen, Firemen.

(b) Another side of the coin will be the differences in wages in different districts. The anticipated highest level would be Range 10, Step A. A sample computation is attached hereto to demonstrate the differences following passage of the pay raise bill. (Exhibit I).

With the new pay raises, Barrow, Interior Alaska, North Arctic Circle, Hooper Bay, Bethel, Nome, Dillingham, and the Aleutians could have only positions with additional contributions. $939.00 is the lowest salary in Barrow, $881.00 in Nome, and $909.00 in Bethel. With the anticipated pay raises, the lowest salary a State worker will draw amounts to $709.00. The highest salary Title II can pay is $833.00 a month, without supplement.

(c) Other problems would occur in transferring higher-paying PEP positions, such as Administrative Assistant, Equipment Operator, Manpower Specialist, etc., into Title II positions. Either drastic cuts will be necessary or agencies' budgets will require larger contributions, which would cause a hardship. You will recall that PEP participants require equal salaries and benefits as others in similar capacities. This goal could not be possible in Alaska with the proposed reduction in the maximum salaries.

(d) In addition, this $10,000.00 limit would limit hiring of the one-third professional PEP participants allowed, and would also limit hiring men and women with family responsibilities. Likewise, the hiring of Veterans, top priority of the program, would be affected. The salaries of jobs presently held by men participants would be insufficient to support the cost of living.

Our fear is that a large number of needed positions would be eliminated for agencies having limited budgets or participants subjected to cut in pay or downgrade at the same time other State and local employees are receiving raises. Both State agencies and local governments are operating on budgets which cannot afford additional funds for higher salaries. The local governments pattern wages on the basis of State wages; therefore, it is highly possible that local salaries will be increased.

(e) Thirty-day period of unemployment required prior to PEP employment (in contrast to the present fourteen days). Under Title II a PEP applicant has to be unemployed thirty days at the time he applies and secures work. Since PEP is treated as State temporary, this category is not entitled to advances in receiving salaries. Applicants in dire circumstances would be subject to grave inconveniences and suffering for six weeks to two months without income. Local governments normally have a two-week waiting period before first check is available.

(f) The method of computing characteristics of segments is unrealistic and cumulative totals fail to reflect the number of persons who have actually gone through the program. The unrealistic totals result from computing all action on the 6–43 form. In the new program another method should be devised to count upgrades, recalls, transfers, etc., instead of counting them as terminations (this suggestion applies to Boxes 11 and 12 on the 6–43's).

(g) The same problem exists in computation of racial statistics. For Alaska the form should include categories of Eskimos, Aleuts, or Alaska Natives. At the present time, "American Indian" is included. Aleuts, Eskimos, and some Natives are not American Indians, and they were counted as White or "Other". If these statistics are to be meaningful, the method of reporting must be changed to include such groups on the forms. When Native organizations originally objected to exclusion of these categories, we were advised that only Alaska had this problem, and the forms were made up for all the other states. Due to the fact that Alaska and Alaska Natives are specifically mentioned in the law, particular attention should now be given to including them in the reporting forms.

The guidelines provided for complaints and suggestions to be sent to the following address:

Assistant Secretary for Manpower, U.S. Department of Labor, 6th and D Streets, NW., Washington, D.C. 20213.

Attention: Pierce A. Quinlan, Acting Associate Manpower Administrator for Manpower Development Programs.

To be sent within fifteen days after publication of the guidelines or by April 1st. Other members of Alaska's delegation will be sent copies of the recommendations as well.

We sincerely trust you will do everything in your power to improve the provisions of this legislation to benefit Alaska.

With best wishes, I am,

Very truly yours,

Mrs. BLANCHE L. MCSMITH,
State Director, Public Employment Program.

Mr. GRAVEL. Mr. President, because of the need to adjust this limit for Alaska, I am introducing, today, a bill to empower and direct the Secretary of Labor "to increase this maximum pay rate for those areas with a cost of living greater than 15 percent of the national average by an amount proportionate to the difference between such national average and that area's cost of living." This bill will provide the relief that is needed for Alaska, but it will not significantly increase the Department of Labor's burdens, as would be the case if adjustments in the pay rate limit were made for insignificant cost-of-living variations throughout the country.

Public service jobs in Alaska have proved to be a very good means for providing employment and training assistance to individuals, and for getting them into full-time permanent jobs. It has also helped State and local governments improve the level and quality of services they are able to give their committees. My bill will allow the public service jobs under the Comprehensive Employment and Training Act to continue the excellent work begun by the Public Employment Program.

I ask unanimous consent that a table showing how the proposed payroll plan will affect PEP be printed in the RECORD.

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

EXHIBIT I.—HOW THE PROPOSED STATE'S PAYROLL PLAN WILL AFFECT PEP

	Anchorage Ketchikan Juneau	Petersburg Sitka Palmer	Kenai Kodiak Seward	Fairbanks South A.C.	Valdez	Nome Dillingham Aleutians	Hooper Bay Bethel	Barrow Interior North A.C.
7B	*709	*731	*754	*777	*802	881	909	939
Present salary	(584)	(606)	(629)	(652)	(677)	(756)	(784)	(814)
8A	*731	*754	*777	*802	*827	909	939	969
Present salary	(606)	(629)	(652)	(677)	(702)	(784)	(814)	(844)
9A	*777	*802	*827	854	881	969	1,001	1,034
Present salary	(652)	(667)	(702)	(729)	(756)	(844)	(876)	(909)
10A	*827	854	881	909	939	1,034	1,073	1,113
Present salary	(702)	(729)	(756)	(784)	(814)	(909)	(943)	

Asterisks (*) denote salaries to be paid under State pay raise plan in different districts requiring additional funds from agencies as differing from those that will be funded under title II public employment program ($10,000 year limit or $833 per month). Asterisks represent salaries applicable.

By Mr. COOK (for himself, Mr. HUDDLESTON, Mr. BROCK, Mr. PEARSON, and Mr. HARTKE):

S. 3407. A bill to amend the Act of September 23, 1940 (Public Law 815, 81st Congress) to provide for disaster assistance in a manner which assures increased protection against personal injuries resulting from disasters. Referred to the Committee on Labor and Public Welfare.

Mr. COOK. Mr. President, earlier this month tornadoes ripped through 10 Southeastern States, including the Commonwealth of Kentucky, destroying property and endangering countless lives. In Kentucky alone total damage is estimated to be in the tens of millions of dollars. Many areas were left little more than rubble in the storm's path.

Among those buildings damaged or destroyed were 18 of Kentucky's elementary and secondary schools, with a combined enrollment of 10,850 students. It is frightening to consider the lives that might have been lost if the tornadoes had struck earlier in the day. Many of these schools have made less than adequate provision for such an emergency, and arrangements for emergency shelter are particularly poor. If such a disaster were ever to recur, it would be inexcusable not to have assured that these students had the best available protection.

I have sent a letter to Governor John E. Davis, Director of the Defense Civil Preparedness Agency, requesting his Agency's assistance in determining the best emergency procedures and the soundest available shelter in each of Kentucky's elementary and secondary schools. It is my understanding that the Defense Civil Preparedness Agency can provide engineers and professional advisers to survey public facilities of all types to determine the most effective and reasonable emergency planning in each situation. Such a service could prove invaluable in future emergencies, and I hope that many more public agencies will take advantage of this assistance.

I have also asked that the agency assist me in contacting each of Kentucky's public and private schools, outlining

those services available to them through the DCPA. Engineering advice in planning new construction could save countless lives, and I have asked that this assistance be provided immediately to those schools rebuilding after this recent disaster.

I am also introducing legislation that would allow the Commissioner of Education to approve additional funds for replacing or restoring school buildings damaged during national disaster situations in order to insure that adequate provision is made for emergency protection during any future disaster. These additional funds would be money well spent in insuring against future tragedies. I ask unanimous consent that a copy of this proposal be printed in the RECORD.

There is no better example of the importance of professional planning advice than the school in Baldwin County, Ala., that had planned to usher the entire student body into the auditorium in the case of an emergency. Technical people from the regional office of the Defense Civil Preparedness Agency in Thomasville, Ga., advised against this procedure, pointing out that under extraordinary circumstances the auditorium roof would collapse well before the roof in the building's main corridor. Within the year tornados struck. The auditorium roof collapsed, but the children were safe, huddled in the building's central hallway.

I believe I have made my point very clear. It is my hope that every school in Kentucky will take advantage of these professional services.

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

S. 3407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 16(a) of the Act entitled "An Act relating to the construction of school facilities in areas affected by Federal activities, and for other purposes", approved September 23, 1950 (Public Law 81-815), is amended by inserting before the last sentence thereof the following new sentence: "For the purpose of the preceding sentence, the phrase 'the cost of construction incident to the restoration or replacement of the school facilities' includes such additional amounts as the Commissioner may approve in order to assure that the facilities, as restored or replaced, will afford maximum protection against personal injuries resulting from a disaster.".

By Mr. STEVENS:

S. 3408. A bill to provide that the laws restricting the coastwise trade to vessels of the United States shall not apply to certain hovercraft on routes over land or over water only as an incidental part thereof. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, I introduce a bill which would exempt air cushion vehicles used in land transportation from the Jones Act. Presently, since an air cushion vehicle known also as a hovercraft is capable of being used as a means of transportation on the water, I have been informed that they would be classified as a vessel and subject to the provisions of the Jones Act. This interpretation would necessitate that an air cushion vehicle—ACV—be manufactured in America before it could be used to transport supplies and people even within one State. The problem is that currently no ACV are being produced in the United States.

My bill would allow ACV being manufactured outside the United States to be used for land transportation. I do not believe that this is contrary to the spirit of the Jones Act since the bill clearly provides that any transportation over water can only be incidental to the basic purpose—land transportation. These ACV will not compete with American vessels in coastwise trade, since a permit will be only granted by the Commerce Department after a showing is made by the applicant that a land route is involved with only incidental crossing over water. I feel that my bill, if enacted into law, will benefit the Nation as a whole as well as be of a particular benefit in developing a feasible transportation system in Alaska.

Alaska's vast size and varied terrain are part of its attraction and strength—but cause a myriad of problems for people in the transportation business.

Less than one-eighth of Alaska is served by roads; in 586,000 square miles, Alaska has only about 2,700 miles of road: Not all those miles are paved; not all are passable year round; not all are connected to the contiguous highway system of North America. In the great northern tundra expanses, the snowmobile and dogsled still reign as the only means of transportation on the ground.

Overall, only the airplane unites the farflung villages in Alaska. And, it is particularly in the Arctic—with its ferocious winter snows and water-laden summer tundra—that the airplane suffers from capricious weather and scarcity of landing strips. While the helicopter does not need runways, it still needs good weather to fly—and shares with the airplane the high cost of operation—and passes this price along to the customer.

Despite this lack of surface transportation, new roads and railroad tracks are not in the immediate future for the far northern and western reaches of Alaska.

Tundra and permafrost challenge the best engineers, and offer innumerable construction and maintenance problems and costs. While the permafrost is frozen rockhard year round, the surface covering of tundra, which can vary from a few inches to a few feet, melts into a soggy, spongelike state for about 3 months each summer. Since the permafrost absorbs nothing, water from melted snow and thawed tundra remains on the surface. And tundra is not smooth, but pockmarked with millions of holes—all water filled in summer.

There is hardly any gravel in these northern expanses—so every cubic foot must be transported, mainly by air. Another problem is that not all this area is flat—some of the highest and ruggedest mountains in the country are formed across northern Alaska. Also, across this area run hundreds of thousands of streams and rivers, requiring either bridging or ferry crossing for conventional surface transportation.

But even if all the engineering problems were readily solved, there would still be untold ecological problems. Impact studies would have to be conducted, with no guarantee that their findings would be favorable. It may not be practical or wise to criss-cross this virgin country with highway or rail.

So we must turn to modes of transportation other than the conventional. The ACV seems to offer the most functional solution. While formerly used almost exclusively on water, the ACV has land-transportation abilities, proven in the Canadian Arctic.

Riding on a cushion of forced air, these vehicles can travel up to 55-miles per hour and carry up to a 40-ton cargo load. That is about the same capacity as the C-130 Hercules commonly used for hauling in these areas. The ACV rides across snow, ice, surface water or land with equal ease. It can negotiate ice pressure ridges and mountain passes. And the beauty of its operation—for engineers and ecologists alike—is that there is no disturbing of the surface of the earth.

The cost per ton mile makes it extremely attractive for long-haul routes. Alaska could have an inland ferry system, carrying passengers and freight across areas previously only flown over—for much less the price.

The advantages of the ACV for tundra travel are not confined to cargo and passenger transportation. The overwhelming and pressing need for scientific study in this area of Alaska requires fast, versatile all-terrain modes of transportation. The ACV can be equipped with all manner of scientific instruments, and studies from geology to wildlife can be conducted from these craft.

The promise these vehicles hold for opening up Alaska's vast bush country—to hauling and study—is enormous. One ACV is currently operating in Alaska's interior in conjunction with studies being done by the Alyeska Pipeline Co., and a second vehicle may be in Alaska this summer. These craft have proven their worth and reliability in the Canadian north. Now we are looking at demonstrating their capabilities in Alaska this summer—with an eye toward operational systems in the not-too-distant future.

Mr. President, I hope that the Senate gives prompt consideration to this proposal and that in the near future hovercraft can provide a vital link in Alaska's transportation network.

I ask unanimous consent that the bill be printed in the RECORD at the conclusion of my remarks.

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

S. 3408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 U.S.C. 883) is amended by striking out the period at the end and inserting in lieu thereof a colon and the following: "*Provided further,* That nothing in this section, or in any other provision of law restricting the coastwise trade to vessels of the United States, shall prohibit the transportation of merchandise or passengers by air cushion vehicle on any route over land or over water only as an incidental part thereof, if a permit is obtained from the Secretary of Com-

merce for the purpose of operating pursuant to this proviso in accordance with regulations prescribed by the Secretary. For the purpose of this section the term 'air cushion vehicle' means a vehicle which travels over land or water on a cushion of air generated by such vehicle.".

By Mr. TUNNEY:

S. 3409. A bill to amend the National Labor Relations Act, as amended, to amend the definition of "employee" to include certain agricultural employees. Referred to the Committee on Labor and Public Welfare.

LEGISLATION BRINGING FARMWORKERS UNDER THE COVERAGE OF THE NATIONAL LABOR RELATIONS ACT

Mr. TUNNEY. Mr. President, once again, the bitter harvest of a new spring is spreading through the agricultural areas of California and the Nation. It is the annual struggle for union recognition by the Nation's farm workers, a tense triangular dispute with the growers, the United Farm Workers and the Teamsters Union in desperate contention.

In the middle are the farmworkers. So, too, are American consumers.

The farmworkers have no electoral process of resolving the jurisdictional dispute between the two unions. And the consumer has no alternative but to pay the higher food prices caused, in part, by the seemingly unending and unyielding conflicts in our farm lands.

Farmers, too, are caught in the Nation's last remaining struggle for recognition by a significant corps of labor. Their crops may go unharvested or undelivered to the market.

The unions also suffer, for they have spent millions of dollars in the prolonged dispute, and the solidarity, which is their common defense, has been sundered with the AFL–CIO standing with UFWA against the Teamsters.

And always, simmering in the rising dust of the fields, is the threat of bloodshed and violence.

Cesar Chavez has made a creed of nonviolence, and the Teamsters have said they, too, disavow strong-arm tactics. Nonetheless, the collision of wills involved in so monumental a dispute inevitably strikes dangerous sparks.

In short, the showdowns in the great farming valleys of California produce only victims, and there will be no resolution until that day when the farmworkers themselves are assured an orderly procedure by which they can elect the union they want to represent them. That day depends on affirmative action here in Congress.

Consequently, I am, once again, introducing legislation to bring farmworkers under the National Labor Relations Act. I first introduced such legislation in 1969 when I served in the House of Representatives. Representative B. F. SISK of California has a similar measure currently before that body.

The reasoned certainties of NLRA will replace the explosive uncertainties of strikes, picket lines, boycotts, lockouts, and other mass actions and give farmworkers the security to validate their long-sought goals of decent wages and working conditions.

As mentioned earlier, the philosophy of nonviolence has inspired much of the organizational efforts among farmworkers, but it now needs the solid steel of law to assure workers their right freely and secretly, under legitimate and responsible supervision, to elect the union they believe can most effectively bargain collectively for them.

Systematic, sanctioned elections, fully regulated under NLRA, provide the surest procedure for settling jurisdictional disputes and for bringing order and permanence to contractual relations between worker and grower.

As outcasts from NLRA, the farmworkers have no way, I believe, to achieve lasting representation of their interests. NLRA will assure them protections and guarantees it already provides 95 percent of the Nation's working force.

All too often, after years of valiant struggle, the voice of farmworkers has been lost in the winds that sweep the valleys and their aspirations of dignity and opportunity have gone unfulfilled.

I believe, as I have over the years, that farmworkers should be brought within the shelter of NLRA, and a long and oppressive chapter of labor history can, at long last, be closed. I urge swift Senate approval of this legislation.

I ask that the full text of the bill be printed at this point in the RECORD.

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

S. 3409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2(3) of the National Labor Relations Act, as amended, is amended by striking out the following phrase: "as an agricultural laborer, or".

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 411

At the request of Mr. MCGEE, the Senator from Tennessee (Mr. BROCK) was added as a cosponsor of S. 411, to amend title 39, United States Code, relating to the Postal Service, and for other purposes.

S. 1147

At the request of Mr. DOMINICK, the Senator from Arkansas (Mr. MCCLELLAN) was added as a cosponsor of S. 1147, to amend the Occupational Safety and Health Act of 1970.

S. 1637

At the request of Mr. BAYH, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 1637, to discourage the use of painful devices in the trapping of animals and birds.

S. 2363

At the request of Mr. CRANSTON, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of S. 2363, a bill to amend chapter 39 of title 38, United States Code, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

S. 2854

At the request of Mr. CRANSTON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of S. 2854, a bill to amend the Public Health Service Act to expand the authority of the National Institute of Arthritis, Metabolic, and Digestive Diseases in order to advance a national attack on arthritis.

S. 2871

At the request of Mr. MCGOVERN, the Senator from California (Mr. CRANSTON), was added as a cosponsor of S. 2871, to amend the Food Stamp Act of 1964.

S. 3023

At the request of Mr. KENNEDY, the Senator from Iowa (Mr. CLARK) was added as a cosponsor of S. 3023, the Biomedical Research Act of 1974.

S. 3067

At the request of Mr. HARTKE, the Senator from Maryland, (Mr. MATHIAS), was added as a cosponsor of S. 3067, a bill to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and for other purposes.

S. 3072

At the request of Mr. HARTKE, the Senator from Maryland (Mr. MATHIAS), was added as a cosponsor of S. 3072, a bill to amend title 38, United States Code, to liberalize the provisions relating to payment of dependency and indemnity compensation, and for other purposes.

S. 3233

At the request of Mr. HUMPHREY, the Senator from Kentucky (Mr. COOK), was added as a cosponsor of S. 3233, a bill for the relief of certain individuals formerly employed by Nationwide Food Service in the U.S. Senate Restaurant.

S. 3280

At the request of Mr. KENNEDY, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 3280, the "Health Services Act of 1974."

S. 3316

At the request of Mr. MOSS, the Senator from Oregon (Mr. PACKWOOD), the Senator from New Hampshire (Mr. MCINTYRE), the Senator from North Dakota (Mr. YOUNG), the Senator from Michigan (Mr. HART), the Senator from Montana (Mr. METCALF), the Senator from Minnesota (Mr. HUMPHREY), and the Senators from Massachusetts (Mr. KENNEDY and Mr. BROOKE) were added as cosponsors of S. 3316, to establish National Historic Trails as a new category of trails within the National Trails System, and for other purposes.

S. 3330

At the request of Mr. HARKTE, the Senator from Iowa (Mr. CLARK), and the Senator from Wyoming (Mr. MCGEE) were added as cosponsors of S. 3330, to amend title 10 of the United States Code to provide severance pay for regular enlisted members of the U.S. armed services with 5 or more years of continuous active service, who are involuntarily released from active duty, and for other purposes.

S. 3334

At the request of Mr. MONDALE, the Senator from Colorado (Mr. DOMINICK), the Senator from New York (Mr. JAVITS), and the Senator from California (Mr. CRANSTON) were added as cosponsors of S. 3334, to amend the Interstate

Commerce Act in order to improve service in the transportation of household goods by motor common carriers.

S. 3341

At the request of Mr. METCALF, the Senator from Alaska (Mr. STEVENS) be added as a cosponsor of S. 3341, to revise certain provisions of title 5, United States Code, relating to per diem and mileage expenses of employees and other individuals traveling on official business, and for other purposes.

S. 3361

At the request of Mr. PROXMIRE, the Senator from Minnesota (Mr. HUMPHREY) was added as a cosponsor of S. 3361, to assure the continuation of the Consumer Price Index.

S. 3388

At the request of Mr. HUMPHREY, the Senator from Pennsylvania (Mr. SCHWEIKER) was added as a cosponsor of S. 3388, a bill to amend the Child Nutrition Act of 1966 for the purpose of providing additional Federal financing to the special supplemental food program.

S. 3398

At the request of Mr. HARTKE, the Sentor from Indiana (Mr. BAYH), was added as a cosponsor of S. 3398, a bill to amend title 38, United States Code, to provide a 10-year delimiting period for the pursuit of educational programs by veterans, wives, and widows.

SENATE JOINT RESOLUTION 115

At the request of Mr. BARTLETT, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 115, to limit the use of limousines and to promote the use of economy cars by the Federal Government.

SENATE JOINT RESOLUTION 173

At the request of Mr. DOMINICK, the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of Senate Joint Resolution 173, requesting that the President appoint a National Commission for the Control of Epilepsy and its Consequences.

SENATE JOINT RESOLUTION 202

At the request of Mr. GRIFFIN, the Senator from California (Mr. TUNNEY), and the Senator from Colorado (Mr. HASKELL) were added as cosponsors of Senate Joint Resolution 202, designating the premises occupied by the Chief of Naval Operations as the official residence of the Vice President, effective upon the termination of service of the incumbent Chief of Naval Operations.

ADDITIONAL COSPONSORS OF A RESOLUTION

SENATE RESOLUTION 302

At the request of Mr. BROOKE, the Senator from South Dakota (Mr. MCGOVERN), the Senator from California (Mr. CRANSTON), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of Senate Resolution 302, a resolution on the "River Blindness" Rehabilitation Program for the Sahelian Countries of Africa.

GRANT OF LAND TO CITY OF ALBUQUERQUE FOR PUBLIC PURPOSES—AMENDMENT

AMENDMENT NO. 1230

(Ordered to be printed and referred to the Committee on Interior and Insular Affairs.)

Mr. DOMENICI (for himself and Mr. MONTOYA) submitted an amendment in the nature of a substitute, intended to be proposed by them jointly, to the bill (S. 2125) to amend the act granting land to the city of Albuquerque for public purposes, approved June 9, 1906.

TAX TREATMENT OF CERTAIN ARMED FORCES PERSONNEL AND CIVILIAN EMPLOYEES WHO ARE PRISONERS OF WAR OR MISSING IN ACTION—AMENDMENT

AMENDMENT NO. 1231

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

Mr. DOMENICI. Mr. President, I am submitting today an amendment intended to be proposed by me to H.R. 8217 dealing with the tax treatment of Armed Forces personnel and civilian employees who are prisoners of war or missing in action. My amendment would provide tax exemption for all pay received by military personnel while hospitalized as a result of service in a combat zone. This amendment would also extend for 2 years forgiveness on Federal income tax for MIA's who subsequently were determined dead. That is, it would prevent any additional hardship to a serviceman's family which would result from the collection of taxes for years following his actual death. Also, it provides that a widow would be eligible for surviving spouse tax treatment for 2 years following the year in which her husband's missing status is changed, rather than the 2 years following the year of actual death.

This amendment contains the provisions that were included in H.R. 8214 relating to tax breaks for military and civilian POW's, MIA's, and their families. That bill was recommitted, because of the large number of unrelated amendments which were attached to it. This is simply too important a matter not to be given our immediate and undivided attention.

Introduction of this measure brings to mind once again that more than a year ago many millions of Americans across the Nation witnessed firsthand and on television the emotion-packed, heartwarming return of some of our POW's and MIA's from Vietnamese prison camps. Those were days of joy in American homes nationwide, and we as a nation rejoiced with those who had waited so long and so anxiously for the return of their loved ones.

However, that chapter of the Vietnam war is still unended for some 1,300 American families, families who still wait, still wonder if their servicemen are alive or dead. Our search and inspection teams have been permitted to examine only a handful of areas in Southeast Asia where our missing men were last seen alive. All efforts to obtain a satisfactory "accounting," a central provision of the Paris peace agreement, have been frustrated because the North Vietnamese continue to disregard their obligation to assist in the exhumation of remains and to accompany our joint search teams.

Our Nation has been bravely defended by her fighting men; and until each of those men is account for and until each of those families is given the satisfaction of knowing a loved one's status, we cannot let our pursuits for accountability cease. We cannot allow even a day to pass without doing all possible to determine where 1,300 courageous American men are—alive or dead.

Because of this tragic situation and because of our concern for these men and their families, I urge my colleagues to support this POW-MIA tax relief legislation. It in some small measure expresses our concern and our gratitude to those Americans who have given and who continue to give so much for our Nation.

EXTENSION OF POSTAL RATE ADJUSTMENTS—AMENDMENT

AMENDMENT NO. 1232

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

Mr. HATHAWAY submitted an amendment intended to be proposed by him to the bill (S. 411) to amend title 39, United States Code, relating to the Postal Service.

AMENDMENT OF EXPORT-IMPORT BANK ACT OF 1945—AMENDMENT

AMENDMENT NO. 1233

(Ordered to be printed, and referred to the Committee on Banking, Housing and Urban Affairs.)

Mr. HATHAWAY submitted an amendment, intended to be proposed by him, to the bill (S. 1890) to amend the Export-Import Bank Act of 1945, as amended, to extend for 4 years the period within which the bank is authorized to exercise its functions, to increase the bank's loan, guarantee, and insurance authority, to clarify its authority to maintain fractional reserves for insurance and guarantees, and to amend the National Bank Act to exclude from the limitations on outstanding indebtedness of national banks liabilities incurred in borrowing from the bank, and for other purposes.

AUTHORIZATION OF APPROPRIATIONS UNDER THE INTERNATIONAL ECONOMIC POLICY ACT OF 1972

AMENDMENT NO. 1234

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

Mr. HATHAWAY submitted an amendment intended to be proposed by him to amendment No. 1229 proposed by Mr. MUSKIE (for himself and others) to the bill (S. 2986) to authorize appropriations for carrying out the provisions of the International Economic Policy Act of 1972, as amended.

AMENDMENT NO. 1235

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

Mr. HUDDLESTON. Mr. President, under amendment No. 1229 offered by Senators MUSKIE, STEVENSON, and JOHNSTON, the President is authorized to impose economic controls on a sector-by-sector basis after he has made three findings.

In making these findings, the President must consider the extent to which inflation can be moderated by economic controls on one sector without imposing them on other sectors. He must further consider the extent to which competition moderates inflation, the effect of controls on supplies and the time frame required for market correction of inflation.

These required considerations are both desirable and necessary. I have been concerned for many months with the availability and unavailability of materials and commodities; and, accordingly, I am particularly pleased to see explicit language requiring consideration of the affects of economic stabilization efforts on supplies.

In 1973, goods constituted 47.7 percent of the gross national product of the United States. Structures—such as bridges, building, and highways—equaled 10.8 percent of the GNP. This leaves output of service-oriented activities at 41.5 percent of our $1,288.3 billion economy.

Mr. President, while the general language of amendment No. 1229 calls for fair and equitable treatment of all sectors of the economy, it is, I believe, imperative to afford the service sector the same explicit Presidential consideration as that given the supply sector. For this reason, I am submitting an amendment intended to be proposed by me to the Cost of Living Act of 1974 which requires the President, in determining applicability of controls to a service-oriented sector of the economy, to consider the extent to which such controls will limit, or otherwise affect, the quality of services rendered. I request that my amendment be printed in the RECORD at this point.

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

AMENDMENT NO. 1235

After the semicolon at the end of section 205(2) (2) (C) (ii) strike out "and".

Redesignate clause (D) of section 205(c) (2) as clause (E), and insert immediately before such clause (E), as redesignated, the following:

"(D) in the case of controls applicable to a service-oriented sector of the economy, the extent to which such controls will limit, or otherwise affect, the quality of services rendered; and".

POLITICAL LEADERSHIP INTERN PROGRAM ACT—AMENDMENT

AMENDMENT NO. 1236

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

Mr. HUMPHREY. Mr. President, I submit an amendment to S. 1539, the Education Amendments of 1974, to add a new title XII under the Higher Education Act of 1965, and which would be cited as the "Political Leadership Intern Program Act of 1974."

My amendment would authorize the Commissioner of Education to make grants to institutions of higher education which establish internship programs under which students will be provided practical involvement with elected officials in State and local government in the performance of their duties.

It is expected that the students will be assigned to jobs of solid responsibility, whether in researching important State and local issues, or in providing the day-to-day services that are requested by constituents, or in helping to draft legislation.

This important work experience would be coordinated with the student's educational program, and he or she would receive course credit as well as a limited stipend.

A primary feature of such programs would be the initiation of direct, ongoing interchanges between public service officials and educators. Students, political science professors, and those serving in elected office would share experiences and insights in guidance consultations and group seminars. I believe this procedure will be of incalculable benefit, both in challenging public officials to reflect upon new opportunities and directions required in representing and assisting our people, and in increasing understanding and stimulating insight among educators and students about the demands and challenges of public office.

We know that elective office at all levels of government in America, as well as our political system, are presently undergoing a time of severe testing. Call it a "credibility gap," a "low performance rating," or "voter alienation"—whatever the term, it points to a widespread undercurrent of dissatisfaction among our people about the ability of their representatives to deliver on their promises and about the responsiveness of government at all levels in addressing urgent problems and needs of the people.

We in government must address this public mood without delay in pressing forward on an action agenda to resolve urgent local and national issues—inflation and recession; the threat of continued energy shortages; assuring the continued availability of food supplies and other national resources; and required improvements in public facilities and services, health care, education, housing, and social welfare programs on behalf of all our people.

At the same time, however, we must do everything possible to expand opportunities for effective involvement in public service, particularly on behalf of those who have the potential to be the public leaders of tomorrow. This is the direct purpose of my amendment. Students would be enabled to evaluate a career in government and to test and temper their knowledge of the political system early in their educational years. By this direct work experience, they will have a solid basis for evaluating what is presented to them in their reading, in the classroom, and after their college years.

A nationwide intern program would bring a significant number of young people closer to government and—as recent political science studies have shown—there can be a resultant improvement in the confidence our young people have in our political system.

On the other side of the coin, college interns can provide an important pool of assistance to our understaffed and overworked State and local governments. And these governments would have an opportunity to review and recruit some very talented young people for eventual full-time employment.

My amendment provides for grants to colleges and universities for the planning, development, administration, and operation of student internship programs. Any institution within the United States, is eligible to apply for an internship program grant under this program.

Under these grants, students would be given internship stipends, half paid by the Federal Government and half paid through arrangements made by the institutions of higher education with State and local governments. The internship programs would be administered by the institutions of higher education with the cooperation of State and local elected officials. All administrative costs would be paid by the Federal Government.

The Commissioner of Education, with the assistance of a National Advisory Council for Political Leadership Interns—established under my amendment—would select the institutions to receive grants. The Council would set the criteria for the awarding of grants.

My amendment calls for an allocation of $5 million for fiscal year 1975 and the same amount for 2 succeeding years. These funds would support over 6,800 full-time interns each year. This figure is based upon an average Federal support of $780 per intern for a 12-week off-campus, full-time internship. The internship funds would be distributed among the States in the same ratio as the number of Members of Congress from each State. With a $5 million appropriation, approximately 16 interns would be able to participate from each congressional district.

There is wide support for this legislation from institutions of higher education, State and local governmental officials, and from many national professional organizations.

Two prominent national organizations have given strong support to this measure, the National Association of Schools of Public Affairs and Administration and the National Center for Public Service Internship Programs.

Mr. President, at this point I ask unanimous consent that the text of two letters supporting my amendment from Dr. Thomas Murphy, president of the National Association of Schools of Public Affairs and Administration and from Mr. Alan H. Magazine, executive director of the National Center for Public Service Internship programs, be included in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. HUMPHREY. Mr. President, there is a great value in educating students through internships. There is perhaps no better way to learn, than to apply theory to problems in the real world and then to examine and evaluate the consequences. The accumulation of these experiences through off-campus internships is an excellent means of gaining new knowledge. My amendment attempts to encourage the development of this type of learning experience for college students throughout the United States.

There have been several important recent publications that have discussed the goals and benefits of internships. I ask unanimous consent, Mr. President, that the text of "Goals and Objectives of Internship Training," a section of a research report on Urban Internships in Higher Education, by Dr. Donald G. Zauderer, be included in the RECORD at the conclusion of my remarks, along with the text of my amendment.

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

(See exhibit 2.)

Mr. HUMPHREY. Mr. President, my amendment is a revision of S. 1271, the Interns for Political Leadership Act, which I introduced on March 15, 1973, and which was cosponsored by Senators BAKER, BIBLE, BROCK, GRAVEL, HART, HATHAWAY, MATHIAS, MONDALE, MOSS, STEVENSON, THURMOND, TUNNEY, and WILLIAMS. It should also be noted that my original bill to establish an internship program was passed by the Senate in the 92d Congress as an amendment to the Education Amendments of 1972 (S. 659). Although it was not included in the final conference report in this legislation, subsequently enacted into law (Public Law 92-318), it received widespread support in both Houses. I believe that the revisions completed in this latest version of this legislation fully answer the questions raised and resolve the concerns expressed in the course of respective Senate and House debates 2 years ago. I urge that my amendment now receive prompt and favorable action.

EXHIBIT 1

NATIONAL ASSOCIATION OF SCHOOLS OF PUBLIC AFFAIRS AND ADMINISTRATION,
Washington, D.C., April 29, 1974.

Hon. HUBERT H. HUMPHREY,
U.S. Senate, Old Senate Office Building, Washington, D.C.

DEAR SENATOR HUMPHREY: I understand that you intend to introduce an amendment to S. 1539, the Education Amendments of 1974, to provide for authority for the appropriation of $5 million for public service internships. This would be a proposed new Title XII to the Higher Education Act of 1965 and would provide for institutions of higher education to plan for, develop and administer public service internship programs under grants authorized by the Commissioner of Education.

May I take this opportunity to inform you of my complete support for your proposed amendment. There is a need for these types of internship programs throughout the country to prepare persons for public service leadership positions. Certainly, recent events in our country demonstrate the critical need that exists for the adequate preparation of persons for carrying out those programs which are so vital to our public welfare.

The National Association of Schools of Public Affairs and Administration, representing 128 institutions with schools or programs in public administration, offers its complete support to your proposed legislation to further the vital purposes that you have in mind in offering this amendment. If enacted, we will be most pleased to work as closely as possible with the Commissioner of Education to see to it that any funds expended carry out the programs' purposes to the maximum extent.

Please do not hesitate to call on us if we can be of any further assistance in this matter.

Sincerely,

THOMAS P. MURPHY,
1974-75 President.

NATIONAL CENTER FOR PUBLIC SERVICE INTERNSHIP PROGRAMS,
April 29, 1974.

Hon. HUBERT H. HUMPHREY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUMPHREY: The Board of Directors, general membership, and staff of the National Center for Public Service Internship Programs wishes to extend their appreciation for the interest you have demonstrated throughout your career in public service to the fostering of the internship concept. In these days of waning public confidence in our governmental institutions at all levels, it is particularly important that the public service be infused with the views of the young, able citizens who will be our future leaders.

Public service intern programs are designed to benefit both the participants of the programs and the recipients of the intern's services. Considering that our Nation's Bicentennial is fast approaching, and that our future course will be determined by today's youth, I cannot imagine a more appropriate undertaking than a Federal program that would help finance the training of our college and university students.

The National Center for Public Service Internship Programs represents the interests of a large segment of the internship community. As such, we have worked hard to bring attention to internships, and to have internships attain their proper role in the educational process. We feel strongly that the amendments that you have proposed in The Education Amendments of 1974 (S1539) will help accomplish this goal.

With appreciation for your efforts, I remain

Sincerely,

ALAN H. MAGAZINE,
Executive Director.

EXHIBIT 2

[From Urban Internships in Higher Education]

GOALS AND OBJECTIVES OF INTERNSHIP TRAINING

(By Donald G. Zauderer)

Who gains what benefits from internships? A delineation of potential benefits to the central actors (students, university faculty and administrators, and host agencies) can serve to increase the level and quality of participation. Learning goals can be more easily achieved when individuals are aware of the benefits that can accrue as a result of vigorous participation by all actors in this systemic network.

THE STUDENT AS PRIMARY BENEFICIARY

Academic Benefits—An individual's ultimate utility to society is based on the capacity to collect data from a variety of sources (including personal experience), order the data around concepts and ideas, and develop the requisite understanding for problem solving. The authoritarian system associated with traditional university courses places the student in a tight dependency relationship with the professor. Authoritarian-dependency relationships may not foster independent thinking or the capacity to examine experience and interpret learning. This is not to suggest that traditional learning is unproductive, since it is important that students grasp the central theoretical and substantive components in a body of knowledge. However, internships provide an opportunity for the discriminative use of this information within a real-world context. When the individual is cut away from dependency on the professor, he becomes responsible for organizing his own activity and for developing a personal learning strategy. The student is induced to construct learning goals as well as the instrumental strategies for the achievement of these objectives. Suddenly the highly structured arrangement for learning (books, teachers, library reserve, syllabi) is absent, and the student needs to construct learning strategies around the resources of the new working environment. The intern is thrust into a new game, in which personal and intellectual attributes must be combined in the successful execution of work tasks.

The faculty advisor can assist the student in constructing a paradigm for examining his experience. Student interns are bombarded with data, and the ordered and systematic examination of experience will lead to the internalization of knowledge. The student will then have learned from experience, and be able to utilize the knowledge in subsequent years. Internships provide students with the opportunity to think systematically about personal experience. The absence of this capability may lead to a life characterized by confusion and error.

Internships also provide opportunities to apply theoretical notions to real-world concerns. A university-based internship program is based on the belief that there are certain forms of knowledge that can best be acquired away from campus. According to Robert Sigmon:

"Risks are involved for universities that sponsor and sanction intern-type programs. We risk an awareness that universities do not, after all, have a monopoly on all knowledge and learning opportunities. *We risk redefining teaching as the providing of learning environments rather than dispensing of knowledge about the past* [emphasis mine]."[1]

Meyer and Petry have also emphasized the importance of providing new learning environments. They assert that "without the meat of experience to interact with and fill out the skeleton of theory, there is no body of understanding."[2] Hennessy states that:

"Internships work because they personalize data. They work because they give to political life and events a reality that makes them part of the intern's own being. They give to facts some of the warmth and color of the human condition. . . ."[3]

Thus, an internship can "bring theory to life" by engaging students in experiences that have been the subject of scholarly inquiry. An intern studying under me, who is majoring in Organization Theory, commented:

"Before this experience I was unclear as to the potential utility of ideas learned in the classroom. Working has provided an opportunity to test some of these ideas, and I now have a much clearer perspective on what is really important in keeping an organization healthy and alive."

Internships also expose students to knowledge available only in nonacademic settings. Many important research questions have escaped the professional literature, yet are basic to the research interests of practitioners. Thus, interns often acquire important

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information that is not available in traditional academic sources.[4]

An important goal of education is to expose students to the multidisciplinary aspects of social problems. A student intern in a local housing authority will soon gain some understanding of how law, economics, political science, sociology, psychology, anthropology, and engineering relate to housing problems. This exposure may also sensitize students to the need to build a cross-disciplinary emphasis into their academic program. An internship, then, may increase the student's capacity to make informed choices on his own university education.

Internships may also open up research opportunities, since interns frequently develop a high measures of rapport with agency staff, and utilize these contacts and information resources in subsequent research efforts. Donald H. Haider cites this as one of the most important benefits of the American Political Science Association's State and Local Government Internships at Columbia University. According to Haider, a number of dissertations developed from the internship experience.[5] In this way a student can utilize the internship as a resource base in subsequent academic work.

Personal Growth and Development—Personal growth has always been a by-product of university education. Universities have provided counseling and psychological services, and a variety of extra-curricular activities that are important elements to campus life. Internships provide an additional means by which students can grow and mature.

James S. Coleman, in an article dealing primarily with secondary education, stresses the importance of preparing students to become effective members of society. He contends that *all* students need training in basic skills. Among these are skills of some occupation, skills in making decisions in complex situations where consequences follow from decisions, physical and mechanical skills, bureaucratic and organizational skills (how to cope with a bureaucratic organization, whether as an employee or a customer or a client, or as a manager or enterpreneur), emergency skills, and written and verbal communication skills in argumentation and debate.[6] This partial list of skills presumes that one of the major purposes of education is to assist individuals to develop as effective participants in society, while Coleman's discussion relates specifically to secondary education. Some individuals with a high level of training in intellectual skills may still not possess the requisite characteristics to make significant contributions in an organization. In most noneducational institutions, success depends upon the quality of cooperative effort. Performance criteria are far broader than writing a research paper, a midterm, and a final examination; and one's productivity may hinge upon an ability to communicate and work constructively with others. The internship can provide an opportunity to test the adequacy of human relations skills and to construct an agenda for personal resource development.

John Duley has emphasized the significance of "value clarification" in one's education.[7] Many students experience years of confusion and uncertainty in forming the basic values that will guide their lives and commitments. This uncertainty often leads to apathy, confusion, random career choices, and a limited commitment to education. If one is unsure of values and goals, then it may seem unreal to exert effort in academic study.[8] Both the student and the university suffer under such circumstances. The internship provides an opportunity to examine the rewards and liabilities of a particular work culture and to clarify essential values and commitments. The explicit examination of these questions can increase the student's capacity for judgment relative to future training and career choices. This is not to suggest that internships are designed for confused and apathetic students. If such were the case, organizations would soon refuse to participate in these programs. Rather, it does suggest that value clarification is a preoccupation of most students, and internships provide an excellent mechanism to examine these questions. One of the most important events in one's life is to acquire and reject values and develop instrumental strategies to construct a life style based upon this learning.

Students are often insecure about their ability to make productive societal contributions. The isolation of educational institutions often leaves students with an uncertain feeling about their capacity to function effectively in the larger community.[9] As a result, they often lack self-esteem, pride, and confidence in their adequacy as human beings.[10] Interns, however, frequently emerge from their experience with a renewed sense of importance and develop confidence in their ability to participate effectively in the larger community.

Internships and Career Development—Another result of campus isolation is that students frequently make unsound career choices. The Newman Commission reported that "in many areas, students undertake years of graduate training in a particular field only to find that they aren't sure why they've done it, or if it really is what they want for a career." [11] This may result in dropping out, completing the degree but seeking work in another field, or working with only a marginal commitment to the field. This outcome is terribly inefficient from an individual and societal point of view. Internships provide an opportunity to examine the degree to which interests and skills are compatible with particular occupations. According to James R. Davis, they "provide the opportunity to explore experimental life styles without making a lasting commitment." [12] The process of testing career decisions becomes far more costly in the post-college years, especially if the market is in disequilibrium and the labor supply far exceeds the pool of available jobs. Thus, internships provide a convenient vehicle for students to develop occupational preferences.

In addition to helping students formulate judgments about career choices, internships often serve to launch careers. Academic directors are proud of the fact that some students receive job offers as a *direct* result of internship experience. Host agencies regularly hire some of their interns or recommend them to other agencies. If neither of these events occur, the intern might still be able to secure a good recommendation for his own employment search. In essence, internships can give students a competitive edge in a marketplace that values experience. Also, internships provide a personnel director with a broader data base in assessing qualifications. In this regard, personnel directors are relying far less on the mere possession of credentials and are attempting to structure a proper "fit" between job characteristics and individual ability, aspirations, personality, and work habits.

THE UNIVERSITY INTEREST IN INTERNSHIP PROGRAMS

The primary function of the university is to provide quality education. To the extent that internships generate educational benefits for students, the university interest in such programs is served. However, there are also other distinct benefits that accrue to the university.

As Martin Kramer [13] has ably pointed out, many students are turned off by the narrow professional assumptions of traditional course offerings. This can be manifested by a "pervasive negativism" that influences the emotional tone of the campus. It may reduce student commitment to learning tasks. As a result, faculty may experience considerable frustration in teaching an unwilling and passive client.

Obviously, an internship program alone cannot change the climate of a particular campus. It can, however, be one dimension of a multiple strategy to rekindle student enthusiasm for the learning process.

Internships can assist students in constructing an agenda for learning. When career goals are clarified, one is more likely to choose courses discriminately. Professors benefit because students know "why they are in the course." Furthermore, Thomas Murphy has reasoned that internships may assist students in developing a "more sophisticated perspective from which to evaluate the words of professors." [14] Professors thrive on challenging classroom commentary, for teaching then becomes an occasion for their own learning. The rewards for teachers increase when students approach learning in a positive manner.

While learning can become more meaningful after an internship experience, it also can serve to exacerbate a student's frustration relative to the course offerings on campus. If students identify learning needs that the university cannot provide, they may communicate this to the faculty and administration. This can provide an occasion for the university to receive feedback on the relevance of its curriculum to contemporary needs. It might induce faculty to reexamine course offerings. There are forces within all institutions that act against change, so that vehicles need to be established to identify problems and evaluate performance in light of changing circumstances. Internship programs constitute one mechanism for generating feedback bearing upon the appropriateness of the curriculum for the contemporary needs of business and government.[15 16]

Internships can also serve as a community relations vehicle. Students are engaged in community affairs and establishing relationships with broad segments of the population. Community support can be manifested in fund raising, student recruitment, research support, and technical assistance. According to Thomas Murphy, "interns frequently provide important linkages between previously isolated interests.[17] There is much to gain if working relationships can be established in the larger community.

The utilization of the work environment as a laboratory for study also amounts to the "expansion of learning resources and physical plant usage, often without increased costs." [18] It enables the university to offer a broader range of programs at only a fraction of the cost associated with learning activities centered on campus. The marginal cost of these programs is not high and they serve to open up diverse learning opportunities for students. High school students are becoming more and more discriminating in their choice of schools, and the availability of these programs can also assist in recruitment efforts.

BENEFITS TO THE HOST AGENCY

Community organizations have an obvious stake in internship programs. In many cases, the presence of an intern enables an agency to undertake projects that it could not have done otherwise. This would especially be the case for organizations with a limited fiscal base. Albemarle County, Virginia, for example, instituted a summer internship program in 1967. Interns have carried out many critical projects, and a cost-benefit study indicates that "for every one dollar spent, the county has received three dollars' worth of service." [19] The total expenditure in salaries over a five-year period was $17,911.91, and the estimated productivity in one office alone (county planners) was valued at $30,000. Interns can provide valuable services to an organization, and at only a fraction of the cost of staffing with additional permanent employees.

Similarly, an internship can be an excellent recruitment mechanism. It provides an

opportunity for a first-hand evaluation of capabilities, and consequently personnel choices can be made at lower risk. Furthermore, the transition costs of hiring interns is lower. The individual is well acquainted with the organization and can more readily contribute to the on-going efforts of an office. On a more general level, government internships help in attracting qualified individuals to fill the growing number of jobs in the public sector. An evaluation study of the Urban Corps summer internship program in New York determined that one-fifth of the students were more likely to work for the Government because of their internship experience.[20] Consequently, internship programs, whether sponsored by the university or government agencies, increase the pool of individuals interested in government work.

The existence of interns in an organization can also invigorate the permanent staff. Students are often enthusiastic, and pursue work tasks with high motivation. They bring new ideas and attitudes that can improve the work climate in an organization. It gives permanent staff an opportunity to share the skills and perceptions they have developed from years of experience. Most agency staff receive personal rewards by taking part in the professional development of a student. Similarly, interns may contribute to the learning of the staff, as they might bring an infusion of new ideas into the organization or question practices that exist merely because of tradition.[21] In addition, the presence of college interns keeps the organization apprised of changes in the aspirations and skills of college students. This awareness could assist agency administrations in restructuring policies that increase job satisfaction and productivity.[22]

If interns are carefully managed they can make significant contributions. David Kiel, in his evaluation of North Carolina internships, found that 61 percent of agency respondents strongly agreed that "the intern performed a valuable service for the agency. Six percent strongly disagreed with this statement. Ninety percent of the respondents strongly agreed with the statement that read, "I am convinced that students can be a valuable resource in helping my agency to achieve its goals.' No respondents strongly disagreed with the statement".[23] In an evaluation of the Urban Corps program in New York City, 85 percent of agency respondents rated interns as either very good or good.[24] Some interns earn the complete confidence of agency staff and are accepted as a member of the professional team. The frequency and degree of student contributions depends upon the skills of both the intern and agency personnel. Most academic directors are proud to recount cases in which their students were given important responsibility after a short time on the job.

FOOTNOTES

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[3] Hennessy, Bernard C. Political Internships: Theory, Practice, Evaluation. University Park: Pennsylvania State University, Administrative Committee on Research, 1970, p. 103.

[4] Sigmon, Robert L. "A Notebook on Service-Learning." Raleigh: North Carolina Internship Office, October 1972a, p. 11.

[5] Haider, Donald H. "The Columbia University Experience with the APSA State and Local Government Internship Program." Prepared for delivery at the American Political Science Association Conference on Political Science and State and Local Government, October 26–29, 1972, Biloxi, Mississipi.

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[7] Duley, John. "The Use of Critical Incident Writing and Values Clarification Processes for Student Self-Evaluation in Field Experience Education." An Occasional Paper for the Society for Field Experience Education presented January 1973 at Michigan State University, East Lansing, Michigan, pp. 4–5.

[8] Humphrey, Hubert. Quoted in Congressional Record S. 4874. March 15, 1973.

[9] (Newman, Frank, Chairman). Report on Higher Education. U.S. Department of Health, Education, and Welfare, March 1971. Ed 049 718, p. 4.

[10] Davis, James R. "Cooperative Education: Prospects and Pitfalls." Journal of Higher Education 42 (February 1971): 139–146, p. 141.

[11] (Newman, Frank, Chairman). Report on Higher Education. U.S. Department of Health, Education, and Welfare, March 1971. Ed 049 718, p. 5.

[12] Davis, James R. "Cooperative Education: Prospects and Pitfalls." Journal of Higher Education 42 (February 1971): 139–146, p. 145.

[13] Kramer, Martin. "The Concept of Experimental Learning." In Founding Conference Report, edited by Society for Field Experience Education. Hofstra University, Hempstead, New York, November 10, 1972, p. 9.

[14] Murphy, Thomas P. Government Management Internships and Executive Development. Lexington, Mass.: D.C. Heath & Company, March 1973, p. 8.

[15] Tyler, Ralph W. "Values and Objectives." In Handbook of Coperative Education, edited by Asa S. Knowles and Associates. New York: Jossey-Bass, Inc., Publishers, 1971, p. 23.

[16] Murphy, Thomas P. Government Management Internships and Executive Development. Lexington, Mass.: D. C. Heath & Company, March 1973, p. 7.

[17] Murphy, Thomas P. Government Management Internships and Executive Development. Lexington, Mass.: D. C. Heath & Company, March 1973, p. 4.

[18] Sigmon, Robert L. "A Notebook on Service-Learning." Raleigh: North Carolina Internship Office, October 1972a, p. 12.

[19] National Association of County Officials. "Albemarle's Intern Program: One County that Didn't Punt." Paper presented at a conference at Dallas, Texas, March 2, 1973. p. 4.

[20] Nash, George and Nixon, Julian H. Response to Challenge: The New York City Urban Corps. New York: Columbia University, Bureau of Applied Social Research, May 1967. ED 031 135. p. 3.32.

[21] Murphy, Thomas P. Government Management Internships and Executive Development. Lexington, Mass.: D. C. Heath & Company, March 1973, p. 7.

[22] Buckle, Leonard G. and Buckle, Suzanne Thomas. "Field Experience and Pre-Professional Counseling." In Let the Entire Community Become Our University, edited by Philip C. Ritterbush. Washington, D.C.: Acropolis Books, Ltd., 1973, p. 86.

[23] Kiel, David H. "Student Learning through Community Involvement." Raleigh: Southern Regional Education Board and North Carolina Internship Office, July 1972, p. 40.

[24] Nash, George and Nixon, Julian H. Response to Challenge: The New York City Urban Corps. New York: Columbia University, Bureau of Applied Social Research, May 1967. ED 031 135. pp. 3.21–3.22.

AMENDMENT NO. 1236

On page 337, between lines 8 and 9, insert the following new section:

POLITICAL LEADERSHIP INTERN PROGRAM

SEC. 527. (a) The Higher Education Act of 1965 is amended by redesignating title XII and all references thereto as title XIII and section 1201 through 1206 and all references thereto as 1301 through 1306 and by inserting immediately after title XI the following new title:

"TITLE XII—POLITICAL LEADERSHIP INTERN PROGRAM

"PROGRAM AUTHORIZED

"SEC. 1201. The Commissioner is authorized to make grants, in accordance with the provisions of this title, to institutions of higher education for the planning, development, administration, and operation of an internship program under which students will be provided practical political involvement with elected officials in the performance of their duties at the local and State levels of government through internships in their offices. Such internship program shall be carried out through arrangements administered by institutions of higher education, and with the cooperation of State and local governments. Under such program the interns, who are students at any institution of higher education which is a grant recipient, will be assigned duties in offices of State and local elected officials, which will give them an insight into the problems and operations of the different levels of government, as well as an opportunity for research and for involvement in the policymaking process. Arrangements for such grants shall provide for coordination between the on-campus educational programs of the persons selected and their activities as interns, with commensurate credit given for their work and achievement as interns.

"SELECTION OF STUDENTS FOR PARTICIPATION AND DISTRIBUTION OF GRANTS

"SEC. 1202. (a) The students who are to participate in the internship program provided for in this title shall be selected by the institutions of higher education receiving grants under this title.

"(b) The Commissioner shall assure that grants under this title are distributed among the States in the same ratio, to the extent practicable, as the number of Members of Congress of a State bears to the total number of Members of Congress in all States.

"(c)(1) In order to assist the Commissioner to select institutions of higher education within a State to receive grants under this title, he shall appoint a National Advisory Council for Political Leadership Interns. Such Council shall be composed of 12 members appointed from among individuals especially qualified to serve on the Council.

"(2) The Council shall advise the Commissioner with respect to the distribution of grants under this title within each State and with respect to such other matters of policy as may be appropriate in carrying out the objectives of this program as authorized under this title.

"(3) The Commissioner shall make available to the Council such staff, information, and other assistance as it may require to carry out its duties under this title.

"(4) The provisions of part D of the General Educations Provisions Act shall apply to any Council established under this title.

"(d) Whenever the Commissioner determines in the third quarter in any fiscal year that grant funds will not be needed in any State he may redistribute such funds to institutions of higher education in other States which he determines have a need for them.

"FEDERAL SHARE

"SEC. 1203. (a) The Federal share of the cost of planning, developing, and administering of any program assisted under this title shall not exceed 100 per centum of such cost.

"(b) The Federal share of the cost of operating an internship program under this title shall not exceed 50 per centum of such cost.

"ADMINISTRATION

"SEC. 1204. The Commissioner shall by regulation prescribe the stipends to be paid by

institutions of higher education to the interns participating in the program assisted under this title and the duration and other terms and conditions of such internships.

"DEFINITIONS

"SEC. 1205. For the purpose of this title—

"(1) the term 'Members of Congress' includes the Resident Commissioner for the Commonwealth of Puerto Rico and the delegate for the District of Columbia; and

"(2) the term 'State' means the fifty States, the Commonwealth of Puerto Rico, and the District of Columbia.

"APPROPRIATIONS AUTHORIZED

"SEC. 1206. There is authorized to be appropriated to carry out this title the sum of $5,000,000 for the fiscal year 1975 and the same amount in each of the two succeeding years. Funds appropriated pursuant to this section shall remain available for the succeeding fiscal year after the fiscal year for which they were appropriated.

"SHORT TITLE

"SEC. 1207. This title may be cited as the 'Political Leadership Intern Program Act of 1974'.".

(b) The amendment made by subsection (a) shall be effective after June 30, 1974.

On page 123 in the Table of Contents, after item "Sec. 526." insert the following new item:

"Sec. 527. Political leadership intern program.".

AMENDMENT NO. 1237

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

Mr. HANSEN (for himself and Mr. McGEE) submitted an amendment intended to be proposed by him to the bill (S. 1539) to amend and extend certain acts relating to elementary and secondary education programs, and for other purposes.

ADDITIONAL COSPONSOR OF AMENDMENTS

AMENDMENT NO. 1208 TO H.R. 12628

At the request of Mr. CRANSTON, the Senator from South Dakota (Mr. McGOVERN) was added as a cosponsor of amendment No. 1208, to establish a Commission on Veterans' Rights, to the act (H.R. 12628) to amend title 38, United States Code, to increase the rate of vocational rehabilitation, educational assistance, and special training allowances paid to eligible veterans and other persons; to make improvements in the educational assistance programs; and for other purposes.

AMENDMENT NO. 1215 TO S. 3203

At the request of Mr. DOMINICK, the Senator from Virginia (Mr. WILLIAM L. SCOTT) was added as a cosponsor of amendment No. 1215 intended to be proposed by him to S. 3203, to amend the National Labor Relations Act to extend its coverage and protection to employees of nonprofit hospitals.

NOTICE CONCERNING NOMINATIONS BEFORE THE COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been referred to and are now pending before the Committee on the Judiciary:

Lawrence A. Carpenter, of Texas, to be a member of the Board of Parole for the term expiring September 30, 1977, vice Gerald E. Murch, retired.

Burt C. Hurn, of Missouri, to be U.S. attorney for the Western District of Missouri for the term of 4 years (reappointment).

On behalf of the Committee of the Judiciary, notice is hereby given to all persons interested in these nominations to file with the committee, in writing, on or before Tuesday, May 7, 1974, any representations or objections they may wish to present concerning the above nominations, with a further statement whether it is their intention to appear at any hearing which may be scheduled.

ANNOUNCEMENT OF HEARINGS BY SUBCOMMITTEE ON PUBLIC HEALTH, EDUCATION, WELFARE, AND SAFETY OF THE DISTRICT OF COLUMBIA COMMITTEE

Mr. TUNNEY. Mr. President, the Subcommittee on Public Health, Education, Welfare, and Safety of the District of Columbia Committee will hold a public hearing on Wednesday, May 1, 1974, at 9:30 a.m., in room 6226, Dirksen Senate Office Building, on the following bills:

S. 2730, to extend for 3 years the District of Columbia Medical and Dental Manpower Act of 1970;

S. 3389, to amend the act entitled "An Act to incorporate the American University," approved February 24, 1893; and

H.R. 8747, to repeal section 274 of the Revised Statutes of the United States relating to the District of Columbia, requiring compulsory vaccination against smallpox for public school students.

Anyone wishing to present testimony on any of these bills should contact Robert Harris, staff director, District of Columbia Committee, room 6222, Dirksen Senate Office Building, by the close of business Tuesday, April 30, 1974.

NOTICE OF HEARINGS TO BE HELD BY THE SUBCOMMITTEE ON FOUNDATIONS

Mr. HARTKE. Mr. President, I ask unanimous consent that a text of a public notice prepared by the Senate Finance Committee on the subject of upcoming hearings to be held on May 13 and 14 by the Subcommittee on Foundations be printed in the RECORD at this point.

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

FINANCE SUBCOMMITTEE ON FOUNDATIONS ANNOUNCES HEARINGS ON INTERNAL REVENUE SERVICE ADMINISTRATION OF THE TAX LAWS PERTAINING TO PRIVATE FOUNDATIONS

Senator Vance Hartke, Chairman of the Finance Subcommittee on Foundations, announced today that the Subcommittee will hold two days of hearings on Monday and Tuesday, May 13 and 14, on problems which may exist in connection with the administration of the tax laws pertaining to private foundations by the Internal Revenue Service. The hearings will be held in Room 2221, Dirksen Senate Office Building on May 13 and 14, and will begin at 9:30 A.M. each day.

Senator Hartke stated: "These hearings will afford both the Treasury Department and other interested persons an opportunity to discuss the problems involved in the administration of the provisions of the Tax Reform Act of 1969 on private foundations and other charitable organizations."

MONDAY, MAY 13

Senator Hartke continued, "The first day's hearings will focus on the organizational structure of the Internal Revenue Service with respect to tax-exempt organizations. There will also be a presentation of the data which the IRS has collected concerning the impact of the Tax Reform Act of 1969 on private foundations and other charitable organizations. The Subcommittee will attempt to assess the efforts of the Internal Revenue Service in its monitoring of tax-exempt organizations. In addition, the Subcommittee intends to review the effectiveness of existing tax legislation in improving the charitable efforts of private foundations."

TUESDAY, MAY 14

"The second day of hearings," Senator Hartke went on, "will be devoted to public witnesses who wish to comment on the way the Internal Revenue Service administers the tax laws pertaining to private foundations, and the way the Tax Reform Act of 1969 and its implementation has affected the ability of foundations to serve grantees.

Requests to Testify.—Senator Hartke advised that witnesses desiring to testify during this hearing must make their request to testify to Michael Stern, Staff Director, Committee on Finance, 2227 Dirksen Senate Office Building, Washington, D.C., not later than Friday, May 3, 1974. Witnesses will be notified as soon as possible after this cutoff date as to when they are scheduled to appear. Once the witness has been advised of the date of his appearance, it will not be possible for this date to be changed. If for some reason the witness is unable to appear on the date scheduled, he may file a written statement for the record of the hearing in lieu of a personal appearance.

Consolidated Testimony.—Senator Hartke also stated that the Subcommittee urges all witnesses who have a common position or with the same general interest to consolidate their testimony and designate a single spokesman to present their common viewpoint orally to the Subcommittee. This procedure will enable the Subcommittee to receive a wider expression of views than it might otherwise obtain. Senator Hartke urged very strongly that all witnesses exert a maximum effort, taking into account the limited advance notice, to consolidate and coordinate their statements.

Legislative Reorganization Act.—In this respect, he observed that the Legislative Reorganization Act of 1946, as amended, requires all witnesses appearing before the Committees of Congress "to file in advance written statements of their proposed testimony, and to limit their oral presentations to brief summaries of their argument."

Senator Hartke stated that in light of this statute and in view of the large number of witnesses who desire to appear before the Subcommittee in the limited time available for the hearing, all witnesses who are scheduled to testify must comply with the following rules:

(1) A copy of the statement must be filed by the close of business Friday, May 10.

(2) All witnesses must include with their written statement a summary of the principal points included in the statement.

(3) The written statements must be typed on letter-size paper (not legal size) and at least 50 copies must be submitted before the beginning of the hearing.

(4) Witnesses are not to read their written statements to the Subcommittee, but are to confine their ten-minute oral presentations to a summary of the points included in the statement.

(5) Not more than ten minutes will be allowed for the oral summary. Witnesses who fail to comply with these rules will forfeit their privilege to testify.

Written Statements.—Witnesses who are

not scheduled for oral presentation, and others who desire to present their views to the Subcommittee, are urged to prepare a written statement for submission and inclusion in the printed record of the hearings. These written statements should be submitted to Michael Stern, Staff Director, Committee on Finance, Room 2227, Dirksen Senate Office Building not later than Friday, May 24, 1974.

ADDITIONAL STATEMENTS

A MORE BEAUTIFUL CAPITAL

Mr. BENTSEN. Mr. President after a tedious, cold, and rather trying winter on the Potomac, we are all heartened by the coming of spring. In a short time, we have seen a flowering of Washington that has changed the landscape and given a lift to the local inhabitants and thousands of visitors as well.

Azaleas, dogwood trees, and tulips have all emerged in a riot of living color that for months have been available in Washington only on its museum canvases. This Capital spring is another reminder of the efforts made by both the National Park Service and the District of Columbia administration to carry out the goals of the Committee for a More Beautiful Capital.

This group was led by Mrs. Lyndon B. Johnson who brought her special love of the wildflowers and foliage of Texas to bear on the Nation's Capital. Lady Bird Johnson was an energetic lover of natural beauty and she believed that the U.S. Capital should be a centerpiece of America's natural beauties not just a sterile center for its national monuments. Through her efforts, Washington was planted thick with flowers, trees, and shrubs that have been a joy for us all since. She made a special effort to improve those parts of the city that are away from the Government buildings and into the neighborhoods and along the entrance avenues to the Capital.

Mrs. Johnson had both a special eye for beauty and a special feel for the people who have enjoyed it. I salute her for her foresight and thank her for such a lovely legacy.

I ask unanimous consent that an editorial from the April 29, 1974 Washington Post concerning the role of Mrs. Johnson in beautifying the National Capital area may be printed in the RECORD.

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

A MORE BEAUTIFUL CAPITAL

Once again the city is smiling. This year, it seems to us, the smile of spring—the eager young grass, the proud flowering of the azaleas, the joyous showmanship of the daffodils and tulips—is even more intense than ever. The unruly April weather, no doubt, has spurred a special energy in this steadfast blooming. The tedious grind of winter, with its legacy of potholes and broken pavements, is already forgotten. The triumph of bloom and color even wins out—well, it almost does—over the noisy disruption of Metro construction.

On balance, then, this capital is once again more beautiful than we remember and it is beautiful largely because of the efforts, launched nine years ago, by Mrs. Lyndon B. Johnson and her Committee for a More Beautiful Capital. So once again we are grateful.

The radiance of spring's smile, to be sure, fades a little the further away you get from the capital's monumental heart and the great floral displays in the White House vicinity. As you drive east along Rhode Island Avenue—one of the many entrance avenues which Mrs. Johnson took special pains to beautify—the new cherry trees on the median become more sparse and the ground cover is trampled. Neglect and vandalism have taken some toll. But yet the median and all the other small parks and planted areas we inspected in a spring tour the other day of the less affluent districts of our town were freshly raked and tended. The energy has clearly infected the city's gardeners as well as those of the National Park Service.

Before returning to our typewriter, we dropped in on our favorite playground, the community plaza in front of the Buchanan Elementary School at 12th and E Streets SE. It had been dedicated by Mrs. Johnson six years ago. One or two of the young trees had succumbed. A picnic table had been broken and some of the limbs of the timber jungle jims were missing. But on the whole, the place seemed not much worse for six years of enthusiastic wear and tear. The children seemed caught up in the season's energy, swinging and climbing, chasing up and down that cobblestone mountain and making happy noises. Here, too, we are happy to report, the city seemed to be smiling once again.

THE PRESIDENT'S DISCLOSURE

Mr. GOLDWATER. Mr. President, I do not think it is necessary for me to explain here how long and consistently I have argued for complete disclosure of all the information concerning the Watergate situation and related matters. Although many of my long-term friends have allegedly been involved, I have nevertheless insisted upon full disclosure and a policy of letting the chips fall where they may.

Mr. President, I believe that the way was opened last night for all the material required or merely asked by the House Judiciary Committee and other investigative bodies to be made available. I have no patience with people who whine and say, "But the President didn't do it the way we wanted."

It is my considered opinion that the President of the United States has some rights and some responsibilities in this matter regardless of what you might think of him. We still have in this country—at least I sincerely hope we have—a separation of powers which, in effect, prevents one branch of the Government from dominating or dictating to another branch of the Government. In this, I believe the President has gone as far as he possibly could on the question of materials sought by the House Judiciary Committee. He is making public today 1,200 pages of transcripts of taped conversations which have been subpenaed by Congressman RODINO's Judiciary Committee. And to fulfill the intent of the subpena he has agreed to let Chairman RODINO and the ranking Republican member of the Judiciary Committee to come to the White House, listen to any tape they so desire, and question him about those tapes. I believe this is a fair and equitable way to approach an extremely difficult problem.

And I might say, Mr. President, I am a little tired of those who insist that all of the tapes be turned over manually to the staff of the House committee. What are we after here? Do we want the truth and the information contained in those tapes; or do we want some kind of special privilege for the staff of the Judiciary Committee?

Given the experience that Mr. Nixon has had with leaks to the press and the news media, I am inclined to believe I would follow the procedure he laid down last night. What is so important about the staff of the Judiciary Committee having access to the tapes? Could it be because some members have promised their friends they might play them for the entertainment of the guests at a Georgetown cocktail party? Could it be for the purposes of organized leaks to certain segments of the press?

Mr. President, I am frank to say that I do not know the answer to these questions nor do I believe the President knows the answers, but I do believe that they are a valid consideration in light of what has happened in this case.

It strikes me that the President has made available to the press, to the public, to the investigative agencies complete digests of what was contained in the taped conversations. And it strikes me that he went out of his way to provide a means by which these transcripts could be verified with the actual tapes. If that is not enough for the Rodino committee, I am afraid I will have to reach the conclusion that the House Judiciary Committee, on a question of the very gravest national importance, has decided to play a partisan role aimed at vote-getting rather than truth-getting.

PUBLIC OWNERSHIP OF THE PAPERS OF PUBLIC OFFICIALS

Mr. BAYH. Mr. President, early this year I introduced S. 2951, a bill designed to establish clear congressional policy on the question of who owns the official papers generated by a President or Member of the Congress in the course of performing his official duties. Similar legislation has now been introduced in the House by Congressmen LATTA, of Ohio, and GUYER of Ohio. There have been several newspaper and magazine articles in recent weeks on this subject which I would like to share with my colleagues. I ask unanimous consent that a selection of these articles be printed in the RECORD.

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

[From the New York Times, Jan. 8, 1974]

PRESIDENTIAL PAPERS

The dispute over President Nixon's large and legally questionable tax deduction for the donation of his Vice-Presidential papers to the National Archives raises once again the unresolved issue of the ownership of the papers of Presidents and other public servants.

Such papers are of inherent interest and therefore of taxable value only because the individual involved held public office for which he was paid a salary out of public funds. In the case of Presidents and many lesser officials, these papers are not personal in any true sense because they were generated by the flow of public business and were prepared in Government offices with the help of publicly paid secretaries and assistants.

Yet neither law nor custom is clear on what is proper practice. George Washington and most of the other early Presidents took their papers with them when they left office. Some of these letters and documents were subsequently donated to libraries and historical societies, a few were purchased by the Government from heirs, and still others became scattered and lost.

Beginning with Andrew Jackson, however, a dozen Presidents or their heirs gave their papers to the Library of Congress without receiving any financial compensation. That is the policy that all Presidents and public officials ought to follow and that Congress ought to mandate by law.

Herbert Hoover began the modern practice of conveying Presidential papers to a special library when Stanford University and later the Hoover Library at West Branch, Iowa, became the depository for his papers. But this practice is inconclusive on the question of establishing personal ownership of Presidential papers or obtaining a tax break for donating them. Thus, when Franklin D. Roosevelt planned his library at Hyde Park, he treated his papers as the property of the United States and, after his death, the Surrogate Court of Duchess County upheld their interpretation. Nevertheless, Presidents Eisenhower, Johnson and Nixon—as well as Supreme Court justices, members of Congress and others—have taken sizable tax deductions for the "gift" of papers that, strictly speaking, were public documents.

The change in the 1969 tax law made it impossible for any taxpayer, not just a public official, to claim a charitable deduction for the gift of papers on which he holds a common law copyright. That change is unjust to private citizens, notably authors and artists, whose papers may have considerable value and who produced these papers by their own efforts—not on Government time or with the assistance of Government employes. As so often happens, the tax-writing committees of Congress created a new injustice by refusing to face up squarely to an old injustice—in this instance, the perversion of public documents by public officials for private pecuniary advantage.

Clearly, there is need for a law expressly establishing the Government's proprietary right to speeches, letters, memorandums and other documents compiled by public officials on Government time and at public expense.

[From Time magazine, Dec. 31, 1973]

WHO OWNS THE PRESIDENT'S PAPERS?

President Nixon's unprecedented disclosure of his personal financial records early this month has not allayed the suspicion that he has reaped unwarranted gain while in office. Last week new controversies erupted:

Former Internal Revenue Service Commissioner Sheldon Cohen, a Democrat, said that the President apparently violated IRS rules by improperly listing his $50,000 annual expense account as additional salary. Counted that way, and not as an expense allowance, the sum increased not only Nixon's adjusted gross income but also the size of the maximum tax deduction he could take for charitable deduction to a fixed percentage of adjusted gross income. In three of the four years affecting Nixon's recent tax returns, he would be allowed charitable deductions up to 50% of that income. Thus the larger Nixon's adjusted gross income, the more quickly he could claim as a deduction all the $576,000 valuation placed on the vice-presidential papers that he donated to the National Archives. An accountant commissioned by the Washington *Post* last week estimated that from 1969 through 1972 the President saved $13,000 in taxes (an amount equal to 17% of the $78,651 that he actually paid).

There was new criticism of the Government-paid improvements on Nixon's homes at Key Biscayne, Fla., and San Clemente, Calif. Last week the General Accounting Office, the congressional watchdog agency that monitors spending, charged that some of the $1.4 million spent at the two residences increased the value of the property but did little to protect the President. GAO officials maintain that Nixon should personally have borne at least part of the nearly $24,000 for landscape maintenance, $19,300 for building a private railroad crossing and cabana, $8,400 for property surveys, $10,600 for driveway paving and $3,800 for a new sewer line.

Above all, politicians, tax lawyers and historians continued to question the propriety—if not the legality—of Nixon's claiming a big tax break for donating his vice-presidential papers to the National Archives. The papers had been prepared or gathered while he was on the public payroll, primarily using public facilities and the services of other federal employees. To the non-expert, Nixon's papers might seem to contain a lode of trivia. Occupying 825 cu. ft., they include 414,00 letters, 87,000 items relating to public appearances (including speech texts), 27,000 invitations (along with acceptances and refusals) and 57,000 items relating to foreign trips. Nonetheless, this material could well be valuable to historians who one day will attempt to piece together a profile of America in the 1950s.

F. Gerald Ham, president of the Society of American Archivists, insists: "I think it is a fiction that these are private papers. The very great bulk of these papers originate from one activity only—that of serving in a public capacity. I think they should be public papers." A 1969 study for the American Historical Association put the case even more strongly. The association said that the concept that a President's papers became his property after leaving office was "a lingering vestige of the attributes of monarchy, not an appropriate or compatible concept . . . for the head of a democratic state."

Nixon, however, has the weight of precedent on his side. Presidents since George Washington have treated documents from their days in office as their own, taking them home with them on leaving office. In the 19th century, the Government had to pay nearly $200,000 to get back some of the papers that were in the hands of various descendants of Washington, the two Adamses, Jefferson, Madison and Monroe.

The heirs of Abraham Lincoln held his papers until his son Robert Todd Lincoln gave them to the Library of Congress, stipulating that they remain sealed until 1947—as they were. Thus there is even a precedent for the requirement that Nixon attached to the gift of his papers—that they be withheld from the public until after he leaves office. This stipulation, however, has led to criticism that Nixon is not entitled to claim a deduction for the papers until he relinquishes full control over the gift.

Nor was Nixon unique in affixing a price tag to his papers and taking a tax deduction. Platoons of onetime Government officials have turned over papers to historical societies and university libraries. Senator Hubert Humphrey donated more than 2,700 boxes of materials to the Minnesota Historical Society, and took tax deductions of $199,153 for those papers dealing with his vice presidency. Former California Governor Pat Brown got a $105,000 tax write-off for giving his papers to the University of California. Former U.S. Ambassador to India John Kenneth Galbraith gave some papers to the Kennedy Library, and took what he now feels was a "meager" deduction of $4,500.

Some public officials have not viewed the mementos of their official days as negotiable paper. Though the record is not entirely clear, it seems that of all Presidents, only Nixon and Lyndon Johnson personally sought monetary gain from their papers. Minnesota's Governors have traditionally donated their papers to the state's historical society and have not benefited financially. Many Wisconsin officials have contributed their papers to their state's historical institutions. Adlai Stevenson gave his papers to Princeton and sought no tax advantage.

SLIM PICKINGS

There are many officials, however, who have kept their memos, letters, speeches and other papers in their families unless given a financial incentive to part with them. Thus the rule that permitted tax deductions proved a boon for historians. But a law passed in 1969 made the historians' pickings slimmer. Congress, seeking to bar Lyndon Johnson from reaping continued tax benefits from the private papers of his political offices, abolished tax deductions for donations of papers.

The elimination of this incentive has seriously cut the flow of historical documents. Yale University Archivist Herman Kahn complains: "People are sitting on their papers in the hope that the law will be changed." Except for those donated in a spirit of patriotism or altruism, it seems, many historical documents will remain stuffed in former officials' attics and scrapbooks until those papers can again earn a tax deduction—or until a new law declares that papers produced by officials serving the public belong to the public.

[From the Detroit News, Mar. 31, 1974]

TAX PROBERS TO SIDESTEP ISSUE: ARE PAPERS NIXON'S TO GIVE?

(By John E. Peterson)

WASHINGTON—The joint Congressional Tax Committee reviewing President Nixon's tax-deductible gift of vice-presidential papers has decided to sidestep the broader question of whether the papers were really his to give away.

The committee had agreed Jan. 21 to a request by M. B. Schnapper, a Washington historian, that it rule on whether public papers of high government officials are their private property or belong in the public domain.

In a letter to Schnapper, the committee chief of staff, Dr. Laurence N. Woodworth, said the issue "is one of the questions on which the committee will have to pass judgment."

Last week, however, an aide to Woodworth said the committee decided not to research that question because "it would lengthen our investigation well past the April 1 date we have set for the release of our report."

Instead, the aide said, the committee will focus solely on the question of whether Mr. Nixon beat the July 25, 1969, deadline for depositing his papers in the National Archives for tax-deduction purposes. That was the last day donations of papers could have been claimed as tax deductions under the Tax Reform Act of 1969.

The President sent the National Archives 641,000 documents accumulated during his eight years as vice-president in the Eisenhower administration after a Chicago appraiser had valued them at $576,000.

Mr. Nixon then claimed that amount in tax deductions spread over four years.

If the tax committee rules that Mr. Nixon's deductions are not valid because the papers were not actually given in the National Archives before July 25, 1969, the President might have to pay back taxes amounting to several hundred thousand dollars.

But if he did pay the back taxes, Schnapper says, Mr. Nixon then would be free to ask for his papers back and sell them on the open market.

"And," Schnapper contended, "if the Joint Tax Committee does not decide the matter, President Nixon, under current interpretation, would be free also to sell all of the Watergate tapes. You can imagine what kind of a price they might bring."

Schnapper believes that Congress may have acted under a delusion when it abolished tax deductions for the gift of papers and docu-

ments in a provision of the Tax Reform Act of 1969.

"The congressmen who sponsored the bill apparently believe that there was a law giving the presidents and other public servants the right to take hundreds of thousands of dollars in tax deductions on gifts of official documents and papers to the nation," Schnapper said.

"But in all actuality, they were repealing a law that didn't exist."

Schnapper, editor of the Public Affairs Press, has spent thousands of hours in the National Archives and the Library of Congress doing research on the status of official documents and papers.

"There was no law whatsoever sanctioning the gifts of such papers for purposes of tax deductions," he said.

"The only directly relevant statute is the Presidential Libraries Act, based on a joint resolution of Congress passed on Aug. 12, 1955. That act authorizes the General Services Administration 'to accept for deposit the papers and other historical materials of any president or former president, or any other official or former official of the government, and other papers relating to and contemporary with any president or former president.' But there is no authorization allowing tax deductions on such deposits."

Schnapper said several early drafts of that law did have clauses stipulating that the documents of presidents and other officials be "deemed gifts exempt from federal taxation" but those clauses were deleted in the measure that finally passed.

"Not only that," he said, "but the law that passed refers to the donation of 'land, buildings and equipment' for presidential libraries very precisely as gifts whose value can be deducted from federal taxes.

"It is my opinion that there is a very sharp legal distinction between the use of the word 'gifts'—and the word 'deposits.'"

Schnapper conceded, however, that many recent presidents and numerous other public servants have considered their "charitable contributions of official documents" to the National Archives as the equivalent of private gifts entitled to tax deductions under internal revenue laws.

"Such an assumption is utterly absurd," he declared. "President Johnson, for instance, donated more than 31 million of his papers to the National Archives and took tax deductions on those gifts in 1965, 1966, 1967 and 1968. (The amount of the deductions cannot, under law, be revealed).

"If his papers were appraised at 90 cents a page, which was the rate President Nixon (who revealed the figures himself) got for his vice-presidential papers, President Johnson could have claimed a tax deduction totaling between $22 and $28 million, depending on how it was spread out.

"Yet it is entirely obvious that President Johnson's 31 million papers consisted, at best, of only a few thousand he actually authored himself.

"The remainder, of course, were official documents written and created for him by federal employes at great cost to the American taxpayers. To claim that President Johnson or any other president has the right to give those papers back to the American people and claim gigantic tax deductions is to bizarrely twist whatever rules of logic yet remain in this troubled world."

The first President to take a tax deduction on the gift of public papers and documents accumulated by him in office was President Truman, Schnapper said.

"President Truman got a letter authorizing him to do that, from one of his own appointees in the Internal Revenue Service," he said.

"President Eisenhower's lawyers became aware of that letter and used almost the same language in framing a deed of gifts for Ike's papers," Schnapper said.

The assassination of President Kennedy was unexpected, and so there was no provision in his will for the disposal of his presidential papers, Schnapper said.

The Kennedy heirs took no tax deductions on the gift of his papers to the government, he said.

Not only are there no laws allowing public officials to transform official documents into private property for tax-deduction purposes, Schnapper said, but the only known judicial decision further supports the view that such papers are public property.

"When President Roosevelt died, his will made no mention of his public papers," Schnapper said. "His executors sought a ruling as to whether they were private property or in the public domain.

"On July 21, 1947, the Surrogate Court of Dutchess County, N.Y., ruled that 'the official documents of President Franklin D. Roosevelt are the property of the United States.'"

Furthermore, Schnapper said, FDR as early as 1938—when he made arrangements for his presidential library at Hyde Park—publicly announced that he considered his official documents and papers the property of the American people," the people's record."

Most presidential papers, he said—including those of Jackson, Van Buren, Lincoln, Grant, Garfield, Benjamin Harrison, McKinley, Theodore Roosevelt, Taft, Wilson and Coolidge—were deposited freely with the Library of Congress without any deals allowing tax exemptions or other financial gain.

"The proclivity of government officials for treating their official documents as private papers, amounts—in effect—to an illegal copyright," Schnapper said.

He cited Section 8 of the Copyright Act, which states that "No copyright shall subsist in the original text of any work which is in the public domain . . . in any publication of the United States government." And Schnapper said he is convinced that the tendency of presidents and other public officials to treat public documents as their own is basically incompatible wtih the concept of American democracy.

"If presidents and other public servants are permitted to continue to treat their documents of office as private property," he said, "they and their heirs remain free to sell those documents to the highest bidder, keep them secret as long as they choose to do so, or simply destroy them.

"None of those practices are consistent with the overriding right of the public to know that exists in a democracy.

"Under the circumstances I would hope the Joint Tax Committee will change its mind and provide a definitive ruling for the future."

[From Newsday, Dec. 30, 1973]

A PAPER DISPUTE

(By Anthony Marro)

WASHINGTON.—When George Washington left the presidency in 1796, he packed up most of his official papers and took them back home to Mount Vernon.

When John Adams left office, he followed this precedent, possibly because he didn't want his arch-enemy and successor, Thomas Jefferson, rummaging through them.

Others followed suit, and by the time Lyndon Johnson went back to Texas in 1969 it was generally assumed that an ex-President's papers were his to dispose of as he saw fit. So Johnson had 30,000,000 pieces of paper, 5,500,000 microfilmed documents, half a million photographs, and 2,010,420 feet of motion-picture film carted back to Austin to be placed in the Lyndon Baines Johnson Presidential Library.

Now comes H. G. Jones, the director of the North Carolina Department of Archives and History, to argue that it was public property that Washington and his successors toted back home, and that Presidents, including the present incumbent, should not be allowed to consider official papers to be their private property. (Jones also is opposed to the idea of presidential libraries, including the one he calls "that Pharaoh's monument in Austin." But that is a subject for another day.)

Simply put, Jones argues that anything produced on government time, at government expense, and for a government purpose should be considered government property. "I've been agitating about this for a long time," he said recently. "Most of these papers shouldn't even be thought of as papers—they should be thought of as *records*, the records of government."

Jones doesn't argue that all such papers belong to the public. He is willing to let public officials take their personal letters and diaries with them when they leave office. "The key is whether the papers were developed for a government purpose," he says. "If they were, they should belong to the government."

Jones says he has had trouble getting anyone concerned about this except "a tiny fraternity of ineffective archivists." And not all of his fellow archivists agree with him.

"There certainly is a strong tradition that holds that a President's papers belong to him," says James O'Neill, the deputy archivist of the United States, and a man who has debated the matter with Jones in the past. "Jones makes a very logical case for saying that the papers ought to be public. I can't fault his logic—all I can fault is his understanding of law and history."

We have learned in recent weeks that President Nixon donated his pre-presidential papers to the National Archives and was able to claim a $576,000 tax deduction because of this gift. This enabled him to pay federal income taxes of only $793 and $878 in two of the years that he was living in the White House, drawing a salary of $200,000 a year, and accumulating the assets that have made him a millionaire.

The papers in question—some 1,176 boxes containing about 600,000 documents—date back to Nixon's years as a senator and vice president. They include papers dealing with the Alger Hiss spy case and with his trips to Latin America (where he was assaulted by anti-American mobs), and to Russia (where he argued with Khrushchev). They also contain many routine documents and memoranda such as the 27,000 invitations that he accepted or rejected during those years.

While a number of persons have questioned whether Nixon's action met the legal definition of a "gift" and whether he made it in time to claim the deduction, Jones and a handful of others have raised the larger question of whether the papers were his to give in the first place.

One of these others is M. B. Schnapper, the editor of the Public Affairs Press (most recent publication, the American Civil Liberties Union handbook, "Why President Richard Nixon Should Be Impeached"). Like Jones, Schnapper believes that the papers belong to the public and not to the President. "Things that are done in the course of a public servant's official duties cannot be considered private property or turned into private profit," he says.

This is similar to the argument that then-Sen. John Williams (R-Del.) made on the floor of the Senate in 1969, when he was trying to eliminate the tax write-off for such gifts. He said that one thing that bothered him about the practice was that public officials were making a profit by giving the public things that already belonged to the public.

"I am sure that in many cases many of the papers are just plain junk," he said, "but to the extent that they do have value, they were developed by government officials on government time with the aid of government staff personnel, were typed by government secretaries on government paper and were even stored in government files."

Both Jones and Schnapper say there is no law that specifically gives a public official the right to treat government documents as his

private property. They say the practice is based on tradition, not law, and it's about time the tradition was changed.

Schnapper thinks that the reason some of the earlier Presidents carried off papers was simply because there was no place to leave them. "Until 1897, the Library of Congress was just a hole-in-the-wall in the capitol, and we didn't have a National Archives until after 1930," he says. "I think some of them took them home because they didn't know what else to do with them."

Jones thinks another reason for the tradition is that the constitutional separation-of-powers doctrine has been interpreted to permit a President, while in office, sometimes to withhold records and information from Congress.

But Jones argues that it is an "illogical and quite unconstitutional proposition" that a President should be able to turn these documents over to his heirs, and that they, as private citizens, should be able to decide what part of the public record should be preserved.

And this is where archivists begin to have nightmares, for while recent presidents—Truman, Eisenhower, Kennedy and Johnson—have left their papers to presidential libraries, there is no guarantee that others will. And the record of the past has been that documents important to our history have been burned (intentionally or by accident), lost, censored by widows, and distributed as souvenirs.

During his Nov. 17 press conference at Disney World, Nixon suggested that if it's discovered that he isn't entitled to a tax deduction for the papers, he'd be happy to take them back and sell them on the open market. "I'll be glad to have the papers back, and I'll pay the tax," he said, "because I think they're worth more [than the $576,000 tax deduction claimed]."

So this seems as good a time as any to take a closer look at what Jones calls "the larcenous habits of Presidents from George Washington on" and determine whether Nixon has any right to march over to the archives and repossess those 1,176 boxes of papers.

[From Newsday, Apr. 14, 1974]

WHO OWNS THE PRESIDENT'S PAPERS?

(By Anthony Marro)

WASHINGTON.—President Nixon's unsuccessful attempt to turn his public papers into a $576,000 tax shelter has focused attention on the larger question of whether the bulk of the papers should have been considered his in the first place.

At least three bills now pending in Congress would declare any papers developed by or for federal officials in connection with their official duties to be the property of the government, and not personal property.

One of the bills—introduced by Sen. Birch Bayh (D-Ind.) would require outgoing Presidents, vice presidents, senators, congressmen, and other elected officials to deposit their official papers in the National Archives within 180 days of leaving office.

Two similar measures introduced by Delbert Latta and Tennyson Guyer, both Republican House members from Ohio, would affect the papers of all government employees, not just those of elected officials.

Bayh feels that "in the case of Presidents and many other lesser officials, these papers are not personal in any real sense because they were generated by the flow of public business and were prepared in government offices with the help of publicly paid secretaries and assistants."

Traditionally, presidents have considered their official papers to be personal property. The tradition started with George Washington, who simply packed up most of his official papers and took them home with him to Mount Vernon.

Others followed his example, and when President Johnson left office in 1969, few challenged his right to box up more than 30,000,000 pieces of paper, 5,550,000 microfilmed documents, and half-a-million photographs, and have them carted home to Texas for deposit in the Lyndon Baines Johnson Presidential Library.

But under a new law, effective July 25, 1969, officials are no longer permitted to donate their papers and then treat the donation as a tax deduction. The Joint Committee on Internal Revenue Taxation concluded that Nixon was not entitled to a $576,000 tax deduction for the donation of his presidential papers to the National Archives because there was not sufficient proof that he had given the papers prior to the July 25, 1969 deadline.

Largely because of the historical precedents, the Joint Committee decided that Nixon had grounds to claim the papers as his own. It questioned, however, whether it is a good thing for Presidents "to derive profit from the sale of materials that were produced while they were public servants," and suggested that congressional committees might want to consider "the whole question of the ownership of papers of public officials." This is what Bayh hopes to do.

Expected to support him is an increasingly vocal band of historians and archivists who maintain that such papers should be public documents. One of these, M. B. Schnapper, the editor of Public Affairs Press, insists that Presidents have never had a statutory right to the documents, and that the tradition is "fuzzy and inconsistent."

He maintains that "they cannot be regarded as private property that can be sold, concealed, or destroyed at the whim" of the officials.

The Latta and Guyer bills are in the House Judiciary Committee. Because the committee is so deeply involved in its investigation of whether Nixon should be impeached, it is not likely that their bills will get an airing in the near future, congressional sources say.

But Bayh's bill is in the Senate Government Operations Committee. According to one committee staffer, there is some reluctance to begin hearings because "there's concern that it will look like another razor slice at the President . . . and because there are some congressmen who don't want their own papers made public." But, he said, there's a "reasonable chance" hearings will be held soon.

THE BICENTENNIAL

Mr. HUGH SCOTT. Mr. President, as our Nation approaches its most significant 200th anniversary celebration, I would like to comment on the formulation of plans now under consideration across America. As John Adams wrote two centuries ago, the day after he voted for the resolution of independence, the occasion should "be solemnized with pomp and parades—and illuminations, from one end of the country to the other, from this time forward forever more." For myself and Senator SCHWEIKER, I can proudly announce that Philadelphia is planning what I think Mr. Adams had in mind and what the March 25 edition of U.S. News & World Report has called "a model" program. Over the next 3 years our Nation's birthplace will bring cultural, educational, and historical understanding to the actions of John Adams and our Founding Fathers. Philadelphia's realistic approach of using the facilities and resources already available embodies the concept of the American Revolutionary Bicentennial Administration. All facets of such programs will "improve the life of the community in fields like art, recreation, education, and housing—not just in 1976 but for years to come." Philadelphia has set an example all cities, large and small, can easily apply to their circumstances and surroundings.

I suggest that every Member of this distinguished body help all the hometowns of America plan effectively the most meaningful celebration America will ever experience.

I ask unanimous consent that the excellent article from U.S. News & World Report, "Do It Yourself Bicentennial: Philadelphia Sets a Pattern," be printed in the RECORD.

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

DO-IT-YOURSELF BICENTENNIAL: PHILADELPHIA SETS A PATTERN

The city where American independence was born is emerging as a model for the kind of revamped Bicentennial proposed by President Nixon.

Originally, the focal point of the nation's 200th birthday party was to have been a billion-dollar world's fair in Philadelphia. The plan fell apart two years ago as costs escalated and disagreements arose over exactly where the exposition should be.

Under the President's revised outline for the Bicentennial, no city will play the dominant role. Rather, Mr. Nixon said in a March 10 radio address, "we shall seek to trigger a chain reaction of tens of thousands of individual celebrations—large and small—planned and carried out by citizens in every part of America."

LOCAL INITIATIVE

Philadelphia, despite its setback, has taken the initiative in planning a pace-setting celebration. Out of the ruins of the aborted world's fair, a low-keyed but vibrant Bicentennial is starting to take shape.

Beginning later this year, the city is embarking on a two-year American birthday party that will include 300 events—ranging from a ceremonial convening of the present U.S. Congress to a cultural feast of drama, dance and music.

Also scheduled are an enormous flower show, dozens of conventions of learned societies, and religious convocations including one which civic leaders hope Pope Paul VI will attend. Museums will offer dramatic new exhibits, and major events will be held in virtually every main field of sports. Altogether, the celebration is expected to cost about 130 million dollars and attract up to 18 million visitors in 1976—some six times as many as this city normally gets.

ENERGY NO PROBLEM

The energy crisis, if it continues into 1976, is discounted as a dampening factor because the city is located in the midst of the nation's largest concentration of population and is amply served by railroads, buses and airlines.

"It's true there won't be any expo here," observed an official of the Bicentennial planning agency, Philadelphia '76. "But there will be so much else happening that most people won't know the difference."

Critics of the city's celebration, on the other hand, contend that the Bicentennial is far less enterprising than it was to have been under original plans. Whole sections of the city were slated for rebuilding at that time.

Many Philadelphians, who had hoped the fair would enhance the city's reputation and lay to rest old jokes about the community's "stodginess," were stunned when the proposal was killed by the Federal Government.

But almost immediately, residents began to put together plans for a smaller-scale fete.

Under Philadelphia '76, formed last year, a new concept emerged—with the emphasis on already-existing institutions of prominence such as the Philadelphia Orchestra, Franklin Institute and Philadelphia Muesum of Art.

Planners agreed to capitalize on the city's No. 1 historical attraction: Independence Hall, the stately red-brick structure where the Declaration of Independence was adopted in 1776.

Although the edifice was surrounded mostly by commercial slums only two decades ago, the entire area has been rebuilt and the hall now is the focal point of one of central Philedelhphia's most fashionable residential and business districts.

THE LIBERTY BELL

Anticipating enormous crowds at the site over the next two years, officials of the National Park Service, which runs the hall, recently decided to move the building's most famous occupant, the Liberty Bell, to another location. The instrument was rung in July, 1776, to announce the vote for American Independence.

Despite considerable opposition to removing the bell from its traditional home, plans are to reinstall it across the street on a mall. In its present location inside the crowded hall, the bell often was visible to only a relatively few people directly in front of it—and small children frequently complained they coudn't see it at all.

After the move, the bell will be housed inside a structure to protect it from the weather, but visitors—as they traditionally have been able to do—still will be allowed to touch the most famous symbol of American liberty.

"We couldn't change that," explained Douglas G. Warnock, acting superintendent of Independence National Historical Park. "It means a lot to be able to touch it. The bell has a charisma of its own."

Several other important historical sites near the hall are being restored, and a visitors' center—to include twin theaters where films will explain the park's significance—will be completed in 1975.

In addition, several houses once owned by Benjamin Franklin are being restored. A below-ground museum on the site will feature sound-and-light presentations of Franklin's accomplishments.

EXHIBIT AREA

A second major area of Bicentennial activity will be along Benjamin Franklin Parkway at the edge of the city center, where many museums, galleries and other public institutions are located. Dozens of exhibits—including live dramatic shows—are planned. Park areas are to be enlivened with open-air shops, restaurants and entertainment.

A 58-acre concentration of flowers and gardens, called Philaflora, will be the main attraction at a third focal point in Fairmount Park.

At dozens of other historic sites throughout the area, preparations are being made to welcome tourists on a large scale.

Example: Cliveden, the sturdy Georgian house around which the Battle of Germantown swirled, recently was opened to the public after centuries of ownership by descendants of the man who built it. The two-story mansion in which a handful of redcoats held off General Washington's army still has holes made by bombarding cannon.

CULTURAL ACTIVITIES

Another kind of attraction which many believe will be the "crowning glory" of the Bicentennial is a variety of cultural programs.

The Philadelphia Orchestra is planning an ambitious offering of concerts throughout much of 1976. Eugene Ormandy, conductor of the orchestra, plans to perform new American compositions every few weeks during the period, including a major new work by Leonard Bernstein.

Some of the concerts will be presented at Robin Hood Dell, an outdoor theater which will be renovated in time for the Bicentennial.

"We want to emphasize American music during this period," Mr. Ormandy said, "and we are continually looking for more good compositions."

Other cultural presentations under consideration in the city are two specially commissioned operas, a jazz festival, innovative ballets, a musical, a film festival, and shows of American art. Drama groups will sponsor a series of American plays.

Altogether, the celebration is turning out in the view of many Philadelphians to be far more varied and enterprising than they expected after the collapse of the fair.

LATEST PLAN: "ALL AMERICA WILL BE THE SHOWCASE"

A new blueprint of how the nation's 200th birthday will be celebrated was laid down by President Nixon in a radio address on March 10. The highlights:

The Federal Government, which originally was intended to initiate many nationwide Bicentennial programs, now will step back and encourage cities and States to generate projects meeting local needs.

Each local celebration is to include "a project to improve the life of the community in fields like art, recreation, education and housing—not just in 1976 but for years to come."

Co-ordinating the effort in Washington will be a revamped American Revolution Bicentennial Administration, to be headed by John Warner, former Secretary of the Navy.

Encouragement will be offered to private companies to join in the effort in such ways as financing improvements to historic sites and making films about immigration.

The President declared:

"In 1976, there will be no single city in which we celebrate our 200th anniversary and no single exhibit of our progress. No one city would be big enough. All America will be the showcase."

ENERGY CHOICES AND THE "TRIPLE E" STATEMENT

Mr. ALLEN. Mr. President, in a recent Wall Street Journal, the eminent physicist, Ralph Lapp, called to our attention the "hard energy choices ahead" in the ensuing months and years. Dr. Lapp correctly highlights a fundamental fact about the general population's unwillingness to consider the dark and foreboding energy future predicted by more and more scientists and businessmen. He says that when lecturing, people tend to discount Cassandra-like statements and instead retreat into a shell wherein they say, "the scientists will come up with a solution."

The problem is, as many in this Chamber know all too well, that even the scientists do not agree on what constitutes the energy problem much less know the avenues we should follow to alleviate and/or solve our long-term needs. Dr. Lapp's article suggests a beginning point but does not give a final solution.

Dr. Lapp makes one perceptive suggestion which is worthy of serious consideration by this body—and soon. A suggestion for policy change which is well within the powers of this body. He says:

The much-publicized Environmental Impact Statement must be replaced by a "Triple E" statement that strikes a balance between environmental, economic, and energy considerations.

Perhaps because of our different perspectives on the problem, Dr. Lapp and I disagree about the necessity for, effectiveness of, "Project Independence." The physicist and the politician naturally approach the conquering of a massive national problem from opposite poles. But I respectfully remind my colleagues that the Manhattan project for which the good Dr. Lapp is justifiably noted, and the space program from which the whole scientific community can take real pride, are examples of solutions to problems from a combination of forward thinking by public officials, the scientific community, and the Nation's industrial machine. It is an old bromide, but it does work: when Americans decide, we "can do."

Other than my minor disagreement with Dr. Lapp about Project Independence, I believe his article deserves close attention and consideration by all Senators. I ask unanimous consent that Dr. Lapp's article be printed in the RECORD.

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

[From the Wall Street Journal, Apr. 23, 1974]

THE HARD ENERGY CHOICES AHEAD

(By Ralph E. Lapp)

The United States is entering a disquieting new era in its economic history. We are moving out of an era when energy was easy to find and easy to exploit—a fundamental development whose implications will reach well into the 21st Century.

The Arab oil embargo has ended, the long lines at the service stations have disappeared at least temporarily and the short-run "energy crisis" has eased. Yet we remain an energy-short nation even now and the long-run trends are not comforting. An analysis of this nation's future energy needs leads inevitably to these conclusions:

There is no way we can meet the self-sufficiency goals of "Project Independence" by President Nixon's 1980 deadline, and probably not even by 1985. Dependence on foreign oil will be a brutal fact of life for at least a decade, more likely two.

There is no way we can sustain the giddy growth rates in energy consumption of recent years. Even under the best of circumstances energy conservation is going to be mandatory. We are going to have to adapt our transportation system—indeed our whole system of generating and using energy—to an age of energy scarcity, and this will require a whole series of profound political and economic adjustments.

There is no alternative, in the long run, to primary reliance for our energy needs upon coal and atomic power. Simultaneously, we are going to have to move toward an "all-electric" economy, perhaps even to the extent of eventually substituting electric automobiles for gasoline-burning ones.

Increasing U.S. energy consumption has accompanied a growing Gross National Product for well over a decade. Last year the U.S. consumed an amount of energy equivalent to the heat produced by burning 3 billion tons of high-rank coal or 13 billion barrels of oil. Actual oil consumption in 1973 amounted to 6.3 billion barrels; add to this the natural gas consumed and it develops that 77 percent of our energy was delivered in the form of pumpable fuels.

GROWTH EVERY YEAR

Last year our energy consumption increased 4.8 percent over that of the year before, and consumption increased 4.9 percent the year before that. If we were to continue growing

at this rate, then in 1984 we would be using the energy equivalent of 24 billion barrels of oil annually. Of course, we could get some of this energy from nonpetroleum sources, but even so, we would need some 11.6 billion barrels of petroleum products in 1985.

There is no way we can get those 11.6 billion barrels, unless the Arabs decide to act against their own self-interest and authorize greatly stepped-up production at low prices. There is no way we can get even the 9.5 billion barrels that the National Petroleum Council estimates we will need in 1985. And there is no easy way we can make up the difference out of U.S. resources, either. America, to repeat, has run out of easy energy sources. It must now grapple with the tough choices.

What are those choices? Although our petroleum resources are not fully exploited, they hold little promise of keeping pace with demand. This means we must now look to coal, lignite and oil shale, all of which, unfortunately, must be mined. Mining, of course, entails many problems—not the least of which is the sheer volume of earth which will have to be moved. For example, production of 1 billion barrels of synthetic crude oil from oil shale would require mining and processing 1.7 billion tons of the shale, not to mention disposing of the talc-like waste. By way of comparison, the U.S. coal industry mines only about 0.6 billion tons annually.

The Fort Union Formation in the Upper Missouri Basin holds a vast treasure of sub-bituminous coal, some of it reaching 100 feet or more in bed thickness. Luckily, it's low in sulfur and is quite close to the surface; and, because coal is a close chemical cousin to oil, it can be liquefied and/or gasified.

But will a Northern Plains state like Montana allow the industrialization that could convert it into a new Texas on the U.S. energy map? Can the necessary water be found to operate huge synthetic fuel plants? What price-per-barrel has to be assured the synthetic fuel industry to attract the necessary capital? What should be the use of the coal which is now being unit-train shipped to midwestern electric utilities? Who decides what fraction of the coal goes to boilers in steam-electric plants and what goes to making gasoline or aircraft fuels? These are critical questions for the nation's energy future.

But here's an even more fundamental question: Just what is an "allowable" annual growth rate in energy consumption? Our present growth rate of nearly 5% a year simply cannot be sustained. On the other hand, a "zero growth" policy, advocated by some environmentalists, would have an economy-wrecking potential.

Rather arbitrarily, I have calculated that each barrel of oil (or its energy equivalent) is linked to about $100 of Gross National Product. If so, a cutback of 1 billion barrels in annual oil consumption would mean a $100 billion dent in the GNP. Of course, this is a grossly simplified calculation, but it does indicate the scope and painfulness of the economic decisions we are going to have to make.

Detroit's monomania for the superhorsepower engine, coupled with the fuel robbery perpetrated by lowered compression ratios and air pollution controls, has contributed mightily to our fuel crisis. Yet with so much of the nation's well-being linked to the motor car, we can hardly afford to dislocate our economy by precipitous, ill-considered responses. Nor can we let environmental considerations alone dominate policymaking for such things as transportation, the location of power plants and the development of energy resources. I believe the much-publicized Environmental Impact Statement must be replaced by a "Triple E" statement that strikes a balance between environmental, economic and energy consideration.

SHIFT TO LIGHTER CARS

It seems obvious, however, that for the nation to live within its energy means, Detroit must at least shift to lighter, higher-performance cars. I see no reason why Detroit cannot continue to increase units sales, adding 25 million more vehicles to the car population by 1980—provided the gasoline mileage goes up to an average of 18 miles per gallon. This would allow full mobility for Americans—that is, 10,000 miles per vehicle-year—while consuming no more fuel than automobiles did in 1973. It would, however, mean flushing the low-performance cars out of circulation.

Similarly, it is obvious that the air cargo business cannot rocket ahead on the vertiginous growth rate of past decades. Shipping cargo by air is energy lunacy, much more wasteful of fuel than transporting things by rail, measured on a ton-mile basis. Trucks, too, are less efficient than trains. Inevitably, we must return to the rails, and this will require a national metamorphosis that will occupy the remaining decades of this century.

The fact that the United States is running out of pumpable fuels places high priority on central station generation of power, using either solid fossil fuels or uranium. Next year about 30% of all U.S. fuel consumption will be directed to electric energy generation and this is expected to grow by 50% by the end of the century. By then, up to 60% of all electric generation is projected to come from nuclear power sources—from 1,000 nuclear stations. By the year 2000, uranium should be substituting for the annual burn-up of more than 2 billion tons of coal.

Atomic power raises environmental and safety issues which must be faced. But for anyone concerned about the ravages of strip-mining, it also offers immense advantages over coal and oil shale. In fact, once the power-breeder reactor comes on line, it will be possible to coast through the entire 21st Century without mining a single ton of uranium ore; industry will merely rework ore already mined and tap the full potential of the atom.

As we move toward massive reliance upon coal and atomic energy, we also will move toward an all-electric economy. Unlike oil and gasoline, which can be distributed easily for utilization in automobile engines and other small power plants, coal and atomic energy lend themselves best to exploitation in central power plants. If advances in electric batteries or other methods of storing energy make the electric car a reality, each garage, in effect, will become a private filling station, with the car charged up there overnight for use the next day.

The U.S. energy economy is so often projected only as far as the year 2000 that people overlook the energy requirements of the next century. Whereas this century will be reckoned by energy historians as 90% fossil and 10% nuclear, the relationship will become increasingly nuclear in the future. Although it's unlikely that 21st Century Americans will be free to waste energy the way we have, many experts think that the U.S. population will grow very slowly in the next century and not exceed 400 million by the year 2100. Thus, I would expect that total energy consumption would no more than triple in the next century and that nuclear sources could maintain a viable U.S. energy economy through the 21st Century.

A BLEAK PICTURE

The world-wide energy picture, on the other hand, is very bleak. The "easy energy" sources of other nations should run out rather soon in the 21st Century. The proved reserve of 500 billion barrels of oil in the Persian Gulf may seem immense, but it cannot satisfy the rising energy expectations of developing countries for very long. The run-out of "easy energy" and the on-set of "tough energy" could have revolutionary consequences for the growth of the planet's population. Merely feeding the growing populations of underdeveloped nations may eventually impose energy requirements that many nations will not be able to meet. Nor will many of these nations be able to afford the U.S. solution: a highly-electric economy designed to mate with nuclear power. Result—a widening of the gap between the have and the have-not nations.

I have found that in lecturing about the subject of future energy supply people discount rather gloomy forecasts as these by saying that "scientists will come up with a solution!" There are, of course, a number of energy options already in sight, but all have their drawbacks. None qualify as "easy energy," especially if all costs are reckoned, and it is this advent of "tough energy" that has such fundamental significance to our future way of life.

CHOOSING THE PRESIDENT

Mr. GOLDWATER. Mr. President, this past spring it was my pleasure and honor to have attended the Air Force Academy Assembly, whose theme was "Choosing the President." Students from many colleges across the country were in attendance with the cadets and their keen perception and understanding of the problems wrapped up in the subject were brought home to me during the course of my discussion with them. They have now compiled their final report, and I ask unanimous consent that it be printed in the RECORD.

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

[Sixteenth Air Force Academy Assembly, 13–16 March, USAF Academy, Colo., Final Report]

CHOOSING THE PRESIDENT

At the close of their discussion, the participants in the Sixteenth Air Force Academy Assembly reviewed as a group the following statements. Although there was general agreement on the Final Report, it should by no means be assumed that every participant subscribes to every statement.

The opinions, interpretations, and conclusions in the Final Report of the Sixteenth Air Force Academy Assembly are those of a majority of over 100 students from 75 universities and colleges who attended. The contents of this report are in no way to be construed, directly or indirectly, as endorsed or approved by the U.S. Air Force Academy, the U.S. Air Force, or the Department of Defense.

The choice of a President is the most important and most difficult act of citizenship in American life. Americans have become painfully aware of this fact.

This conference has explored many aspects of the current crisis of the Presidency, and the implications of this crisis in nominating and electing future Presidents. Delegates have been candid and forthright in expressing their conflicting views.

Much attention has been focused upon the qualifications of possible candidates. The need to bring new possibilities to public attention has been recognized. The continuing responsibility of all citizens to take part in the nominating process has been acknowledged.

The methods of making a presidential choice have become increasingly complicated, costly, and frustrating to many people. Possible reforms have been critically examined.

The following summary of ideas discussed by the delegates is presented with a full realization that no summary can do justice to the complexities involved in making a demo-

cratic system work effectively in an age of revolutionary change. This crucial task calls for the devotion of every citizen who believes that the American experiment still offers a great hope for humanity's future.

I. THE CRISIS OF THE CONTEMPORARY PRESIDENCY

Presidents in the twentieth century have been exerting more and more power in many fields. Faced by a series of war and other emergencies, Americans have placed greater and greater demands upon the Presidency.

Apparently unwilling or unable to cope with many of the problems of a technological bureaucratic society, Congress has thrust much authority and responsibility upon the shoulders of Presidents. The strong Presidents of our time have accepted these powers—and added more on their own initiative.

Questions offered to the delegates on this topic were these: (1) Has executive power been abused at the expense of other branches of government? (2) What, if any, contemporary changes in the office of the President call for new and different talents? (3) To what extent should the attributes of the President and the Vice-President be complementary or similar? (4) Should the role of the Vice-President be more specifically defined?

The Assembly felt that executive power had been over-extended on an unprecedented scale, but much of the responsibility for that flow of power could be traced to the failures of other branches of government to check the flow. The potential for abuse was always there, and Presidents found it difficult to draw the line between a necessary exercise of power and abuses justified in the name of the national interest. Chief executives contended that they could do anything not specifically forbidden by the Constitution—and this led to aggrandizement of the executive office.

To combat these abuses, one group suggested that the Presidency had to be brought under close scrutiny by other branches of government, particularly the Congress. Others called for more thorough efforts to educate the public on the need for a restoration of the balances of power among the executive, legislative and judicial branches of government. The tendency of Congress to shift decisions to the President might be counteracted by developing more public support for Congress with the courage to play a more active role in decision-making and the oversight function.

On the question of making changes in the office of the President calling for new and different qualities, there was considerable agreement that the mass media should focus more attention on proposals to streamline the Presidency, and to emphasize the need for accessibility to the public of presidential aides and advisors. Some delegates thought there should be more national discussion of the entire executive branch of the government—the vast bureaucracy with its spreading powers—rather than concentrating simply on the office of the President.

Substantial numbers of the delegates indicated that the Vice-Presidency had been neglected and down-graded too heavily in the present system. Many felt that Vice-Presidents should be chosen from candidates of the highest stature, and considered as possible Presidents. There was much support for the idea of specifying specific areas of responsibility in which Vice-Presidents would have an opportunity to function effectively. Others thought that Vice-Presidents should confine their activities to advisory councils and other duties allocated by Presidents.

The second topic on the agenda discussed in the opening sessions of the conference was what manner of person the President should be.

Everyone recognized the difficulties in developing criteria for a human being who might have most of the qualities necessary to carry out the staggering range of duties placed upon the President by the enormous expansion of the office in modern times and by the tremendous expectations of the American People. No one felt that a fully satisfactory list of qualities could be developed, but there was a consensus that a continuing effort to produce good criteria could be helpful to the voters when the time came to make a choice.

Some delegates said that Presidents had to have a high degree of "sensitivity" to the needs of citizens with a wide variety of backgrounds, and a special concern for those who had little wealth and little access to the levels of power. The President had to try to speak for all of the people most of the time, but he should frequently speak for those who were often forgotten or ignored—the "have-nots" of the populace. "Sensitivity" was described as a responsiveness to both the effective and non-effective elements of the entire constituency. It was suggested that the role of the President in this regard was not merely to act upon the will of the people but to act in the interest of the American people.

It was generally recognized that a President should have high political skill, but his moral character was considered more important than his political agility by many delegates. There was an acknowledgment that the standard virtues needed by a good citizen were the virtues necessary in a President: honesty, humility, willingness to consider others, energy, integrity, ability to accept criticism, readiness to stand alone if that should be required in a dangerous situation. (The constitutional provision for impeachment was regarded as a viable tool for helping to insure proper standards of conduct in the office of the Presidency).

One of the questions under this heading was "Whose advice is likely to be most valuable in asssessing presidential candidates—e.g., journalists, party leaders in Congress, psychiatrists, political scientists, economists, business leaders, organized interest groups? Whose advice is likely to be least valuable?" There was a consensus that all of these groups should be regarded as sources of opinion, but none was to be given special weight. The Assembly recognized, however, the prominent role of the press in bringing valuable information about political candidates to the attention of the public.

II. PRESIDENTIAL NOMINATION

The nominating process was thoroughly analyzed and a number of reforms were discussed.

There was general agreement that too many potential candidates were screened out before the formal nominating process began, and that there should be attempts to increase the number of active, serious competitors for the presidential nomination in the early phases of the contest.

Most of the delegates voiced opposition to the idea of a direct national presidential primary, although some delegates strongly supported it. The present system of state primaries, caucus gatherings, and national conventions—while admittedly complicated and costly—was preferred because this system would probably involve more people and cover all of the states. It was also regarded as less costly than a national primary; a minority, however, insisted that the present system might be *more* costly than a well-organized national primary. But many of the delegates thought that a national primary might lead candidates to concentrate their efforts more intensely in a limited number of states with large populations, with the other states being neglected.

One group proposed that a system of direct national party primaries be adopted. Under this plan, each party would have a primary involving all of the contenders for that party's nomination. The winning candidate would have to receive a majority of the votes cast in that primary. If a majority was not achieved, a runoff election would take place between the party's top two vote getters. Candidates for a party's nomination would have to declare their candidacy six months prior to the primary date. Only the parties in the primary election would be represented in the final election. The number of parties in the primary election would not be limited, as a matter of necessity, to the two major parties. The winner of each party primary would then be that party's candidate for the final election.

Some delegates favored direct primaries in each state, with no caucus selections.

Another group suggested that caucuses should be held in each of the fifty states by each party, with the five leading candidates emerging from this process to be voted upon in national party primaries. The winners of the national primaries would be the final candidates of the parties.

A majority of the proposals offered by delegates called for selection of the vice-presidential candidates from two to thirty days after the presidential nominations.

It was suggested that uniform procedures for the nomination process in primary and caucus structures should be instituted nationally. The political parties, rather than state or national governments, were considered to be the right channels for the development of such rules.

There was consistent support for those who advocated control over the nominating process by the political parties. Some participants declared that presidential and vice-presidential candidates should be required to pledge vigorous support for the programs outlined in the party platforms. This was countered by a suggestion that the candidates should formulate and/or propose platforms that they would support.

One group suggested that presidential candidates should announce their vice-presidential running mates at least one month prior to the national conventions, in order to give party members sufficient time to consider these candidates. Another proposal was that the presidential nominee should make the selection of his running mate from a slate chosen by his party's national committee; the choice would be made after the national convention, after a thorough investigation of possible candidates by the national committee.

Another group submitted a minority report outlining a three-point plan: (1) Selection of the vice-president would be deferred until after the election in which only the presidential nominees would be candidates; (2) The newly elected President would nominate a Vice-President; (3) Approval of the nominee by a two-thirds vote of the Senate would be required.

The recent rule changes made by the two major parties were not regarded as sufficient. It was suggested that committees of the two parties should give continuing review to the guidelines for the selection of delegates. There was evident support for proportional allocation of delegate votes as a result of state primaries—rather than having a victorious candidate take all of them.

The Assembly divided equally on a proposal to go on record in opposition to enforcement of rigid "quota systems" by the parties.

III. PRESIDENTIAL ELECTIONS

The handling of presidential campaigns stimulated three major questions: (1) On what realistic basis could the Democratic and Republican parties form viable coalitions for winning presidential elections? If they could not do so, what should be substituted for the parties? (2) Should presidential campaigns be run independently of the parties, as they appear to have been in recent elections? (3) Can campaign financing be reformed so as to strengthen effective competition between candidates for president? How?

There seemed to be general agreement that new coalitions would be formed, but that

the development of the new alignments would be slow. With the Republican party in disarray as a result of the Watergate scandals, it was considered likely that the G.O.P. would find it difficult to retain its hold on the groups that flocked to the Republican banner in 1972. There were definite signs that labor unions and ethnic minorities were increasing their identification with the Democratic party. Women's groups and other minorities working toward their own solidarity did not appear ready to swing overwhelmingly toward either party.

Most of the delegates at the conference, however, appeared to be fairly confident that the two old parties would survive if their leaders made realistic efforts to bring people from many groups into positions of authority. And these leaders, whether conservative or liberal, seemed to be aware that more doors had to be opened for minority groups' members and more voices had to be heard.

Many participants felt that it would be very hard for the parties to recapture control of campaigns from presidential candidates. The main hope seemed to be placed in the idea that candidates could be found with loyalty to the parties. These candidates might see the value of using their power to revitalize the parties as instruments of electoral participation. The mass media could do much to highlight the significance of the parties in the American political system.

After extensive discussion of the question of reforming the financing of campaigns, the use of public funding was endorsed by most of the delegates. It was generally admitted that plans for putting the distribution of public funds on an equitable basis would be difficult to achieve.

There was general support for a ceiling on expenditures in political campaigns; for strict enforcement of precise laws on the reporting of contributions, expenditures, and auditing of campaign funds; for a combined process involving both public and private contributions; for definite limits on the amounts that might be given by individuals and families.

One group proposed that the dollars a candidate raised through his own efforts should be matched by public funds. The total amount in each case would be determined by a formula setting a specific expenditure for each registered voter.

Others advocated the allocation of a number of hours of broadcasting time to be provided by networks and stations to political parties and candidates without charge. This would cut down the costs of campaigning. But a fair distribution of this time would present thorny problems.

When the discussion turned to the conduct of elections, these questions came up: (1) Does the Electoral College remove the presidential elective process farther away from democratic control? (2) Could the electoral vote system be retained while eliminating some of its significant drawbacks? How? (3) Would direct election of the President (and the Vice-President) effectively support the "one-man, one-vote" principle in presidential elections? Is this desirable?

Most of the delegates favored the retention of the Electoral College in some form, although a number of changes were suggested.

One group called for the adoption of the Lodge-Gossett proposal. Under this plan, electoral votes would be awarded in proportion to the percentage of the popular vote received by each candidate. Another group urged consideration for a constitutional amendment which would provide for these steps: (1) If a candidate received 50 per cent or more of the popular votes, the Electoral College would not be asked to cast ballots—the candidate would be declared the winner; (2) Electors would be legally bound to vote for a candidate who carried the state in which they were chosen. Under the present system, electors are free to vote for any candidate.

In the opinion of many members of one group, the Electoral College had outlived its original purpose. These delegates contended that the principle of "one-man, one-vote" would be best served by the direct election of the President and Vice-President. They had varying views on whether the candidates would be required to get a majority of the votes cast, or whether a plurality would be sufficient. If a majority should be required, a run-off election might have to be held in some cases.

IV. THE PUBLIC AND THE PRESIDENT

There was almost unanimous agreement that increased realism about the American Presidency was needed.

There was also a great deal of support for the idea that political debate in presidential elections should be more rational—and that newsmen, media executives and others involved in mass communication should be urged to do all they could to create an atmosphere of rationality.

There was a general awareness of the fact that action had to be taken as rapidly as possible to counteract trends toward withdrawal of the public from political involvement.

In one group, a debate centered on whether the media (particularly television) should be forced by subsidies to become a public educator. The use of compulsory subsidies was rejected. But a consensus was reached that the media should be encouraged to provide a forum for the presentation of issues and personalities. Investigation of public personalities and issues within the limits of fair journalism also was advocated. Governmental restrictions on the press—especially by extension of the libel laws—was unanimously opposed.

Another group reaffirmed its respect for freedom of the press, and called for greater understanding of the standards and practices of professional journalism. At the same time, this group called on journalists to show more responsibility and more thoroughness in research.

A number of suggestions were offered to overcome the apathy of many voters and counteract trends toward withdrawal. Among them were:

(1) Opening up the nominating process would provide the voters a wider variety of choices and make participation in elections more meaningful;

(2) More rational examination of issues and personalities could help citizens to see acceptable ways of overcoming problems that now seem beyond solution;

(3) Frank and forthright debates—with frequent demonstrations of honesty and humility—would gradually restore the sense of trust and confidence which is essential in a self-governing society;

(4) In locations where registration of voters was impeded in any significant way, new efforts should be made to remove these barriers. Registration should be made as easy and simple as possible, but incoming voters should be reminded of their obligations to become well-informed before casting their ballots.

In general, the participants in the conference indicated their belief that incremental changes in the methods of selecting, nominating, and electing Presidents and Vice-Presidents would occur and would have enough beneficial effects to make the American political system more vigorous than it is today.

In the last hours of the discussions covering many topics, the delegates faced the fundamental questions of whether it might be necessary to restructure America's social and economic relationships and to alter the values and attitudes of the American public—perhaps through the adoption of a parliamentary form of government or other drastic transformations.

The parliamentary system was brought up as a possibility from time to time in the course of the conference. But the inadequacies of parliamentary governments in Britain, France, Germany and other countries were as evident to the delegates as the defects of the present American constitutional government.

The Assembly placed much emphasis on revitalization of the educational process as a necessary element in producing the more alert, active citizens who might make the Presidency into a responsive instrument of the people rather than the elected monarchy it has tended to become.

With millions of people now calling for reforms, many of the delegates felt that there is increasing evidence that leaders in all branches of the American government (and in the educational and communication systems) knew that they must respond.

NASA AND "DOMESTIC NEEDS"

Mr. MOSS. Mr. President, one of the real pleasures of my association with the Committee on Aeronautical and Space Sciences is the mail that it brings me from around the country, frequently from young people.

I am frequently impressed with how knowledgeable many of these young citizens are about aeronautics and space, and with the strength of their commitment to the programs conducted by the National Aeronautics and Space Administration. The clarity of youthful vision is often useful in pulling us back from the meaningless, if not incorrect, cliches we all slip into at times.

At my suggestion, one of my young "pen pals" wrote the Senators from his State on the subject of the NASA budget; he has now reported back to me on the response he had from one of his Senators. John tells me that his Senator wrote that while he supported the space program, he believed that:

> It is necessary to continually review our national goals and priorities and . . . perhaps moderate the NASA budget in favor of our domestic needs.

My young friend expressed puzzlement about this answer. John writes:

> One thing that struck me odd, was the word "Domestic." NASA certainly isn't foreign.

Mr. President, I want to assure John, and my colleagues, that NASA is indeed not "foreign."

The multiple benefits we earn from NASA programs, it is true, accrue to all mankind. But clearly the major beneficiary is the United States. And, of course, the funds we appropriate to NASA are almost all spent here in the United States.

Unless we decide that weather prediction, better communications, crop monitoring, flood and severe storm warnings, the search for new energy sources, safer, more efficient aviation, earthquake prediction and pollution monitoring—to name a few—are not related to "domestic needs," perhaps we need to choose our terms more carefully.

NATIONAL READING IMPROVEMENT PROGRAM

Mr. DOMENICI. Mr. President, as one of the cosponsors of S. 1318, the Elementary School Reading Emphasis Act of 1973, I am happy to see that the principal provisions of S. 1318 have been in-

corporated into S. 1539, the Education Amendments of 1974, as title VII, the national reading improvement program. I believe that if these reading programs are put into effect, it will be a major step forward for education in this country, and especially for efforts to help those students who are experiencing difficulties in school.

I feel that the basic problem underlying most failures to succeed in school is a lack of adequate reading skills—approximately 90 percent of school dropouts are poor readers. Failure to develop good reading skills in children is not, unfortunately, an isolated phenomenon as nearly half of the schoolchildren in large urban areas are reading below grade level. Since reading is so fundamental to education, the improvement of reading instruction must be a high priority in any effort to improve education in our country.

The national reading improvement program, title VII of S. 1539, would concentrate efforts to solve this national problem where help is most needed, in schools with a high proportion of students reading below grade level, where demonstration projects would be funded.

In addition to demonstration projects in schools having high percentages of children with reading deficiencies, the program would authorize experimental special emphasis projects. In schools participating in this part of the program, all children in the first and second grades, and older children having reading problems, would be taught reading by highly trained reading specialists in conjunction with reading teachers. Special emphasis projects would also involve intensive summer programs for children who are experiencing reading difficulties.

The national reading improvement program would also provide financial assistance for research and development projects to improve the methods of reading instruction, including the use of educational television and radio; establish an Office for the Improvement of Reading Programs within the Office of Education and a Reading Improvement Laboratory within the National Institute of Education; and establish a Presidential Reading Achievement Award.

I support this provision of S. 1539 as I feel that improvement of the teaching of reading is the key to success in school, and to a large degree, in life, for millions of American children.

U.N. SECRETARY GENERAL'S STATEMENT AT CLOSING OF GENERAL DEBATE IN GENERAL ASSEMBLY

Mr. McGEE. Mr. President, last week United Nations Secretary General Kurt Waldheim issued a statement upon the closing of the general debate at the Special Session of the General Assembly.

In that statement, the Secretary General stressed the need to provide financial and other assistance to those member countries "in the greatest jeopardy." Mr. Waldheim has been pressuring the wealthier countries, the oil producers and the industrial nations to set up a special fund for those countries hardest hit by the steep rise in oil prices.

The Secretary General further emphasized that it was imperative the developing countries earn higher returns on their commodities to enable them to pay for their imports.

The Secretary General urged the Special Session of the General Assembly to make a renewed effort, "in the interests of both producing and consuming nations." He closed his remarks by saying:

> If we have begun to face up to the most urgent needs, and if we have made the necessary arrangements to follow up what has been done here, then this session will indeed prove to have been a turning point in world affairs.

The Secretary General's plea to the member States of the United Nations represented a recognition of the need for cooperation on the part of the entire international community in coming to grips with world economic problems. It is marked by eloquence and farsightedness and I believe it demands the attention of all my colleagues.

I ask unanimous consent that the statement be printed in the RECORD.

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

TEXT OF STATEMENT BY SECRETARY GENERAL KURT WALDHEIM AT CLOSING OF GENERAL DEBATE IN GENERAL ASSEMBLY

(Following is the text of a statement by Secretary-General Kurt Waldheim at the closing of the General Debate on the question of raw materials and development in the General Assembly today:)

For the past two weeks, the General Assembly has conducted a debate of remarkable scope and depth on the most pressing and fateful issues of our time. The high level of representation in the special session has been matched by the quality and substance of the interventions. It is no exaggeration to say that this special session is an unprecedented event, not only for the United Nations but for the world community.

We now have before us a vivid picture of the world economic situation seen from many different points of view and an extraordinary wealth of constructive proposals. No one has any illusions about the difficulties which will be encountered, or the efforts which must be made to combine and shape these proposals into agreed policies and plans of action, which will be the foundation of a new world economic order.

All over the world, the proceedings of this special session have been followed with extraordinary interest. The world expects, and anxiously awaits, the first concrete steps which this assembly will take to deal with the emergency situation which, in one way or another, now faces all nations. The anxiety and expectation of the world community is heightened by the undoubted fact that, quite apart from the medium and long-term problems which confront us, the fate of millions of people may well depend, within the next few months, on what this special session does, or does not do.

As I said in my opening statement, the perspectives of different nations or groups of nations vary enormously. Certainly the observation has been amply borne out by the general debate. But the debate has also, and perhaps more significantly, demonstrated a striking degree of agreement among member states on a number of important aspects of the problem before the assembly. Clearly, the debate has provided the substance for a process of negotiation, co-ordination and harmonization which will endure beyond the week of the special session which remains to us.

At this stage in the work of the debate with the closest attention, I feel that a summary of my main impressions might be helpful in formulating the decisions which are necessary both for immediate action and for continuing expeditiously the vital work which this session has initiated. The following observations are made with full respect for the positions of member governments as stated in the course of the debate, and in full cognizance of the strenuous efforts being made in the ad hoc committee to formulate a declaration of principles and a programme of action.

No one could have failed to be impressed by the range, the relevance and the seriousness of the general debate, illustrating dramatically the undeniable interdependence of the many issues which must be tackled in the evolution of a new world economic order. It is imperative to maintain the momentum which this debate has generated and to agree on the principles which will give it direction.

Second, it is imperative to provide new financial and other assistance to those member states placed in the greater jeopardy as a result of recent violent economic changes and great natural disasters. Individual member states and groups of states have undertaken steps bilaterally, collectively, and through international organizations to meet some of these needs. The International Bank for reconstruction and development, in the international monetary fund and the other members of the United Nations System are also striving to do all they can to help. However, all these efforts are not enough. A potentially disastrous gap continues to exist between minimum needs and the resources so far made available to meet those needs. It is imperaitve that we take steps to mobilize greater resources before special session ends.

Third, it is imperative to effect the speedy transfer of the necessary assistance to those member states most in need, and also to make arrangements to monitor continuously future needs and responses to those needs from the world community. The United Nations System stands ready to act as catalyst and clearing-house for everyone's efforts, and would be willing to act in whatever manner and through whatever mechanisms the general assembly may decide. I wish to emphasize that any arrangements made by the United Nations System would be complementary to those made by individual member states and groups of states.

Fourth, it is imperative to recognize that the developing countries must earn more to pay for their imports, and that they still depend on commodities for the greater part of their export earnings. To the extent that progress could be made on this basic problem, progress could be made in ameliorating the acute financial crisis to which I have just referred. In the past, international efforts have failed to produce significant over-all result in the field of commodity agreements. Today, however, and more than ever before, it is in the interests of both producing and consuming countries to initiate, during this special session, action which will lead to the resolution of this problem.

Fifth, and finally, it is imperative, as I have said, that the momentum generated by this special session should be maintained. The basic problems so courageously and constructively faced by this assembly will increase the sooner realistic international policies can be established and effective action taken to implement those policies, the sooner it will be possible to move from our present dangerously defensive position to one where bold and positive action can be taken to establish a new economic and social order for the benefit of all of mankind. Whatever the outcome of the special session, some relatively simple and effective arrangement must be made to ensure continuity and follow-up.

The administrative committee on co-ordination, which consists of the heads of

all the agencies, organizations and programs of the United Nations System, met here at United Nations Headquarters last week. The members of this committee, including the heads of the International Bank for reconstruction and development and of the International Monetary Fund, asked me to inform this assembly of their readiness to make available immediately the services of their institutions in order to facilitiate and support any action within their competence that may be taken by the general assembly. Recent experience has shown the usefulness of the United Nations System in focusing many forms of assistance to the maximum effect in dealing with a critical situation.

I believe that this special session will prove to have been a truly historic meeting. My main concern, which I know is shared by all of the distinguished representatives in this hall, is to get the maximum of agreement, the maximum of effective decisions, out of the few days of the session that remain. If upon the adjournment of this session we know where we are going, if we have begun to face up to the most urgent needs, and if we have made the necessary arrangements to follow up what has been done here, then this session will indeed prove to have been a turning point in world affairs.

NATIONAL LIBRARY WEEK

Mr. SCHWEIKER. Mr. President, I join with my colleagues in observing that the week of April 22–27 was National Library Week.

I can think of no broader repository of knowledge than that to be found in our Nation's libraries. Informational needs begin in the local community where persons of varying occupations, ages, social status, education, and interests live and work. People rely on information from many sources and in many forms, and they all go to the library to seek it.

From the time of enactment of the Library Services Act, Federal funds have brought library services to more than 17 million people for the first time. Today nearly every citizen is in a library service area. In 1956, when this program was established, only six States provided grants-in-aid to localities for the support of public libraries. Today, there are nearly 44 States which provide such funds. Since 1965, the Federal Government has been helping 60,000 public and private elementary and secondary schools buy books, films, and other library materials.

What is needed today is the continued commitment of the Congress to insure the upgrading and expansion of our Nation's libraries along with a consistent national policy with respect to library and information services. A proposal which seeks this latter aim is presently pending in the House. I refer to Senate Joint Resolution 40 which would authorize and request the President to call a White House Conference on Library and Information Services in 1976. Senate Joint Resolution 40, which I cosponsored, passed the Senate last year. The purpose of this conference would be to stimulate a national debate about the value of libraries and information resources in our society, as well as define the appropriate roles of local, State, and Federal governments in the support of these important national resources. I can think of no time more appropriate for undertaking this nationwide planning than during our bicentennial year 1976. I hope the 93d Congress will move to the adoption of this important legislation thus assuring that proper recognition be given to the future role of libraries in our national life.

POSTAL RATES INCREASE

Mr. MOSS. Mr. President, in the next several weeks the Senate will take up consideration of S. 411, a bill to "spread out" the scheduled increases of postal rates on magazines and newspapers.

This bill has the strong support of the majority of the members of the Post Office and Civil Service Committee. It is a measure that many of us in the Senate have advocated for some time.

The main argument for S. 411 can be stated briefly and cogently. First, the existence of a large number of magazines in this country is threatened by sharply rising costs, and the main element in this squeeze has been the increased cost of postal services. Second, if we allow these magazines to die, the quality of American democracy will be diminished, for such publications are essential to democracy's "marketplace of ideas."

Those who favor enactment of S. 411 are not asking the Federal Government to embark on a totally new policy. Throughout our history, the Federal Government has helped pay for the costs of mail service in order to encourage the dissemination of ideas. In the 24 years following World War II the average annual appropriation for second-class postal rates was $283 million. So the cost of S. 411—an average of some $50 million for 14 years—is comparatively small.

I certainly hope that the Senate will act favorably on S. 411 in the near future. For those of my colleagues who may not be fully acquainted with the problems now faced by many publications, I recommend two recent articles printed in the Christian Science Monitor. I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Christian Science Monitor, Apr. 22, 1974]

EXISTENCE OF NEWS MAGAZINES AT STAKE

(By Robert P. Hey)

WASHINGTON.—In the next few days an important postal issue will come before the full Senate. What the senators decide could have a profound effect on the reading of millions of Americans who receive their newspapers or magazines through the mail.

In a narrow sense, the issue is strictly whether the Senate should slow down the schedule of steep increases in postal rates paid by mailed publications. A bill introduced by Sen. Gale W. McGee (D) of Wyoming would do this.

For profit-making publications, the increases originally scheduled for each of the next three years would be spread out over six, effectively cutting the annual rate of increase in half. Nonprofit publications would spread their greater postal rate hikes over six additional years beyond their present eight-year schedule, giving them 14 years to make the adjustment.

At this point it seems touch-and-go as to whether the bill will become law this year. Its supporters voice very cautious optimism; its opponents say they "frankly do not know."

In any case, the real issues far transcend the narrow question of postal rates. They include:

Would these steep postal rate increases—if they were not slowed—in effect, censor the news for many Americans? Some publishers and members of Congress say it would.

Their reasoning is that many publications now making marginal profits would be forced to close; others would have to curtail news-gathering.

The result, they say, would be to impinge on the quantity, variety, and quality of news being provided Americans.

How serious would effects of higher mail rates really be on publishers?

Sen. Hiram L. Fong (R) of Hawaii, ranking Republican on the Senate Post Office and Civil Service Committee, does not think the effects will be nearly as severe as some publishers say. (He was one of two committee members who voted against the bill during committee consideration.)

INCREASES MAY BE 300 PERCENT

In its majority report on the McGee bill, the Senate committee said, "It has been advised that the current and anticipated postal rates threaten the quality, if not the existence, of the national weekly newsmagazines."

The committee said that "postal rates for regular-rate publications will surely be at least 217 percent higher in 1976 than they were in 1971." Further, it added, there is the "strong probability" that by July, 1976, "the rate will have increased by 300 percent."

Congressional sources saw two decisions have led to this rate hike. the first was by Congress in 1971, when it decreed that the reorganized postal service—which came into existence the following year—should pull itself out of financial red ink and break even by 1984.

The second was by the Postal Service, which decided that all classes of mail should basically pay their own costs, as part of this push toward the break even point.

This second decision reversed an historic position of the post office, since its inception in the late 18th century. "Our early leaders took the position," says the majority report of the Post Office Committee, "that the post office ought to provide strong impetus to the promotion of the idea of democracy and self-government. . . . Eminent men led the post office, fostering the belief that the [free] press ought to be subsidized, an idea that has persisted as a part of accepted opinion in this country until the recent precipitous increase in postal rates."

The McGee bill would not effect the eventual end of this subsidy. But it would give publishers of mailed magazines and newspapers six more years to reach the higher rates.

Particularly hard-hit at the moment, congressional and publishing sources say, are nonprofit magazines and newspapers—those published by educational, fraternal, trade, and religious organizations. Their rates have been lower in the past than those of profit publications; they are being raised the most.

INCREASES ESTIMATED

For example, the majority report of the Senate Post Office Committee lists the estimated second-class postage rate increases scheduled for Boys' Life, the official publication of the Boy Scouts of America. Before May, 1971, the postage bill for its 2,300,000 copies was $395,000. Today it is $585,000. On July 6 of this year it will be $673,000—unless the McGee proposal by then has become law.

Ultimately the Boys' Life postage bill will be $1,383,000. Under the present rate-increase schedule, this figure would be reached by July, 1981. The McGee bill proposes slowing the rate of increase so that this maximum is not reached until July, 1986.

The effect of such a cost increase, say numerous congressional sources who support the measure, will be to drive many small publications out of business.

They also note, as do some publishing

sources, two related problems that concern publishers.

SORTING NOT RECOGNIZED

One is that publishers insist they do much of the post office's normal sorting work themselves, yet receive neither recognition nor reduced postal rates for this work. One publishing source says that at his firm's printing plant, employees sort magazines into 90 separate groups, one for each of the truck routes on which the post office will send them.

These sorted bundles are delivered to the post office on carts, he says, which postal employees merely roll across their loading dock to the proper trucks; the time-consuming sorting already has been done. "But when we go to the Postal Rate Commission" to discuss rates, the publishing source says, "this sort of thing is not even recognized."

The second additional concern is the Postal Rate Commission itself. Separate from the Postal Service, it determines postal rates for all types of mail after hearing recommendations from the Postal Service and comments from mail users.

PRESENTATION IS COSTLY

Some publishing sources here charge that it is so expensive to make an effective, formal presentation before the commission, even under recently changed rules, that many mail users—including small publishers—cannot effectively present their views.

But these issues are not before the Congress. The McGee bill would merely give publishers more time before the full postal rate increases go into effect.

No one is certain when the full Senate will discuss the measure and vote on it. Estimates range from this week through the first week in May. But all agree that whenever Senate majority leader Mike Mansfield can find the time in a crowded Senate schedule, he will work this bill in.

The bill is expected to be voted on without being altered, and its backers are cautiously optimistic that it will pass. Opponents say they do not know what will happen.

What the Senate does will be pivotal. Sources in the House of Representatives say there is considerable House support for the McGee concept, embodied in an identical House bill sponsored by U.S. Rep. James M. Hanley (D) of New York.

HEARINGS PLANNED

If the Senate passes the McGee bill, a subcommittee of the House Post Office and Civil Service Committee plans to hold short hearings during May on the issue. It is considered certain to approve the measure; the full House committee is expected to do likewise.

No one is sure yet what the full House would do, although supporters think they would probably win.

The biggest problem in the House could be that the issue would not reach the House floor for a vote until after July 6, when the next round of rate hikes take effect.

If the Senate should defeat the McGee proposal, however, the issue would be dead for this year. The House subcommittee would not hold hearings, as it would consider the cause fruitless.

PRESIDENT MIGHT VETO

If Congress were to approve the bill, the question then would be: Would President Nixon sign it into law? The White House has not said. Several sources who favor the bill—both in and out of Congress—guardedly say they believe he would. Some point to the quiet if nonpublic support that they say the Postal Service has given the bill. "I can't imagine the postmaster general would be out of step with the President on this," says one.

A source close to Senator Fong says he "does not know" what the President would do. One Democratic source on the Senate Post Office Committee insists that during closed-door sessions on the bill, Senator Fong said that the President would veto the bill; but this same source says he personally believes Mr. Nixon would sign it.

In any case, the McGee measure seems to have paused at the crest of a legislative hill as it awaits Senate consideration. In the next few days will it roll forward toward legislative enactment, on the momentum provided by Senate approval? Or will it be pushed back toward defeat by an unfavorable Senate vote? Members of Congress, publishers and the reading public should know in a few days.

[From the Christian Science Monitor, Apr. 23, 1974]

U.S. POSTAL SERVICE—SUBSIDY ONLY ANSWER

(By Robert P. Hey)

WASHINGTON.—Questions are being raised in the halls of Congress on whether the U.S. Postal Service ever should reasonably be expected to operate debt free.

In 1971 Congress said the new postal service must be operating in the black by 1984. Now some prominent members of Congress who are abreast of postal issues think they then were unrealistic.

Perhaps, some privately are beginning to say, the postal service needs long-term—maybe even permanent—government subsidiary to do as good a job as the nation demands.

One top congressional expert on postal service, who asks not to be identified, now concludes the postal service "probably cannot break even." As postal costs of doing business rise and citizen demands for better service do likewise, he foresees that inevitably Congress will have to rethink the whole question. So will the public, he adds.

SUBSIDY ISSUE STIRS

"There's a definite stirring over in Congress," recently says another knowledgeable postal source, on the subsidy issue. He cites the case of one senator deeply involved in postal issues. As late as last fall, the source says he was "pleading" that mail users give the two-year-old postal service time to work out its problems; but now he believes that this will never be possible without partial government subsidy.

Increased congressional interest in the subsidy question comes despite last year's successful postal-service efforts to improve service—complaints to members of Congress dropped off as the year progressed.

It comes too, despite postal-service success in reducing its deficit—from $175 million for fiscal year 1972 to $13 million for fiscal year 1973.

What causes the congressional subsidy talk are the ominous forecasts—as Congress views them—of ever-rising costs of delivering the mail. Where should this money come from?

REPORT RELEASED

A recently released report of the Senate Committee on Post Office and Civil Service, stemming from its investigation of the postal service, concluded that "the postal budget could be expected to rise at a rate not less than 10 percent each year of the foreseeable future."

If the present postal rates remain unchanged and labor costs increase by 5.5 percent annually, according to a Government Accounting Office report, a 50 percent productivity gain will be necessary for the postal service to break even by 1984. Many members of Congress consider this an attainable goal.

No congressional action on subsidy is expected this year. The postal issue Congress immediately faces is a bill to slow down the rate of increase over the next few years in postal costs of second-class mail—magazines and newspapers. The Senate is to vote on this bill within a few weeks. The proposal would not change their ultimate postal cuts, however and consequently would not involve any permanent subsidy.

REASON FOR BILL'S DEFEAT

In fact, the issue of subsidy is a major reason for the defeat last year in the House of Representatives of a bill containing a similar provision. Under that proposal mail costs of smaller-circulation newspapers and magazines would have been partially subsidized by the federal government.

However, the idea of permanently subsidizing some mail users and not others—such as regular letter writers—helped arouse so much opposition to the proposal that the House refused even to consider it when it came to the floor for a vote.

This experience is one reason why specialists on the postal issue say Congress—when it ultimately considers the subsidy issue—will not subsidize some mail users without subsidizing them all.

In any case, no congressional consideration of the subsidy issue is imminent.

"It's a bit down the road yet," a Senate source says. . . . "But it's certainly something that Congress is going to have to face."

IMPACT ON MAIL USERS

So must the American people, says the Senate Post Office and Civil Service Committee in a recently released report on last year's investigation of postal service. "The issue in the last analysis," it says, "is whether the mail user should bear the cost of the postal service, or whether the postal service should be sustained at least in part by federal financing through taxes.

"This is a question of public policy not only for the Congress to consider in the light of the postal experience of the last few years; it is also a matter to which the public itself should give thought. . . . As mechanization and modernization become more and more effective, the amount of that contribution can be expected to diminish."

For the short run the committee report makes two recommendations:

Through 1979 the federal government is subsidizing the postal service at the rate of 10 percent of its 1971 budget. The report recommends this be changed to 10 percent of each year's budget, reflecting the expected annual increases in postal-service budgets. In fiscal year 1975 alone such a change would mean an extra $400 million in subsidy.

Additionally, the report suggests that Congress consider raising that percentage from 10 percent to 15 percent. Such an increase, it says, might be reasonable, "because of the increase in costs and the lag in modernization."

ARMENIAN AMERICANS

Mr. BUCKLEY. Mr. President, each year thousands of Americans of Armenian ancestry commemorate April 24 as a day of mourning. On that day in 1915, a barbaric campaign aimed at removing all Armenians from Turkish soil was resumed in full force. By 1920, after a total of 25 years of systematic and merciless persecution, the Turks had massacred more than 1½ million Armenians, and had deported to the Syrian desert another million, half of whom perished there or on the way by starvation, disease, exposure, and murder.

Unfortunately, the experience of the Armenians in Turkey is not unique even in this, the 20th century. For many Americans, secure in a free society, these events seem remote and somehow unreal. I commend the Armenian Americans for their efforts to focus the attention of the world on this and other episodes of man's inhumanity to his fellow man.

The Armenian people are not a small

and displaced ethnic group. They are admired throughout the world for their industriousness and thrift. They have made great contributions in this country and in others. These people deserve our commendation, for America has profited greatly by giving them sanctuary. It is fitting during this month of commemoration for the Armenians that we extend to them our sympathy and our respect.

SENATOR BENTSEN ON THE ECONOMY

Mr. RIBICOFF. Mr. President, earlier this month it was my privilege to introduce my good friend and colleague, Senator LLOYD BENTSEN, to the Connecticut Business and Industry Association.

Senator BENTSEN, who serves with me on the Finance Committee, spoke not only from his own broad base of practical business experience. More recently, as chairman of this committee's Subcommittee on Financial Markets, he has concerned himself with the problems of new companies and small businesses finding adequate financing. In his address to the association, Senator BENTSEN made a number of perceptive points about the state of financial markets today, the economy as a whole, and the current mood of the American people. His remarks are certainly worthy of consideration and discussion.

I ask unanimous consent that the text of Senator BENTSEN's remarks be printed in the RECORD.

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

CONNECTICUT BUSINESS AND INDUSTRY ASSOCIATION, HARTFORD, CONN., APRIL 1, 1974

I am honored by your invitation to appear before this distinguished forum and I am happy to meet the members of the Connecticut Business and Industry Association.

It is refreshing to get out of the supercharged atmosphere of our troubled capital and enjoy the stability of Hartford. But I find here—as in Washington and in Texas—people are worried.

And regardless of geography, they worry generally about the same things—most of them related to the economy.

What ranks highest is inflation—which was a minor worry in 1969. It is a major worry today.

If prices weren't enough to worry about, there is the additional worry of shortages—unprecedented in peacetime.

We have had beef shortages, wheat shortages, steel shortages, and paper shortages.

The ultimate blow was the energy shortage, which seemed to develop overnight into a full-blown crisis, turning our economy and our individual life styles topsy-turvy, and bringing additional worries of widescale unemployment, industrial slowdowns, and the possibility of power failures.

Now that is a long enough list of worries to occupy our entire population for years. Of course we have read all the admonitions about the futility of worry and what it does to our digestive systems. But there are times when we would be idiotic not to worry.

I worry about our economy. And about the lack of confidence in our economy—knowing that we have to rebuild one in order to rebuild the other. But I have determined to confine myself to what James Reston has called "Preventive worry"—which is one of the essential functions of government.

Some of the problems that weigh heavily on us today could have been avoided if government had fulfilled that function better.

Four years ago was a very frustrating time for me—and for many people who were knowledgeable about the petroleum industry and about energy in general.

We tried to sound the warning that a crisis was building. We tried to call for action to prevent it. But our pleas and our warnings were unheard.

The frustration that I felt then I am feeling again today, because I am convinced that if action isn't taken, this country will face a *capital shortage* within the next four or five years that equals or exceeds the severity of the energy shortage.

Industries and businesses must have capital. They need it to operate. They need it to expand and grow. Capital, as much as energy, forms the foundation of our economic system.

It has always been relatively easy in our country for someone with an idea to get the money to put that idea to work. But it isn't easy anymore. It grows more and more difficult. And when the day comes that capital dries up, when financing is not available, plants will shut down. Workers will be out of jobs. And the prosperity that Americans have enjoyed and shared—and taken for granted—will be at an end. This should be of concern to the laborer, and the labor union as well as business. It takes a $25,000 capital investment to create one job in manufacturing.

There are many signs that our country is headed for a serious capital shortage.

Stock prices are lower today than in 1968, although most other economic statistics are at all-time peaks.

The number of individual stockholders, after growing steadily for many years, is declining.

For some time, individuals have geen selling more stocks than they have been buying.

And new issues of equity stock have become very difficult to sell. This means new companies are finding it harder to obtain financing. And existing companies are finding it tougher to get the money they need to grow.

As Chairman of the Senate subcommittee on financial markets, I have been deeply concerned about this situation which I have been investigating for some time. I presided over hearings last summer and fall, and we recently concluded two days of hearings on legislation I have introduced in an effort to stem the tide, bolster our financial markets, and head off a potential capital shortage that would cripple our economy as effectively as the energy shortage.

I want to share this concern with you, because we have a situation here that has a profound effect on every American. What we do about it now will have a profound effect on every American. What we do about it now will have a profound effect on future generations. And we want the ideas of the American people on resolving this problem.

The phenomenal growth of our economy has depended on the ability of men with new ideas to raise capital backing from fellow citizens who believed in those ideas—to promote them, develop them, and in doing this, to provide the jobs that have enabled the American people to enjoy the highest standard of living in the history of the world.

This arrangement made the United States unique. In no other country has the private investor had such an opportunity to influence the development of new products, the growth of new industries, the generation of new job opportunities, and the stimulation of competition that is the cornerstone of our economic system.

But the "individual investor" on Wall Street has become an endangered species. His numbers have dwindled alarmingly over the past decade. His territory is now dominated by the big institutions—the mutual funds, the insurance companies, and the trust departments of banks, with their control of large pension funds and other investment capital.

These institutions buy and sell stock shares in huge lots. And, for the most part, they have been interested in the big, super-growth stocks.

Ten years ago, the individual investor accounted for 65% of the dollar value of trading volume on the New York Stock Exchange. Today he accounts for less than 30% of the trading.

As time goes by, he has less and less opportunity to exercise his judgment on investments, and he feels less and less a part of the Nation.

His daily life is influenced by the financial decisions of a few giant institutions: He lacks the means and expertise to compete with them, and he feels powerless to question those decisions.

And what of the small businessman who has a good product and needs to expand to meet the demands of a growing market? Where does he go to find the capital to expand, or just to stay in business?

He has two choices: He can borrow money or sell equity in his company on the stock market.

If he can't get financing on the equity market, his chances of long-term financing from financial institutions are meager. Interest rates are prohibitive and institutions are not eager to make long-term commitments to new or small companies.

And the businessman is finding it harder and harder to get the money he needs on today's equity market.

His company may be well established, under good management, with an attractive product, a good earning record and excellent prospects for the future. But all too often it does not attract the attention of the big institutional investors that dominate the market.

Stock in the MacDonald's hamburger chain is doing well these days. At the end of 1972 the market value of MacDonald's stock was about $2.1 billion, while the company's book value was $200 million. At that same time, though, the book value of United States Steel Corporation was about $3.6 billion but the market value of its stock was only $2.2 billion.

Something is wrong with our economy when the stock market is long on hamburgers and short on steel. There is a serious economic distortion when we can raise money to raise hamburger stands but not to raise steel plants.

What happens when a good company with good prospects cannot raise money? Its choices are limited. It can sell out to another company that can raise money. It may be confronted with the choice of merging voluntarily or becoming the target of a takeover. Or it may simply cease to exist, depriving all its employees of their livelihood and adding to the pressures on our economy.

I am not condemning the institutional investors. For the most part, institutions are doing a good job for their clients, and they are certainly putting badly needed capital into the equity markets. But there is cause for concern when their influence far outweighs that of individual investors.

There is cause for concern in the testimony that one large bank trust department has invested more than 60% of its assets in just 20 issues. This represents a tremendous concentration.

A witness from the nation's largest bank trust department told our subcommittee that they are receiving over a billion dollars in new investment funds every year—in addition to the $27 billion they already manage. He also testified that the investment decisions for that incredible sum are made by an eight-man committee.

My legislation is intended to ease that prob-

lem, to help spur the flow of needed capital from individuals and to diversify stock investments of large institutions. The bill I have offered has four basic provisions.

One provision prohibits bank trust departments, insurance companies, or other pension fund managers from investing, in the future, more than 5% of the pension assets they control in any one security, or from using pension funds to acquire more than 10% of the outstanding shares of any single company.

I believe this is an effective means of preventing concentration in a few securities and of encouraging greater interest by the institutions in well-managed small and medium-sized companies—the kinds of companies that, with adequate financing, could grow to become the Xeroxes or IBM's of tomorrow, creating thousands of jobs and adding millions of dollars to our gross national product.

The second provision permits managers of pension funds to invest 1% of the assets they manage in higher-risk new companies. This would encourage diversification and facilitate the flow of a limited amount of pension investments to new or expanding companies which present greater than normal risks, but offer the opportunity for greater than normal returns.

The third provision is for a graduated capital gains tax, decreasing the capital gains rate for an asset as the length of the holding period increases. This would help reduce the present "lock-in" of long term assets and provide greater liquidity in our capital markets. And a graduated capital gains rate would also help revive the risk-taking spirit that has been so important to our economic growth.

The fourth provision would also encourage greater individual investment by increasing the amount of capital losses an individual can deduct against ordinary income. The present maximum of $1000 per year would be increased to $4000 per year, which would provide a good incentive for investment and result in a greater turnover of securities.

These provisions, I believe, would go a long way toward restoring the capital-raising mechanism of the financial market which has been so successful in the past, and which is faltering so badly today.

Restoring that mechanism should be a matter of major concern to us. Looking ahead, we can anticipate that the American economy is going to face unprecedented needs for capital as we attempt to solve the problems of energy supply, environmental protection, and mass transportation—all of which will involve the private sector.

Consider just a few of these needs:

The domestic oil industry, according to some estimates, will require $200 billion in capital by 1985.

Power utilities will need $70 billion over the next five years.

Bethlehem Steel estimates its needs at $3 billion to $4 billion per year between now and 1980 to replace obsolete facilities, install pollution control equipment, and expand capacity to meet increased demand.

Changes in the automotive and transportation industries will require tremendous outlays.

We will need investors to supply the capital for all these, as well as for all the smaller industries that contribute to our economy.

We will need new ideas and new approaches. And we will need to open up the marketplace to men who have new ideas to be developed and made available to the public.

We have not reached the end of our technological achievement by a long shot. And we have not run out of innovators and inventive genius. These are many Edisons yet to be born.

We want to be ready to put new ideas to work. And, in turn, to let those ideas put the people of this country to work.

If we are going to accomplish this, we are going to have to look beyond the crisis in today's headlines and do a little preventive worrying about the challenges that are ahead of us.

As I said earlier, this preventive worry is one of the essential functions of Government and the people have a right to expect those in government to exert every effort in performing this job.

SHORTAGE OF CONFIDENCE

I think it is a fair statement that the average citizen expects his government to do what he cannot do for himself—to tax him fairly, spend his tax dollars prudently, help him gain every opportunity he can for work, education, and happiness in a basically free and unfettered society.

But he has reason to wonder what is going on when inflation destroys his wages and takes food from his table.

He has reason to wonder why his affluent and all-powerful Nation has not developed enough energy sources to meet its needs.

We have public officials being indicted and convicted and there is evidence of widespread wrong-doing in high places.

Now that's a very pessimistic picture—and I have painted it intentionally to make a point.

My point is that it's amazing that the people of this Nation have *not* lost more confidence than they have—because some of the happenings of the past few years have strained credulity in the effectiveness of representative government.

The people have not lost faith because they are basically an intelligent, honest, freedom-loving electorate. They know the difference between good government and bad politics. They know that leadership has its limitations, and that the destiny of democracy is somewhere in between the demands for instant solutions and the counter-demands for caution and resistance to change.

Our country has recently been through some very trying months, and difficult days lie ahead. But, is this a harder time than the long midnight of World War II, when we fought for our lives on two sides of the world? Or the great depression, when soup lines were commonplace and no work was to be found? Or the Civil War, when our Nation was split asunder? I think not.

If you listen to all the voices of gloom and doom, you would think that the year we have just finished was the worst in our history, and that the year now underway will be even worse.

But, I happen to agree with Ralph Waldo Emerson, who said, "This time, like all times, is a very good one . . . if we but know what to do with it."

Americans behave heroically in times of crisis. We have lived through many "times that try men's souls" since Thomas Paine wrote of the dark hours of the American revolution.

The American people believe in our system and they want to see it work. But they are restless and impatient—as they have always been throughout history.

They have been sending us a signal: To get on with the important issues of national security and national well-being and to stop corrupting the system by the way some act politically.

I think it's time we tuned in more closely to the message they are sending.

In my judgment, we will hear them say that they don't expect miracles, but they do expect action;

That they don't expect saintliness, but they do expect honesty;

That they don't expect the absence of politics, but they do expect restraints on vicious partisanship;

That they don't expect government to do all things for all people, but they do expect government to do its best and to do it honestly and fairly.

All of this together is not much to ask of both political parties. It's not much to ask of those who hold positions of public trust. But it's the agenda I believe the people of America expect to be dealt with, and the agenda up which to base all we aspire to do as a Nation and leader of nations.

TAXES AND CONTROLS

Mr. FANNIN. Mr. President, I would like to call to the attention of my colleagues an article in the New York Times of April 28, 1974.

The author points out that a tax cut "is precisely the wrong medicine for an inflation-ridden economy at this time."

Mr. President, there is no magic formula for curbing inflation. We must return to a fundamental economic policy. As the author concludes:

The present frightening and ominously threatening inflation course must be changed promptly and resolutely, lest it lead to tragic consequences. And that can only be accomplished through unrelaxed discipline on spending and monetary matters in the Congress, within the Administration and at the Federal Reserve. The nation can ill afford political solutions to its massive economic problems.

Mr. President, I ask unanimous consent to have this entire article printed in the RECORD.

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

CLASH ON TAXES AND CONTROLS

(By Thomas E. Mullaney)

Another classic confrontation may be erupting between the Congress and an incumbent Administration over national economic policies in this era of high inflation and increasing employment—or it may all turn out to be no more than political maneuvering keyed to next November's elections.

The potential clash, which has been simmering for some months with the growth of public furor over the intolerable level of prices, burst into the open last week when a large number of Senate Democrats indicated they favored a last-minute reprieve for some form of the economic-controls program, scheduled to expire completely two days hence. At the same time, more vocal support for a tax reduction was forthcoming from some legislators.

Both proposals seem highly inadvisable in the present atmosphere and probably are doomed to defeat, though anything can happen when tensions run so high as they are now over the unrelenting march of prices and services.

For various reasons, wage-price controls have been working, especially since the shift to Phase 3 in January, 1973, and ought to be scuttled so that the free market can operate again without the restrictive harness that has exacerbated supply problems—one of the roots of the present horrendous double-digit inflation trend.

The proposal for a tax cut should also be consigned quickly to the inactive file because it is precisely the wrong medicine for an inflation-ridden economy at this time. It would only serve to intensify the inflation problem without according any real benefits for the hard-pressed American public.

While a tax cut may seem enticing on humane grounds to provide financial relief, chiefly for the low-income group, it would really be a cruel illusion. It would tend to create bigger deficits in the Federal budget than now envisioned and reinforce the inflationary pressures in the economy that take so much out of everyone's pocketbook.

Even if a tax reduction were appropriate, it probably would be some time before it could wend its way through the legislative mill and would arrive on the scene when, hopefully, the economy is on an upward path again and inflation is receding from its current elevated level.

In any event, the slowness of the Congressional procedure for any action on taxes illustrates again the need for more flexible tax policies and a streamlined procedure for making changes.

In the judgment of most economists, a reversal of current economic trends should be under way soon—certainly during the second half of this year—albeit slowly.

Their optimism for an imminent turnaround is based on many factors: the end of the Arab embargo, fewer shortages of agricultural products and other materials, the basic strength of over-all consumer demand, the capital-spending boom by business and a diminished inflationary effect from the dollar devaluations in the last three years.

The economy has not been suffering from a lack of demand but rather from inadequate supplies. The latter situation seems well on the road to significant improvement and should not be complicated by a new injection of stimulus from the tax area that would tend to raise demand for so many goods.

Moreover, it should be noted that some $6-billion of potential additional consumer spending is being pumped into the economy at the moment with refunds to the public from the over-withheld taxes last year.

The principal objective of national economic policy should be control of inflation. It has become a pernicious disease that threatens the stability of our important thrift institutions, many lines of business, our whole financial system and the economic well-being of every one.

As economist Alan Greenspan put it the other day: "We can't afford to fiddle around and tolerate high inflation any longer. We have run out of time and have got to tackle that problem right now if we are to bring the rate down to any meaningful, table level by 1976 or 1977. Unlike other countries, we have our important thrift institutions with over $300-billion in mortgages that are highly vulnerable to the impact of inflation and are already subject to disintermediation."

He was referring, of course, to the outflow of funds from the savings banks, savings and loan associations and insurance companies now going on because interest rates are so high elsewhere in the economy. A weakening of such thrift institutions could have devastating effects on homebuilding and home buying, where a recovery had been counted upon this year as one of the major props for an economic rebound.

What is clearly needed now is a firm rein on monetary growth by the Federal Reserve and on spending by the Government. This is apparently the only real solution—the classical one—that has been stressed in many periods of inflation, but it never seems to be applied long enough or vigorously enough to allow it to work.

It is also imperative that the nation have the benefit of better statesmanship from the business world in the way of moderate price increases when controls die. And from labor in its wage demands. The economy, hobbled by lower production, higher costs and the biggest decline in worker productivity during the first quarter of this year since 1947, desperately needs to avoid further cost-push pressures.

The Fed, of course, has a particularly difficult role to fill. It must keep money tight but not so terribly restrictive that it pushes interest rates significantly higher and thus aborts the economic recovery that most economists are anticipating for the second half of this year.

It was certainly clear last week that the Fed intends to be tough. Arthur F. Burns, its chairman, indicated an iron-willed determination to come to grips with the inflation problem at a new conference last Monday. Then the central bank let it be known that it will roll over its bills at the average price that the market itself sets instead of actively submitting its bids. Then, on Wednesday, it pushed the discount rate up ½ point to a record high of 8 per cent.

Those three developments attest to the Fed's willingness to take still-higher interest rates in the effort to dampen inflation. In the meantime, the prime bank rates and other interest rates have been rising to new peaks, too. How much further will they all go? And how long will the Fed tolerate rising rates and run the risk of so much turmoil in the financial markets, housing and industry in general?

The Fed's role must be accompanied—and helped—by restraint on spending by the Government.

Although the Nixon Administration remains confident that the Federal budget deficit in the year ending June 30 will be held down close to the $4.66-billion estimated earlier, some other analysts are skeptical. They believe the red ink will turn out to be somewhat greater in the current fiscal year and in the next one beginning July 1. The predicted deficit for the 1975 fiscal year had been $9.4-billion.

After the first nine months of the current fiscal year, the Treasury's deficit stood at more than $13-billion, but officials are hopeful that tax collections this month and in June will lower the deficit closer to the original estimate. That could turn out to be excessively optimistic if the economy does not soon develop considerably more bounce.

The present frightening and ominously threatening inflation course must be changed promptly and resolutely, lest it lead to tragic consequences. And that can only be accomplished through unrelaxed discipline on spending and monetary matters in the Congress, within the Administration and at the Federal Reserve. The nation can ill afford political solutions to its massive economic problems.

FREEDOM OF EMIGRATION AND THE TRADE REFORM ACT

Mr. RIBICOFF. Mr. President, earlier this month, the Finance Committee, on which I serve, had the opportunity to hear some excellent testimony in support of section 402 of the Trade Reform Act—the Jackson amendment on freedom of emigration.

Testimony in support of the Jackson amendment, which has 78 cosponsors here in the Senate, was presented by a three-member panel led by Stanley H. Lowell, chairman of the National Conference on Soviet Jewry. Testifying with Mr. Lowell were Prof. Seymour Martin Lipset, of Harvard University, an executive member of the Academic Committee on Soviet Jewry, and Sister Margaret Traxler, cochairman of the National Interreligious Task Force on Soviet Jewry.

Professor Lipset appeared as a substitute witness for Prof. Hans Morgenthau, who was unable to attend.

Because of the continuing discussion and debate over this portion of the trade bill, it is important that the basic objectives and purposes of the Jackson amendment be restated. I ask unanimous consent that the texts of this testimony and the attachments submitted to the committee be printed in the RECORD.

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

STATEMENT OF STANLEY H. LOWELL, CHAIRMAN, NATIONAL CONFERENCE ON SOVIET JEWRY, ON TITLE IV OF THE TRADE REFORM ACT (H.R. 10710), SUBMITTED TO THE SENATE FINANCE COMMITTEE, APRIL 10, 1974

Mr. Chairman and Members of the Finance Committee: I appear before you as spokesman for American Jewry through a group of organizations who support Section 402 of HR 10710. I am Chairman of the National Conference on Soviet Jewry, (NCSJ), as assembly of 38 national organizations listed in Appendix A of this statement, as well as hundreds of local community councils and welfare federations. The NCSJ represents the organized American Jewish community, comprising a nationwide constituency of 4 million members, in matters associated with the well-being of Jews in the Soviet Union.

In addition, I am speaking here in behalf of the Union of Councils for Soviet Jews, a federation of 19 community groups, and the Committee on Concerned Scientists.

Some of those I represent have provided additional written statements, and I submit them herewith for the record. I am also accompanied by Sister Margaret Traxler, Co-Chairman of the National Interreligious Task Force on Soviet Jewry, which represents leaders of Protestant, Catholic and Jewish religious bodies in the United States; by Professor Seymour Martin Lipset of Harvard University, who is a member of the executive committee of the Academic Committee on Soviet Jewry; and by Jerry Goodman, Executive Director of the National Conference on Soviet Jewry.

1. VALUE AND APPROPRIATENESS OF FREEDOM OF EMIGRATION LEGISLATION (SECTION 402)

Section 402, popularly known as the Jackson amendment, both symbolizes and gives substance to America's continuing commitment to human rights. This commitment has been reaffirmed overwhelmingly in the Senate by 78 Senators, who have joined in cosponsoring the Jackson amendment. Moreover, in December, the House of Representatives adopted the House version of Jackson/Mills-Vanik Bill by a vote of 319 to 80.

In our view, Section 402 envisions a realistic formula to employ American economic resources and capabilities to secure the fundamental human right to emigrate, and to assert this linkage in situations where rights and opportunities to emigrate are suppressed or effectively denied. The right and opportunity to emigrate is not exclusively a domestic or national concern, but rather a concern of all mankind. This transnational concept is expressed in the Universal Declaration of Human Rights and is recognized throughout the international community. The Soviet Union has, for example, ratified the International Convention on the Elimination of All Forms of Racial Discrimination, which specifies the right to leave one's country.

As it has in the past, by the enactment of Section 402 the Congress of the United States will give tangible meaning to human rights that too often are merely expressed and enshrined in noble sentiments. This willingness is a profoundly American characteristic of which all of us can be justly proud.

As Dr. William Korey, a widely recognized specialist on Russian history and author of the recently published volume, "The Soviet Cage", points out:

"The Jackson/Mills-Vanik East West Trade and Freedom of Emigration legislation is deeply rooted in the American tradition, which has displayed a continuing concern for oppressed minorities abroad. All too often Jackson/Mills-Vanik is treated as if it is *de*

novo and sui generis, that it has suddenly appeared on the scene, that it is somehow alien to American tradition and American policy."

Dr. Korey has provided a summary of the extensive examples of initiatives by the U.S. Congress and various Administrations on behalf of Soviet Jews—initiatives which date as far back as over a century ago. I urge you to review them as they are outlined in Appendix B.

Thus, there is not only an internationally accepted norm in the form of the Universal Declaration of Human Rights and other international conventions that encourages a transnational concern for human rights, but also a long American tradition of tangible action on behalf of human rights through the exercise of American diplomatic and economic influence.

In flagrant violation of international conventions upholding the right of an individual to leave his country and in defiance of international concern and protest, the Soviet Union has mobilized its awesome government apparatus to suppress the right and opportunity of its citizens to emigrate.

2. HARASSMENT OF JEWS APPLYING TO EMIGRATE

I wish that time permitted a full disclosure here today of the human background to the statistical record on emigration. Behind the impersonal data in the waiting list of more than 120,000 applicants and the "hard-core" list of approximately 1,600 cases repeatedly denied visas, are poignant examples of individual courage to which statistical analysis could never do justice. There is Valery Panov's resistance to the cruel maneuver that would separate him from his wife, Gallina, by offering him an exit visa while denying her the same opportunity. Both were principal dancers at the Kirov Ballet in Leningrad. And despite official attempts to silence him by endangering his disabled son's life in an unnecessarily rigorous form of military service, Dr. Benjamin Levich, the world reknowned electrochemist, continues to assert his determination to leave the Soviet Union for Israel. Still incarcerated are the Prisoners of Conscience, such as Alexander Feldman, quarring stone in a prison camp under a 3½ year sentence on trumped up charges for the real crime of seeking to emigrate to Israel. And there is another category of prisoners, such as Jan Krylsky, who has been incarcerated in a mental institution for attempting to apply to emigrate. Those few examples symbolize the commitment to freedom and dignity, expressed by the tens of thousands who seek nothing more than to claim a human right respected throughout the civilized world.

For Soviet Jews who are demanding their Right to Leave, the present reality is grim indeed. The application process itself in order to obtain a visa is designed by the authorities to terrorize and discredit the applicant and to intimidate others from applying. During the application process, applicants are subjected to obstacles designed to discourage them from completing the process. The applicant is required to: obtain clearance from the manager or fellow tenants of his place of residence; obtain a character reference from his place of work often involving an appearance before a group of his colleagues (or school, if he is a student); repair his dwelling; in many cases obtain written permission from his parents to emigrate regardless of his age; and finally pay 940 rubles ($1,300), the required exit fee.

Those individuals the applicant has to deal with to get through the above steps are encouraged to embarrass, malign, and belittle him. He is likely to be fired from his job (or lose his pension, if retired), picked up arbitrarily by the police for questioning, have his apartment searched periodically, and be subjected to other forms of harassment. As a result, some applicants are frightened, change their minds and withdraw their applications; others who might have applied are intimidated so that they do not begin the application process at all.

An individual fired from his job for having applied to emigrate is placed in double jeopardy. He cannot find another job, since all employment is controlled by the State and it is the Soviet authorities who have brought about his dismissal. The authorities recently issued a decision that anyone who has not worked for four months can be subjected to the charge of "parasitism", since he cannot earn money and thus is to be seen as a "parasite" of the State. "Parasitism" is a criminal offense and can result in a prison sentence of a number of years.

Ostracism of applicants from their professions is accompanied by the additional torment of being made outcasts and "traitors" to Soviet society. The psychological impact upon them, in consequence, has a devastating character. Particularly aggravating as a form of mental torture is the rupturing of families by, for example, permitting parents to obtain exit visas but not their children; or allowing a husband to leave, but not his wife. Such cases are, by no means, unique.

Despite the stigmatization and the intimidation—and with no certainty on the part of the applicant as to when or if he or she will receive a visa—applications for exit visas appear to continue at an undiminished rate.

The number of Jews who have received an "affidavit" from a relative in Israel, (the "affidavit" is the initial requirement in the process of applying for exit), but whose applications have not been acted upon, is now at the 120,000 level. This figure is especially impressive given the circumstances I have briefly outlined which the applicant can be expected to encounter.

3. FALSE CLAIMS BY SOVIET OFFICIALS ABOUT EMIGRATION PRACTICES

Soviet officials, through the Embassy in Washington, are again issuing statements to Congressmen claiming that 95% of all Soviet citizens who apply to emigrate to Israel or the U.S. are permitted to do so, and that, furthermore, permission to depart is denied only to "those persons who possess state secrets; recently served in the armed forces having a speciality connected with military secrets; and to those who serve prison sentences."

As you may remember, this was the same claim Mr. Brezhnev made when he met with Senators in June, 1973 to lobby against the Jackson/Mills-Vanik Amendment.

But, as Senator Jackson has frequently observed: "What is so curious about this intensive lobbying effort is that if Mr. Brezhnev is right—if virtually all those Soviet citizens wishing to emigrate are in fact free to go—then he need not fear, he need not even object to the Jackson amendment".

As indicated from my previous comments, the rate of Soviet Jewish applicants who are permitted to leave in no way approaches the 95% of those who apply. The more than 120,000 Jews still in the USSR who have placed themselves in jeopardy by securing from abroad the documents necessary to begin their visa application process make a mockery of Soviet assertions that 95% of those wishing to emigrate are free to do so.

Moreover, one need only look at any list of Jews denied visas to expose the "Soviet security" excuse for visa refusal. Those refused include dancers, physicians, laborers, as well as scientists in obviously non-sensitive fields. I would be happy to provide, if the Committee so desires, a list of such "refused" cases with details of their situations.

Soviet propaganda also obscures the extensive campaign by Soviet authorities to reduce the number of applicants. One can only imagine how many more would apply if they could do so freely.

Contrary to the impression which Brezhnev tried to give in Washington in June, 1973, and to the statements still emanating from Soviet officials, there has been no *fundamental* change in the emigration situation.

4. SUSPENSION OF THE "EDUCATION TAX"

The one change in the emigration situation was the suspension last April of the so-called "education tax." This onerous tax had been imposed in August 1972 and applied to individuals with higher education, so that it significantly curtailed the ability of better educated Jews to leave the country.

It must be noted that the tax was only one of a number of formidable obstacles to emigration. Those remaining barriers have already been described by me. In fact, the more educated Jews who would have been affected by the education tax continue to be the group most frequently denied the right and opportunity to emigrate, even with that tax not enforced. Moreover, since the tax suspension the Soviet authorities have increased other forms of harassment and instituted new ones.

It is equally important to note, however, that the elimination of this particular barrier was clearly in response to the solidifying of support in the Congress around the proposed freedom of emigration legislation. In fact, the official notification of the Soviet decision to suspend the tax came within a week after Senator Jackson formally introduced the amendment to the Trade Reform Act, exactly one year ago today.

5. CHARACTERISTICS OF THE CURRENT STATUS OF SOVIET JEWISH EMIGRATION

Some of the harsh aspects of the present emigration situation in addition to those alalready discussed are summarized below:

1. Substantial diminution in the number of exit visas granted in the first quarter of 1974. Emigration figures will be 30% below those of the corresponding months in 1973. The number of Soviet Jews permitted to emigrate in the first three months is about 1000 less than the monthly average permitted to leave in 1973.

2. Continued harassment of prominent Soviet Jews whose applications have been rejected over and over again. It is not uncommon for this group to suffer spot arrests and be detained for periods of one day to several weeks on vague or artificial charges.

3. Consistent denial of permits to Jews from the heartland of the USSR, including the major population centers of Moscow, Leningrad, Kiev, Odessa and Kharkov, where the bulk (75%) of the Jewish citizens reside. Soviet policy seems to be to discourage further applications from these cities by denying a large proportion of those made, and by increasing severe as well as petty harassment of those who apply. Only 14% of those Jews permitted to emigrate come from these areas, but, significantly, one-third of the national total of rejections are from applicants in these areas.

4. A consistent reduction in the number of exit permits granted to Jews holding university degrees or possessing technical skills.

5. Approximately forty Jewish "Prisoners of Conscience", whose only real crime has been their efforts to emigrate to Israel. Recently, three new trials were held of Jews who were apparently selected as object lessons to other would-be applicants; they were sentenced to stiff prison terms.

6. IMPORTANCE OF ENACTMENT OF THE FREEDOM OF EMIGRATION LEGISLATION

We believe that the economic and political benefits that would accure to the Soviet Union from access to U.S. markets, credits, and technologies on favorable terms, exceed any economic and political liabilities that might result were they to provide the right

and opportunity to emigrate to those seeking to leave the Soviet Union. Simply put, we believe the USSR will choose the vast economic benefits which will accrue to it over continuing restrictive emigration practices. It would be illusory to assume that Soviet leaders would weigh the alternatives, if we do not make it necessary to do so. Thus, the provision of U.S. trade and aid benefits without a corresponding requirement for Soviet performance on the emigration issue as a *quid pro quo* would not likely influence Soviet behavior on emigration. Neither would an advance of trade and aid benefits, based on good faith, and subject to later review, be likely to influence Soviet behavior. Indeed, until now, nearly $300 million in U.S. credits have been freely granted, without significant changes in behavior patterns. Judging from Soviet performance over the past year in exacerbating Middle East hostilities, encouraging continuation of the oil embargo, and in other international relationships, it would be naive to seek to influence a change in Soviet emigration practices by enactment of a Trade Reform Act without Section 402.

Emigration figures can be manipulated; emigration barriers, such as the education tax, can be imposed and suspended at will. The arbitrary and capricious nature of Soviet practices requires a legislative check and a requirement for continuing compliance, as provided in Section 402.

At the same time, the *quid pro quo* envisioned by Section 402, would entail no changes under the Soviet law, as there is no Soviet law prohibiting freedom of emigration. If they chose to do so, the Soviets could humanize their position on emigration—and thus bring their practice into line with their own official pronouncements—by policy decision and administrative implementation.

7. DR. KISSINGER'S STATEMENT ON EFFECTS OF ENACTMENT OF JACKSON AMENDMENT

I would like to address myself to an unfortunate and highly questionable statement which Dr. Kissinger made before this Committee on March 7, to the effect that enactment of the Jackson/Mills-Vanik legislation would most likely result in the termination of Soviet Jewish emigration.

In our view, such an assertion by the Secretary of State could prove to be a self-fulfilling prophecy. Indeed, it can well be viewed by the Kremlin as an open invitation to make his prediction a reality. Dr. Kissinger's off-hand remark may well endanger the welfare of would-be emigrants in the USSR in whom the Secretary and the President have pledged personal interest and commitment.

With respect to the argument that passage of the Jackson amendment would not only impede detente, but also hinder the people it is intended to help, I would like to quote from an open letter by Dr. Andrei Sakharov to the U.S. Congress dated September 14, 1973, which urged enactment of the amendment:

"Those who believe that the Jackson Amendment is likely to undermine anyone's personal or governmental prestige are wrong. Its provisions are minimal and not demeaning.

"It should be no surprise that the democratic process can add its corrective to the actions of public figures who negotiate without admitting the possibility of such an amendment. The amendment does not represent interference in the internal affairs of socialist countries, but simply a defense of international law, without which there can be no mutual trust.

"Adoption of the amendment therefore cannot be a threat to Soviet-American relations. All the more, it would not imperil international detente.

"There is a particular silliness in objections to the amendment that are founded on the alleged fear that its adoption would lead to outbursts of anti-semitism in the USSR and hinder the emigration of Jews.

"Here you have total confusion, either deliberate or based on ignorance about the USSR. It is as if the emigration issue affected only Jews. As if the situation of those Jews who have vainly sought to emigrate to Israel was not already tragic enough and would become even more hopeless if it were to depend on the democratic attitudes and the humanity of OVIR (the Soviet visa agency). As if the techniques of 'quiet diplomacy' could help anyone, beyond a few individuals in Moscow and some other cities."

I have attached the full text of Dr. Sakharov's letter to our testimony (Appendix C).

We share the hopes of men of good will all over the world for a system of relationships among nations that assures world peace and expanding apportunities for better lives for the people within their borders. In our opinion, detente results from the process of constructing such a system. Accordingly, a genuine detente requires something more than a brittle stability or *status quo* in relationships between nations, and conditions within them. Certainly, detente is not achieved by *unilateral* concessions on the part of one nation to another, without reciprocal undertakings by the second that would genuinely advance bilateral and international harmony. One of the requirements for more harmonious bilateral and international relationships is the right and opportunity for people and ideas to move with relative ease among countries, whatever the differences in their political system. This is why the Freedom of Emigration legislation represents a critical building block in the pattern of detente that hopefully is evolving between the U.S. and the USSR; it is not a deterrent to it. The Soviet Union wants billions in foreign trade. All we want are some human rights. Is this so uneven a trade?

We are proud that the United States Congress is taking this leadership role in upholding the longstanding American commitment to human rights by insisting on respect for the fundamental right to emigrate in return for the extension of U.S. economic benefits. We are pleased that the majority of members of the Finance Committee are among the 78 co-sponsors of the Jackson amendment. We urge the Committee's favorable action on this vital legislation.

APPENDIX A

CONSTITUENT ORGANIZATIONS OF THE NATIONAL CONFERENCE ON SOVIET JEWRY

American Federation of Jewish Fighters, Camp Inmates and Nazi Victims, Inc.
American Israel Public Affairs Committee.
American Jewish Committee.
American Jewish Congress/AJ Congress Women's Division.
American Trade Union Council for Histadrut.
American Zionist Federation.
Americans for Progressive Israel/Hashomer Hatzair.
Anti-Defamation League of B'nai Brith.
B'nai Brith/B'nai B'rith Women.
Bnai Zion.
Brith Sholom.
Central Conference of American Rabbis.
Conference of Presidents of Major American Jewish Organizations.
Council of Jewish Federations and Welfare Funds.
Free Sons of Israel.
Hadassah, Women's Zionist Organization of America.
Jewish Labor Committee/Workmen's circle.
Jewish War Veterans of the U.S.A.
Labor Zionist Alliance.
Mizrachi Women's Organization.
National Jewish Community Relations Advisory Council.
National Council of Jewish Women.
National Jewish Welfare Board.
National Council of Young Israel.
North American Jewish Youth Council.
Pioneer Women.
Rabbinical Assembly.
Rabbinical Council of America.
Religions Zionists of America—Mizrachi, Hapoel Hamzrachi, Woben's Organization of Hapoel Hamizrachi.
Student Struggle for Soviet Jewry.
Synagogue Council of America.
Union of American Hebrew Congregations.
Union of Orthodox Jewish Congregations of America.
United Synagogue of America.
Women's American ORT.
The World Zionist Organization, American Section.
Zionist Organization of America.

APPENDIX B

A CENTURY OLD TRADITION OF AMERICAN INITIATIVES ON BEHALF OF OPPRESSED MINORITIES

(Excerpted from remarks by Dr. William Korey, Director, B'nai Brith United Nations Office, to the American Israel Public Affairs Committee, May 7, 1973.)

The Jackson/Mills-Vanik East-West Trade and Freedom of Emigration legislation is deeply rooted in the American tradition, which has displayed a continuing concern for oppressed minorities abroad. All too often Jackson/Mills-Vanik is treated as if it is *de novo* and *sui generis*, that it has suddenly appeared on the scene, that it is somehow alien to American tradition and American policy.

As early as 1869, President Ulysses S. Grant, upon hearing from American Jewish petitioners of a contemplated expulsion of 20,000 Jews from an area of southwestern Russia, intervened with czarist authorities. If that expulsion was halted, one chronicler of the episode notes, it was a consequence of American concern.

At least ten American Presidents, from Grant to Richard M. Nixon, have intervened directly or indirectly on behalf of Russian Jewry in the past 100 years. A prominent Secretary of State, James Blaine, formally justified diplomatic intervention in the internal concerns of a foreign country on grounds that "the domestic policy of a state toward its own subjects may be at variance with the larger principles of humanity".

Humanitarian intervention on behalf of persecuted Irish and Armenians as well as Jews remained a distinctive feature of the American diplomatic landscape during the nineteenth and early twentieth centuries.

Frequently the Congress has acted as a spur to Administration action. In 1879, for example, the House of Representatives adopted a resolution which criticized a czarist policy that refused the Jews the right to own real estate. The measure was introduced by Samuel Cox—who, like Charles Vanik, was a congressman from Ohio.

The following year Cox inserted into the Congressional Record a letter from a Russian Jew—the first, but not the last to appear in the Record—which opened as follows: "In this hour of all but hopeless misery, groaning under the yoke of a cruel and heartless despotism, we turn to the West."

In 1883 a House resolution called upon the Administration to exercise its influence with the government of Russia to stay the spirit of discrimination and persecution as directed against the Jews.

A decade later, in 1892, the House of Representatives refused to allocate funds for food transport to Russia on grounds, in the words of Tennessee Congressman Josiah Patterson,

that the czarist regime, by its treatment of Jews, has shocked the moral sensibilities of the Christian world.

Especially significant was the legislative effort in 1911 to abrogate an 80-year-old Russian-American commercial treaty. This drive constituted almost the dress rehearsal for the Jackson/Mills-Vanik congressional drive of today. Behind the 1911 effort was a determination to relieve the desperate plight of Russian Jews, although the battle was technically fought over the more narrow issue of passport discrimination against American Jews seeking to visit Russia.

A proclamation by President William Howard Taft in March 1910 extending to Russia minimum tariff rates despite reluctance by the U.S. Tariff Board prompted the public campaign. Towards the end of that year, New York Congressman Herbert Parsons cautioned the Administration that the House might demand the termination of the 1832 commercial treaty. The implied threat was rebuffed. Secretary of State Philander Knox argued in a note to the President that "quiet and persistent endeavor" (quiet diplomacy, in modern parlance), would be more effective than treaty abrogation in changing czarist policy.

A series of State Department memoranda in early 1911 buttressed the Philander Knox note with arguments that find a remarkable echo today: America's commercial and industrial interests would allegedly be harmed; antisemitism would fall upon Russian Jews. There were other statements made at the time: We have no right to intervene in the internal affairs of foreign countries; there were even warnings that antisemitism would take place in the United States as a consequence of these efforts.

Much of the American public saw the issue differently. A massive number of petitions and resolutions bombarded Congress. Public rallies were held in various cities, culminating in a mass meeting in New York on December 6, 1911, under the auspices of the National Citizens Committee and addressed by Woodrow Wilson, William Randolph Hearst and Champ Clark. One week later, speaker after speaker arose in the House of Representatives to express sympathy for Jews and to condemn the barbaric practices of czarist Russia. The vote for abrogation was overwhelming—301 to 1.

With the Senate certain to have a similar lopsided vote, the Secretary of State hastened to soften the impact on the angry czarist regime. In language which stressed friendship between the two countries, he advised the Russian Foreign Office that the United States was terminating the commercial agreement as of January 1, 1913.

Russian officials reacted with astonishment. They failed to comprehend, as a historian of the event observed, "how a moralistic crusade could dictate political action."

That failing should no longer obtain. Senator Henry Jackson has repeatedly emphasized, both publicly and privately, that the United States, as a nation of immigrants, has a vital stake in the right to emigrate freely.

The amendment addresses itself not to trade *per se;* indeed, its sponsors are vigorous advocates of a greater degree of trade. The matter of the legislation focuses upon trade *concessions* which the USSR desires and seeks: most-favored-nation treatment, and credit guarantees.

The price asked for such concessions can hardly be described as extravagant. On the contrary, the price is but minimal: adherence to international standards of conduct that are appropriate for any civilized society.

International morality and law concerning the precious right to emigrate must be upheld, and America, in championing this right, pursues a course which had been integral to its purpose since the very founding of the republic.

APPENDIX C

OPEN LETTER TO THE CONGRESS OF THE UNITED STATES FROM ANDREI SAKHAROV, MOSCOW, SEPTEMBER 14, 1973

At a time when Congress is debating fundamental issues of foreign policy, I consider it my duty to express my view on one such issue—protection of the right to freedom of residence within the country of one's choice. That right was proclaimed by the United Nations in 1948 in the Universal Declaration of Human Rights.

If every nation is entitled to choose the political system under which it wishes to live, this is true all the more of every individual person. A country whose citizens are deprived of this minimal right is not free even if there were not a single citizen who would want to exercise that right.

But, as you know, there are tens of thousands of citizens in the Soviet Union—Jews, Germans, Russians, Ukrainians, Lithuanians, Armenians, Estonians, Latvians, Turks and members of other ethnic groups—who want to leave the country and who have been seeking to exercise that right for years and for decades at the cost of endless difficulty and humiliation.

You know that prisons, labor camps and mental hospitals are full of people who have sought to exercise this legitimate right.

You surely know the name of the Lithuanian, Simas A. Kuditka, who was handed over to the Soviet authorities by an American vessel, as well as the names of the defendants in the tragic 1970 hijacking trial in Leningrad. You know about the victims of the Berlin Wall.

There are many more lesser known victims. Remember them, too!

For decades the Soviet Union has been developing under conditions of an intolerable isolation, bringing with it the ugliest consequences. Even a partial preservation of those conditions would be highly perilous for all mankind, for international confidence and detente.

In view of the foregoing, I am appealing to the Congress of the United States to give its support to the Jackson Amendment, which represents in my view and in the view of its sponsors an attempt to protect the right of emigration of citizens in countries that are entering into new and friendlier relations with the United States.

The Jackson Amendment is made even more significant by the fact that the world is only just entering on a new course of detente and it is therefore essential that the proper direction be followed at the outset. This is a fundamental issue, extending far beyond the question of emigration.

Those who believe that the Jackson Amendment is likely to undermine anyone's personal or governmental prestige are wrong. Its provisions are minimal and not demeaning.

It should be no surprise that the democratic process can add its corrective to the actions of public figures who negotiate without admitting the possibility of such an amendment. The amendment does not represent interference in the internal affairs of socialist countries, but simply a defense of international law, without which there can be no mutual trust.

Adoption of the amendment therefore cannot be a threat to Soviet-American relations. All the more, it would not imperil international detente.

There is a particular silliness in objections to the amendment that are founded on the alleged fear that its adoption would lead to outbursts on anti-semitism in the U.S.S.R. and hinder the emigration of Jews.

Here you have total confusion, either deliberate or based on ignorance about the U.S.S.R. It is as if the emigration issue affected only Jews. As if the situation of those Jews who have vainly sought to emigrate to Israel was not already tragic enough and would become even more hopeless if it were to depend on the democratic attitudes and on the humanity of OVIR [the Soviet visa agency]. As if the techniques of "quiet diplomacy" could help anyone, beyond a few individuals in Moscow and some other cities.

The abandonment of a policy of principle would be a betrayal of the thousands of Jews and non-Jews who want to emigrate, of the hundreds in camps and mental hospitals, of the victims of the Berlin Wall.

Such a denial would lead to stronger repressions on ideological grounds. It would be tantamount to total capitulation of democratic principles in face of blackmail, deceit and violence. The consequences of such a capitulation for international confidence, detente and for the entire future of mankind are difficult to predict.

I express the hope that the Congress of the United States, reflecting the will and the traditional love of freedom of the American people, will realize its historical responsibility before mankind and will find the strength to rise above temporary partisan considerations of commercialism and prestige.

I hope that the Congress will support the Jackson Amendment.

A. SAKHAROV.

SEPTEMBER 14, 1973.

APPENDIX D

MESSAGE TO U.S. SENATORS FROM MOSCOW JEWS ON HUNGER STRIKE

We know that soon you are to discuss and solve a question in which we are vitally interested. We are referring to the Jackson amendment. It makes certain aspects of Soviet-American relations dependent on free emigration from the USSR and that means—dependent on morality, international law and human rights. Occasionally, voices are raised in the West that emphasize that in Soviet Jewish emigration a certain degree of progress has been reached which permits the moral factor to be glossed over in intergovernmental relations. The impression is created that only a small "1,000" Soviet Jews who were denied visas cannot leave. Is it really that way?

And what about the tens of thousands in such towns as Sverdlovsk, Kuibyshev, Novosibirsk, Irkutsk and many others which are, practically speaking, closed to emigration. People in these towns almost never submit emigration documents, not because they do not want to, but because they know, in advance, the local authorities will not issue emigration visas and can use repressive measures against them at any moment. Can't these people be counted among those "refuseniks" who are known today in many countries? Furthermore, there are the papers required of potential applicants which are unlawful, even according to Soviet law. How many thousands, and maybe tens of thousands, of parents refuse to give permission to their children, even those with overage children themselves, simply out of fear for their own fate? Isn't it possible to include these people in the group of ill-fated thousands who received *formal* refusals? ! ! And what kind of Jewish emigration progress can we talk about when, in the USSR, to this day there is no emigration law, nor any published instructions regarding emigration visas? The recent statement Deputy Minister of the Interior Alkhimov made while in the USA can be used as evidence of this "progress." He stated that Jews are detained in the USSR on grounds of state security and other reasons.

What kind of other reasons? As a rule, it is the absence of any kind of grounds; it is the arbitrariness of the state; it is simply the whim of the government to permit, or

not permit, a particular family to leave. The fate of our families and of many others represents a perfect illustration of this statement. In our view, those who, in the name of global and til now vague goals, are prepared to absolve the Soviet government and consider that human rights regarding emigration are being fulfilled, are committing a tragic mistake. The battle is only beginning and its first results can only encourage, but not set one at rest. That is why we are turning to you at a time when we are staging a hunger strike as an extreme way of making the Soviet government respect our human and civil rights. Because of this, the Soviet authorities removed our links to the world, disconnected our telephones interrupting our very contact with overseas, with correspondents, friends and relatives in Israel and in Moscow itself.

But, even in times long past, when the means of communication were not yet perfected, people found each other and understood each other's needs. We believe we will not remain alone in our struggle for human rights.

Prof. DAVID AZBEL,
Chemist.
Prof. VITALY RUBIN,
Sinologist.
VLADIMIR GALATSKY,
Artist.

FEBRUARY 18, 1974.

APPENDIX E

TEXT OF LETTER SIGNED BY 180 SOVIET JEWS

To the People and the Congress of the U.S.A.: In October 1973, during the Middle East War, a record number of Jews left the USSR for Israel. Some Western observers believed that at this fateful time the Soviet Union was exhibiting good will, at least in this matter.

We, too, welcomed this record flow of emigration, regardless of under what circumstances it was set up. But at the same time there were events which forced us to consider that the situation of Jewish emigration from the USSR, in fact, worsened. In this period when the attention of the world was diverted by the conflict in the Middle East, in the Soviet Union a wave of persecution was initiated against those seeking exit visas to Israel. In October, at least 16 persons were arrested and imprisoned for 10 to 15 days. Many times this number were detained for 1–2 days, especially at the time of the World Conference of Peace Forces which took place in Moscow. A large number of Jews were shadowed day and night. In Moscow there were several instances of cruel beatings instigated by and with the participation of police and the KGB (i.e. Soviet secret police). Many others were threatened with long imprisonment if they continued to seek visas for Israel. These were not empty words.

On October 23rd, Leonid Zabelishensky, a former teacher at the Ural Polytechnic Institute, was arrested in Sverdlovsk. He had been dismissed from his job just after applying for an exit to Israel. Subsequently he was charged with "parasitism" (i.e. refusal to work) and is in danger of imprisonment. (Ed: After a four day trial, on December 20th Zabelishensky received a sentence of six months).

On October 18th, Alexander Feldman was arrested in Kiev. The accusation of "hooliganism" which was brought against him was false from the beginning to the end. Following his trial, which was marked throughout by irregularities and violations of Soviet law on the part of the court, Feldman was sentenced to three and a half years.

Since the beginning of October the Moscow KGB has been making intensive preparations for a political show trial. Based on the KGB inquiry to date it appears that the planned show trial will center on the allegation that many Jews who leave for Israel transmit to the Western powers anti-Soviet and espionage type documents. Experience shows that this kind of trial helps to spread fear among those who are considering applying for exit visas. A similar discouraging effect is achieved with a prominent display group: the *Otkazniki* (i.e. Jews who have been refused exit visas repeatedly for many years).

The fact that Feldman's case (as well as others) was created out of nothing shows that anyone striving for permission to leave can be arbitrarily imprisoned. The fact that among people being detained in the USSR "in the interest of state security" are students, musicians, and athletes shows that the authorities can arbitrarily condemn anyone to wait for an exit visa for an indefinite time. Thus, these overtly repressive strikes (from the groundless refusal of visas to long imprisonment) against comparatively few people produces frightening pressure and acts as a brake on the tens (or even hundreds) of thousands of people who might apply to emigrate. Precisely because there has been a heightening of repression during the last two months, we consider that the situation of emigration to Israel has worsened.

We often hear opinions expresesd by naive individuals that attention from the West and the demand by the West for free emigration put the Soviet Jews in danger. Events in the last two months show convincingly once more that the absence of just such attention is dangerous for us and is pregnant with serious consequences.

Freedom of emigration is not an internal affair of a state. Emigration policy is subject to international control. The Soviet Union admitted to this, having ratified the International Convenant of Civil and Political Rights and the International Covenant on Social and Cultural Rights. A state striving for acceptance by the international community of democratic nations can no longer be excused for maintaining attitudes towards civil rights which were formed in the dark years of the Stalin period. It is wise and prudent to demand of the Soviet Union that it discharge its international obligations on this point.

STATEMENT TO THE FINANCE COMMITTEE OF THE U.S. SENATE

(By Hans J. Morgenthau)

A rational consideration of trade between the United States and the Soviet Union must start from the premise that from the very beginning of its history the Soviet Union has regarded foreign trade as being inseparable from foreign policy. It has regarded foreign trade as a weapon of Soviet foreign policy. As Lenin put it in 1921:

"The capitalists of the entire world, and their governments, in the rush of conquering Soviet markets, will *close* their eyes to the above mentioned realities, and will thus become blind deaf mutes. They will open credits which will serve as a support for the Communist Party in their countries and will provide us with essential materials and technology thus restoring our military industries, essential for our future victorious attacks on our suppliers. Speaking otherwise, they will be working to prepare their own suicides."

In 1952, Stalin voiced his confidence in the profit motive of Western businessmen as an instrument through which the Soviet Union would be made strong enough for its final triumph. Khrushchev was equally explicit in 1957. What I said in my testimony before the Senate Foreign Relations Committee in February, 1965, applies today:

"The leaders of the Soviet Union have consistently laid the greatest stress upon the expansion of foreign trade. They have not tried to emphasize what foreign trade can do for private profits and international peace. They have consistently shown a particular interest in whole industrial plants rather than manufactured goods. But the Russian leaders are not Manchester liberals. They have wanted foreign trade not for the commercial purposes our businessmen want it for, but in order to gain the political strength necessary to achieve the universal triumph of Communism.... I am not arguing here against Western trade with Communist nations per se. I am only arguing in favor of the proposition that foreign trade has a different meaning for Communist nations than it has for us. Trade with Communist nations is a political act which has political consequences. It is folly to trade, or for that matter to refuse to trade, with Communist nations without concern for these political consequences."

There is, therefore, nothing extraordinary in making benefits in foreign trade dependent upon political concessions on the part of nations whose foreign trade policies serve political processes altogether. Such a linkage is dictated by common sense unless we want to make sure that Lenin's, Stalin's, and Khrushchev's expectations come true. The only legitimate question to be asked concerns the expediency of the political conditions proposed in the so-called Jackson Amendment.

The expediency of the Jackson Amendment has been attacked before this committee on three major grounds; that it increases the risk of nuclear war, that it may cause the complete cessation of Jewish emigration from the Soviet Union, and that it tries to interfere with the domestic affairs of the Soviet Union. These arguments are astonishing both in themselves and in view of their eminent source.

It can be taken as common knowledge that nuclear war between the two superpowers has been avoided not by virtue of what a particular diplomatic maneuver accomplished or avoided but because of the nuclear balance of power between the United States and the Soviet Union and because of the remarkable self-restraint with which both superpowers have managed conflicts between them.

The second argument assumes that the emigration policy of the Soviet Union is a mere reflection of United States foreign policy. There is no evidence for such an assumption. It is of course true that the Soviet government is most sensitive to foreign and particularly American, opinion and that it will therefore try to avoid antagonizing that opinion unless it feels it must heed overriding interests to the contrary. Based upon that argument, a case could indeed be made in support of the Jackson Amendment, whose message of disapproval is unmistakable. However, determining the Soviet emigration policy are of course considerations of domestic policy, the most important of which is that the Soviet Union does not mind getting rid of certain categories of troublemakers and unreliable elements and supposedly unreliable elements regardless of what the United States does or does not do.

The Jackson Amendment does not seek a change in the domestic regime of the Soviet Union. It does not try to introduce, for instance, parliamentary democracy or freedom of speech into the Soviet system. Rather it attempts to give the Soviet Union an incentive to comply with certain fundamental requirements recognized by the Soviet Union itself as legally binding and which have become one of the tests of civilized government.

International peace and order are a function of the balance of power—that is, of an approximately equal distribution of power among several nations or a combination of nations, preventing any one of them from gaining the upper hand over the others. It is this approximate, tenuous equilibrium that provides whatever peace and order exists in the world of nation-states.

But, the equilibrium does not operate mechanically, as the "balance" metaphor would seem to indicate. Rather, it requires a consensus among the nations involved in favor

of the maintenance—or, if it should be disturbed, of the restoration—of the balance of power. In other words, the dynamics of the arrangements are embedded in a moral framework without which, in the long run, it cannot operate. The participants must give their moral approval, in theory and more importantly in practice, to the principles of the balance of power itself in order to make it work.

What makes certain domestic policies of the Soviet government a matter of vital concern to the outside world is its refusal to become part of a moral consensus that is the lifeblood for the balance of power, and which would make genuine detente not only possible but well-nigh inevitable. Were the Soviet Union part of such a system, one would indeed not need to care on political grounds about how autocratic and despotic its government might be. But as long as the Soviet Union remains outside such a system, at best indifferent and at worst hostile to it, the rest of the world has a vital interest in certain of its domestic policies. If the Kremlin abated its present totalitarian practices by allowing its people a modicum of freedom of movement, it would be taking the first step toward joining and in a sense recreating a system that would itself be a manifestation of detente and provide the moral framework for the balance of power.

Thus our interest in the totalitarian excesses of the Soviet government is not unwarranted meddling in the affairs of another sovereign nation in a misguided spirit of liberal reform. Nor does it solely express a humanitarian concern or serve to placate public opinion at home. Foremost, it is at the service of that basic interest which the United States and the Soviet Union have in common: survival in the nuclear age through a viable balance of power and genuine detente.

TESTIMONY OF SISTER MARGARET ELLEN TRAXLER, CHAIRMAN, NATIONAL INTERRELIGIOUS TASK FORCE ON SOVIET JEWRY BEFORE SENATE FINANCE COMMITTEE, WASHINGTON, D.C., APRIL 10, 1974

My name is Sister Margaret Ellen Traxler. I reside at 1340 East 72nd Street, Chicago, Illinois. I am the chairman and one of the founders of the National Interreligious Task Force on Soviet Jewry. I have also served as the president of the National Coalition of American Nuns and as the executive director of the National Catholic Conference on Interracial Justice.

The National Interreligious Task Force on Soviet Jewry is a coalition of men and women representing all of the religious communities in the United States who are determined to extend every possible effort to ameliorate the plight of Soviet Jewry. We are totally commited to the proposition that Soviet Jews should be given the basic human right to live with dignity within the Soviet Union or to be able to leave that nation in an atmosphere of freedom for the nation of their choice. The executive committee of the National Interreligious Task Force firmly supports the Jackson Amendment and believes that this amendment can be a vital factor in aiding the basic aspirations of Soviet Jewry.

In the light of the Task Force's commitment to Soviet Jews, I should like to read to you the State of Conscience of the National Interreligious Task Force on Soviet Jewry which was adopted in Chicago on March 20, 1972 at our initial plenary session attended by representatives of every major religious denomination in the United States. This Statement of Conscience is the foundational statement of purpose for the Interreligious Task Force and remains the seminal declaration which brings our constituency together around this great and crucial human rights question.

Statement of Conscience of the National Interreligious Consultation on Soviet Jewry, March 20, 1972, Chicago, Illinois:

"Thou shalt not stand idly by while the blood of my brother cries out to thee from the earth."

"Let justice roll down as the waters, and righteousness as a mighty stream."

The National Interreligious Consultation on Soviet Jewry, meeting in unprecedented deliberation on March 19 and 20 in Chicago, Illinois, calls upon the conscience of mankind to make known its profound concern about the continued denial of the free exercise of religion, the violation of the right to emigrate, and other human rights of the 3 million Jewish people of the Soviet Union and of other deprived groups and nationalities.

For believing Christians and Jews, the denial of the spiritual nature of man and his right to nurture and to perpetuate the spiritual life is to deny the creative power of God in whose image He made man. The discrimination against the Jews by the Soviet Union gives us all reason to believe that, under the pretext of being anti-Zionist, it is the very contribution of the Jews to humanity which is under attack. It is precisely the Jewish testimony in the world that man's identity and freedom are not granted primarily by any state of constitution but are found in the nature of man himself. That is why each human being is threatened in his fundamental right to freedom of conscience when the Jews are persecuted.

Realizing our own failures in racism and in other areas of human rights, we nevertheless cannot remain silent as long as the Soviet Union continues to hamper or strangle the spiritual and cultural life of the Jewish people through extreme and special acts of discrimination. We appeal to the Soviet authorities to grant religious rights to Russian Jewry—the establishment of religious, educational, and cultural institutions for the perpetuation of Judaism and Jewish culture; the lifting of the prohibitions against publishing Hebrew Bibles and prayerbooks and the production of religious articles; the permission to train rabbis and Jewish teachers both in Russia and in seminaries abroad; the creation of a representative body of Soviet Jewry with freedom to communicate and associate with their co-religionists abroad.

We appeal to the Soviet authorities—let them live as Jews or let them leave to be Jews. This consultation is gratified to know that the Soviet government has heard the pleas of millions in many lands and has permitted several thousands of Jews to leave the country for Israel and elsewhere. We urge the Soviet authorities to relent, and to continue to allow the thousands of others who have sought exit visas to emigrate to the countries of their choice—which is their right under the United Nations Declaration.

This consultation is deeply disturbed by the reports of growing acts of harassment, intimidation, arbitrary arrests, and confinement of Jews and dissenters to mental institutions. We appeal to the Soviet government to end this policy of wanton oppression and fear.

This consultation protects against the continued imprisonment under ruthless conditions of prisoners of conscience—Jewish and non-Jewish—and we urge that they be released and be shown clemency.

This consultation protests against the government sponsored campaign of anti-Semitic and anti-Zionist propaganda which constitutes an incitement to hatred and violence in contravention of the United Nations Declaration on Human Rights.

This consultation resolves to commit itself to a program of continuous watchfulness and unrelenting efforts in demanding and in championing freedom for all of Soviet Jewry, of Christians, and of intellectuals—of all who suffer for their courage and their struggle for human dignity:

"This National Interreligious Consultation on Soviet Jewry consisting of Protestants, Roman Catholics, Eastern Orthodox, and Jews, authorizes a direct appeal to President Nixon, as the representative of the American people, to convey in clear and forthright terms to the Soviet authorities during their forthcoming conversations in Moscow the expectation of the American people—Christians and Jews, black and white, liberal and conservative—that these discriminations and denials of Soviet Jewry and others be stopped now, and that fundamental human rights be granted—now. We seek the relaxation of international tensions and conflicts between the United States and the Soviet Union, and the surest test of the genuineness of the commitment of Soviet authorities to the cause of universal peace and justice is the granting of justice and freedom to the Jews and other deprived religious groups and nationalities."

I speak for the executive committee of the Interreligious Task Force and for thousands of Christians in the United States in stating to you in the most emphatic terms that in the age after Auschwitz, we as Christians are not going to stand by and allow Jews to be persecuted, intimidated or deprived of their rights in any country. It is on this fundamental principle that the National Interreligious Task Force on Soviet Jewry today voices support for the amendment offered by the distingished Senator from Washington, Henry M. Jackson.

PROMISE AND PERFORMANCE

Mr. FANNIN. Mr. President, the Finance Committee has recently concluded public hearings on H.R. 10710, the Trade Reform Act of 1973. The committee received testimony from many segments of the economy and I have been impressed by the preponderance of testimony urging the prompt enactment of the bill.

We have been told of the many problems that threaten to erode our world trading system such as a tighter world supply of food and other commodities, the Arab oil embargo, and the escalation of global inflation.

We have been told that in order to solve these problems promptly, the United States must have the authority to enter into complex broad multilateral negotiations to reduce tariff and nontariff barriers and to deal with the issues of supply access and export restrictions.

We have been warned that failure to enter into multilateral trade negotiations will result in economic confrontation leading to decreased world trade, less efficient allocation of global resources, and the prospect of worldwide recession.

We have not been told what the prospects for success will be if this Nation enters into complex multilateral trade negotiations—only the dire consequences of our failure to negotiate.

One method of predicting success for the process of multilateral negotiations and the cooperative approach to solving our international problems is to examine the track record of a relatively simple negotiation.

The European Economic Community maintains preferential trade arrangements which constitute discriminatory and illegal tariff barriers against American citrus. This problem has been with us since 1969. It is a problem the admin-

istration trade negotiators have known about for the same period of time, a problem which they have always maintained violated world rules, a problem which they claimed they had adequate tools to deal with, a problem which they say they are dealing with positively. Yet, after nearly 5 years, it has been reported that the United States and the European Common Market will soon ask a GATT panel for more time to resolve the citrus and other issues in connection with the damages expected to result from the expansion of the European Common Market.

Mr. President, the issue of EEC discrimination against our citrus is simple and clear cut in comparison with the proposed multilateral negotiations which will deal with quotas, restrictions on agricultural trade, preferential trading arrangements, and nontariff barriers. The failure to solve this fundamental problem leads to the inescapable conclusion that this Nation stands little chance of solving our international economic problems short of granting intolerable concessions.

What is to be gained by granting new trade negotiating authority when we lack the will or the cooperation of our trading partners to settle a basic issue under existing authority?

A little history here is not only appropriate but will put this matter into perspective. The extensive preferential trade arrangements brought into being by the European Economic Community are in violation of the very first article of the General Agreement on Tariffs and Trade. Particular among those preferential agreements which are of concern to me and which affect the welfare of Arizona are those granted to a number of Mediterranean orange producers.

Fourteen years ago, in the fall of 1960, the EEC in multilateral negotiations in Geneva established its common external tariff. Duties for fresh oranges were proposed at 20 percent a.v. from October 16 to March 31 and 15 percent from April 1 to October 15 with no "binding" against increase offered.

The United States at that time expressed no interest in the duty for the period of October 16 to March 31, the period when most Mediterranean oranges are marketed in the EEC. But, on the basis of being the first supplier of fresh oranges to the EEC during the perod from April 1 to October 15 and of having prior bindings with three member states, the United States insisted upon and finally received a duty binding at 15 percent a.v. for the April-October period.

Today the EEC has preferential import duties for seven Mediterranean countries which are not Members of the Community.

These preferences not only provide unequal treatment for the United States but, in practice, have encouraged these Mediterranean producers to prolong their marketings well into the April-October period, the very time of normal maximum shipments from the United States.

I have been in touch with the highest executive branch officials on this matter for the past 4 years.

For example, on May 7, 1970, I asked the President's special trade representative to inform me of the administration's position with respect to these EEC tariff preferences.

The special representative answered on May 19, 1970. He said that the United States had opposed the Spanish and Israeli preferences as violations of the most-favored nation provision of GATT; that the EEC had recognized this GATT breach and, while it had terminated those agreements, it was then arranging new agreements with those countres. He said the United States did not consider the Tunisia and Morocco agreements to be in accordance with GATT. He emphasized that existing U.S. laws strengthened his hand in dealing with the matter. I ask unanimous consent that the text of this letter be printed in the RECORD.

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

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C. May 19, 1970.

Hon. PAUL FANNIN,
Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR FANNIN: Thank you for your letter of May 7, 1970 inquiring about the Administration's position with respect to preferential trade arrangements between the European Community (EC) and non-member countries.

As you know, one of the main tenets of the General Agreement on Tariffs and Trade (GATT) is the so-called most-favored-nation principle. The GATT, however, does permit departure from the MFN principle for trade between members of customs unions and free-trade areas. When the EC agreed to give preferential tariff treatment to Spanish and Israeli citrus without the formation of a customs union or free-trade area, the United States and other GATT contracting parties opposed that action. The EC recognized its action as a breach of its GATT obligations and requested GATT contracting parties to accord it a waiver to permit this discrimination in favor of Israel and Spain. The United States opposed that request, as did a number of other contracting parties, and it was withdrawn by the EC. The EC subsequently terminated the discriminatory measure, but is now negotiating other agreements with Israel and Spain. These agreements are more comprehensive than the discontinued arrangements. They will, no doubt, include citrus fruits among the commodities to be accorded low-duty admission to the EC.

The EC agreements with Morocco and Tunisia provide for reductions of tariff rates by the EC, but the reductions are not extended to third countries, including the United States. Citrus fruits are among the products to which the EC applies the duty reductions specified in those agreements. The countries involved claim that their actions are not in conflict with their GATT obligations because they are forming free-trade areas, as the GATT permits. The United States does not agree that the agreements are consistent with the GATT. A GATT working party was unable to reach agreed conclusions on the point, nor have the GATT contracting parties reached a decision on the matter. (The EC agreements with Morocco and Tunisia were considered by the GATT Council on April 28, 1970, and it is expected that they will soon be considered again by that body.)

The Administration is now considering how best to proceed in order to effectively exert its GATT rights and further the interests of United States citrus exporters.

In conclusion, I assure you that we are much concerned regarding the effects on United States trade of special commercial arrangements between the EC and non-member countries. My present view is that the provisions of Section 338 of the Tariff Act of 1930 and of Section 252 of the Trade Expansion Act of 1962 (with the amendment proposed in H.R. 14870, the Administration's "Trade Act of 1969") are well calculated to strengthen our hand in dealing with these agreements and the trade problems arising from them.

Sincerely yours,

CARL J. GILBERT,
Special Representative.

Mr. FANNIN. Mr. President, in August 1970, the Trade Information Committee of STR, at the specific request of the California-Arizona citrus industry, held a public hearing under provisions of the Trade Expansion Act to consider the U.S. industry's objections to the preferential agreements.

I appeared as a witness at that hearing. Here is the statement I made at that time:

I am here this morning as a result of my deep feelings concerning the importance of fairness in international trade and particularly the importance of seeing that our trading partners in the free world treat us equally with their other partners. The foreign trade policy of the United States since World War II has been to support and stimulate free trade. Free trade requires the removal of non-tariff barriers as well as tariff barriers and it requires fair methods of competition among trading partners. The United States must not tolerate discrimination against its exports to countries that wish equal access to United States markets.

It is my understanding that this Committee has convened at the request of the California-Arizona Citrus League so that the League may present its views concerning the preferential tariff reductions extended by the European Economic Community to certain countries bordering on the Mediterranean. My understanding of the situation is that Tunisia and Morocco have been granted tariff reductions of 80% and that Spain and Israel have been granted tariff reductions of 40%. Exports from the United States must pay the full tariff. It is not at all surprising then that the League would make this request for the citrus growers of California and Arizona.

Let there be no mistake about the importance of citrus to Arizona. Citrus is a cash crop which provides a sufficiently high return so that otherwise unusable land may be developed into citrus orchards. The export of frush citrus is an important part of the Arizona agricultural economy. The EEC represents the largest overseas market for fresh citrus exports. Loss of this important market would be a severe blow to Arizona agriculture. It must not be permitted to happen!

The preferences extended by the EEC directly affect fresh citrus exports. However, the consequences of citrus are only a part of the total effect. If the preferences can be maintained against United States citrus then preferences granted by the EEC could be maintained against any United States export commodity whether agricultural or industrial. And, if the EEC can successfully maintain discriminatory preferences of this type, so can any other trading partner of the United States.

The very heart of the General Agreement on Tariffs and Trade is the General Most Favoured Nation Provision. As you know, this provision requires that preferences extended to a preferred nation must be extended to all other GATT members. Failure to extend such

a preference violates the express agreement recited in GATT and agreed to by all the EEC member countries.

The Congress of the United States wrote the Trade Expansion Act of 1962 with the hope that it would stimulate the economic growth of the United States and maintain and enlarge foreign markets for the products of United States agriculture, industry, mining, and commerce. The Act specifically incorporated into it the Most Favoured Nation Provision, that any duty or other import restriction or duty-free treatment proclaimed by any trade agreement shall apply to products of all foreign countries.

The Act, however, made provisions for those instances where continuation or expansion of United States agricultural exports is intentionally frustrated. Section 252 specifically treats the restriction or oppression of United States agricultural exports by foreign countries. Congress intended that when the conditions described in Section 252 existed, the President is to take the prescribed action. If the EEC will not withdraw the preferences granted or extend them on a Most Favoured Nation basis, then the President must invoke the sanctions of Section 252 of the Trade Expansion Act of 1962 in order to preserve the principle of Most Favored Nation. It is my sincere hope that the EEC will take heed of these proceedings and live up to the agreement expressed in GATT. This would be the best possible solution, but if it cannot be achieved then, I assure you, the United States will follow the mandate of Section 252.

Mr. President, subsequently, in October 1970, I asked the administration to submit, for inclusion in the record of the Finance Committee, a description of the U.S. action to be taken in connection with these EEC preferential tariffs. The Department of State replied that these preferences violate the MFN provisions of GATT, that they had injured U.S. industries, and that they expected corrective action within "a reasonable period of time."

That was 3½ years ago. Since then the preferences have not only continued but have been extended to other countries. How short, then, is "a reasonable period of time?" To producers a reasonable period of time expired long ago.

In February 1971, I made a floor statement citing business frustration in dealing with international problems such as this. I ask unanimous consent to insert this statement in the RECORD also.

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

THE EFFECT OF NONTARIFF BARRIERS OF CITRUS GROWERS IN ARIZONA AND CALIFORNIA

Mr. FANNIN. Mr. President, during the past 12 months the Congress has been intensely concerned with matters relating to foreign trade. I have made several statements regarding serious problems in foreign trade, and I introduced a bill to regulate unfair import practices.

Our trade problems have not gone away; they have become even more acute as time has passed.

Mr. President, the foreign trade policy of the United States since World War II has been to support and stimulate free trade. But free trade requires more than the removal of tariff barriers.

Through a series of negotiations under the General Agreement on Tariffs and Trade—GATT—tariffs have been progressively lowered to a point where most industrial goods are now exchanged in increasing amounts and with increasing ease throughout the more developed world.

With these reductions, tariffs have become relatively unimportant as a factor in restricting international trade. Obstacles of much greater importance have sprung up. These are the so-called nontariff barriers that exist in different forms in most countries. The most troublesome of these nontariff barriers are national buying policies, administrative procedures, the indirect subsidizatons of exports, and preferental tariff arrangements.

Today I want to bring to the attention of my colleagues one very serious problem being caused by nontariff barriers. This situation provides a good example of the frustrations encountered by many American businessmen seeking to do business abroad.

This specific case involves citrus growers in Arizona and California who are fighting to maintain their historical access to markets in the European Economic Community—EEC.

The first exports of American citrus to Europe began in the late 1800's. Exports in significant quantities started in 1930. The EEC represents the largest overseas export market for U.S. fresh citrus exports. Exports to the world market from California and Arizona over the last 5 years averaged 27 percent of gross sales and totaled approximately $70 million. Fresh oranges are the largest earner of foreign exchange of all fresh and canned fruits and vegetables. Thus, it is important to maintain export markets not only for the citrus growers, but for the entire United States.

The citrus case is one which should have been resolved months ago, and would have been, if the United States had been defending its exporters. The case involved a clear cut violation of the most favored nation—MFN—principle. It is significant that the principle involved is the cornerstone of the general agreement on tariffs and trade. For without this principle, there is no reason for continuing with GATT. This may sound like a startling statement, but there is no point in deceiving people into believing that GATT is useful, when in fact it is not observed. This is especially true in light of the fact that the State Department advises that the EEC says that it is not interested in discussing principles. Without the observance of basic principles, there can be no orderly world trade.

Mr. President, it is important to note that five of the six members of the EEC do not produce citrus. The citrus produced in Italy is, with small exception, consumed in Italy. In other words, the EEC has no domestic production that it is protecting.

The current citrus fight began in late 1969. On September 1, 1969, the EEC signed an alleged association agreement with Tunisia and Morocco. The principal purpose was to grant those two countries an 80-percent reduction in the common external tariff on fresh oranges and lemons. At approximately the same time, but not by treaty, the EEC granted a 40-percent reduction in the common external tariff to Spain and Israel on oranges, lemons, and grapefruit.

Brazil, South Africa, and the United States, the three major non-Mediterranean suppliers of citrus, protested this action to GATT. The EEC, recognizing the illegality of its action, requested a waiver of the MFN rule. A working party was organized to study the tariff reductions. It became apparent that the waiver the EEC requested on the preferential duty reductions to Spain and Israel would not be granted. Rather than receive a negative vote, the EEC withdrew its request for a waiver and said it would withdraw the duty reductions to Spain and Israel.

Although the EEC announced that it would take this action in January, it did not do so until April and the action was not effective until May. This had the effect of allowing Spain and Israel to enjoy the preferential duty reduction during the major part of their shipping season. Additionally, on October 1, 1970, treaties between the EEC, Spain, and Israel reestablished the discriminatory 40-percent duty reduction.

The effect of the preferences in 1970, the first year of their existence, was a direct loss of $2¼ million to citrus growers in Arizona and California. In the Netherlands market, for example, each country with a preference increased its market share while every country without a preference decreased its market share.

The California-Arizona Citrus League on behalf of the producers of fresh citrus for export requested a hearing as provided for in the Trade Expansion Act of 1962. Evidence was presented at that hearing documenting the illegality of the EEC's action. The United States has since stated publicly that the EEC action was illegal, and asked to consult with the EEC under the applicable provision of GATT. The consultation took place January 18, 1971, in Brussels. The EEC admitted it was discriminating, but said it did not matter. A second meeting is scheduled for February 15–20.

The importance of this case is so significant that in August of 1970, I personally appeared and testified at the hearing held pursuant to section 252 of the Trade Expansion Act of 1962. I did this because of my conviction that the United States must achieve MFN treatment or else come to realize that its trading partners have no interest in dealing fairly with the United States.

In order to maintain the creditability of the United States in world trade and to emphasize to the EEC that the United States will not allow other trading blocs to discriminate against it, the United States must win this fight for equal treatment.

Unless the most favored nation principle can be firmly reestablished through this action, the entire structure of the fair trade rules established by GATT will be further, and perhaps fatally, undermined.

The importance to the United States of obtaining a MFN solution cannot be overstated. While citrus is the commodity concerned this time, next time it could be any industrial or agricultural commodity. If the EEC is willing to disregard its commitment to observe the most favored nation principle embodied in GATT, then it cannot be trusted to observe any other commitment. If the EEC wishes continued access to the U.S. market, then it must permit U.S. products to enter its market without discrimination.

The citrus case is fortunate in that both the principle and damages sustained are clear cut and well documented. If the United States cannot obtain most-favored-nation treatment for itself, this will be another clear signal of the need to reexamine the GATT agreement to ascertain whether these provisions offer the United States full reciprocity in international trade.

Mr. President, the time for negotiating a solution is fast running out. I would hope that the Department of State can remedy the discriminatory EEC practices under existing provisions of law. However, if the Department of State fails to resolve the issue, it will become necessary to enact legislation which will affect the imports of EEC products into this country. There is strong support in the Senate for a trade bill. Last year, such a bill passed the House of Representatives. It would not be difficult to use an important House bill as a vehicle for an amendment forcing a resolution of the citrus fruit problem which is vital to the economy of the State of Arizona—as well as California, Texas, Florida, and other States.

If the State Department refuses to face the issue squarely, the Congress will be forced to act.

Mr. President, I yield the floor.

Mr. FANNIN. Mr. President, on March 30, 1971, the Senate unanimously adopted Resolution 89 which reads as follows:

Whereas discrimination in international trade is contrary to the trading interests of all nations; and

Whereas proliferation of discriminatory trade arrangements by the European Economic Community is harmful to the world trading system; and

Whereas the European Economic Community has recently accorded preferential tariff treatment with respect to citrus fruit from Tunisia, Morocco, Spain and Israel, to the detriment of United States exports; and

Whereas the European Economic Community has received preferential concessions from Tunisia, Morocco, Spain and Israel in return for its discriminatory preferences, also to the detriment of U.S. exports; and

Whereas these discriminatory preferences are inconsistent with provisions of trade agreements and impair concessions granted to the U.S. in trade agreements negotiated under the Trade Agreements Program; and

Whereas the Congress of the United States has enacted Section 252 of the Trade Expansion Act of 1962 and Section 338 of the Tariff Act of 1930 to provide remedies for injury to U.S. exports trade arising from such discriminatory preferences:

Now, therefore, be it resolved, by the Senate that it is the sense of the Senate that the President shall promptly make every effort to obtain the removal of the discriminatory import preferences maintained by the European Economic Community with respect to citrus fruits and, should such efforts not succeed, the President shall take appropriate remedial steps within 60 days from the date of this resolution against the European Economic Community pursuant to Section 252 of the Trade Expansion Act, or Section 338 of the Tariff Act of 1930.

Mr. President, 3 months later, in July, I reminded our Secretary of State of our frequent exchanges in the past year on the subject of preferences—all of which were without result. He was assured that the Senate had passed Resolution 89 "seriously."

At that point there was movement. The EEC, unilaterally they say, announced on July 27, 1971, a temporary reduction of its fresh orange import duty from 15 percent to 8 percent for the period June 1 to September 31. While this, of course, did nothing to lessen the GATT violation or eliminate the preferences, it apparently lessened executive resolve to get on with a lasting solution to the preference problem. In 1972 the EEC further reduced the duty to 5 percent for the same period for the years 1972–73. It did nothing, however, to stop its discrimination toward the United States or to stop its open violation of GATT.

In the fall of 1972 the EEC decided to extend its citrus preferences to Lebanon, Cyprus, and Egypt. Again the American industry sought a hearing under the provisions of the Trade Expansion Act. Again there was a hearing, in February 1973, and again I made a statement at that hearing.

And again nothing happened.

The EEC decision to expand, to take in as new members the United Kingdom, Denmark, and Ireland, compounded the existing problems.

Now, in addition to the existing preferences offered by six countries, these preferences were to be extended to the three new members, each of which had lower fresh orange duties than had the EEC six.

Under such expansionary circumstances another GATT rule is supposed to come into play which should result in the adjustment of the common external tariff so that "the duties and other regulations of commerce . . . shall not on the whole be higher or more restrictive than the general incidence of the duties and regulations of commerce applicable in the constituent territories prior to the formation of such union."

Negotiations between the nations of the world and the EEC to achieve compliance with the above rule go by the popular name of the "twenty-four:six negotiation." These negotiations have been going on for over a year with no visible result. Time is about to run out.

The 24:6 negotiations were originally scheduled to end in June 1973. Then, they were extended to July 1973. After that, an extension was granted to September 1973. Then according to newspaper articles, the EEC was given a firm deadline of February 15, 1974. That date was extended 30 days and then into April. Now I read that the United States and the EEC have asked GATT for a 60 day extension of the time to withdraw concessions. When will it end?

The events I have just outlined lead to two conclusions, both of which argue against passage of H.R. 10710 as it is currently structured. First, the conclusion seems inescapable that the European Community has no desire to treat the United States in a fair and equitable manner. The maintenance of discriminatory and illegal tariff barriers against our citrus for the last 5 years establishes that conclusion to my satisfaction and only an immediate showing of good faith by the EEC would change that view. To show such good faith the EEC would, as a minimum, have to reduce the duty on our citrus to 4 percent from April 1 to October 15. At that point, I would begin to believe in their sincerity.

Second, the inability of the administration, as set forth above, to deal with a trade problem involving one commodity and with one—supposedly one—country certainly does not lead one to believe that they can successfully negotiate thousands of commodities with the 126 free world countries. Further, we must note that in the multilateral negotiation the EEC—the project of our current failure story—will effectively represent 65 of those 126 free world countries.

The frustration and delays which I have described over a trade problem—a problem which the Executive states is in violation of GATT, is injuring American industry, can be handled within U.S. law, and for which, in 1970, corrective action was expected "within a reasonable period of time"—demonstrate clearly the need for more explicit trade legislation.

One of the best ways to be more specific is to provide that the United States shall grant most favored nation treatment only to those countries which truly reciprocate by providing such treatment to our trade, and then only to those countries which have an effective trade agreement with the United States.

We must not, in the future, leave the handling of such trade matters to individual executive resolve to invoke legal option; we must provide explicit directions in this field and I expect the Senate so to act in its consideration of H.R. 10710.

A GOOD MAN—JOHN R. CAULEY

Mr. DOLE. Mr. President, this week John R. Cauley, an institution of Washington journalism, enters retirement.

For nearly 14 years, while serving in the House and Senate, I have known John Cauley as a talented, dedicated, and skillful newsman who has kept the readers of the Kansas City Star well advised of events in official and unofficial Washington. Honesty, fairness, and objectivity have been his hallmarks—along with a sharp eye for the small details which make his stories among the most interesting and readable of the many hundreds of news accounts written in and about the Nation's Capital.

In yesterday's paper, John permitted himself a rare departure from his usual objective style to share a few personal reminiscences with his readers over nearly 40 years as a journalist and more than two decades of covering the people and events of Washington. This is a most interesting article, and I am sure the many Senators who have known John Cauley would enjoy reading it. Therefore, I ask unanimous consent that "Washington Beat—Hobnobbing With History," an article by the Kansas City Star's Washington bureau chief, John Cauley, be printed in the RECORD at the conclusion of my remarks.

And I know that John's many friends in the Senate and in the Washington press corps join me in wishing him the very best in his retirement. We will miss him, but we know he has earned this opportunity to enjoy a more leisurely pace and the company of his many nephews and nieces.

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

WASHINGTON BEAT—HOBNOBBING WITH HISTORY

The chief of The Star's Washington Bureau, who retires Tuesday, looks back over 21 years covering the White House and the Washington scene.

(By John R. Cauley)

WASHINGTON.—I have been among the most fortunate of men.

For the last 21 years based here in Washington as a member of the bureau of The Kansas City Star I have had the exciting, fascinating and often times hectic and strenuous experience of reporting on personalities and events in one of the most challenging and troublesome periods in the life of this nation.

Put it this way: I have had a front-row seat to observe and record the unfolding of great political dramas which have fascinated, inspired and shaken the people of this country.

I accompanied President Eisenhower, President Kennedy, President Johnson and President Nixon on trips throughout this country and to many parts of the world.

In 1959 I was with Richard Nixon, then vice-president, when he made his historic trip to the Soviet Union and by sheer luck was able to listen to the hour long conversation between Mr. Nixon and Premier Khrushchev in the famous "kitchen debate."

In 1963 I went with President John F. Kennedy to Europe and witnessed among other dramatic events the tremendous reception Mr. Kennedy received in Berlin.

LINE OF DUTY

I have been "upstairs at the White House," which is the living quarters, during the administrations of four Presidents and in various degrees of formality and informality.

I have been sailing with the late John Foster Dulles, secretary of state in the Eisenhower administration; and on many a Friday afternoon I sat in on relaxed briefing sessions with Dean Rusk, when he was secretary of state, in the sumptuous eighth floor quarters of the State Department. I was at Hyannis Port, Mass., in November of 1960 to observe John F. Kennedy sweat out his narrow election victory, and I had Christmas dinner with Bob and Ethel Kennedy shortly after President Kennedy was assassinated. I have been to San Clemente, Calif., and to Key Biscayne, Fla., with Richard Nixon. I have been to many background and on-the-record sessions with Secretary Kissinger.

All of this certainly is not boasting or name-dropping. My friends who know me will tell you that. But it is the job of a Washington reporter to know the top people in any administration and to earn their trust in him. I was able to move around in such exalted circles not because I was John Cauley but because I was the Washington representative of a great newspaper such as The Kansas City Star.

Back in the early 1930s in the grim, dark days of the depression when I had just graduated from the journalism school at the University of Missouri, working in a gasoline station and later squeezing out a living by publishing a small neighborhood newspaper in Kansas City, if anyone had told me that some day I would be chief of the Washington bureau of The Kansas City Star and that five Presidents, three secretaries of state, many senators and House members, cabinet officers and justices of the Supreme Court would call me by my first name and share their confidences with me, I would have told him he was just dreaming.

Well, it wasn't a dream at all, but a wonderful reality.

Dr. Henry Kissinger, who is not given to mawkish statements, observed upon being sworn in as secretary of state that nowhere except in America could a German Jewish immigrant achieve such an eminent position. As they say in the Senate, I associate myself with Secretary Kissinger's remarks.

IRISH STOCK

My grandparents were poor Irish immigrants who came to this country with nothing except a desire to work and to be good citizens. My father was a plasterer who spent the summer paying off the winter grocery and rent bills when he was idle because of the weather. Before she was married my mother was a clerk in a department store in Rushville, Ind., where my brother, four sisters and I were born.

Now as retirement approaches and I look back on 38 years on The Star's staff, 21 of them in Washington and 10 as bureau chief, I reflect on how the good Lord has blessed me, how good, kind and considerate to me have been The Star, my family, my friends and my colleagues in the press corps.

If I had to chart the course of my life again, there would be very little I would change in that tremendously satisfying scenario.

One of my close friends once said of me, "Cauley is the kind of guy who works hard, plays hard and prays hard."

I won't quarrel with that assessment. As the baseball managers say, I have always tried to be a competitor who has put out 100 per cent effort. And that effort has been rewarded a thousandfold.

The ironic aspect of my assignment to Washington was that I resisted it when it was first offered to me. One day in the fall of 1952 the late C. G. (Pete) Wellington, who was managing editor, later executive editor, of The Star, and my mentor and great friend, called me to his hotel room in Boston where we were attending a convention and said, "John, we want to send you to the Washington bureau."

I was stunned and flabbergasted.

This was a curious reaction, I know, because it is the ambition of every aspiring reporter to be assigned to Washington. The Capital is the major league where all the big hitters are.

NO HOLDS BARRED

I was then 44 years old, telegraph editor and had been informed several times that I was being groomed for executive responsibility. I had a pleasant home in Kansas City, many long-time friends and an enjoyable life.

Reluctantly, I agreed to give Washington a try. It was difficult to explain to my friends in Kansas City that all of a sudden I was no longer an editor and headed toward the top in The Star heirarchy, but just a reporter and the third man in the bureau at that. They all thought I was being exiled to "Siberia."

Before I left for Washington I went to see the late Roy Roberts, then president of The Star, a great and colorful personality, a man who had a tremendous impact on my life and who was a warm friend and counselor. Mr. Roberts was in St. Luke's hospital recuperating from an operation.

I said, "Mr. Roberts, I hope you and Pete know what you are doing."

"What do you mean?" he asked a bit testily.

"Well, here is a Republican administration coming to the White House and you're sending an Irish, Catholic Democrat to cover it," I replied.

"I don't care what you are," Mr. Roberts said. "Just go to Washington and call them as you see them."

No reporter could have asked for a better mandate than that and in all these 21 years it never once has been violated or compromised.

Never once have I been told to slant a story this way or that or take out after some politician for partisan purposes.

Sure, I receive ideas and suggestions from 18th and Grand all the time. Some hit pay dirt and some don't. But always when I have been asked to check out a suggestion or a tip and in the several cases where I reported back that I couldn't see a story in it, the reaction inevitably has been, "O.K., that's all we wanted to know."

Two of my experiences in covering big political stories epitomize the elements of luck, good and bad, the necessity of knowing top officials and having them trust you and being at the right place at the right time.

Both incidents involve the late Robert F. Kennedy although I want to emphasize that there were many other cases where other high officials, both Democrats and Republicans, were important.

The good one first: Shortly after John F. Kennedy was elected President in 1960, his brother Bob set up an office here in Washington to help organize the new administration and to screen names for high-level jobs, cabinet and below.

One day I heard that a New York newspaper was going to publish a story that Senator Fulbright of Arkansas had been virtually picked by J.F.K. to be secretary of state. This was difficult for me to believe for the reason that Fulbright had almost always voted with the Southern bloc on racial issues and with many African nations achieving independence and coming into the United Nations the choice of Fulbright just didn't make sense.

I then learned from a colleague that Bob Kennedy had held a so-called background session with some young reporters the night before and that the name of Fulbright had been floated out—hopefully to be shot down soon by his opponents.

I hurried to the Kennedy headquarters and opened a door—not the "right" one I should have if I had followed protocol as I learned later but the right one for me at the time.

Inside there was a small reception going on for a woman staff member. Bob Kennedy was there as was his assistant, John Seigenthaler. I asked John if I could talk to Bob. He said sure. I went into Bob's office and asked him if he could give me some guidance on who J.F.K. was going to pick as secretary of state and secretary of defense.

Bob first mentioned Fulbright. He said J.F.K. had a high regard for the senator but feared there would be problems on the race issue. Bob also mentioned David Bruce, a career diplomat (now the American emissary to Red China), who was under consideration, as the New York Times was reporting also every day.

Then I remember vividly that Bob said, "The leading candidate right now is Dean Rusk." Rusk had been an assistant secretary of state under President Truman and was then head of the Rockefeller Foundation.

I then asked him about the secretary of defense. Bob replied that "Sarge (Sargeant Shriver, a Kennedy brother-in-law) is in Detroit now interviewing Bob McNamara."

Before I left Bob said, "There is one more name in the works for the job at State, but I can't tell you now. Call me tomorrow."

Also before I left I was informed that in the reception room where I should have gone in the first place was an assortment of important political personages, including members of Congress, waiting to see Bob. I simply had walked into the wrong door at the right time.

The next morning The Times ran my story on page one under a two column head saying Dean Rusk would be the new secretary of state and that McNamara, president of Ford Motor Company, was the top choice for the Pentagon.

A few days later the appointment of Rusk was announced officially by the President-elect and if I remember correctly the appointment of McNamara came shortly afterward.

Roy Roberts called me on the telephone to congratulate me on the original story. That call was a great source of satisfaction, but I did not tell Mr. Roberts how I had sweated out the formal announcement.

L.B.J. EPISODE

Now comes the incident in which my luck turned sour, although I had, along with Cecil Holland, then of the Evening Star, an exclusive story that Lyndon B. Johnson, then Senate majority leader, was under top consideration for the Democratic candidate as vice-president.

Here is what happened: Early in the morning after J.F.K. had been nominated, I went to the Kennedy headquarters hotel in Los Angeles and in the lobby met Cecil Holland.

He asked me if I knew where Bob Kennedy was because we both figured that Bob would play a prominent role in helping J.F.K. pick a running mate. I knew the location of Bob's suite so Cecil and I went there and as we stood outside the door before knocking we could hear Bob on the telephone. Our ears perked up when we heard Bob say to the party on the other end of the line, "What do you think of Lyndon Johnson for vice-president?"

This was especially interesting because at this point L.B.J., who had lost out to J.F.K. in the presidential nomination race, was considered more or less a long shot for the second spot. There were others, among them

Senator Symington of Missouri, being mentioned more prominently. And there was no love lost between the Kennedy and Johnson camps.

We knocked on the door and a Kennedy security officer reluctantly let us in.

Bob was in his bathrobe eating a breakfast of pancakes and eggs and frequently got up to take telephone calls in the corner of the room. He wasn't exactly enthusiastic about talking to Cecil and myself.

We asked him about the vice-presidency and, not telling him we had overheard from outside his conversation, whether Senator Johnson was being considered.

Bob conceded that he was checking with big city Democratic leaders, such as David Lawrence of Pittsburgh, Mayor Wagner of New York, Ray Miller of Ohio and Mayor Daley of Chicago, about Johnson but that no definite decision had been made. The support of the big city leaders was important, especially on Johnson, who was suspect because of his Southern background.

Cecil and I left to go to the press section to write our stories. Paul V. Miner, then managing editor of The Star and now president, was supervising the convention news operations.

I told Paul that I had talked to Bob Kennedy, what Cecil and I had overheard and what Bob reported to us.

I wrote my story carefully, pointing out that the Kennedy people were sounding out sentiment on Johnson but that other names were in the running and that a decision was expected soon. However, the fact that Bob Kennedy was operating as he did was significant, and it turned out later my hunch was right.

My story on Johnson moved on the wire to Kansas City and was the lead article in the first edition. Then later came the denials, the heated arguments between Bob Kennedy and Sam Rayburn, then speaker of the House, and other circumstances which caused the desk to subordinate my lead.

My hunch was strengthened early in the afternoon when I was standing outside the entrance of the J.F.K. suite. Clark Clifford, a confidant of Senator Symington, came out. He was grim-faced and walked past reporters without comment. I knew then that J.F.K. had given him the bad news and that Johnson was the choice.

Then late in the afternoon Senator Kennedy called a press conference. He appeared in the press room with Senator Johnson and announced his choice of the Texan as his running mate.

I was, of course, terribly disappointed on what had happened to my story, one of the biggest I ever had had. For a few seconds I was furious. I pounded both of my fists on the table in The Star's workroom and shouted, "They wouldn't believe me, would they, they wouldn't believe me!"

PART OF THE GAME

I do not want to blame anyone for what happened to my story. Roy Roberts later told me, "When I went out to lunch your story on Johnson was a 5-column head. When I got back it was buried." It is the nature of the men on copy desks to be overly impressed with the wire services, and in this case the wire services didn't have the story that I did. I was an editor and copy reader for 17 years in Kansas City and I know. But as I philosophized later, that's all part of the game. You win some and you lose some.

Another example of how luck and contacts help in getting a story was when Bob Kennedy died and I was sent to New York to cover the funeral. Fortunately, I knew Patricia (Pat) Reilly, who was in the press office handling the funeral arrangements. She gave me a New York police department pass which was pure gold. It got me through police lines to St. Patrick's Cathedral and to the funeral Mass. Then through Pierre Salinger, press secretary to President Kennedy, and Ed Guthmann, press secretary to Bob Kennedy, I got on the funeral train going to Washington, and on the train talked to Ethel Kennedy, Jackie Kennedy, Sen. Ted Kennedy and some members of the Bob Kennedy family.

When the train arrived in Washington four hours late (the air conditioning had gone off during the trip) I got into a telephone booth and dictated my story for over an hour. When I got out of the booth I was drenched in perspiration, just as if I had been thrown into a Kennedy swimming pool.

SOVIET VISIT

Perhaps the most spectacular experience of my career as a Washington correspondent was the assignment to the Soviet Union to cover the visit of Richard M. Nixon, then vice-president, in July of 1959.

The press plane, a jet chartered from Pan American Airways, was the first commercial aircraft to land in the Soviet Union since World War II, and the big jet had set a New York to Moscow (8 hours and 53 minutes) record.

I often think about this amazing journey and recall back in the 1930s when my father once took my brother and me to see the Cardinals play baseball in St. Louis and the train trip required almost that much time one way.

Wow! I thought at the time, flying nonstop to Moscow in Communist Russia.

However, more drama was about to come—a front-row seat at the famous "kitchen debate" between Mr. Nixon and Premier Khrushchev at the American exhibition in Sokolnika Park near Moscow. Remember that wonderful musical comedy song, "With a Little Bit of Luck"?

Mr. Nixon was scheduled to have a private tour with Khrushchev at the exhibition and to deliver a major speech opening the American exhibition.

BAD START

But many things went awry. First, five days before Mr. Nixon departed, President Eisenhower issued a proclamation designating the third week in July as "Captive Nations" week, during which free people would re-dedicate themselves and pray for the liberation of the enslaved people back of the Iron Curtain.

When the vice-president arrived at the exhibit, Khrushchev was furious about the captive nations resolution, saying, "It stinks and is provocative."

At a model television studio, Khrushchev took out after Nixon in a taped show, a fact which the vice-president realized would be shown in the United States and would put him on the defensive.

I must explain that there was a "pool" of reporters assigned to Nixon and Khrushchev, an arrangement whereby this "pool" relays the story to other correspondents afterward.

But as Khrushchev needled Nixon on the walk through the exhibit grounds, I got a big break. The "pool" broke down, workmen dropped their tools and spectators surged around the two leaders. It was chaos. I literally was swept up in the crowd to the front of the model American home where Nixon decided this was the moment to strike back.

The vice-president made the point that this was a replica of a typical American house in the United States costing $14,000 and that almost any steelworker could buy it.

Here I was standing immediately back of Nixon and Khrushchev and with Leonid I. Brezhnev, now the head of the Russian Communist Party, nearby, listening for over an hour to an historic debate on the merits of the capitalistic and Communist systems, and, I might add, taking notes as fast as I could.

Mr. Nixon was tremendously effective and more than recouped the losses he suffered earlier in the day. Afterward I talked to the vice-president as he sat in his car. He said Khrushchev had almost knocked him out of the ring earlier and that it was important that he strike back.

The newspaper stories on the "kitchen debate" (there were no live television or radio accounts of it) sent the political stock of Nixon soaring in the United States. He demonstrated how skillfully he could debate with even such a rugged adversary as Khrushchev.

After "filling in" my colleagues who could not hear what had been said, I rushed back to the hotel, wrote for over an hour and then filed my story to Kansas City. It was an experience I will never forget.

IKE MESSAGE

Also memorable are my experiences with four Presidents, each of whom had their own personal and political strengths, their own way of dealing with the press and their share of human frailties.

First, Eisenhower. In 1951 I went to Europe on an assignment and before I left Mr. Roberts, who had been actively promoting the general as the Republican presidential candidate, told me, "Johnny (he always called me Johnny), when you get to Paris tell Slick Persons that Ike has to make up his mind one way or another—and soon."

"Slick" Persons was Maj. Gen. Wilton B. Persons, a top aide to Eisenhower, then supreme commander, Allied forces, Europe. Later General Persons, who became a top assistant to the President at the White House, often told me that I was the man who delivered "the message to Garcia."

I sometimes had the impression that Ike never really had the appetite to seek the presidency or to serve in it. But the trappings, the accoutrements of the most powerful office in the free world and that stirring song, "Hail to the Chief" often have a way of changing a man's mind.

The general came to the White House at a time when the American people were longing for a period of world peace and domestic tranquillity and generally he served that purpose well despite several major illnesses. Many of his critics, however, complained that he was content to coast along and that he did not initiate any programs vital to the country.

President Eisenhower, unlike Kennedy and Johnson, had no inclination to deal with the press, which was why his press secretary, James C. Hagerty, possessed so much power. But the general portrayed a magnetic personality to the public and in parades, with his arms outstretched, he always received thunderous applause.

Ike seldom read the newspapers or listened to the news programs on television, a fact which was often a source of embarrassment to him and his aides.

Several times at news conferences, which he held regularly, a reporter would ask Eisenhower a question dealing with an issue which had been on page one all week. The President frequently would respond by saying, "Well, this is the first time that this has been called to my attention but I will say this . . . ."

Once, at a reception for Republican leaders in the Rose Garden of the White House, President Eisenhower, then nearing the end of his first term, was overheard saying to a friend that he didn't want to run for another term but that "they tell me they haven't got time to build up anyone else." When that story came out there were a lot of red faces at the White House and the President had some explaining to do.

J.F.K. CONTACTS

My contacts and friendship with John F. Kennedy began when he first came to the Senate in 1953.

Once when I took Richard B. Fowler, then president of The Star, and John W. Colt, then executive editor, to see Kennedy in the White House, he opened the conversation by saying, "John Cauley is a long-time friend of mine since my Senate days."

In 1956 at the request of Rev. Maurice E. Van Ackerson, I asked Senator Kennedy to speak to a Rockhurst day dinner at the Hotel Muehlebach, which he did.

Early in 1959 J.F.K. came to Kansas City to sound out prospects for delegates to the Democratic National Convention.

The senator asked me if I could set up a meeting for him with Roy Roberts, which I did. I sat in on the 2-hour conversation and it was fascinating, both of them being intense political animals. Mr. Roberts, a stanch Republican and one of the "kingmakers" in the G.O.P., told me that The Star would not support Kennedy editorially, but that he admired Kennedy's honesty, personal charm, political savvy and intellectual attainments.

One of my most memorable experiences was when I traveled with President Kennedy to Ireland, Germany and Italy in the summer of 1963.

In Berlin the President received the most overwhelming reception of his career. From the motorcade behind the President's car I will never forget the sight of that sea of human faces chanting "Kenne-day, Kenne-day."

I saw President Kennedy privately several times in his office where he talked for background which was invaluable.

His language often was earthy and sometimes acid. Once when I reminded him of a political opponent in his own party he got up from his desk and said "that — is always trying to kick me in the —."

Immediately after Senator Kennedy was elected President I, along with several other reporters, was at the home of his father, Joseph P. Kennedy, on Nantucket Sound near Hyannis Port, Mass.

Ethel Kennedy said to the reporters, "All we have is milk punch. If you guys want Scotch or Bourbon you'll have to fix it for yourself in the kitchen."

Later the President-elect and his wife, Jackie, appeared in the living room and he introduced Jackie to each reporter, amazingly calling almost everyone by his first name.

OFF THE RECORD

After awhile the President-elect talked off the record to the reporters saying that he thought the debates with Vice-President Nixon were the turning point in the campaign.

He also added, "If Nelson (Rockefeller) had been running, he might have clobbered me."

As we prepared to leave, Kennedy came up to me and asked, "You got a ride back?" and after I said yes he said, let's go out here on the porch. I want to talk to you."

Just the President-elect and I were there, and I remember it was gray and sleeting outside. He wanted to know how Charlie Brown, a Democrat, had come out in the 7th Congressional District of Missouri. I told him I had heard Charlie had been defeated, but I thought, too, how unusual it was for a President-elect to be concerned about a relatively obscure member of the House from Missouri.

I will always remember, too, when I rode with Senator Kennedy on his private plane from Lewiston, Maine, to Providence, R.I. early on the Monday morning before the election.

His voice was hoarse and his eyes were red from fatigue. It was bitter cold as we deplaned and I asked him, "Jack, how do you size up the campaign?"

He answered wearily, "I have just one big worry. I wonder if this country is ready for a Catholic President."

There will always be controversy and debate about the record of the Kennedy years in the White House.

History, of course, will have to be the judge. But in this reporter's judgment Kennedy, among other accomplishments, reignited the spirit of the country, especially among the young persons, worked for a government more responsive to the needs of the people and he had a tremendous impact on the world.

He demonstrated how he could recoup from a major disaster such as the Bay of Pigs and come back with a smashing triumph such as forcing the Russians to remove their missiles from Cuba.

Secretary Rusk once told me, "We greatly underestimated the affection, admiration and understanding that the world had for Jack Kennedy."

Almost everyone knows where he or she was when the President was assassinated in Dallas in November of 1963, and space does not permit me to chronicle my experience. I have written of it extensively in The Star previously.

That night I was in the Rose Garden at the White House when the helicopter bearing the new President, Lyndon Baines Johnson, came in after the presidential plane had landed at Andrews Air Force Base. I will always remember that eerie sight, the helicopter approaching and the Washington monument, bathed in light, in the background.

As he was walking toward the Oval Office, Mr. Johnson spotted me and Bill Theis of the Hearst newspapers and came over to shake hands. For a moment I was stunned, then all I could say was "God bless you, Mr. President." He said "Thank you" and moved on.

JOHNSON YEARS

Lyndon Johnson was an able, fascinating, articulate and mysterious man. He could be kind and considerate and also tempestuous and tyrannical.

An example of Mr. Johnson's temperament occurred one morning when I had an appointment to see him and was ushered into the upstairs living quarters at the White House where the President was sniffing into his nose some sort of medication for post-nasal drip. A valet was putting on Mr. Johnson's hose—an unforgettable sight.

Despite the fact that the President had just returned from a triumphal campaign trip to the Northeast, he was in a foul mood.

He asked the telephone operator to contact Prof. Eric Goldman, an "in-house" intellectual on the staff. He was informed that the professor was at a television studio for a taping session. L.B.J. blew up.

"You tell the professor that I want him to have a passion for anonymity," he shouted. "And if he doesn't he is fired."

In the next few minutes the President threatened to fire three other top aides who were not in their offices.

President Johnson had colorful phrases to describe some of his top aides. He had great admiration for Robert McNamara, secretary of defense, and once referred to McNamara as "that guy with the Stacomb on his hair," a reference to McNamara's slick black pompadour hair style.

Mr. Johnson was responsible for much constructive legislation, but the war in Vietnam finally destroyed him and forced him to the decision not to run again.

Once in the living quarters he told me about Vietnam in this one dramatic sentence, "Maybe I just should have walked away from the whole thing."

Mr. Johnson sometimes was naive and overpossessed with a sense of his own power. After many agonizing moments, The Star announced that it would support L.B.J. for President, the first time that the newspaper had endorsed a Democrat for the White House since Grover Cleveland.

After The Star disclosed its decision, Mr. Johnson was jubilant. He figured that The Star, with its background as a Republican newspaper and with the reputation of Roy Roberts as a G.O.P. "kingmaker," would bring other Republican publications into line.

L.B.J. was at the ranch in Texas when he learned of The Star's decision. He called Mr. Roberts on the telephone and after thanking him, said, "Now John Cauley and Joe Lastelic (my colleague) are on my team."

To his everlasting credit, Mr. Roberts snapped back, "The hell they are. They're on my team."

R.M.N.

Now about Richard Milhous Nixon. What can one say in this torrential time? My relations with Mr. Nixon were excellent when he was vice-president but, along with my colleagues in the press corps, my contacts with him since he has been President have not been satisfactory, to put it charitably.

Mr. Nixon's antipathy toward the press is difficult to explain. It would have been so easy to have cordial if not exactly cozy-cozy relations.

Before and after the trip to Russia in 1959, Mr. Nixon had reporters to his home and to the Columbia Country Club for parties. He and his wife, Pat, were gracious and charming host and hostess.

It is my opinion that the President does well at what few press conferences he has, and in more informal sessions in his office and in the White House briefing room he is generally effective and forthcoming.

An oversimplification might be that he rubs many reporters the wrong way and many reporters rub him the wrong way for inscrutable reasons.

There is no doubt that Mr. Nixon has compiled an excellent record in foreign affairs—especially his initiatives toward Red China and the improvement of relations with the Soviet Union. And it should be remembered that Mr. Nixon ended the long war in Vietnam and got the prisoners of war home.

How he got so fouled up with Watergate would take a book to recount. His principal explanation is that he was busy running the country instead of the campaign. One of my own theories is that if he had read regularly the transcripts of, the daily White House news briefings, as Mr. Kennedy and Mr. Johnson did, he would have been aware of the questions being asked about Watergate, drawn the conclusion that the scandal would not go away and perhaps moved more expeditiously than he did.

It is tragic that a man with such extraordinary ability and dedication should have his record debauched with such issues as Watergate and the income tax controversy. He should never have accepted the blind loyalty of such aides as Bob Haldeman and he should have detected the machinations of other people around him. For this the President must bear full responsibility.

ABIDING FAITH

During the administrations of four Presidents I have witnessed many monumental, significant and indeed revolutionary changes in this country and its institutions, some good, I think, and some not so good.

But every time I return from abroad I think of what a strong, wonderful and resourceful country this is. Sure it has its weaknesses and frailities, but it has been durable enough to survive them.

I have an abiding faith and confidence in the American people. Sometimes I get discouraged at their lackadaisical attitude on public affairs, but when the chips are down they usually make the right judgments.

For a life-long bachelor it may seem strange for me to say that I still have faith and hope in the younger generation, despite their weird ways, frequent irreverence and know-it-all attitude.

I have nine nieces and nephews and at the last count 14 great-nieces and nephews, the eldest of whom delight in telling me what has been wrong with my generation.

I have a nephew Thomas Lee Stephenson, 24, who was graduated from the Universtiy of Missouri and played football there and who is now a reporter for the Dallas News. I am proud of him.

Once I visited him at Columbia and I said, "T. L., when I was a student here I didn't waste my time on girls and beer," which was an observation correct only in that I didn't have the money to pursue such activities.

It is typical perhaps of this younger generation for him to make a devastating reply. T. L. put his hand over his mouth in a mock yawn and said, "Uncle John, you bore me. And never say 'girls and beer.' Say, 'women and Cutty Sark'."

BEST RECOLLECTIONS

Memorable quotes from 21 years in Washington:

President Eisenhower after being asked at a press conference if he could give a major idea of Vice President Nixon that General Eisenhower had adopted in his role as chief decision maker: "If you give me a week I might think of one. I don't remember." The President said he made the remark in jest and just as the press conference was breaking up.

President Kennedy, addressing a group of foreign military attaches: "Now when you go back to your respective countries, people will tell you not to go into politics. But let me say that it was not too long ago that I was an obscure Navy lieutenant. I got into politics and now I'm commander in chief."

Kennedy also once remarked: "When I was in the House I often wondered how President Truman could get into so much trouble. Now I know. It's easy."

President Johnson, discussing the war in Vietnam: "Maybe I should have just walked away from the whole thing." Also Mr. Johnson once told this reporter: "What this country needs are not more people with A.B., M.A. and Ph.D degrees, but more garage mechanics, beauty parlor operators and plumbers"

President Nixon: "The easiest period in a crisis situation is actually the battle itself. The most difficult is the period of indecision—whether to fight or to run away."

Dean Rusk, former secretary of state, a chain smoker, upon being asked if he had read the Public Health Service report on the dangers of smoking: "Yes I have. But I figure this job will get me before the cigarettes."

Secretary Kissinger, after a man approached him at a party and said he had always wanted to meet him and thank him for saving the country: "You're welcome."

THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, as a nation that believes itself to be a world leader, the United States should preserve that deserved reputation and respect by ratifying the Genocide Convention. It is important that our Nation use its present position of moral leadership in our own interests and in the interests of mankind. The Genocide Convention, which has been ratified by 78 other nations since 1948, but which still awaits our approval, is in both our Nation's and the world's interests. The crime of genocide, so blatant during the Third Reich, prompted the writing of this treaty. Yet genocide continues today and will continue until every nation, including the United States, uses its moral leadership to keep this crime from occurring.

Immediately after World War II, the United States was one of the main supporters of a treaty on genocide. I believe that the people of the United States still support strongly such a treaty. It has been 25 years since President Truman asked for the treaty's ratification, yet the Senate has never voted directly on this treaty. It is sad that after a quarter of a century the U.S. Government has not ratified a treaty on a crime that is condemned by every rational person.

The United States has a responsibility to the world and to itself to use every resource in its power to insure that the deliberate extermination of any group will never again be repeated. The freedom and liberty so dear to the American people can be spread throughout the world only if we assert our positive moral leadership. The Genocide Convention is an excellent opportunity for the United States to continue in its world leadership role for the betterment of all peoples. I urge the Senate's support for the resolution ratifying the International Convention on the Prevention and Punishment of the Crime of Genocide.

EXPORT OF AGRICULTURAL COMMODITIES

Mr. JAVITS. Mr. President, last September Senator STEVENSON and I introduced legislation (S. 2411) that would have established a reasonable and balanced system for regulating the export of our major agricultural commodities. At that time we were beginning to experience the inflationary effects contributed to by the way a sale of wheat to the Soviet Union was handled and its effect on domestic food prices. We had also undermined the confidence of our traditional trading partners by imposing unilateral export restrictions on a number of agricultural commodities, such as soybeans.

Secretary Butz has now admitted that export controls applied in such a manner were harmful, but in the meantime our food stocks have been reduced to the lowest level in over 20 years, without developing any adequate system to cope with the underlying problem of increasing world dependence on U.S. agricultural production.

We have now reached the unprecedented situation of relying entirely on this year's crop, without our traditional backlog of reserves, to feed ourselves and the world. The lack of a reserve cushion could well produce a volatility in commodity markets as great, or greater, than we experienced last year. With inflation raging at record levels in the United States, a repeat of last year's food price increases is absolutely unacceptable. It is essential to develop a sound agricultural export policy, in cooperation with other nations, to provide food security for our own people without depriving the rest of the world of needed commodities. That is easier said than done, because the real choice may be between mass starvation in Africa and Asia, and an adjustment in our eating habits.

As Anthony Lewis pointed out a few days ago in an editorial in the New York Times, per capita U.S. beef consumption has increased from 50 pounds in 1950 to 119 pounds in 1973.

Feeding corn to cattle in feed lots, you end up putting on the table in steaks and stews only 5 percent of the calories that were in the corn. An American now uses 2,200 pounds of grain per year to feed himself, a Chinese 400. But of the American figure only 140 pounds are eaten directly as grain in bread or other cereal products. Of the Chinese 400, 360 are eaten as grain.

It is these fundamental choices that we must explore in developing a world food policy and examining our export policy. We shall consider these issues in hearings on S. 2411 and other legislation to be held under Senator STEVENSON's chairmanship at the end of this week. As a important guide to the consideration of these issues, I commend to my colleagues a section on the next harvest that appeared in the Economist (London) on April 20, 1974. Mr. President, I ask unanimous consent that the articles from the Economist (London) be printed in the RECORD.

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

[From the Economist, Apr. 20, 1974]

THE NEXT HARVEST

THE PLOUGH, HARROW AND HARVESTER HOLD THE KEY TO THIS YEAR'S INFLATION

Across the northern hemisphere farmers are now sowing the crop that, by this summer, should be ripening into the largest harvest ever reaped. It will need to be. The world's food supply has never before been so perilous. Two years ago our granaries were bulging with surplus grain. Today they are touching bottom. The turnaround has been sudden. It started with the failure of the Russian crop in 1972 and of the Indian monsoon later that year. It was aggravated by a sudden reversal in America's farm policy. Not even a record crop last year stopped prices from soaring, or grain from running out of the world's reserves. By the end of this season in June, world wheat stocks will stand at one-third the level of four years ago, and today there are 300m more mouths to feed.

This season's crop, therefore, is the most important in modern times. If it fails to yield a bumper harvest it will not only make famine a near certainty in areas of the Indian subcontinent; but it will dash the hopes of politicians in the west of bringing inflation under control. It is the unprecedented tripling of wheat prices, and the doubling of soybean, animal feed and beef prices over the past two years, more than any other factor, has stoked up world inflation.

All eyes should be on Chicago's commodity markets. A sudden fall in prices there will have a far greater effect on food prices than any politicians' wranglings. Fortunately early guesses are that this year's farm output should be well up on 1973. In anticipation, some prices have already begun to edge down and wheat has fallen 35 per cent from its recent peak in the last six weeks. But there is so much lost ground to be made up that it would be optimistic to forecast prices falling back to even double the levels of early 1972. If prices do retreat any further farmers will merely put their harvest in store rather than plump it on to the market. So prices will remain high and until the world's granaries are topped up again every harvest will be a close-run thing.

It is an unhappy situation. The empty storage bins in Kansas have affected almost every economic indicator in the industrialised world. Americans themselves are now paying 30 per cent more for their food than

in 1972. In Japan the food index has climbed 11 per cent in the last three months leaving all other retail prices behind. Britain's food bill has jumped also, adding an extra and quite unprecedented £700m a year to its balance of payments deficit just to import the same quantity of food. The greatest surprise of all is that the European common market, once isolated from the world grain trade by its exceptionally high farm prices, is now a source of relatively cheap food. These are turnarounds that not a single pundit foresaw as little as two years ago.

The rules are now quite changed. Throughout the 1960s harvests were largely routine affairs, attracting little political or economic notice. There was ample grain in the world and prices were low and stable. When there were shortages, as in India, the main exporting countries were happy to make vast shipments at concessionary prices. Those days are gone. If the underdeveloped world needs grain now, it must pay for it in competition with British or Japanese demand. There are no longer enough stocks to bale out countries by charity. Aware of the extraordinary political danger of this new situation, Mr. Henry Kissinger, the American Secretary of State, has called for a world food conference of the United Nations this November. By that time the harvest will be in and we will know the worst. What are the prospects?

THE HARVEST—IT CAN'T BE TOO GOOD

Everything depends on the great plains of North America which provides 60 per cent of the world's trade in wheat and most of its animal feed. Encouraged by the promise of high prices America's farmers are rushing to plant 6 per cent more land than last year. A total of 340m acres could be under the plough in the United States, the highest for 18 years. By October 76m tons of wheat may have been harvested in America and Canada, 40m tons of which will be available either for export or stock-piling. Even a crop of this size, however, is unlikely to bring prices down. Anything below these expectations could trigger off new price increases.

The important animal feed grain crop is also expected to be good. American production should be up 15 per cent this year to about 213m tons, and the world crop of coarse grains should exceed 680m tons. If this brings animal feed prices down it will be welcomed by livestock farmers who have been squeezed by increased costs. But the output of soybeans, one of the major protein sources for animal feed, will fall this year, after 1973's record jump of 25 per cent. Plantings in the United States will be 5 per cent less. The soybean price at $6 a bushel is still extremely high, although at one time the price hit $11. American farmers are clearly not reckoning on any further drop and, waiting for better prices, have hung on to 6.6m tons of stocks from last year. Production this year could touch 42m tons, one-third of which would be exported, earning America $3.5 billion at present prices. So soybeans will remain the country's largest single foreign currency earner.

The American monopoly of the soybean is not likely to last out the decade. At present the soybean, which is very sensitive to the length of daylight, can only be grown in a relatively narrow band of land that runs across the United States. But new genetic variations are being bred that will allow the bean to grow farther to the north in Canada and Europe and southern climates like Australia. Brazil is already expending its crop rapidly.

SPECULATION—CHICAGO'S TRICKS

America will always fix the world prices of most food. International investment money has poured into Chicago's commodity markets. Business has multiplied with fashion, and turnover in the farm futures is now running at $200 billion a year—considerably more than on the world's combined stock markets. To label this money speculative is meaningless. To believe that it can only force prices up and never down is naive. What has happened is that the big international grain trading companies, caught out by the sudden drop in world stocks and fluctuating exchange rates, have now begun to cover their requirements increasingly far forward. To guarantee supplies they are taking long term, and therefore speculative, positions. This has led to a substantial shift of private stocks to the international trading companies which understandably believe that grain is a safer home for their spare cash than the vagaries of the currency markets. These companies will continue to snap up supplies if they fear that by the spring of 1975 world stocks will again be touching bottom. For the world has got itself into a situation now where not merely this year's crop but the one in 1975 as well cannot afford to be anything less than a record breaker.

Chicago's prices are likely to stay far more volatile than they were throughout the 1960s when grain prices shifted only a few cents a month. Farmers as well as financiers have begun playing the swings and roundabouts now that prices are unsettled; that means when the next downturn in prices does come, perhaps early next year if harvests go well, it will be as sharp as the rise since 1972.

AMERICA—A CHANGE OF POLICY

Under President Nixon and his Secretray of State for Agriculture, Mr. Earl Butz, American farm policy has quietly been reversed in the last two years. Traditionally the great silos of the middle west, the Kansas cathedrals as they are called, were regarded as the storage bins for the world. Huge stocks of wheat and corn were piled up at the expense of Uncle Sam, and with these surpluses hanging over the market prices were kept low. The Department of Agriculture would also pay farmers handsomely for keeping as much as 60m acres lying fallow. These two schemes cost $4 billion a year.

The world was happy with this policy but not the American taxpayer. Today the federal government has got out of the grain business altogether. There are no more expensive stocks to be financed and the surge in world prices that has directly resulted has pushed American farm exports up to $18 billion a year. This is $9 billion more than in 1972 and this sum accounts by itself for the entire dramatic turn-around in America's balance of payments. America's farmers grew over $90 billion of produce last year and are costing the taxpayers only one-eighth the subsidies in 1972.

So far so good. But Mr. Butz's policy is already running into trouble. American domestic prices have risen as sharply as export prices and the public, accustomed to years of cheap food, is angry. American grocery prices went up 14 per cent last year, a rise that will probably be matched in 1974. If food prices are to fall for the American housewife they must fall on the world market first, and that means a proportionate decline in America's export earnings, and a return to the old policy of storing the world's grain.

So much grain has been exported from the United States that by the end of this season America may very well be having to import from Canada for the first time. This spring it was almost forced to restrict exports of wheat as its own stocks dwindled to a tiny 4m tons. The danger of Mr. Butz's policy is that America's major trading partners are unlikely to rely for their food supplies on a country that does not have ample stocks and therefore becomes an unreliable supplier. Japan, for example, buys from the United States the food it needs to keep its society going. Yet, last summer, President Nixon banned all exports of soybeans to Japan because domestic stocks were running low. So Japan has already turned to Brazil as an alternative source. Also Mr. Butz's policy has played right into the hands of the common market. Britain, which ranks with Japan as the world's largest food importer, now has a greater guarantee of supply at cheaper prices within the EEC than with its traditional trading partners.

RUSSIA—THE HUNGRY BEAR

Russia is the great unknown in the grain trade. It was the failure of its harvest in 1972 that triggered off the hectic price increases. Within a season Russia changed from a food exporter to a net importer, swallowing its pride and taking 30m tons of grain from the Americans. That $1.2 billion deal, negotiated directly between President Nixon and Mr. Brezhnev, brought, more than anything else, better relations between the superpowers. America, in effect, bailed Russia out of a political crisis. But the deal was bungled. Russia got the grain excessively cheaply while the American public and America's traditional trading partners had to pick up the tab.

Within a year the Russian harvest had completely turned around with a massive crop of 222m tons of grain, 32 per cent up on the previous season. Though this was heralded as a victory for collective farming, it was nothing of the sort. Much of the grain was of low protein quality and there was nowhere to put it since the best granaries were already chock-full with American wheat. Russia has since delayed further shipments from the United States (to the relief of the Department of Agriculture) but grain is still being stored, in Mr. Brezhnev's picturesque phrase, "under the Russian skies". About 15m tons are thought to have been ruined, and although Russia lent 2m tons of its surplus to India, there has been massive wastage. This year's crop will be much more modest and sensible: an estimated 205m tons which should be enough to keep Russia away from the world markets for another year.

Despite ambitious new plans to open up more than 100m new acres in Siberia, Russia's agriculture will remain an unpredictable mess for many years to come. Large areas are subject to five-yearly cycles of frost and drought. This will not change even if, miraculously, Russian farming becomes more efficient. So Russia, which is able to store only minimal stocks, will be dipping into the reserves of the west again in future. Only next time the Americans will not be out-smarted and will present the Kremlin with the same bill as their other trading partners pay. Russia has also agreed to provide the United States with detailed advance reports of how well its harvest is going.

Another unknown is China. The most boasted success of Chairman Mao's revolution has been to make almost every commune in the country self-sufficient in food. China has accumulated central stocks of about 40m tons of grain, but at least as much again is held in local storage around the country, forming an ample buffer against sudden bad harvests. Nonetheless China has been a regular, if unobtrusive, buyer of between 3m and 5m tons of wheat a year, mostly from Canada and Australia. Internal transport difficulties make it much easier to import food at one end of the country and export it from the other than to move grain and rice between north and south. Strong national campaigns that every Chinese should "eat a mouthful less a meal" do not imply that there is any surplus production, particularly since the green revolution varieties of rice have not been widely introduced.

INDIA—DRY MONSOONS

In direct contrast to China's policy, India's brand of socialism imposed central control over food distribution. Food wholesalers in India have been nationalised and interstate grain trade was illegal until last month.

Farmers have hoarded as a result, unwilling to sell to the state, and there have already been food riots this year when official channels of distribution broke down.

Sadly, things are certain to get worse. Since 1970, when India produced 108m tons of grain, its harvests have been failures. Only 95m tons were grown in 1972, and this year's crop is not expected to be more than 106m tons. The country will be short of about 1m tons of fertiliser this season, which must mean a drop in grain yields of about 8m tons. Worse, the wheat harvest now being gathered is badly diseased with wheat rust. A 48m ton crop had been hoped for; but no more than 40m now looks likely. Unless there is an exceptionally good monsoon the Indian subcontinent is likely to need to buy 10m tons of grain on the world market. At present prices that could cost over £500m—a sum it is unable to meet.

The Indian subcontinent's possible imports of 10m tons of grain this year would be nearly twice the amount imported to the whole continent of Africa. And although the green revolution took its most effective roots in south-east Asia, the great advances in the late 1960s, which made India self-sufficient for a brief two years, are not being repeated. All the original green revolution progress was made on the best farms, which had full irrigation and could afford fertilisers. Most of this good farmland is now converted to the new varieties, while few of the poorer peasant farms have been developed with even the simplest irrigation.

World prices in Chicago are directly linked to the monsoon that sweeps across India and south-east Asia every summer. That monsoon which ripens 90 per cent of the world's rice crop did not come in 1972 and the world price of rice, which had fallen to $80 a ton, flew up to $600 a ton a year later, beating any rise registered on Chicago's trading boards. So, just as the west was emptying its granaries of wheat, the east was also gobbling up its stores of rice. Despite an excellent harvest four months ago the price of rice has not come down. Stocks in Burma and Thailand ran out at the end of last season. And last year's crop of 320m tons, while well up on the disastrous 293m tons in 1972, is only 3 per cent up on 1971; for south-east Asia's production to keep pace with the rise in population and increased demand it should have been 7 per cent higher. The extreme volatility of the international rice market stems largely from its minuteness. Out of that 320m tons of paddy rice cropped in 1973, only 10m tons will go on to the world market. A shortfall in the total crop therefore can wipe out the margin usually available for world trade.

FERTILISERS—SPREADING IT THIN

The record acreages now being planted mean nothing unless they are matched by record yields—and that requires good weather and ample supplies of fertiliser. The true pessimist will point out that this is the year that the 20-year drought cycle is due to hit America's midwest, but the more serious problem is the acute shortage of fertilisers. The bulk of nitrogen-based fertiliser comes from natural gas, and prices have been raised along with oil. A fertiliser like urea, which was selling at $40 a ton in 1971, today fetches $260 on the world market—when it is available. Morocco, the world's major phosphate exporter, quietly tripled its prices earlier this year to $42 a ton and is considering another increase in July.

Those farmers who have been able to afford these new prices are, paradoxically, exactly those who need it least. This year American farmers will be spending an extra $4 billion on fertilisers, 40 per cent more than in 1973. They will be buying up more supplies that could be far more profitably used in the developing world. A ton of fertiliser on a virgin field can put up wheat yields by about 10 tons. But the more fertiliser is applied, the smaller the extra crop. This law of diminishing returns means that the world food supply will be restricted this year as the rich plains of America and Europe are over-fertilised at the expense of the developing world.

The fertiliser shortage has put a firm lid on the green revolution. The new high-yielding varieties of wheat used in Latin America and India and the miracle rice cultivated throughout south-east Asia depend purely on fertilisers for their effectiveness. Without fertilisers yields are minute. The shortage, therefore, will hit particularly hard those countries that are most reliant on marginal supplies.

WORLD FOOD CONFERENCE—AN UGLY EQUATION

More people now die each year of overweight than famine. And there can be no doubt of the world's ability to feed itself: 55 percent of the developing world's arable land is not even under cultivation, and that which is still produces extremely low crop yields. An even safer guarantee is that a man can survive healthily on 500 lb of wheat or grain eaten a year: hundreds of millions do. And yet one-third of the world's population uses two-thirds of its grain, feeding most of it to livestock. The average American eats less grain directly than the Indian or the Mexican and yet he needs to grow a ton of grain to feed the animals to provide him with meat—and, at times, heart attacks.

This year or next there is likely to be a widespread famine in some areas of the world for the first time. Some countries will pay more money for the grain to keep their livestock alive than others will be able to afford for their starving populations. In contrast to the 1960's, there will not be the reserves available to rescue the poor without hurting the livestock of the rich. It is an ugly equation. The United Nations food conference in Rome, called by Mr. Henry Kissinger, will try to find an answer. The United Nations has discredited itself in the past by crying wolf too often, forever forecasting famine. Except for the drought now devastating the southern Sahara for the third successive year, there has been little sustained famine in the world in the last 20 years, except that caused by war.

If things go well, the task of the United Nations will be to prevent world reserves of grain running so dangerously low again. Any grandiose scheme for an expensive international grain reserve is certain to fail. But the Food and Agriculture Organisation in Rome has a suitably modest plan by which each exporting nation would undertake to hold its own stocks to a minimum level. An international tag would be kept on these stocks and at least the world would be guaranteed a certain level of emergency supplies that would tide it over more than one failed harvest or monsoon. And the United States would not again find its granaries almost empty by the end of a season, trusting the weather and a good crop to rescue the world.

NATIONAL HOLIDAY OF SIERRA LEONE CELEBRATED

Mr. HARTKE. Mr. President, on April 19, Sierra Leone celebrated its national holiday. The Republic of Sierra Leone become independent on April 27, 1961, but it celebrates the date on which it proclaimed republic status, April 19, 1971, as its national holiday.

Sierra Leone has an estimated population of 2.6 million in a land area of 27,925 miles. The republic lies within the well-known tropical rain forest and experiences about 125 inches of rain per year.

In 1460, the Portuguese explorer, Pedro de Cinta, gave the Sierra Leonean territory its name which means Lion Mountain. The first Englishman to arrive was John Hawkins. Sir Francis Drake visited the country in 1580.

In 1787, a number of freed slaves from England and America arrived in the area of what is now the capital, Freetown, and in 1791, another group arrived under the auspices of Sierra Leone Co., which eventually became the governing body of the settlement. Slave trade was abolished in the colony in 1807 by an act of Parliament.

The United States' relationship with Sierra Leone began with American missionary activity during the 19th century. In 1959, the United States opened a consulate at Freetown. Today, we are represented with a full diplomatic mission on the embassy level.

With an estimated gross domestic product of $427 million—1971—and the export of its mineral wealth—diamonds, iron ore and bauxite, Sierra Leone's economy is rapidly expanding. Tourism is becoming a major factor in the economic development of the area as people flock to the beautiful 210-mile coastline with water temperature hovering at 72 degrees fahrenheit.

It is in the spirit of friendship that has lasted so long that I extend to the government and the people of Sierra Leone the best wishes of the American people on the occasion of their republic day.

SPEECH BY SENATOR JESSE HELMS OF NORTH CAROLINA—NATIONAL DEFENSE NIGHT

Mr. THURMOND. Mr. President, the distinguished Senator from North Carolina, Mr. HELMS, gave an inspiring and hard-hitting speech in an appearance on April 16 before the Daughters of the American Revolution at Constitution Hall here in Washington.

This speech typifies Senator HELMS' performance in the Senate. He is frank, honest, and speaks from the heart. He is the kind of representative who does not rationalize his views but takes a firm stand. His performance here in the Senate is like a breath of spring, a renewing of values.

Senator HELMS was introduced in a beautiful manner by Mrs. Henry Stewart Jones, chairman of the national defense committee at that time, now president general of the DAR.

Senator HELMS' address to the DAR was the finest I have heard delivered to this organization during the 20 years I have served in the Senate.

Mr. President, I ask unanimous consent that Senator HELMS' remarks be printed in the RECORD.

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

NATIONAL DEFENSE NIGHT

(By the Honorable Jesse Helms)

Madam President, gracious and dedicated members of the Daughters of the American Revolution, distinguished guests, ladies and gentlemen.

I come tonight as one who is immensely grateful to the D-A-R for your unyielding allegiance to the principles which give substance to mankind's yearning for liberty. To me, the D-A-R has always symbolized the

hope of our nation. Your good citizenship is the very fabric of the miracle of America, and I am honored to be with you on this splendid occasion. You make me proud to live in America.

An honest confession being good for the soul, I confess that I am tonight traveling on Mrs. Helms' credentials—and those of my two daughters, all three of whom have been active and enthusiastic in the work of the Daughters of the American Revolution.

So you honor me with your invitation to be here this evening—and with such an elegant introduction, which I shall be the first to acknowledge that I do not deserve.

Such credentials as I may have come to me from my relationship with the ladies of my house.

Somehow, I am reminded of the elderly gentleman in one of the cities of my state who was presented the annual Citizenship Award by his fellow townsmen a couple of years ago.

The old gentleman just happened to be the wealthiest man in town. He owned a thriving business, plus about one-third of the stock in the local bank—and so on.

So when the award was presented, he was asked to say a few words.

Very softly he began: "It was 48 years ago that I came walking into this town, wearing the only pair of shoes to my name, and with my entire wardrobe on my back. All of my possessions—everything that I owned in this world—were tied on the end of a stick in a red bandanna."

He paused, wiped a tear from his eye, and added: "You folks immediately made me a part of your community—and just look: Tonight you have presented me with this honor."

Just as he was sitting down, a little boy walked over to him and whispered: "Mister, what was in that bandanna?"

The old gent whispered back: "Three hundred thousand dollars in cash, and 700 thousand negotiable securities."

Now that's what you call communicating.

Mrs. Helms, by the way, asked to be remembered to you. She is in Raleigh, with an older daughter, who is to make me a grandfather for the second time, any moment now. Mrs. Helms wanted very much to come with me tonight—and I am always disappointed when she cannot. She's the best thing I've got going for me—or going with me.

During the past 30 years, I've turned to Dorothy on countless occasions for advice. She has a sound set of principles, and I've rarely found her to be in error when she really made up her mind about something.

Last August, we flew over to London where I was to make a speech. We drove out to Dulles Airport, and I was loaded down with our bags. My briefcase kept slipping from under my arm. So I asked Dorothy to carry the briefcase, and that would leave my hands and arms free for her and my suitcases.

That worked out nicely, I checked the bags, and we boarded the plane. We were about 30 minutes out over the Atlantic when I asked her to hand me my briefcase.

She informed me that she had given me the briefcase in the airport lobby, after I had checked our bags.

I didn't remember her doing so, but I knew she must have done so—because her memory was so clear about it. I realized that I must have left it lying somewhere in the airport lobby.

I asked the stewardess to have the captain send a message back to Dulles to check on my briefcase, and to send it to London on the next flight.

Sure enough, they found my briefcase—just where I'd left it: In the lady's restroom.

I welcome you to Washington. It's nice for the American people to come here—to visit their money.

This is a city populated by politicians who no longer speak from their hearts—but to the press gallery. And, where I work, I see daily reminders of what it must have been like just before Rome fell. If some of my distinguished colleagues would just start wearing togas, the scene would be complete.

What matters in this town is whether you get your name in The Washington Post and The New York Times tomorrow morning. What happens to the next generation is not relevant. Nothing matters except the next election.

It is getting so that you can't keep up with what we are beating our breasts about unless you read the papers. The papers and the TV have it all figured out. The prevailing attitude here is that all will go well with this country if we just incorporate the editorial pages of The Washington Post and The New York Times as ad hoc amendments to the Constitution, and set up the pundits of ABC, CBS, and NBC as justices of the Supreme Court.

They tell us that the politicians who are elected by the people are controlled by special interests. Meanwhile, only the news media—to hear the news media tell it—are pure as the driven snow, able to rise above the petty pursuit of privilege, and pursue the truth.

Not long ago the President of one of the television networks sent me a grandly printed, multi-color brochure printed on papers as heavy as cardboard to emphasize the lasting importance of the wisdom enshrined therein. It was, of course, one of his own speeches. In that speech he declared that only the news media could scale the chaste heights of objectivity because, and I quote, "the media belong to all the people." I worte him back a note saying that I was delighted to learn that the media belongs to all the people because I was a people but that he had overlooked sending me my dividend check.

But what is a special interest? It is obviously an interest that the liberal news media don't approve of. I know as a positive fact that some politicians do have such special interests.

In my own case, my special interest is the 800,000 people who elected me a United States Senator over the opposition of every major metropolitan daily in my State.

This is a city obsessed with Watergate. All that matters is Watergate—or, to put it more accurately, all that matters is the power struggle that has grown out of the welter of charges, exaggerations, innuendo, hearsay evidence.

Staggering Federal deficits are no concern to the Congress. The hovering clouds of Government controls are of little moment. The subject of our declining national defense capability is pushed aside to make room for the latest Jack Anderson quotation from an unidentified source. The Panama Canal giveaway is strictly second-rate when compared to the news of what Henry Kissinger's bride ate for breakfast this morning.

As for Watergate, like you, I look at it—and I see what you see: Stupidity, duplicity, meanness. Like you, I see illegal conduct not vastly different from 1969, and 1964, and 1960. There has been perjury, and even some corruption of Power.

But the major news media to the contrary, I find it difficult to see that these reprehensible activities constitute a really major threat to the political freedoms of this Nation, or to the constitutional institutions. Without diminishing the seriousness of the crimes alleged and proved in individual cases, a true perspective would find that they are of lesser importance when balanced against the constitutional upheaval that the major news media are so zealously promoting.

For, mind you, impeachment and convictions would be a major constitutional upheaval. It is is true that impeachment is provided for in the Constitution; but the wisdom of invoking it is left to the House. It would amount to a de facto ministerial form of Government subject to the whims of public confidence. And unfortunately, that public confidence is too easily subject to the monopoly media—the networks, the wire services, the newspapers read by the decision-makers in this city. This monopoly of the major media serves the same function in today's naked power struggle as the manipulated mobs of the past brought pressure for the removal of kings.

I have contempt for the petty men who perpetrated those crimes. But I also see that the crimes of Watergate are a frail vehicle of continued exploitation by those with a political goal in mind.

This is not the first time that the press and the politicians have assailed a President. I was looking, not long ago, at some of the abuse that was heaped on George Washington. One newspaper of the period said that the President was "the scourge and misfortune of our country." Tom Paine, the journalist, wrote to Washington and said: "As to you, sir, treacherous in private friendship . . . . and a hypocrite in public life, the world will be puzzled to decide . . . whether you have abandoned good principles, or whether you ever had any." Benjamin Franklin's grandson, Benjamin Bache, was one of the noisiest anti-Washington pamphleteers of his day. When Washington left office, Bache wrote: "Every heart . . . ought to beat high in exultation, that the name of Washington ceases from this day to give a currency to political iniquity and to legalize corruption."

The attacks on Washington are now forgotten, but they serve to remind us that the objectivity of journalists is not always beyond reproach. Nor does the struggle for power that characterizes government in action provide an environment of disinterested motives. Let us look at the only instance in our history where impeachment was brought against a United States President.

The story begins not with Andrew Johnson, but with Abraham Lincoln. As everyone knows, Lincoln was advocating a policy of reconciliation with the South as the War drew to a close. But this policy did not suit the radicals who controlled Congress and the press. For it became obvious that the Radicals would lose their control if the Southern states were readmitted to the Union—and to Congress—on their previous basis. It particularly did not suit Edwin Stanton, who, as Secretary of War, was the most powerful of the Radicals and virtual dictator of Washington. There was talk of putting forward a new candidate when Lincoln's term was over.

But the Radicals could do nothing because Lincoln was the only one that had the confidence of the war-torn nation. He was renominated, reelected, and inaugurated for his second term on March 4, 1865. The war was drawing to its inexorable close. On March 27, Lincoln met with Grant and Sherman secretly, and gave them orders to conclude peace agreements based upon the pre-war situation. On April 2, Richmond fell.

On April 9, Lee parleyed with Grant upon the battlefield at Appomattox. Meanwhile, Lincoln visited Richmond, and returned to Washington on April 11 where he gave an address that evening outlining his plan of reconciliation. Stanton was outraged that Lincoln had ordered that the Virginia General Assembly should meet in Richmond for the purposes of supervising the withdrawal of Virginia troops. He countermanded the order until Lincoln returned, and talked the

President out of it. For a meeting of the Assembly under legitimate auspices was exactly the opposite of what Stanton had in mind. On April 14, Lincoln was felled by the hand of John Wilkes Booth.

Instead of the adulation of a dead President which one might expect after such a tragedy, the Radicals praised God for delivering the Nation from the fiendish plans of Lincoln. For they all felt that Vice President Andrew Johnson's expressed sentiments were exactly in accord with their own thinking.

The mystery of Lincoln's death was never solved. Although general orders were issued to take Booth alive, Booth, weak and crippled, was shot dead by some one in a special calvary unit sent directly by Secretary of War Stanton. The eight conspirators who were thought to have been in touch with Booth were given summary trial in an illegal military tribunal under Stanton's control. They were not allowed to testify in their own defense. Their lawyers were given no previous access to the charges or to the line of evidence to be presented. During the three months that the prisoners were held in Washington, they were compelled to wear black canvas hoods that completely covered their heads and shoulders, with one opening for food and another for air. When the trial began, heavy padding was added over the ears so that no sound could penetrate.

All were adjudged guilty. Four were hanged with unseemly haste days after the trial ended; the other four were sent to rot in a military prison on a tropical island off the coast of Florida. Thus great precautions were taken by Stanton at every step to ensure that any guilty secrets the prisoners may have had would never escape to public notice.

The kind intentions of Secretary Stanton in arranging such a trial are necessary clues to the character of the man who precipitated the impeachment of President Johnson. Although everyone was universally convinced before Lincoln's death that Johnson was a believer in the radical platform, the responsibilities of the Presidential office gradually brought about a striking change. Perhaps the fact that Johnson was born in my home town of Raleigh, North Carolina, before he moved to Tennessee, had some subliminal effect upon him. From being an advocate of reconstruction, he moved to being a proponent of reconciliation whatever the political result.

The radicals' plan was to dissolve the State lines in the South, disenfranchise the ex-Confederates, and enfranchise the ex-slaves. Such a plan would give them the votes to keep them in power indefinitely; without it, they were completely destroyed. The package included two statutes passed at the same time: The Reconstruction Act and the Tenure of Office Act. The first put great powers into the hands of the Secretary of War; the second forbade the President from dismissing any official whose nomination had received the advice and consent of the Senate. It was acknowledged at the time that this law was passed primarily to protect Stanton's position. Both were passed over the President's veto.

The inevitable showdown came at a Cabinet meeting to discuss executive actions to mitigate the severity of the Reconstruction Act. Stanton stood alone in opposition. Johnson dismissed him, and the radicals in Congress brought impeachment. The articles of impeachment began with his dismissal of Stanton and ended with general allusions to high misdemeanors such as speaking disrespectfully of Congress. It was the power play direct, and it lost by one vote.

The fact that the only instance of Presidential impeachment in our history is so besotted wtih the basest kind of vindicative power politics should give us pause when the procedure for getting rid of a President is once more hauled forth. The Constitutional criteria for impeachment are so general that the have engendered enormous debate. I myself think that they should be restricted to those situations where the motives of the participants are clearly disassociated from political rivalries. Because the continuity of the institution of the Presidency is at stake, I want to be certain that the charges are based on precise evidence of evil actions that clearly prevent the President from properly fulfilling his oath of office. Finally, I insist that the bill of particulars detail precise situations without the coloration of hearsay evidence and innuendo. Even if a President has done something which is incompatible with his office, only the gravest of such offenses would justify a massive dislocation of our political system.

Moreover, we must not forget that while the Constitution is the heart of our political system, it is nevertheless the barest sketch of what actually exists. Political parties, of course, are the most obvious addition. The complexities of State laws and customs are others. Historical patterns, ethnic responses, philosophical coalitions are all elements that are real, but not marked in the Constitution. If we allow to the interlocking major news media monopoly the power to drive a President into retirement, as they did with Lyndon Johnson, or to choose whom to impeach, or whose character to assassinate then we will have let loose in our land a tyrannical power that cannot help but oppress the people.

It goes without saying that everyone has the right to criticize the President and his Administration. I have exercised that right myself, frequently.

I am gravely concerned when the President personally negotiates a strategic arms limitation treaty that locks us into a position of quantitative inferiority with the Soviet Union.

I am not surprised that the Soviet Union, since then, has made amazing qualitative leaps in missile production, bringing them almost abreast of our technological superiority. There should be no concessions in SALT II until the Soviets agree to verifiable equality in the throw-weight of central strategic systems. This means not just equality in numbers of missiles, but equality in the tonnage of nuclear warheads carried by the missiles.

I am also gravely concerned when the President proposes to give the Soviet Union most-favored-nation tariff treatment and subsidized credits on trade. This means giving the Soviet Union the same preferential rate of duty that we give to free enterprise nations. But the whole purpose of most-favored-nation tariff treatment is to eliminate government interference with the free market. It is ridiculous to give these advantages to a Communist country where there is no free market to trade in, where the government sets the price of raw materials and products, and prohibits foreign companies from having their own sales opreations.

And it is doubly ridiculous to give Eximbank credits—subsidized by the U.S. taxpayer—to develop Communist industry.

And I am even more deeply concerned when these developing ties with the Soviet Union are making deals at the expense of those suffering oppression inside. It is simply not right to make business deals—which are really political deals—without demanding concessions in the totalitarian system. We should listen to the words of the exiled writer, Alexander Solzhenitsyn, and work for freedom first.

As some of you may know, I am the sponsor of a resolution in the Senate to make Solzhenitsyn an honorary citizen of the United States. About two weeks ago, Solzhenitsyn wrote to me in our continuing correspondence, and explained the program he had presented to the Soviet Union. He said: "This program proposed that my country refrain unilaterally from any external conquests, from violence against any neighboring states, from any worldwide claims, from any world contention, and in particular from the arms race—a proposal which I made on such a scale that it surpasses anything that is today hoped for in terms of a moderate, mutual reduction of tensions.

Ladies and Gentlemen, Solzhenitsyn is a remarkable individual. With only the power of the Pen he has forced the Soviets to do what the United States would not do—and that is to get some relief for the dissenters and the oppressed. He has been in the forefront criticizing the harassment of Jews and the Soviet controls on freedom of emigration. He is a great Christian who is the forefront of a religious revival sweeping through the orthodox churches of the East, calling for a return to the Christian foundations of Russia and throwing off the ideology of Communism. Now he comes forth and calls upon the Communists to give up their thirst for world domination. I am disappointed when our President fails to support Solzhenitsyn's cause.

I am shocked when the President proposes to give away the Panama Canal. A couple of months ago, Secretary Kissinger signed a Joint Declaration of Principles with Panama agreeing to negotiate a treaty to surrender our sovereignty over the Canal Zone and transfer jurisdiction to Panama. Just signing that agreement of principles was in itself a rash abdication of our position. The Canal Zone is United States Territory. We bought it in fee simple and paid for all the private titles. By treaty we were granted sovereignty to the complete exclusion of the exercise of sovereignty by Panama. Congress is the legislature for the Canal Zone. Domestic legislation applies in the Canal Zone. A Federal District Court sits there. But above and beyond that, the Panama Canal is the unique expression of the American genius. We did it where everyone else failed, by bringing together the financial, diplomatic, engineering, medical, and organizational skills as no one else could, and we have kept it running ever since.

And I have news for Dr. Kissinger and the Panamanians: We aren't going to give it over. A few days ago, 35 Senators joined in signing a resolution demanding our continued sovereignty over the Canal.

It was proposed by two of the most distinguished and powerful Senators in the Senate, Senator John McClellan of Arkansas and Senator Strom Thurmond of South Carolina. I have the humble honor of being one of the junior Senators on a list that included the Chairman and ranking minority members of most of the important committees of the Senate.

But this is the way to oppose policies that one believes to be injudicious or harmful. It is our political system in action. It doesn't always work, but it works more often than any other system that the world has devised. There is no need to resort to outrageous distortions and perversions of basic Constitutional relationships between the branches of government in the struggle for power. All we need to do is to keep our heads, renew our faith in our Creator, and rededicate our nation to the proposition that liberty will *not* be trampled under the heels of tyrants.

I am proud to live in America. Dark clouds have indeed passed over our history; but our power, our strength, our dynamic will to survive and develop ourselves has always led us further on. What is important once more is that we prevent elements alien to our political traditions from assuming roles which fortunately they were always before denied in the end. We have a triumphant history, full of generosity, providing the fullest opportunity for the free enterprise of our

citizens. I will not apologize for a system that has brought so many, so far.

To the contrary, like the DAR has done throughout the years, I can lift my head and proudly declare: This is my country.

The hope of mankind, ladies and gentlemen, resides where it always has—in the simple, trusting faith of our fathers. For so long as we abandon it, or relegate it to second place in our national life, our problems will continue to fester and compound.

So the hope of America lies in a spiritual rebirth among our people. The only way out of a rut is up! We can teach our children and grandchildren that this Nation grew great because it was born in an atmosphere of faith—that the very beginning of this Nation is tied inseparably to a Creator who destined that we be different, and greater, and stronger.

We need to remind ourselves of that great truth, that a God who lets no sparrow fall without his notice was highly unlikely to have been an idle spectator when a great nation was born in his name.

So, how we train our children—the kind of example we set—does matter. In the long run, it may be almost all that matters.

SENATE OFFICE BUILDING PLANS TO BE REVIEWED AT HEARING

Mr. RANDOLPH. Mr. President, 2 years ago the Senate adopted legislation authorizing construction of an addition to the Dirksen Office Building. In that measure, the Committee on Public Works and the Senate Office Building Commission were given the responsibility to approve plans for the new structure.

The first preliminary plans for the addition to the Dirksen Building have been submitted to the committee for its consideration. It is our desire to provide the much needed working space for the Senate in a setting that is compatible with the traditions of the Senate and is an example of the high quality of American planning and design. The committee has decided, therefore, to conduct a public hearing on the preliminary plans so that they may be subjected to extensive examination.

Mr. President, I ask unanimous consent that the text of the press release announcing the hearing be printed in the RECORD.

There being no objection, the text of the press release was ordered to be printed in the RECORD, as follows:

WASHINGTON.—Preliminary plans for an addition to the Dirksen Senate Office Building will be reviewed at a hearing in late May, Senator Jennings Randolph, chairman of the Senate Public Works Committee, announced today.

Architects and others with experience in building design and urban planning will be invited to discuss recommendations for the exterior design of the building prepared under the direction of Architect of the Capitol George M. White.

Members of the Committee decided to seek outside comments after reviewing the exterior plans with White.

Legislation authorizing completion of the Dirksen Building, which was begun in 1955, requires the Public Works Committee and Senate Office Building Commission to approve plans for the project.

"It is especially important that the City of Washington—and particularly Capitol Hill—be reflective of the best America has in planning, architecture and construction," Randolph said. "Poor design occurs in many buildings after it is too late for correction."

Randolph said the Committee does not want to restrict the creative freedom of those responsible for designing the addition to the Dirksen Building. "Our intention is to seek the viewpoints of others to help us avoid some of the mistakes of the past," he said.

Randolph said drawings of the proposed exterior of the building will be on display in the Committee hearing room (4200 Dirksen Building) prior to the May hearing. A definite date for the hearing will be determined soon.

ECONOMIC ANALYSIS

Mr. BROCK. Mr. President, the ability or power of the OPEC nations to operate with indifference to market forces appears to have been exaggerated. Unfortunately, when a particular group takes a position in defiance of basic economic forces, it is attended by great publicity; when this attempt fails, little notice is paid.

Mr. President, I ask unanimous consent to have an editorial from the April 4 Wall Street Journal printed in the RECORD.

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

ECONOMIC ANALYSIS

For the first time since the Arab-Israeli War, OPEC is coming hard up against the fact that the only way to maintain current prices is to curtail production. Whether it can hold together in the face of this necessity is very much open to doubt. Its members do not have, as commonly believed, identical interests in low production and an artificially maintained price. Their interests are in fact highly, and probably fatally, diverse.

Saudi Arabia, for example, has very little reason to keep a high price umbrella over world oil and thus to encourage development of other oil and energy sources. Oil, after all, is Arabia's only resource. Its oil production costs are among the world's lowest. It doesn't need vast sums for domestic economic development; it does need assurance of stable, long-term demand for its basic product. Perhaps most important, it needs the long-term health and good will of the United States to help protect it against Russia, China and other sources of leftist subversion on the one hand or the ambitions of Iran on the other.

"Iran, the next most significant OPEC member, has a different set of interests. It has launched costly economic and social development programs—not to mention investment in sophisticated and expensive weaponry. It needs ever greater foreign exchange earnings. Its oil production costs will no doubt be rising as it comes to depend more heavily upon secondary oil recovery. It is less concerned about long-term oil market conditions because it envisions itself as becoming an industrial nation, the sooner the better. It wants high prices for oil, now.

"And that is meaningful. Oil experts estimate that the high OPEC price has sufficiently dampened world demand, particularly from underdeveloped nations, so that world supply and demand again are back into a rough balance. At the rate Saudi Arabia is increasing production there may soon be a supply overhang against the world market of some 2 million barrels a day.

"Such an overhang could not exist very long before market prices based on the $11.65 a barrel OPEC posted price begin to crumble. Other OPEC nations are probably closer to Iran's position than Saudi Arabia's, but few of them are likely to look kindly on suggestions that they cut production to offset the Saudi increase. Some have been threatening such irrationalities, but how many will cut their production to keep prices high for the fellow who takes over their former markets?

"In other words, barring some new world convulsion, there is a good chance the Saudis will get their way and that the price of oil soon will be slipping downward. One high-placed expert thinks it may bottom out at about $6 to $7 a barrel, which would be a price most nations, except the very poor, could live with. Even Iran, which has been bartering future oil production for capital goods like mad (and at nominal prices not far from that floor), wouldn't be hurt badly by such an event. The U.S. still would have price leeway to develop new energy sources but the pressure will be less. The great world capital dislocations so many have feared will be less pronounced.

". . . the real foolishness may have been in thinking that [the oil cartel] could conduct an outrageous assault on a vital world market without springing a leak under the inexorable pressures of economics."

WORLD POPULATION AND FOOD SUPPLIES

Mr. HARTKE. Mr. President, there are no more important subjects before us than the two issues of world population and world food supply. Too many people are hungry and malnutritioned; too many are without decent housing and proper clothing; too many people are simply without hope.

Recently, the distinguished Ambassador of Iran to the United States, His Excellency Ardeshir Zahedi, addressed the United Nations on these vital matters.

Mr. President, I ask unanimous consent that his brief but eloquent remarks be printed in the RECORD.

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

APRIL 25, 1974.

COMMENTS BY HIS EXCELLENCY ARDESHIR ZAHEDI, THE AMBASSADOR OF IRAN TO THE UNITED STATES, AT THE UNITED NATIONS

Mr. Secretary-General, Excellencies, Distinguished Guests: It is a great pleasure to be with you this morning on this important occasion.

My country is pleased to join in the efforts to find solutions to two of the most important problems of our day.

As an indication of our concern, I have the high honor to read to you the following message which has been sent by my august sovereign, His Imperial Majesty, the Shahanshah Aryamehr:

"I have learned with pleasure of the Declaration on Food and Population signed by a group of distinguished people which will be submitted to the Secretary General of the United Nations Organization on the 25th of April, 1974.

It is my sincere hope that this declaration will create a sense of urgency and contribute to a greater awareness among nations of the grave problems facing mankind in view of the rapid population growth on the one hand and the precarious state of the world food production on the other.

Priority must be given by governments to implementing sound population control and environmental protection policies, to devising methods of increasing food production, especially that of grains, to encouraging increased cooperation between developing and developed countries in order to provide aid for population control and food production programs and to making provisions for sufficient food reserves to guard against famine.

I earnestly hope that the world population conference and the world food conference organized by the United Nations and to be held in August and November respectively will help to promote a concerted effort on behalf of all the nations of the globe to seek wise solutions to these crucial issues which will have a vital bearing on the future of mankind."

MEDIA ATTACKS ON PRESIDENT NIXON

Mr. THURMOND. Mr. President, while the Congress is trying to get at the issues on the impeachment matter, the press is continuing its efforts to convict the President before the American public.

This issue was well drawn by the distinguished Senator from Florida (Mr. GURNEY) in a statement made recently in Tallahassee, Fla. The Members of the Congress will find informative some comments on this point which appeared in a United Press International story entitled, "Senator Contends Media Has Turned U.S. Against Nixon." This article was published in the April 18, 1974 issue of the Sarasota Herald-Tribune.

Mr. President, I ask unanimous consent that the portions of this article which relate to points I have raised be published in the RECORD.

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

SENATOR CONTENDS MEDIA HAS TURNED UNITED STATES AGAINST NIXON

(By ED GURNEY)

TALLAHASSEE.—U.S. Sen. Edward J. Gurney, R-Fla., said Wednesday that the news media have turned the American public against President Nixon and pose a "dire danger" to the nation.

Gurney said the public image of all politicians has suffered because of media handling of the Watergate scandal and post-Watergate reporting of the President's campaign financing, income taxes and GOP setbacks in recent congressional races.

Gurney, a member of the Senate Watergate Committee, said that neither that panel nor the House Judiciary Committee, which is weighing an impeachment resolution against Nixon, has yet reached any concrete conclusions.

"Even after we finished those hearings, which lasted as you recall all summer long last year, the people of the United States were overwhelmingly against impeachment and they were overwhelmingly against the resignation of the President," said Gurney, speaking without a prepared text.

"But with no new evidence being presented, this propaganda has spilled all over the airwaves, and spilled out over the press, for week after week and month after month—until, now, you've got a majority of the people in the United States, even though the evidence has not been presented—even the House Judiciary Committee has not assembled the evidence yet and no single member has heard it—you've got a majority of people in the United States who already convicted the President in their minds.

"And why? Why? Only one reason, and that's the propaganda that's come out of the media," he said. "And I make my case, that it isn't good, it's bad for this country."

Gurney said that an anti-Nixon bias prevails at all levels of the news media.

"Until these people become reasonable, and sensible in the presentation of what's news and what's fact about what's going on in America, this whole governmental system of our country is in deep danger."

He added, "if you want to assess that as a menace, you can," and drew applause from the rotarians.

FINANCIAL DISCLOSURE BY SENATOR HASKELL

Mr. HASKELL. Mr. President, the events of the past year have certainly substantiated the already strong need for legislation which would require public officials to make full and complete disclosure of their financial situation.

As a cosponsor of disclosure legislation introduced by Senator CASE, S. 405, I would like to reiterate my view that a public office is indeed a public trust. If we are to work to keep—or perhaps more appropriately regain—that public trust we must take steps to make our own personal financial affairs open to public scrutiny.

As a matter of public record, I ask unanimous consent to have printed in the RECORD, a copy of my 1973 Federal income tax return.

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

U.S. INDIVIDUAL INCOME TAX RETURN

Floyd K. and Eileen N. Haskell, 2707 Williamette Lane, Littleton, Colo.

County of residence, Arapahoe, Colorado.

Occupation: U.S. Senator, Housewife.

Filing Status—check only one:

2 Married filing joint return (even if only one had income).

Exemptions: 6a Yourself, b Spouse.

7 Total exemptions claimed, 2.

INCOME

9 Wages, salaries, tips, and other employee compensation, $42,263.89.

10a Dividends, $23,748.46; 10b Less exclusion $200.00; Balance $23,548.46.

11 Interest income, $2,030.00.

12 Income other than wages, dividends, and interest (from line 38), $5,811.61.

13 Total (add lines, 9, 10c, 11, and 12), $73,653.96.

14 Adjustments to income (such as "sick pay," moving expenses, etc. from line 43), $6,272.65.

15 Subtract line 14 from line 13 (adjusted gross income, $67,381.31.

TAX, PAYMENTS AND CREDITS

16 Tax Rate Schedule, X, Y, or Z, $16,045.60.

18 Income tax (subtract line 17 from line 16) $16,045.60.

19 Other taxes (from line 61), $296.80.

20 Total (add lines 18 and 19), $16,342.40.

21a Total Federal income tax withheld (attach Forms W-2 or W-2P to front), $10,997.76.

b 1973 estimated tax payments (include amount allowed as credit from 1972 return), $6,940.00

22 Total (add lines 21a, b, c, and d), $17,937.76.

BALANCE DUE OR REFUND

24 If line 22 is larger than line 20, enter amount overpaid, $1,595.36.

26 Amount of line 24 to be credited on 1974 estimated tax, $1,595.36.

29 Net gain or (loss) from sale or exchange of capital assets (attach Schedule D), $4.90.

31 Pensions, annuities, rents, royalties, partnerships, estates or trusts, etc. (attach Shedule E), $4,039.95.

37 Other (state nature and source); See Exhibit 1 attached, $1,766.76.

38 Total (add lines 28, 29, 30, 31, 32, 33, 34, 35, 36, and 37). Enter here and on line 12, $5,811.61.

PART II ADJUSTMENTS TO INCOME

40 Moving expense (attach Form 3903), $3,002.80.

41 Employee business expense (attach Form 2106 or statement), $3.269.85.

43 Total adjustments (add lines 39, 40, 41, and 42). Enter here and on line 14, $6,272.65.

PART III TAX COMPUTATION

44 Adjusted gross income (from line 15), $67,381.31.

45 (a) If you itemize deductions, enter total from Schedule A, line 41 and attach Schedule A, $17,910.12.

46 Subtract line 45 from line 44, $49,471.19.

47 Multiply total number of exemptions claimed on line 7, by $750, $1,500.00.

48 Taxable income. Subtract line 47 from line 46, $47,971.19.

PART V OTHER TAXES

55 Self-employment tax (attach Schedule SE), $296.80.

61 Total (add lines 55, 56, 57, 58; 59, and 60). Enter here and on line 19, $296.80.

Name(s) as shown on Form 1040; Floyd K. & Eileen N. Haskell.

MEDICAL AND DENTAL EXPENSES

1 One half (but not more than $150) of insurance premiums for medical care, $150.

10 Total (add lines 1 and 9). Enter here and on line 35, $150.

TAXES

11 State and local income, $3,901.66.

12 Real estate, $2,616.02.

13 State and local gasoline (see gas tax tables), $30.

14 General sales (see sales tax tables), $350.66.

17 Total (add lines 11, 12, 13, 14, 15, and 16). Enter here and one line 36, $6,898.34.

INTEREST EXPENSE

18 Home mortgage, $3,679.40.

19 Other (itemize):

Vet. Admin. loan, $323.44.

Chem. Bank loan, $1,156.01.

Interest on tax deficiency, $1.82.

20 Total (add lines 18 and 19). Enter here and on line 37, $5,160.67.

CONTRIBUTIONS

21 a Cash contributions for which you have receipts, cancelled checks, etc., $1,113.50.

b Other cash contributions. List donees and amounts. See Exhibit 2 attached.

24 Total contributions (add lines 21a, b, 22, and 23). Enter here and on line 38, $1,113.50.

MISCELLANEOUS DEDUCTIONS

33 Other (itemize). See Exhibit 3 attached.

34 Total (add lines 30, 31, 32, and 33). Enter here and on line 40, $4,587.61.

SUMMARY OF ITEMIZED DEDUCTIONS

35 Total medical and dental—line 10, $150.

36 Total taxes—line 17, $6,898.34.

37 Total interest—line 20, $5,160.67.

38 Total contributions—line 24, $1,113.50.

40 Total miscellaneous—line 34, $4,587.61.

41 Total deductions (add lines 35, 36, 37, 38, 39, and 40). Enter here and on Form 1040, line 45, $17,910.12.

LONG-TERM CAPITAL GAINS AND LOSSES—ASSETS HELD MORE THAN 6 MONTHS

6.

(1) 800 Rights Pacific Gas & Electric, E, pre-1972, $50.00.

(2) Transferee liability paid in connection with J. J. Monaghan Co. shares of which had been owned by taxpayer, A, 1969, $40.20.

11. Net gain or (loss), combine lines 6 through 10, $9.80.

13. Net long-term gain or (loss), combine lines 11, 12(a) and 12(b), $9.80.

SUMMARY OF PARTS I AND II

14. Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here, $9.80.

15. If line 14 shows a gain—

(a) Enter 50% of line 13 or 50% of line 14, whichever is smaller (see Part VI for computation of alternative tax). Enter zero if there is a loss or no entry on line 13, $4.90.

(b) Subtract line 15(a) from line 14. Enter here and on line 29, Form 1040, $4.90.

RENT AND ROYALTY INCOME

(a) Kind and location of property if residential, also write "R."

Col. O. & G. Lease No. 0220.

(c) Total amount of royalties, $423.01.

(d) Depreciation (explain below) or depletion (attach computation), $93.06.

2. Net income or (loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e)), $329.95.

INCOME OR LOSSES FROM PARTNERSHIPS, ESTATES OR TRUSTS, SMALL BUSINESS CORPORATIONS

(a) Name and address:

Sucan Ltd., Partnership, (c) Employer identification number, [redacted], (d) Income or (loss), $155.

Can Us Ltd., Partnership, (c) Employer identification number, [redacted] (d) Income or (loss), $250.

Mtn. Valley Assn., Partnership, (c) Employer identification number, [redacted] (d) Income or (loss), $3,615.

1 Totals, $3,710.

2 Income or (loss). Total of column (d) less total of column (e), $3,710.00.

Total of parts I, II, and III (Enter here and on Form 1040, line 31), $4,039.95.

COMPUTATION OF NET EARNINGS FROM NONFARM SELF-EMPLOYMENT

5 Regular Method—Net profit or (loss) from:

(b) Partnerships, joint ventures, etc. (other than farming), $3,710,00.

6 Total (add lines 5(a), 5(b), 5(c), 5(d), and 5(e)), $3,710.00.

8 Adjusted net earnings or (loss) from nonfarm self-employment (line 6, as adjusted by line 7), $3,710.00.

9 Nonfarm optional method: (a) Maximum amount reportable, under both optional methods combined (farm and nonfarm), $1,600.00.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

12 Net earnings or (loss): (b) From nonfarm (from line 8, or line 11 if you elect to use the Nonfarm Optional Method), $3,710.00.

13 Total net earnings or (loss) from self-employment reported on line 12. (If line 13 is less than $400, you are not subject to self-employment tax. Do not fill in rest of form.), $3,710.00.

14 The largest amount of combined wages and self-employment earnings subject to social security tax for 1973 is, $10,800.00.

15 (a) Total "FICA" wages as indicated on Forms W-2, N.A.—US. Senator.

16 Balance (subtract line 15(c) from line 14), $3,710.00.

17 Self-employment income—line 13 or 16, whichever is smaller, $3,710.00.

18 If line 17 is $10,800, enter $864.00; if less, multiply the amount on line by .08, $296.80.

20 Self-employment tax (subtract line 19 from line 18). Enter here and on Form 1040, line 55, $296.80.

EMPLOYEE BUSINESS EXPENSES

1 Travel expenses while away from home on business;

(a) Airplane, boat, railroad, etc., fares, $7,410.16.

(b) Meals and lodging (I.R.C. § 162(a)), $3,000.00.

Total travel expenses, $10,410.16.

4 Employee expenses other than traveling, transportation, and outside salesman's expenses to the extent of the reimbursement, $6,182.85.

5 Total of lines 1, 2, 3, and 4, $16,593.01.

6 Less: Amount of employer's payments for above expenses (other than amounts included on Form W-2), $13,323.16.

7 Excess expenses (line 5 less line 6). Enter here and include in line 41, Form 1040, $3,269.85.

1 Business expenses other than those included above (specify). See Exhibit 4 attached.

2 Total, $2,581.06.

MOVING EXPENSE ADJUSTMENT

(a) What is the distance from your former residence to your new business location? approx. 1,500 miles.

(b) What is the distance from your former residence to your former business location? approx. 10 miles.

1 Transportation expenses to move household goods and personal effects, $1,389.30.

8 Expenses incident to: (a) purchase of a new residence, $1,613.50.

9. Total (Add lines 6, 7, and 8), $1,613.50.

10. Enter lesser of the amount on line 9 or $2,500 ($1,250 if married, filing a separate return and you resided with your spouse who also started to work during the taxable year), (See instructions C(2)), $1,613.50.

11 Total moving expenses (Add lines 1, 2, and 10.), $3,002.80.

13 If line 12 is less than line 11, enter the excess expenses here and on line 40, Form 1040, $3,002.80.

Exhibit 1—Other Income

Collections of accounts receivable for fees for legal services as practicing attorney prior to election to U.S. Senate	$1,404.75
Less accounts paid left over from law practice:	
Publications	48.36
Employee taxes	22.31
Telephone	3.32
Subtotal	73.99
Total	1,330.76
Allowance for travel received from Treasurer of the U.S.. for induction into U.S. Senate	654.00
Less travel expenses	218.00
Subtotal	436.00
Total	1,766.76

EXHIBIT 2—CHARITABLE CONTRIBUTIONS

Harvard Law School fund	$200.00
Harvard College fund	100.00
Harvard Law School Association	30.00
Mental Health Association of Colorado	25.00
Boston Symphony Orchestra	100.00
United Negro Fund	50.00
Saint Mary's Church	500.00
Children's Hospital	30.00
Children's hearing and speech center	60.00
Boys Sponsors, Inc	5.00
Unreimbursed travel expenses for benefit of charity (Medical Center of Denver) fund-raising speech	13.50
Total	1,113.50

EXHIBITION 3—MISCELLANEOUS DEDUCTIONS

Chemical Bank custodian and investment counsel fees	$669.30
Chemical Bank tax fee	80.00
Legal fee for protection of investment in Mountain Valley Association and long distance telephone calls	553.25
Legal fee for tax advice and preparation of returns	500.00
Employee business expenses from Part II, line 2 of Form 2106 and Exhibit 4	2,581.06
Colorado Bar dues	$104.00
Contribution to Colorado Democratic Party (Century Club)	100.00
Total	4,587.61

EXHIBIT 4

EMPLOYEE BUSINESS EXPENSES

Expense item	Total expense	Amount reimbursed [1]	Amount unreimbursed [2]
Entertainment	$1,076.92		$1,076.92
Publications	1,977.80	$1,967.80	10.00
Expenses for informing constituents	1,392.82	178.00	1,214.82
Miscellaneous	4,316.37	4,037.05	279.32
Subtotal	8,763.91	6,182.85	2,581.06
Travel	[3] 7,410.16	[4] 7,140.31	[5] 269.85
Living expenses	[3] 3,000.00		[5] 3,000.00
Total	19,174.07	13,323.16	5,850.91

[1] Reported in pt. I, lines 4, 6 of form 2106.
[2] Reported in pt. II, line 2 of form 2106 and line 33 of exhibit 1.
[3] Reported in pt. I, lines 1 (a) and (b) of form 2106.
[4] Included in line 6, pt. I of form 2106.
[5] Reported in pt. I, line 7 of form 2106 and on line 41 of form 1040.

TENNESSEE ASSOCIATION OF BROADCASTERS URGE SUPPORT OF AM/FM RADIO ALL-CHANNEL BILLS

Mr. BROCK. Mr. President, soon the Senate will be faced with a decision on Senate bill 585, regarding AM/FM radio all channel bills. I have just received a resolution from the Tennessee Association of Broadcasters in which they urge the Congress to support and approve this measure. I ask unanimous consent that this resolution be printed in the RECORD for my colleagues to view.

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

RESOLUTION

Whereas, the Congress of the United States is currently considering two AM/FM Radio All-Channel bills, Senate Bill S-585, introduced by the Honorable Frank Moss, and House Bills HR-8266, introduced jointly by the Honorable Lionel Van Deerlin and the Honorable Clarence J. Brown, and

Whereas, the Tennessee Association of Broadcasters, through action by its Board of Directors, considers this legislation of vital importance to the broadcasting industry of the nation, and,

Whereas, passage of the above referenced proposed legislation would permit FM radio to reach proper and deserved equity with all other media, and,

Whereas, passage of the proposed legislation would provide the general public having readily and completely available to them the full services to which they are entitled.

Now, therefore, be it resolved, that the Tennessee Association of Broadcasters respectfully urges the honorable members of the Tennessee Congressional Delegation to support and work for passage of Senate Bill S-585 and House Bill HR-8266.

THE ELDERLY KITCHEN

Mr. McGOVERN. Mr President, last week I sponsored three public forums on the problems of senior citizens in South Dakota. At each of these meetings I heard from a variety of witnesses and concerned citizens who outlined in detail

the special problems which our elderly face.

While I was in Rapid City, I had the opportunity to visit the facilities of the Elderly Kitchen. This is one of the most worthwhile and meaningful programs run by and for senior citizens, that I have seen in quite some time. The staff and the members share in the enthusiasm of preparing and providing hot, nutritious meals and the atmosphere is friendly and inviting.

On Easter Sunday, April 14, the Rapid City Journal printed a story about the activities of the Elderly Kitchen. I know that there are others who would enjoy reading about this program.

I therefore ask unanimous consent that this article be printed in the RECORD.

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

EASTER IS A SPECIAL TIME AT ELDERLY KITCHEN

By Diane Pawelski

An ordinary, two story, white building, almost isolated in the uncleared, undeveloped flood plain along Chicago Street, has attracted from 50 to 100 low-income Indian and white elderly people each week day for over two years. The reason? A hot, nutritionally-balanced meal, which is often the only full meal most of these people eat each day.

Inside the center, members were seen here and there, waiting—for other friends, for dinner. To the right, a shiny, white door opened and the hot damp smells of the kitchen rolled out. This was clearly the heart of the Elderly Kitchen.

When Living Today visited the center on Wednesday, Minnie Oney and four other women were baking homemade rolls for the noon meal, along with boiled franks, corn, and for the Easter season, dyed, hard-boiled eggs and rabbit-shaped cookies.

No matter what went on during the noon hour—elections proceeding in the dining hall, visitors or photographers invading the kitchen, phone ringing—the old country-sized kitchen was clearly the center of operations. Several members popped in and out the doorway to greet someone, ask about a missing friend who is in the hospital or just ask about dinner. Just the type of thing one would do at home. . . .

Mrs. Marie Rogers, director of the Elderly Kitchen refers to them as her "great, big family" that comes five noons a week for the balanced meal. Equally important, the Kitchen serves companionship and warmth, she said. "Most of the members are lonesome, as well as hungry, and they come to meet friends," said Mrs. Rogers. "Once they start coming, they develop these friendships and start worrying about each other."

As she spoke, one older man on crutches, poked his head into the kitchen, saying the dining room was too crowded and asking for a place to sit.

Mrs. Rogers continued, "Some of these folks have never been taken care of in their old age. They live on Social Security or welfare or disabled benefits and cannot even afford much food."

Since some have started eating at the Paha Sapa Kitchen, they have improved their health and have been going less frequently to the hospital, she said.

Lillian Chell, public health nurse from the Pennington County Health Department, visits the center once a week. She concurred and added, "There has been a very definite change in a couple of cases." She feels that much of the reason for this is the companionship as well as the food.

Meanwhile, food preparations for the day and the Eastern dinner to be held on Good Friday continued in the kitchen. Minnie, assisted by Hanna Afraid of Hawk and Mary Colvin, a volunteer worker, were serving the noon meal to the crowded dining room. Because special Eastern cooking was necessary, two other volunteers, Alma Randall and Thelma Iron Eyes, were enlisted to help.

Members had been arriving over the last hour by car, by foot and by Paha Sapa bus for the meal. The bus, driven by Connie Haynes, makes two trips to north and south Rapid City to bring some who would be unable to come otherwise.

At each of the two long rows of tables stood a single Easter lily, symbolic of the season. The room can only seat 44 people at a time, but the overflow is absorbed by taking turns or setting up additional tables in the lobby. There one sees the only other Easter decorations—a few plastic flowers with candles, some paper decorations and egg shells on a "tree" and an egg carton cross . . . Touches that most of the diners probably don't have at home.

Once the noon meal was over, Minnie and her friends began final plans for "Easter Friday." "Nearly 50 pounds of turkey with all the trimmings and even pumpkin pie will be the menu for Friday," she said. On a tour of her kitchen, one is impressed that she is able to turn out meals for 50–100 persons. Only one stove was seen, one freezer and two refrigerators. Minnie said, "A second oven, upstairs, is used for special meals."

"The Easter meal will be started at 5 a.m. Friday," she said, "when Hanna will arrive to put the turkeys in the oven. And, of course, we will bake bread that day, too," she added. "The Kitchen serves homebaked bread each day," she said proudly.

The Elderly Kitchen continues to function although their funds are not great. "We are supposed to collect 50 cents per meals for persons under 55 years of age and 25 cents per meal for those over 55," said Mrs. Rogers. "But these people just don't have the money. Some days we only collect $3." In fact, she now has a woman staying at the center who has no where else to go.

"We are supposed to be self-supporting by next fall when the last year of a three-year pilot program runs out," she said. (Currently they are funded 50 per cent by the federal government through the Older Americans Program and 50 per cent through contributions.) "But there is no way we can be self-supporting unless the few of us who work for salaries start working as volunteers." But Mrs. Rogers indicated this was impossible as most of these workers are the head of a household and have to work.

As she talked, people stopped to ask her questions, phone calls interrupted and meals were being served to the latecomers. "We will also have a problem, about a year from now, when we will be forced to move out of the flood plain. And so far there is no where for us to go," she said. "The program just cannot die," she stated.

The solemn but friendly, content faces of the elderly members told the story. Ordinary people, they seemed a part of the homey, warm kitchen that makes room for all who come.

DON'T GIVE OUR NATIONAL TREASURE AWAY

Mr. THURMOND. Mr. President, the April 1974 issue of the Armed Forces Journal highlights a guest editorial by Frank Gard Jameson, an official of Rockwell International, regarding international trade.

Mr. Jameson points out that our largest asset to offset the dollar drain for oil is food. He advocates a more aggressive international trade in food products. This is an area in which America has a great capacity.

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

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

[From the Armed Forces Journal International April 1974]

DON'T GIVE OUR NATIONAL TREASURE AWAY

(By Frank Gard Jameson)

In a recent editorial, the *Los Angeles Times* quoted an obviously well meaning U.S. government official in Bangladesh who, in a typically warm and sympathetic American approach to that country, suggested that our food surplus be made available to their hungry people at a price lower than the world's market.

Cold and hunger are two of the most terrible enemies of mankind.

As a generous nation, we have always responded to those in need in the world. We just *forgave* a debt of several billion dollars owed to us by India for food we had sent them to alleviate their hunger—although we have had an unbalance of trade and a large national debt, we do have a surplus of food.

Other nations today have a surplus of oil which can combat that other half of the cold/hunger problem, but I do not see them giving it to us or to the people of the world who are cold. Instead, they sell it to us at high prices and end up with a surplus of dollars that will wreck the world's economy—certainly ours—when a certain $40-$50 billion unbalance in trade occurs against us.

The largest asset we have to offset this dollar drain for oil is *food*. But we seem to view this American treasure as something that should be *given* away to the less fortunate. The $20 billion a year in food exports to other nations could offset our expenditures for oil in a large way.

Our other exports which used to be large, such as automobiles and electronics, have become noncompetitive in the world market. Aerospace, which a few years ago was above agriculture (because lawmakers decided to pay our farmers *not* to raise crops which could have been exported), has helped a lot with commercial aircraft sales, but is far outshadowed by farm exports today.

The only thing worse than the energy crisis would have been if it had not happened to awaken the American people and lawmakers to the fact that with energy consumption doubling every 10 years, even at the old oil prices, the oil producing nations could have taken their surplus dollars and brought America—just as we did to the rest of the world when our productivity gave us a large favorable balance of trade in the 1920s, 1930s, 1940s and 1950s.

If oil costs $12 per barrel instead of $3, then let our wheat cost $12 per bushel instead of $3. Sure, food prices will go up, but Americans today still feed their families on 20% of their wages when Europeans spend 35% and workers in India and China spend 80%. Europeans have been paying $1 per gallon for gasoline for years—that's why they built small cars.

If the Germans and Japanese had won World War II, does anyone think that they would have rebuilt America with their national treasure as we have done? We have proven that we are the most generous nation in the history of the world. Now, let us *sell* our greatest natural treasure—food—instead of giving it away. If the oil producing nations who now have surplus dollars (Russia with surplus gold, or any other wealthy nation) want to buy our food and then give it

away to the hungry of the world, they can prove their greatness as we did.

PRICES AND PRODUCTION OF SOFTWOOD LUMBER AND PLYWOOD

Mr. SPARKMAN. Mr. President, a highly significant study of interest to those concerned with economic controls and the softwood lumber and plywood industries has just been completed by the Rinfret-Boston Associates.

The 10-month study, made under the direction of the noted economist Pierre Andre Rinfret, is entitled "Prices and Production, An Economic Analysis of the Production, Marketing and Pricing Behavior of Softwood Lumber and Plywood Products."

The Rinfret study is significant to my colleagues from at least two important standpoints. First, it points out the distortions and disruptions that recent price controls created for such a highly competitive industry whose very competitiveness creates an efficient price system.

On Aug. 15, 1971, price controls were imposed on the superbly efficient pricing mechanism for softwood lumber and plywood. After imposing of controls, the market mechanism stopped working. The results of imposing rigidity on a system historically characterized by flexibility were disruptions and distortions. Entrepreneurial drive was frustrated. The allocation of product through a competitive, highly variable price structure was stymied.

When price controls were removed, the industry immediately began to operate in a more efficient manner as supply expanded and prices decreased. Controls were inefficient; the free market is efficient, benefitting producers, distributors and consumers.

Of equal importance, the study comprises the first comprehensive, objective overview and evaluation of the economic forces at work in the softwood lumber and plywood industry.

The Banking, Housing, and Urban Affairs Committee in recent years has been increasingly concerned over the effect of periods of rapidly escalating prices and shortages of softwood lumber and plywood and their impact on housing production. The committee held hearings during these periods of price escalation in 1969 and, more recently, in March of 1973.

In 1969, the Housing and Urban Affairs Subcommittee issued a report which held as a major conclusion that to reach the Nation's housing goals in the years ahead increased timber production would be necessary. It found that the national forests which contain approximately 50 percent of the Nation's inventory of mature softwood timber, were producing far less than could be achieved under modern intensive management with proper funding by the Congress. And that this could be accomplished without impairing the use of the forest to meet the conservation and recreation needs of the American people.

Legislation to meet the long-range timber needs for housing and other uses was introduced by me and other members of the committee following our study, but until recently, no further action was taken by the Congress. To this end, I have been encouraged by recent Senate passage of S. 2296, the Forest and Rangeland Environmental Management Act, sponsored by the distinguished Senator from Minnesota (Mr. HUMPHREY), which provides the direction for improved management of all the national forests' functions.

However, during the committee's hearings many questions were raised in an effort to gain insight into the highly complex workings of this complicated industry. It is commendable that the wood industry requested this study be done by the Rinfret-Boston Associates. The industry recognized that few people understood its complexities, the unique nature of its operations, and its dependence on a renewable raw material that may be unavailable when needed most.

Through research and analysis, the Rinfret report explains how the industry operates, identifies the forces that make it function as it does, traces the interrelationship of these forces, and shows the results they produce. It will be an extremely helpful reference document to the Banking, Housing and Urban Affairs Committee in its continuing overview of lumber and plywood supply and prices, and should be of great interest to each of my colleagues.

It is my understanding that each Member of the Congress will be receiving a copy of the full report within the next few days, but at this time, I ask unanimous consent that a brief summary of the report be printed in the RECORD.

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

WHEN RIGIDITY IS IMPOSED ON FLEXIBILITY

"A major threat to the American economy is the possibility of a return to price controls by a Government which doesn't remember the distortions and disruptions which such controls created for industries like softwood lumber and plywood.

"On Aug. 15, 1971, price controls were imposed on the superbly efficient pricing mechanism for softwood lumber and plywood. After imposition of controls, the market mechanism stopped working. The results of imposing rigidity on a system historically characterized by flexibility were disruptions and distortions. Entrepreneural drive was frustrated. The allocation of product through a competitive, highly variable price structure was stymied.

"When price controls were removed, the industry immediately began to operate in a more efficient manner as supply expanded and prices decreased. Controls were inefficient; the free market is efficient, benefitting producers, distributors and consumers."

These paragraphs are a basic finding of a 10-month study and analysis conducted by Rinfret-Boston Associates, Inc., under the direction of the highly regarded economist, Pierre Andre Rinfret. The report, published in April 1974, is being distributed by its sponsors in the wood products industry: American Plywood Association, National Building Material Distributors Association, National Forest Products Association, National Sash and Door Jobbers Association, North American Wholesale Lumber Association, Southeastern Lumber Manufacturers Association, Southern Forest Products Association and Western Wood Products Association.

The chaos wrought by the controls imposed on the wood products industry in 1971–73 are a matter of record. In time, even those charged with responsibility for carrying them out came to realize how ill-advised they were. Donald Rumsfeld, after serving as director of the Cost of Living Council, cited the forest products industry as an example of how ineffective and "just plain wrong" controls had been. The Council's counselor, C. Jackson Grayson, said in 1973, "The price problem on lumber stemmed wholly from a demand situation, and that is the sort of case where the market over the long run is a better regulator than the people in a control agency." Council Director John C. Dunlop testified, "Given a desired high demand for lumber and wood products, the only way to maintain price stability in these markets over an extended period is to increase the supply of these products. Wage and price controls which mandate artificially low prices and, at most, have a temporary effect in halting the price rise, at the expense of market distortions and apparent shortages."

And Dr. Walter J. Mead of the University of California, the distinguished authority on wood industry economics and marketing, told the Price Commission in 1972: "Lumber is a highly competitive industry. You don't need price controls . . . Probably the price of lumber today or in the next six months would have been lower if you had not controlled the price . . . If the price goes up people will supply more."

Last year, several segments of the industry came to the conclusion that few people understood its complexity, its excruciating dependence upon a remarkable raw material that was so plentiful and self-perpetuating and yet so frustratingly unavailable when needed most. Very few recognized that severe economic damage could be caused by well-meaning but poorly informed tinkerers. But, it was agreed that any in-depth research of how the industry works would have no meaning unless conducted by an unbiased, respected organization.

The result is the Rinfret-Boston Study—65 pages, plus an appendix that includes survey samples and dozens of charts and tables. It comprises the first comprehensive, objective overview and evaluation of the economic forces at work in the softwood lumber and plywood industry. Through research and analysis, the report explains how the industry operates, identifies the forces that make it function as it does, traces the interrelationship of these forces, and shows the results they produce.

The study was confined to industry operating conditions and markets since 1970. It did not consider or forecast future conditions or market prospects and it focused exclusively on the softwood industry, excluding hardwood lumber and hardwood plywood. Also excluded were environmental considerations.

The unique report is entitled "Prices and Production, An Economic Study of the Production, Marketing and Pricing Behavior of Softwood Lumber and Plywood Products."

After delving into the operation of the industry, its complex distribution process, its import-export situation, how its pricing is set, and how its products are ultimately put to use, the report winds up with a chapter that details the industry's economics in a free market and under controls.

In a summary of its analysis, Rinfret-Boston Associates said:

"In this industry there is no centralized decisionmaking. No individual firm acts regularly as a price leader. The forces influencing supply and demand are so widely diffused that they can not be affected by any individual firm.

"There is a real, independent and effective 'market' for lumber and plywood, composed of a highly interactive network of individuals. Its operations are not confined to any specific time or place. On any given day this

market may involve thousands of offers to buy or sell, with the resulting transactions a matter of public record.

"Like an endangered species, this market should be prized and protected."

The report said that the flexibility of the industry's pricing system is perhaps its "most important characteristic." Many buyers and sellers, widely dispersed, maintain a continuous stream of transactions, it said, and every sale "is influenced by preceding sales and, in turn, influences future trasactions." This sensitive but efficient mechanism, based on the forces of supply and demand, was inherently in conflict with the outside pressure of Federal price control, Rinfret-Boston Associates found, and its summary went on to these other salient points:

Softwood products are a "true commodity," subject to constant market pressures and highly volatile. Short-term disruptions of supply and demand can have significant effects on prices, but softwood supply is usually not sensitive to such price changes.

When Phase One was imposed in August, 1971, prices had been rising due to stepped-up residential construction, but they still were below 1969 peak levels. The 90-day freeze held prices, although, as a mild winter permitted high building levels, dealers bought aggressively.

Under Phase Two (Nov. 15, 1971, to Jan. 11, 1973), softwood demand reached record levels. Timber inventories fell and heavy bidding on timber sales boosted stumpage costs. Orders piled up, prices rose, and higher production boosted operating costs, chiefly for maintenance and labor. Because the control system allowed nonuniform increases in prices, some industry members felt regulations were not applied equitably within the industry.

"Unusual business practices" arising from Phase Two disrupted the marketplace, resulting in widely differing prices. Dealers, plagued by uncertainties over regulations, reported greater difficulty in meeting customer demand. "The softwood industry could not operate rationally" as "regulations limited price increases but failed to take into account increasing demand, thus leading to market distortions and shortages in 1972."

Phase Three, starting Jan. 11, 1973, brought confusion and uncertainty over whether prices could be raised. A growing number of producers and wholesalers began operating on the premise that the market was free. As a result, market forces played a greater role in determining prices. One indication of a return to more normal conditions was that the spread narrowed between the prices of Canadian lumber, which was uncontrolled, and lumber produced in the United States.

By April, 1973, the demand was clearly subsiding. Housing starts were 16 percent below April 1972, and the question was: how severe would the decline be? Phase Three had not created "the havoc and confusion" of Phase Two because "free market rather than controlled prices prevailed."

THE MAST PROGRAM

Mr. THURMOND. Mr. President, in various locations across the United States the Army is pressing forward with a program known as military assistance to safety and traffic.

Last year it was my pleasure to amend the military procurement bill to provide for the MAST program and I am pleased to see the Army is implementing it where appropriate.

In this connection, my attention was called to an article in the Louisville Courier-Journal on April 11, 1974, by Bill Powell under the title, "Plans Are Moving Along To Make Army Helicopters Part of Emergency System."

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

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

[From the Louisville Courier-Journal, Apr. 11, 1974]

PLANS ARE MOVING ALONG TO MAKE ARMY HELICOPTERS PART OF EMERGENCY SYSTEM

(By Bill Powell)

MADISONVILLE, KY.—In a few months, helicopters from Ft. Knox and Ft. Campbell are expected to be available to nearly two-thirds of Kentucky for "special emergency" illness and injury cases on a 24-hour basis.

Groundwork for Ft. Campbell participation in the program, known as the Military Assistance to Safety and Traffic (MAST), was laid here last week.

It included a conference of local, military, state and other officials and the appointment of a committee to complete the plans through Washington channels.

Ft. Knox involvement in the program is in a more advanced stage. Col. Frank Wasko, Ft. Knox information officer, said the military there is "ready to go" as soon as civilian-sponsor requirements are met and approval comes from an inter-agency group in Washington. The group represents the Department of Defense, Department of Transportation and the Department of Health, Education and Welfare.

Col. R. B. Austin, commander of the U.S. Army Hospital at Ft. Campbell, home of the 101st Airborne Division (Airmobile), said recently he saw no reason why the Ft. Campbell program would not be in operation by mid or late summer.

Col. Wasko said the civilian sponsor of the Ft. Knox program is the Louisville Chamber of Commerce, Ft. Campbell's civilian coordinator is the Buerau of Medical Services, Kentucky Department of Human Resources.

The MAST program, which must be formally requested by the "civilian community," would make available 12 "Huey helicopters already assigned to the 326th Medical Battalion at Ft. Campbell, according to Col. Austin. Col. Wasko said Ft. Knox plans to use six "Hueys." The helicopter is capable of carrying six litter cases at speeds of up to 160 miles an hour.

Jack D. Walker, field worker for the Kentucky Bureau of Medical Services, said here he regarded the Ft. Knox program as "just a short time away from materializing" and that "the Ft. Campbell effort is well on its way."

Walker said the helicopters would be able to answer "authorized" calls up to 120 miles from each base.

"The decision to call a MAST helicopter will rest with the law officers, physicians or other responsible parties at the emergency scene," said Walker.

The service would be free to the public, the sponsors would be required to pay for certain radio and other equipment.

"A lot of lives will be saved by this," said Walker. "It certainly would have been highly useful during the recent tornado tragedy in Kentucky, but it will be valuable on a person-by-person basis."

The helicopters already are available in certain crisis situations, such as the use of Ft. Knox aircraft to help transfer tornado victims from Brandenburg, but until MAST begins operation large-scale coordination is lacking.

Walker said a radio network would serve hospitals, ground ambulances and helicopters when arrangements are complete.

Walker noted that the program would involve "really serious" cases requiring speedy transfer from one hospital to another, removal of accident victims to hospitals from remote areas and the emergency movement of blood and medical supplies.

He said the use of both bases extends service from the western tip of Kentucky to the farthest point of a circle reaching the eastern edge of Fayette County.

Ft. Campbell helicopters also could cover a large portion of Western Tennessee (the base straddles the Kentucky-Tennessee line south of Hopkinsville) and a tip of Southern Illinois. The Ft. Knox "circle of operations" covers a large portion of Indiana, according to maps displayed at the Madisonville conference.

Nationally, the MAST program is about 4½ years old but Walker said, "We're not too far behind in the expansion of it."

An Army spokesman at Ft. Campbell yesterday said MAST operations, as of Feb. 17, included 2,500 missions involving 2,800 patients for 5,094 air hours "throughout the country."

Army officers said an "educational program" would be conducted to acquaint the public with the service.

"It all boils down to the military offering services which are available anyway, and the civilian community asking for it and meeting the requirements," Walker said. "That's what the meeting here was all about."

CHANGE IN GOVERNMENT OF PORTUGAL

Mr. KENNEDY. Mr. President, news of a change in the government of Portugal may have struck many people of the world as a surprising and alarming event. Yet, those who have been concerned about Portugal's continued warfare in Africa anticipated that the people of Portugal would some day demand a change in the government's African policy.

From the proclamation issued by the new regime, it appears that one of the reasons for the overthrow of the government in Lisbon was the "inability of the present political system to define an overseas policy leading to peace."

Last Thursday's coup was predictable for those who insisted that the 13-year campaign in Africa was not only a drain upon the resources and economy of metropolitan Portugal, but that was a war that was also an immoral and unjust assault upon the homelands of 15 million African people.

African Nationalists who defended against the Portuguese have steadfastly believed that the people of Africa deserve to determine their own fate and destiny. And so their courageous resistance in pursuit of liberation was sustained by the universal quest for self-determination.

Regrettably, this change in power is another example of forceful military intrusion in a nation's political processes. But hopefully, the promising goals of this junta's proclamation will be realized, in its intent to complete "a program of salvation for the country and the restitution to the Portuguese people of the civil liberties of which they have been deprived."

General Antonio Spinola is emerging as a hopeful and promising leader of the Portuguese people in a fashion likened to that of Gen. Charles de Gaulle when Algeria pressed for independence from France.

Peace loving people from around the world pray that General Spinola will succeed in his efforts to establish a noncombatant alternative to the needless killing that has plagued the Portuguese territories of Angola, Mozambique and Portuguese Guinea since 1961.

I join with all Americans who want to see a timely settlement to the struggle that has disrupted the lives and hopes of people in Portugal and in Southern Africa, for too long.

As we wait and watch events unfurl in the coming weeks and months, it is my hope that aid and comfort from people of goodwill shall guide families in those troubled lands so that life for all of them can be framed in strengths borne of peace and justice.

REAL ESTATE SETTLEMENT COST REFORMS

Mr. BROCK. Mr. President, two recent publications have come to my attention vividly illustrating the need for basic reforms to relieve the consumer from the high cost of settlement charges. These deal with the economic burden on the consumer of kickbacks on title insurance and the antiquated land title recording system in the United States. The Real Estate Settlement Procedures Act, S. 3164, which I introduced on March 13, 1974, deals with both of these problems.

KICKING BACK ON TITLE INSURANCE

According to an article appearing in the April 13, 1974, issue of Business Week in many States home buyers are being bilked by the practices of lawyers accepting millions of dollars in legal but unethical kickbacks on title insurance. According to this article, house buyers are required by lending institutions to provide a title insurance policy that guarantees that the mortgage will be paid off even if a defect is later discovered. The buyer pays the premium on this policy. In some cases, the title insurance company will remit a secret premium or kickback of each policy to the lender's and buyer's attorneys. These "commissions" are paid as a matter of course, though rarely do the attorneys do any work for the title company.

The New York State Insurance Department has estimated that the 15 percent kickback going to attorneys in the State comes to some $4 to $6 million annually. Estimates vary from State to State.

But outlawing the kickback is a difficult political task. The article points out that the New York State Senate recently defeated a State insurance department's proposal to outlaw the payment of such commissions.

The Real Estate Settlement Procedures Act of 1974 would remedy this situation by prohibiting kickbacks and unearned fees. It is to the credit of many of our fine State bar associations that they have endorsed the passage of this legislation to correct the questionable practices of some attorneys.

Mr. President, I ask unanimous consent that the text of this article be printed in the RECORD.

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

KICKING BACK ON TITLE INSURANCE

As every homeowner knows, his role at the house closing is to sign endless pieces of paper—most of them checks—to the seller, the mortgagee, the lawyers, and title insurance companies. Though they may come as a shock, most of the costs are disclosed. But one customary cost is rarely mentioned: a kickback from the title insurance company to the lawyers. It will surprise most home buyers that in many states, lawyers are accepting millions of dollars in legal but unethical kickbacks. And despite the occasional cries of reformers, neither legislatures nor bar associations are willing to correct this abuse.

The mechanics of the kickback are simple, though they vary from state to state and among cities and counties within states. New York state is typical. There, the house buyer must provide his lending institution with a title insurance policy that guarantees that the mortgage will be paid off even if a defect in title is later discovered. Usually, the buyer will want a similar policy covering his equity interest. The buyer, of course, pays the premium on both policies. But he usually is not told that, after the closing, the title insurance company will remit 15% of the premium of each policy to the lender's attorney. These "commissions" are paid as a matter of course, though rarely does either attorney do any work for the title company and despite the fact that the buyer has also paid a separate fee to each attorney.

In New York, as a final insult to the buyer, real estate attorneys perpetuate a custom whereby a "tip" of $10 or more is passed under the table from the buyer to a salaried employee of the title insurance company. Like the kickback, this fee is not revealed. Lawyers say privately that they pay it because otherwise the title companies will slow down the closing.

FEW DEFENDERS

It is almost impossible to calculate how much money changes hands through title insurance kickbacks. The New York State Insurance Dept. estimates that the 15% kickbacks going to attorneys in the state comes to some $4-million to $6-million annually. In Chicago the amount is probably less because the kickback rate there is 10%, but in Tampa the rate is 20%, and in eastern and central Pennsylvania, 15%. In New Jersey, where one lawyer commonly represents buyer, lender, and seller, title companies frequently submit two bills to the lawyer. One, labeled "gross amount," is handed to the client. The other marked "net amount," is remitted to the title companies and the lawyer can pocket as much as 25% of the total premium.

Few lawyers defend this kickback arrangement. Says Herbert C. Denenberg, Pennsylvania's former insurance commissioner: "Attorneys should be out of the title insurance business as agents because it leads to abuses and conflicts." His old department is considering a proposal to eliminate such commissions paid to attorneys and real estate brokers.

But outlawing the kickback is a difficult political task. Just last month, the New York State Senate soundly defeated a state insurance department proposal to outlaw the payment of such commissions. The bill's defeat was nothing new. Like a rite of spring, the insurance department has been submitting similar bills to Albany, and each time the legislators, many of whom are lawyers and some of whom are directors of title insurance companies, turn the department down. This time around, the legislators were upset by the wording of an insurance department memo that referred to the paying of kickbacks.

The state insurance department's inability to get its proposed legislation enacted is symptomatic of the general lack of industry regulation. Only 12 states currently attempt to exert any controls over the insurance companies, according to Joseph D. Burke, executive vice-president of Philadelphia's Commonwealth, Land Title Insurance Co.

Even in those states, regulation is anemic. In Illinois, for instance, title insurance is regulated by the Financial Institutions Dept., not by the Insurance Dept. Thomas Raleigh, supervisor of consumer credit for Financial Institutions, says, "In our state, title insurance companies are not well regulated at all. If you read the law, it gives me very little power to do anything. Our examination is just a joke, literally a joke."

Many title insurers privately speak in favor of legally abolishing the commission, but they are rarely heard in public, even though the American Land Title Assn. went on record last fall as opposing kickbacks. A spokesman for Chicago Title & Trust Co., which is being sued over its practice of giving lawyers "prompt payment discounts," says privately that he hopes his company loses so the payments can end. Sheldon B. Lubar, Assistant Secretary of the Housing & Urban Development Dept., and Thomas R. Bomar, chairman of the Home Loan Bank Board, have both endorsed provisions of several bills pending in Congress to eliminate the kickbacks. Bomar says that kickbacks "may violate existing federal criminal law dealing with commercial bribery."

ASKING QUESTIONS

Bar associations have largely remained silent. Not until 1972 did the American Bar Assn. address itself directly to the problem. Then, in shaping its position on pending Congressional legislation to regulate real property closing costs, the association's board of governors adopted this resolution: "Any payments that increase closing costs without any compensating protection to the seller or the buyer, such as kickbacks, are highly improper and should not be tolerated."

The resolution has not been widely circulated or understood. A committee on insurance law of the Chicago Bar Assn. failed last year to adopt any position; despite heated debate. Until BUSINESS WEEK began asking questions late last year, the New York State Bar Assn. had never considered the question of kickbacks, according to Ellsworth A. VanGraafeiland, president of the association. Shortly thereafter, the bar's Committee on Professional Ethics released an opinion that permits a lawyer to accept a kickback if he obtains his client's consent to do so. The opinion did not deal with the criticism that the commissions provide lawyers with incentives to shop for the most expensive insurance.

Moreover, as Monroe H. Freedman, dean of Hofstra University Law School and a columnist on ethics for the *New York Law Journal*, points out, the basic ethical premise of the legal profession is to "avoid even the appearance of an impropriety." He suggests that the new rule requiring disclosure and consent may not go far enough. "If the bar is participating in a system of no functional value other than defrauding the client," says Freedman, "what looks all right on the surface, when examined may have at least the appearance of impropriety."

LAWYERS' FUNDS

The Connecticut Bar Assn., on the other hand, has recently ruled that it is unethical for an attorney to accept a rebate from a commercial title insurance company. But a Connecticut lawyer has access to a direct competitor of commercial companies. Lawyers there have founded the Connecticut Attorneys' Title Guaranty Fund, Inc. This is essentially a client security fund. Any lawyer may join by paying a modest sum. The lawyer then searches the title and, based on his opinion, may issue a policy on behalf of the fund. Costs to the buyer are usually about

25% lower than those of commercial companies, according to William T. Margiotta, of the Connecticut Attorneys' Fund. The fund has a very low loss ratio, and a 15-year moratorium on dividend payments to participating attorneys runs out in 1981. Margiotta admits that such a payment would pose ethical problems, since the dividend would be a disguised commission.

Lawyers operate such funds in several states. The oldest, Florida's, began in 1947, and for several years it has been paying out dividends to participating attorneys. The practice has never been questioned, and the ABA has specifically approved such funds.

Meanwhile, the kickbacks grow as the title insurance business mushrooms. Title insurance is a necessity in most parts of the country (it is rarest in New England) because lending institutions will not rely on the opinions of local lawyers that titles are sound. And title insurance is not issued just once on the same property. Each time a home changes hands, a new policy is written covering many identical risks previously insured against. Rapid turnover of homes by a mobile population thus raises the title insurance bill.

The lender's insistence on insurance reflects the complexity of real property law. Legal rights in a single plot of ground can number in the dozens: rights of mortgages, widows, heirs, contractors, neighbors, ancestors, holders of easements, and interests of taxing, water, and sewer authorities.

All these claims upon land are filed in a variety of public and sometimes private offices. A recent HUD study recorded 74 different sources of land title information in Cleveland, for instance. If any potential claim is overlooked, the buyer may someday find himself in the uncomfortable position of losing his property. In the absence of insurance, the only recourse is to sue the attorney—if he can be found, if the statute of limitations has not run out, and if he is solvent. And precisely because attorneys can be sued for making negligent mistakes, they are often excessively cautious, thus prompting even more litigation. Even when all the links in the chain of title are spotted, a forgery in a previous deed can stir up costly trouble.

But, as one critic complains, because attorneys are tied into the traditional practices of the title business, they are not disposed to finding or advocating solutions to the problems created by this tangle of real property law. Instead, he says, title companies and lawyers have achieved a working, if sometimes uncomfortable, partnership.

LAND TITLE RECORDATION REFORM

Mr. BROCK. Mr. President, the U.S. Bureau of the Census recently published a revealing study entitled "Land Title Recording in the United States: A Statistical Summary," which concluded that reform is long overdue to modernize land title recording.

The study traces the development of land title recording in the United States. It then considers the prospect for the future. The observation is made that although legislative improvements such as marketable title acts may reduce the need for ancient records, the law, nevertheless, requires their storage. Until recently this meant storage of large, cumbersome, full-size copy. Here costs are substantial. But these storage requirements can be reduced by 95 percent or more with the use of presently available techniques of microphotography. Combined with advanced data processing equipment now available, microphotography could eliminate any serious problem of storage space of records.

But the potential for savings and improvements in the quality of recording services is not limited to recording offices. The use of computerized records, microfilmed documents, and cathode ray tube display systems can greatly enhance the speed and ease of title examinations.

Although such potential for savings exist, the land record survey reveals wide variations in procedure and cost of operating record systems. Part of this is attributable to autonomy in local situations. These local features have an acceptance frequently rooted in tradition and lore.

The study concludes that to serve the information needs of the future, then, land records should become part of larger systems. Information on land use, economic activity, taxation, public services, population and planning should be combined with information involving ownership, management, and financial interest to provide an integrated data system. Modernization can now extend to the use of remote sensing immediately responsive to changes in physical features. A few jurisdictions have begun such updating in data management and procedures. In the great majority of jurisdictions, reform is long overdue according to the report.

The Real Estate Settlement Procedures Act of 1974 recognizes the need for basic reforms in the area of land title recording. Section 9 of that legislation would establish on a demonstration basis, land parcel recordation systems and directs the Secretary of Housing and Urban Development to make a thorough study of the problem. HUD would be required to recommend to Congress ways in which the Federal Government can assist and encourage local governments to modernize their methods for the recordation of land title information, including the feasibility of providing financial assistance or incentives to local governments that seek to adopt one of the model system developed by the Secretary under the legislation.

It is urgent that this body act in an expeditous manner to enact legislation to provide for these urgently needed reforms.

WORLD FOOD CRISIS

Mr. McGOVERN. Mr. President, as most Americans are becoming more aware, the world is facing not only an energy crisis but a food crisis as well. For the first time in recent years, food production worldwide is falling behind population growth. In fact, it is now estimated that the world has only 27 days worth of food reserves should a serious crisis strike at any place around the globe. Only a few short years ago, when disaster struck any part of the globe, the United States, cooperating with international agencies, rushed all the food that was necessary to deal with the problem. Today, drought is spreading through the sub-Sahara area and thousands of Africans ares uffering from hunger and malnutrition, even death. We know this is happening, yet we no longer have the food surpluses available to deal effectively with the problem.

We are also learning that some of the technological breakthroughs—most commonly known as the "green revolution"—we expected would provide the world with more than enough food now may not fulfill that promise. We are learning, for instance, that the so-called green revolution is heavily dependent on energy intensive agricultural products, especially on fertilizer. It so happens that fertilizer is often a derivative of petroleum and other chemicals which are now both in short supply and available only at very high prices.

The U.S. Government along with other government and international organizations such as the United Nations and the Food and Agriculture Organization recognize the dimensions of this impending crisis. Yet, we are all gropping toward a solution without yet having reached an agreement upon means to deal with the problem. It may be that in the end we will not be able to avert serious hunger and malnutrition in many parts of the world but the final judgment of history will depend upon how hard we tried to do our very best to avert that crisis.

As chairman of the Select Committee on Nutrition and Human Needs and as the ranking Democrat on the Committee on Agriculture and Forestry, I am especially aware of this world food situation, in no small part because it is having a very direct and adverse effect on the nutritional status of our own people. For this reason, the Nutrition Committee is conducting an in-depth study of the problem and is attempting to develop a coordinated National Nutrition Policy. This study, in the form of hearings, will take place during the period June 19–21. We hope that in the near future the committee will be producing detailed documents providing Members of Congress with the information they need to consider the courses of action that our Government should follow.

I ask unanimous consent to print in the RECORD several recent articles describing both the study being conducted by the Select Committee and the policy options that will be open to our Government and the general nature of the world food problem.

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

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

AFFLUENCE AND SURVIVAL II

(By Anthony Lewis)

BOSTON, April 21.—In one short sentence recently Professor Jean Mayer of Harvard, the great nutritionist, illuminated the profound moral and political test that awaits this country on the issue of food.

"The same amount of food that is feeding 210 million Americans," he said, "would feed 1.5 billion Chinese on an average Chinese diet."

The question is: Will we, can we go on pursuing our extravagant way of life in an increasingly hungry world? It is not some remote or speculative question. Half the people in the world now go to bed hungry every night. And the looming probability is that thousands, even millions may starve in the year ahead unless they get help from outside—mainly from the United States.

That prospect is based on factors that can already be estimated with fair accuracy. For

one, there is a serious worldwide fertilizer shortage, caused in part by the quadrupling in the price of oil that goes into nitrate fertilizer and in part by insufficient fertilizer plants to meet demand.

In India, the fertilizer scarcity has already hit hard, along with difficulty in pumping water because of gasoline shortages. The spring wheat crop target was 30 million tons. Recent estimates put the actual figure nearer twenty million.

In Asia generally, fertilizer supplies will be inadequate at least through this year. Crops are therefore expected to be down substantially. But the rising population inexorably pushes the need for food up 2 to 3 per cent a year. For those reasons, the experts foresee a huge food deficit in Asia this year—the largest in memory, one has said.

As a practical matter, grain to make up the shortfall in Asia would have to come in large part from the United States. Only the U.S., Canada, Australia and New Zealand are net grain exporters now, and America is by far the largest.

And so we Americans shall probably have to decide before the end of 1974: Do we avert our gaze from Asia, cut ourselves adrift from a main problem of mankind? Or do we help others survive by doing the food equivalent of turning down our thermostats?

We have no surplus now, and no grain carryover to speak of. We can probably help on the scale needed, then, only by adjusting our own eating habits.

The American diet has turned more and more toward meat: fifty pounds of beef per capita in 1950, 119 pounds in 1973. And beef is a terribly wasteful food to produce. Feeding corn to cattle in feed lots, you end up putting on the table in steaks and stews only 5 per cent of the calories that were in the corn. An American now uses 22,000 pounds of grain per year to feed himself, a Chinese 400. But of the American figure only 140 pounds are eaten directly as grain in bread and other cereal products. Of the Chinese 400, 360 are eaten as grain.

If the United States is going to play a substantial part in bridging the world food deficit, there will have to be a change in our diet. Of course we need not eat less nourishing or appetizing food; in terms of taste and real value the American diet is a well-known disaster. American food habits have been spreading, and that trend also will have to change. That leads to a longer run point about the world food situation. The general assumption has been that the growing problem of population and food could be met by spreading American agricultural methods to the less developed world, with mechanization and intensive use of commercial fertilizer and pesticides. That assumption is now under challenge.

The problem is brilliantly, fascinatingly analyzed in the current issue of Science by Professor John S. Steinhart of the University of Wisconsin and Cecil E. Steinhart. What they demonstrate is that the American food system is immensely energy-intensive. Huge amounts of energy are poured into growing crops without much labor, then even more into processing and packaging, and still more at the consumer and into auto-powered shopping, refrigeration and the like.

In "primitive" cultures, the Steinharts say, each one calorie of energy invested produces five to fifty calories of food. In industrialized food systems, it takes five to ten calories of energy to get one in food. If all countries followed our energy-intensive pattern, the world would use 80 per cent of its annual energy just to produce food.

Barring some breakthrough in renewable energy sources, the Steinharts conclude, the choices for man "appear to be either less-intensive food production or famine for many areas of the world." As energy costs go up, even developed countries will have to find ways of using more labor and less energy in their food production.

One commodity is essential for needed change in either the immediate future or longer term, and unfortunately it is in short supply. That is leadership in Washington. We can only hope that it will appear, and work toward that end. If man does not deal with his food problem in terms of the small world he inhabits, as the Steinharts say, then "the food shortage will solve our population problem."

[From Newsweek, Apr. 1, 1974]

RUNNING OUT OF FOOD?

(NOTE.—Perhaps in ten years, millions of people in the poor countries are going to starve to death before our very eyes . . . We shall see them doing so upon our television sets. How soon? How many deaths? Can they be prevented? Can they be minimized? Those are the most important questions in our world today.)

When that apocalyptic warning was sounded by British author C. P. Snow five years ago, it was dismissed by many food experts as unduly alarmist. At that time, miracle seeds and fertilizers were creating a global "green revolution," and there was even talk that such chronically hungry nations as India would soon become self-sufficient in food. But today that sort of optimism is no longer fashionable. World stores of grain are at their lowest level in years—only enough to last for 27 days—and there are grim signs that the current shortage is not just a temporary phenomenon but is likely to get worse.

In the coming decades, some scholars believe, food scarcity will be the normal condition of life on earth—and not only in the poor countries but in the richer ones as well. Unless present trends are somehow reversed, says biologist J. George Harrar, "millions of people in the poor areas will die of starvation. But the affluent societies [including the United States] will experience dramatically reduced standards of living at home." Even Agriculture Secretary Earl Butz, a notorious optimist on the subject of food, concedes that Americans may have to substitute vegetable for animal protein. "We have the technology," Butz told NEWSWEEK's Tom Joyce reassuringly, "to make better hamburgers out of soy beans than out of cows."

Even now, food shortages affect the entire world. In the last two years, famine has threatened India and visited widespread misery upon the sub-Sahara nations of Africa where an estimated quarter million people have died. Scarcely less shocking, half of the world's 3.7 billion people live in perpetual hunger. The industrial nations are swiftly buying up the dwindling supplies of food and driving up food prices so high that poorer countries cannot afford to pay them.

Prospects for the future are clouded by the old Malthusian specter of population growth. A year from now there will be 4 billion human beings on earth, and by the end of the century that figure is expected nearly to double to 7.2 billion. Food production is simply not growing fast enough to feed that many mouths, and it is unlikely to do so in the decades ahead. A complicating factor in the race between food and people is the burgeoning affluence in such parts of the world as Western Europe, Japan and the Soviet Union. Rising expectations in these areas have bred strong new demands on the world's food supplies. More and more people want their protein in the form of meat rather than vegetables, and this in turn has driven up the need for feed grains for the growing herds of livestock. "Affluence," argues economist Lester Brown, "is emerging as a major new claimant on world food resources."

To meet this proliferating demand for food, insists John Knowles, president of the Rockefeller Foundation, "the world's basic food crops must double in the next eighteen years." The more positive thinkers among the food experts are convinced that this can be done—basically by expanding the area of land under production and by raising the output of crops on the cultivated areas. The world has the means to do the job, they argue—if the underproductive countries would order their societies a little better, if the richer countries would pump larger amounts of capital and know-how into the less fortunate nations for the development of agriculture, if more irrigation and fertilizer were brought into play, if mankind would use its common sense.

Many students of the food crisis are far less optimistic. "We have just about run out of good land, and there are tremendous limitations on what we can do in the way of irrigation," contends Prof. Georg Borgstrom of Michigan State University. Economist Brown supports this view. "The people who talk about adding more land are not considering the price," he says. "If you are willing to pay the price, you can farm Mount Everest. But the price would be enormous."

Moreover, Brown and other experts do not expect the sea to solve the world's food problems. Huge fishing fleets have depleted many traditional fishing grounds, and the overall catch is declining. Anchovies, one of the major ingredients in animal feed, recently disappeared from the waters off Peru for two years—largely a result of over-fishing. Water pollution, too, is taking a heavy toll of fish life along the world's continental shelves. And much of the fish that is caught each year is being squandered. "Every year, Americans use tons of tuna fish in pet foods," one food expert points out. "But how much longer will we be able to afford the luxury of feeding our cats and dogs on food people could consume?"

Fertilizer, an essential element, is also becoming prohibitively expensive. Petroleum is a major source of fertilizer, and the towering price of oil thus has a direct effect on agriculture. Dr. Norman Borlaug, sometimes called the "father of the green revolution," has complained bitterly that Arab oil politics, aimed at the industrial countries, will eventually strike most heavily at the developing nations. "India," remarks Brown, "is really up the creek. As a result of the fertilizer shortage, grain production is likely to be off 6 to 9 million metric tons."

On top of all these problems, the world's farmers have been beset by weather conditions that threaten to dislocate food patterns around the world. According to some meteorologists, these changes in climate will probably be a long-range factor. For a variety of reasons, they point out, the earth seems to be cooling off, and this cooling process is causing a southward migration of the monsoon rains. This in turn is producing a dry-weather pattern stretching from the sub-Sahara drought belt through the Middle East to India, South Asia and North China. Even the U.S. could soon be at the mercy of the weather. Some meteorologists are predicting a cyclical return to drought in the Great Plains States—possibly even dust-bowl conditions. "Even a mild drought in this tight supply situation," said one Agriculture Department official, "could be a disaster."

Over the years, the U.S. supplied a staggering $20 billion worth of food to needy countries under Public Law 480, the so-called Food for Peace program. But in recent years, the program has been allowed to wither, and with food demand rising around the world, American farmers—encouraged by the Administration—have flung themselves into the business of exporting food on a strictly cash-and-carry basis. In the fiscal year ending in June 1972, the U.S. exported $8 billion worth of farm products; last year the figure reach-

ed $12.9 billion; and when this fiscal year ends in June it is estimated that it will have zoomed to $20 billion. The U.S. now views agricultural products not as a giveaway item but as a way of earning the foreign exchange needed to pay for imports, including high-priced crude oil. "Food for crude" is the shorthand for the current policy at the Department of Agriculture.

With virtually all U.S. food surpluses committed to trade, not aid, it is difficult to see how the U.S. can continue to play its old role as provider of food to the world's hungry masses. And there are many people in Washington who do not see this as such a bad thing. "The worst thing we can do for a country," says a State Department official, "is to put it on the permanent dole. That would be an excuse not to solve its own problems, especially population. Now, our thinking is that feeding the world is an international problem, maybe one for the United Nations." That view was underlined last September when Henry Kissinger asked the United Nations to call a world conference on the problems of feeding the world. "No one country can cope with this problem," said the Secretary of State.

In response, the U.N. plans to hold a World Food Conference in Rome this November. Among the major proposals certain to be made are that the less developed nations discourage population growth and that the industrial nations work together to help feed the world's poor. Indeed, Dr. A. H. Boerma, the Dutchman who heads the U.N. Food and Agriculture Organization, has proposed a "world food reserve"—roughly like that of the Biblical Joseph, who advised the Pharaohs to store up grain in good years against future famines. But so far, the suggestion has been greeted with a total lack of enthusiasm in the U.S., Canada and Australia, the only countries in the world with significant food surpluses.

Resistance to an international controlled food reserve is easy enough to understand. Farmers fear that such vast stores of controlled food might, at some point, be unloaded on the world market, sending prices down in a dizzying spiral. And governments do not want to give up a formidable political weapon. In the politics of international food, agriculture may very well turn out to be the United States' ace in the hole. "We are not," declares one high-level Washington official, "going to throw that away too easily."

And so, to a very large extent, the U.S., as the greatest food producer in the world, will still be in a position to determine who gets food in the decades ahead; it will almost certainly be American food and American policy that answer the questions posed by C. P. Snow. "We are going to have some big moral decisions to make," says Sen. Hubert Humphrey. "We will be faced with famine situations in Africa, Asia and other parts of the world where there are victims of rising population and bad weather. But the question, I believe, is going to come down to whether Americans will be willing to cut down on their own consumption to help those poor people."

[From the Wall Street Journal, Apr. 18, 1974]

NOURISHING NOTIONS

(By Alan L. Otten)

Five years ago, Jean Mayer, Harvard's distinguished nutrition and health expert, was busily master-minding the White House Conference on Food, Nutrition and Health for President Nixon. As White House conferences go, it was quite successful, charting or catalyzing a variety of government programs and actions.

Today, Dr. Mayer is just as busily organizing a major nutrition study for the Senate's Select Committee on Nutrition and Human Needs. Six panels of experts, at Committee hearings on June 19, 20 and 21, will assess progress since 1969 and discuss possible new efforts to improve nutritional levels in America.

"The two conferences are very different," Dr. Mayer declares. "The aim of the White House Conference was to gain final popular acceptance of hunger and malnutrition, problems that some of us had long seen but which the country as a whole wasn't awake to. The Senate study is more to edify Congress than the public."

The difference in goals dictates a difference in size. The earlier conference was enormous; several hundred people prepared papers for 36 different panels, and more than 5,000 people met for a week to debate those ideas and hammer out final positions. Only about 75 people are working in the six panels for the coming Senate hearings. They'll evaluate current programs, the problems that remain, and options for dealing with them, and they may indicate a few favored solutions; for the most part, however, they'll leave the decisions to the Senators.

And while the 1969 meeting took place against a backdrop of general agricultural abundance and optimism, the June hearings come at a time of mounting worry about acute food shortages and even widespread famine in much of the world.

Dr. Mayer, a short, incredibly energetic man whose speech still shows a musical trace of his native France, has approached his current assignment with the same political shrewdness and organizational flair he displayed in arranging the White House assembly. He carefully balances his study panels with representatives of farm groups and food firms, consumer spokesmen, doctors, academics. He works hard to win administration cooperation and to allay White House suspicions that the Senate inquiry is a plot to embarrass the President, contrived by Committee Chairman George McGovern, ranking Republican Charles Percy, and other Nixon critics.

"Five years later is a logical time to review what has happened since the White House Conference," he argues. "Progress in improving diet among the poor has been very good. Progress on consumer programs has been good. Progress on relating nutrition to general health has been inadequate or difficult to evaluate."

. . . viewing programs that grew out of the earlier meeting, while three are primarily exploring new areas. A review panel on nutrition among the poor will, for example, look at the tremendous growth in food stamps, school breakfasts and lunches, meals for the elderly. It will examine the impact that rising prices may have had on these programs, and the need for further help for such special groups as old folks and Indians.

A second review panel is surveying consumer developments—unit pricing, nutrition and ingredient labeling, restrictions on additives. It will consider such further steps as more precise food labeling for people with heart disease and other ailments, and the possibilities of better nutrition education in public schools.

* * *

The tie between nutrition and health is the province of a third review panel. The White House meeting and later events made the public aware of such health threats as high-cholesterol foods, Dr. Mayer says, "but not much has been done to help them handle these problems." He hopes the experts will look at proposals for grading meat differently, getting industry to lower the cholesterol or salt content of foods, and provide more exercise facilities in cities and suburbs.

One panel breaking new ground—in "a modest but important area"—will examine how the government might obtain and dispense better nutrition information. It will, for instance, see whether there can't be far more frequent surveys, possibly every month, to track how changing food prices affect the eating habits of families in different income groups.

The final two study groups, working closely together, are tackling the "macro" concerns of food production and international trade. They'll try to come up with ideas for increasing the availability of food, particularly more nutritious food, and for determining how much food ought to be available for export. Specifically, they'll get into the controversial questions of government-held food reserves and increased government control over the export of grains and other foods.

Dr. Mayer notes one major change in these two broad areas since 1969: food manufacturers and processors appear far more willing now to accept a larger degree of government intervention, in order to insure steady supplies of major commodities at relatively stable or only slowly-rising prices.

Admittedly over-simplifying, he suggests that two opposing camps may be forming on major food issues such as grain reserves. On one side, favoring greater government involvement and control, are consumer representatives, the food companies, and the State Department (interested in showing friendship toward potentially starving Third World countries.) On the other side, farmer spokesmen, grain traders, and the Agriculture Department seek a minimum of government intervention.

U.S. food policy has long had three chief aims, Dr. Mayer points out: to insure good supplies of food to the American people at relatively low cost; to help balance our international payments; and to continue to provide a bulwark against world famine.

"These aims," he says, "have been impaired in the past year or so by a number of factors, including the disorderly way we handled our surpluses. I hope the Senate panels can suggest policies that will move us back in those directions."

OREGON LEGAL SCHOLAR SCORES ON EXECUTIVE PRIVILEGE

Mr. PACKWOOD. Mr. President, more than at any other time in this generation's memory, we are passing through a period of critical self-evaluation as a nation. While many events which prompted this analysis demand our scorn as free and just Americans, nevertheless, our examination in the end can only serve to strengthen this country's foundations.

Recognizing this fact—that only through challenging inquiry and constant reassessment can we maintain the value of democratic institutions—I heartily commend to the attention of my colleagues the winning manuscript of the 13th Annual Samuel Pool Weaver Constitutional Law Essay Competition. The contest, conducted by the American Bar Association, is named for the late Samuel Pool Weaver, who was a professor of law at Gonzaga University, and awards a $5,000 first-place prize.

David B. Frohnmayer, associate professor of law at the University of Oregon, won the contest for the second time in 3 years, establishing him as the first person to win the essay competition twice in the many years it has been held.

Considering the crucial period of evaluation we as a country are now undergoing, the topic of Professor Frohnmayer's essay, "The Constitutional Dimensions of Executive Privilege," warrants our special attention. The fabric of President Nixon's address to the

Nation last night, inextricably woven with the winding thread of executive privilege, lends particular poignancy to this year's winning essay.

Professor Frohnmayer's succinct analysis of the constitutional issues surrounding the use of executive privilege is a worthy addition to the understanding of this substantial executive power.

Mr. President, I ask unanimous consent that this noteworthy essay be printed in the RECORD.

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

AN ESSAY ON EXECUTIVE PRIVILEGE

(Samuel Pool Weaver Constitutional Law Essay Competition)

A legislative body deprived of information on the conduct of public affairs is impotent to act in the national interest. The judicial process becomes a mockery unless it has the capacity to determine the truth in controversies between parties. Any legal doctrine which denies information to legislatures or courts threatens the essence and independence of these institutions, and must therefore be justified, if it can be justified at all, only by the most compelling considerations of law and policy. The stakes in the long standing debate on the existence and constitutional scope of the doctrine of executive privilege could not be higher.

The political and legal developments arising out of the 1973 Watergate investigations have cast the executive privilege question onto the center stage of public controversy. Yet the complex problems which appear in stark relief in that controversy have been implicit in American constitutional theory from the beginning. And, although the doctrine of executive privilege has sometimes been witnessed exclusively in the narrow context of the relationship between Congress and the Executive branch, it is now doubly clear that the question also entails a confrontation between the Executive branch and the Judiciary. Not only are courts called upon to rule on the validity of congressional demands for executive branch information;[1] courts themselves, as agents for prosecutors, grand juries, or the integrity of their own processes, are called upon to demand compulsory production of documents and testimony from officers and employees of the executive branch.[2]

This essay will examine the scope and constitutional basis of the doctrine of executive privilege as it has been asserted in courts and legislatures. Since recent litigation has acknowledged the existence of an executive privilege, it becomes particularly important to analyze the unsatisfactory and incomplete rationale advanced for the doctrine in order to define the contours and limits upon which courts should insist. Otherwise executive privilege becomes the assertion of an implied royal prerogative not witnessed for two centuries in this nation. As such it would be an open invitation to the destruction of representative government, and thereby, to tyranny.

I. PROBLEMS OF DEFINITION

It is ironic but perhaps understandable that the doctrine of executive privilege has not even been susceptible of a uniformly accepted precise definition. The formal term "executive privilege" itself originated only two decades ago,[3] although Presidents have claimed the right to withhold information from Congress, the courts and the citizenry since the earliest days of the Republic.[4]

The asserted scope of the doctrine reached its historical zenith when former Attorney General Richard Kleindienst recognized no right of judicial review of the claim, and testified that executive privilege denotes—

"The constitutional authority of the President in his discretion to withhold certain documents or information in his possession or in the possession of the executive branch from compulsory process of the legislative or judicial branch of the Government, if he believes disclosure would impair the proper exercise of his constitutional functions."[5]

A more restrictive view of the privilege was recently offered by Senator Sam Ervin, who urged a rationale focussing on confidential communications, and limited to those who advise the President in matter directly related to the official functions of the office of the President:

"Executive privilege is the power of the President to keep secret confidential communications between the President and an adviser or even among the advisers of the President which are made for the purpose of enabling the President, of assisting the President, to exercise in a lawful manner some constitutional or legal obligation resting upon him in his official capacity."[6]

The latter definition rejects the unlimited Presidential discretionary power urged in the Kleindienst testimony and requires that the communications relate to the lawful conduct of the President's duties. To that degree the Ervin definition commendably circumscribes exaggerated claims of prerogative and provides independent standards for judging the propriety of a claim of privilege. However, this definition presents problems of its own. Modern history demonstrates that the constitutional or legal obligations which Presidents have asserted to lie within an "official capacity" are breathtakingly sweeping in scope. Scholars,[7] until recently,[8] have described and even encouraged an exalted view of the uses and scope of Presidential power.

Although eminent authorities have accepted the arguments justifying an executive privilege in some form,[9] agreement even on this proposition is by no means unanimous. Legal historian Raoul Berger recently testified that the entire doctrine "rests on unproven assertion by the executive branch" and is a "myth, without constitutional foundations."[10]

The first conclusion compelled by these contradictory statements, then, is that it is both difficult and undesirable to state a uniform definition of the privilege. Sound analysis requires a careful examination of the varying contexts, judicial or legislative, in which the doctrine is asserted,[11] the persons who attempt to invoke it, and the subject matter which it is asserted to cover. In fact, "executive privilege" is not one concept, but many. Wigmore noted no less than seven analytically separable doctrines which have been asserted as the basis of a governmental privilege of non-disclosure: the substantive tort immunity of executive officers; the constitutional assertion of the executive's freedom from compulsory process, from the duty to be a witness, or from the duty to attend court; the doctrine that official records are irremovable; the privileges relating to informers' communications to government; and the topical privilege for state secrets and official information.[12]

This essay will focus principal attention on the definition, origin and scope of the asserted constitutional argument for executive privilege in relation to the duty of executive branch officials to testify or produce documents to Congress and its committees. It is obvious that unless careful contextual distinctions are respected, authorities relating to one aspect of doctrine will be used impermissibly in the articulation of another.

II. CONSTITUTIONAL SOURCES OF EXECUTIVE PRIVILEGE

The dispute over the existence and scope of executive privilege cannot be resolved by a traditional lawyer's retreat to adjudicated cases.[13] As a consequence, the question of executive privilege must be determined by resort to other jurisprudential techniques of constitutional interpretation: interpretation of the constitutional text; analysis of inferences from constitutional structure; reference to historical intent and precedent; or analysis of principle and policy. As will be seen, neither the text nor structure of the Constitution provide an unassailable basis for a privilege to withhold information from Congress. The argument from history and the "framer's intent" is at best fraught with ambiguity, but on balance supports Congressional inquiry rather than executive privacy. Only the argument from policy and principle suggests any deference to the executive. Even this argument, however, does not support an unqualified privilege to withhold information and, although the Constitution places some limits on the scope of Congressional inquiry, which the President, as any other citizen might claim, these arguments for a presidential privilege seem, upon analysis, largely non-constitutional in origin and justification.

A. The constitutional text

The few textual provisions of Article II enumerating presidential powers make no mention of an executive privilege to withhold information. Nor does it appear that the cryptic phrase, "executive power," can be so construed.[14] On the contrary, the only explicit, textual authorization for governmental secrecy of any kind is vested in Congress.[15] Likewise, only Congress was granted the immunity of the Speech and Debate Clause,[16] which could serve as the theoretical foundation for a refusal to divulge information. Moreover, *McGrain v. Daugherty*[17] represents clear decisional authority for a construction of the term "legislative power" to legitimate the broadest types of investigatory functions by Congress into executive conduct.

In light of the obligation imposed upon the President by article II, section three to "give to the Congress Information of the State of the Union . . .," some commentators, including Justice Story, have even concluded that there exists an affirmative duty on the part of the President to assist the deliberations of Congress by providing all requested information.[18] At the very least, however, the thrust of such a clause should negate any inference that the faithful execution clause of article II provides generalized support for the executive privilege.[19] In short resort to constitutional text provides no clear justification for the executive branch to deny information to Congress.

B. Constitutional structure

A distinguished commentator has argued forcefully that inferences from constitutional structure should be utilized as an intellectual method of legal interpretation.[20] Such a mode of reasoning is explicit in recent assertions by the Attorney General concerning the justification for executive privilege:

"The authority of the President to withhold information from the coordinate branches of the Federal Government stems from the separation of powers doctrine embedded in the first three articles of the Constitution and implicit throughout the document. While not expressed in a constitutional clause, executive privilege necessarily flows from the powers vested in the President by article II.[21]

This interpretation is said to confer unreviewable discretion in the President to invoke the privilege and to extend its scope to all employees of the Executive branch.

Whatever be its virtues in other contexts, this assertion is structuralism run rampant. The defects, however, are less those of intellectual method than of a failure to understand the structure to which the method is purportedly applied. The separation of powers theory in reality refers not to separated and

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distinctive "powers", but rather to separated institutions which were designed deliberately to share a wide range of overlapping powers and functions.[22] As the Supreme Court has explicitly acknowledged, the Constitution "enjoins upon its branches separateness but interdependence, autonomy but reciprocity." [23]

The defect of the structuralist method here, then, is that a properly understood doctrine of the separation of powers yields no inference, as a matter of deductive logic, from which the power to withhold information necessarily flows. In truth, the obverse, interdepartmental comity in sharing information, would seem a more justifiable inference. And, just as the separation of powers doctrine fails to produce a satisfying theory of the origin of the privilege, it also provides no clear analytical basis which would guide the President, or anyone else, in invoking his discretion as to the proper scope for the doctrine in a given instance. A structuralist justification of the doctrine, at this level of abstraction, is simply tautological.[24] As a leading authority has accurately put it, *"the 'separation of powers' does not confer power; it only protects a power otherwise conferred.* The existence of withholding power must therefore be proven, not assumed." [25]

Since many state constitutions possess a separation of powers structure, state court precedents from such jurisdictions would be persuasive authority on the validity of an executive privilege shield against disclosure to a legislative body. The only modern state decision on this point arose two decades ago in Massachusetts. The court there expressly denied the executive's power to withhold information.[26] This result is especially significant in repudiating the structuralist theory inasmuch as the Massachusetts Constitution states the separation of powers theory in its most rigid and unyielding form.[27]

C. The argument from intention and historical precedent

As Shakespeare reminded us respecting the scriptures, the devil may likewise cite history for his own purposes. The arguments for constitutional interpretation by reference to the Framers' intentions and the precedents of historical experience call for obvious caution. As one noted historian put it:

"[M]ost talk about the intent of the Framers—whether in the orations of politicians, the opinions of judges, or the monographs of professors—is as irrelevant as it is unpersuasive, as stale as it is strained, as rhetorically absurd as it is historically unsound. . . . On some of the great issues of constitutional law that have agitated our times the Framers expressed no clear intent, or invited their descendants to generate an intent of their own; on others they divided . . . on still others they framed their intent in words whose meaning is now so different from what it was in 1787 that to quote a Framer at all is to quote him quite out of context.[28]"

Both advocates [29] and opponents [30] of the doctrine of executive privilege have resorted extensively to historical precedents in support of their respective positions, and, indeed, the United States Supreme Court has expressly sanctioned the resort to English Parliamentary history and colonial experience as an important device of constitutional interpretation.[31]

Insofar as historical claims with respect to the Framers' intentions can safely be evaluated, opponents of an executive privilege have marshalled by far the most impressive evidence.[32] Berger described his findings as follows:

". . . Parliament enjoyed an untrammeled power of inquiry into executive conduct . . . no Minister or subordinate interposed any objection to the right of Parliament to inquire, and [there is] substantial evidence that the Founders meant to adopt this power of the 'Grand Inquest of the Nation', without the slightest indication that they intended in any way to cut it down. Against this history, the pseudo-precedents after 1787 carry an all but impossible burden.[33]"

The history of executive privilege following the adoption of the Constitution yields more ambiguous conclusions. Attorney General Rogers referred to "150 years of legislative acquiescence" [34] by Congress in the assertion of executive power to withhold information. A successor Attorney General stated even more confidently that this history of acquiescence in the privilege yielded "Burkean rules of constitutional prescription of the highest vitality." [35]

Careful study [36] has shown the embarrassingly inaccurate historical research which underlay the initial arguments of the Attorney General for executive privilege. But history does not clearly demonstrate that Congress always has been conscious to insist on its prerogatives of inquiry in demanding information of the executive. If history is to value the precedent of Congressional demand, it should also account for presidential refusals. Even presidents, such as Jefferson,[37] who have ultimately complied with the substance of demands by Congress and the courts for information have formally asserted their theoretical legal discretion to withhold it.

In short, the post-1787 precedents are of limited value. They bear all of the earmarks of their essential character as political compromises, and thus yield no unitary conception of the Constitutional basis of a privilege. There exists no compelling reason to insist on the rule of *stare decisis* for historical episodes which are ambiguous in contour, unyielding to conceptual analysis, and uniquely the product of the particular political struggles from which they arose.

Finally, on a matter of such fundamental constitutional importance as access to information which may affect the destiny of a nation, it is well to question the validity of any "Burkean rule of constitutional prescription." Even though executive pretensions may never have been repudiated, this fact does not demonstrate their legal validity. "Nor does a governmental practice conceived in error become elevated to the plane of legality because the error has been long persisted in." [38] In short, barring the existence of other authority, the essential ambiguity of historical experience will not serve to establish the constitutional basis for executive privilege.

D. The argument from principle and policy

In litigation concerning the Special Prosecutor's right of access to recordings of White House conservations, the Federal courts [39] though without citation of textual authority, acknowledged some residual validity to the concept of an executive privilege to resist judicial process. In fact, the real justification for the claim appears to rest on arguments from principle and from an assessment of competing policies respecting the scope of judicial discretion. Such considerations are not specifically constitutional in nature, but to the extent that any doctrine of executive privilege can be sustained, these imperfectly articulated arguments are its strongest bulwark.

The merits of policy considerations which may justify a claim of executive privilege in the context of a congressional inquiry are best assessed in three categories. First, there exist concerns respecting the dangers of excessively broad and unjustified Congressional investigations such as characterized the era of Senator Joseph McCarthy. Second, some have argued the necessity to preserve absolute candor in vital processes advisory to the President. Finally, it is important to assess policy rationales for certain testimonial privileges, nonconstitutional in origin, which are sometimes inappropriately confused with a constitutional claim on behalf of the President. It is in this last context that the arguments of *In re Subpoena to Nixon* merit closest consideration.

1. The Scope of Legislation Investigations

Decades ago, *McGrain v. Daugherty* [40] securely established the sweeping scope of the Congressional power of investigation. Many authorities, Woodrow Wilson among them,[41] have even regarded investigative oversight of the executive as a more significant legislative function in a representative government than legislation itself. Surely this power is even more vital in an era of Presidential government wherein executive agencies manage a public sector of historic dimension and possessing unprecedented power to affect national life.

Yet the dangers of legislative investigations to personal liberties have often been noted.[42] Even those who do not favor an expansive role for executive privilege have candidly acknowledged the dangerous potential of a future legislative McCarthyism.[43]

President Eisenhower's refusal in 1954 to disclose information to Congressional investigating committees [44] might in reality find its true justification not in the theory of the separation of powers, but rather in the protection of privacy of innocent third parties from Congressional tactics of improper public exposure.

This rationale for an executive privilege has a certain initial appeal, particularly since the right of privacy has been given an explicit constitutional justification.[45] Moreover, there is some suggestion that the Supreme Court might recognize the right of privacy as a substantive limitation on Congressional powers of investigation.[46]

However, the "privacy" rationale is also subject to serious limitations. The substantive constitutional doctrine is subject to trenchant criticism.[47] Apart from this point it is not clear why the executive branch, rather than affected individuals, should invoke these protections. Finally, it is questionable whether the "privacy" right is fairly applicable to matters of such inherent public interest as the subjects of a congressional investigation, particularly in view of the decimating impact which the first amendment doctrines of *New York Times v. Sullivan* [48] and its progeny have visited on the parallel law of defamation.[49] Nor is this policy rationale significantly clarified by reference to the executive's own right of privacy. As Judge Sirica correctly observed, Presidential privacy of itself has no merit; it should be granted deference only insofar as it furthers a public rather than personal interest.[50]

It is fair to acknowledge that legislative demands for information could become vehicles for harassment of the executive. However, historically, political means of adjustment have seemed capable of moderating most excesses. And should such controversies ever reach the courts, the restraint can be imposed through the means by which discovery devices have traditionally been controlled.

Supreme Court adjudication, most notably concerning the commerce clause, has typically determined that once an area of plenary congressional power is established, the Constitution imposes few constraints other than through protections for individual liberties which act as restraints on governmental power generally. This principle appears particularly appropriate to the Congressional power of investigation. If the power is acknowledged, it is difficult to articulate a workable countervailing theoretical principle of executive power which moderates its exercise. Degrees of permissible legislative activity cannot be established. In this light, a doctrine of executive privilege constitutes an inappropriate mechanism for constraining

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legislative inquiry. It is better to focus on the limits of Congressional power to demand rather than on any substantive executive power to withhold.

Legislative investigations can be made fully subject to judicial controls which serve to protect important countervailing interests. Inquiries potentially infringing on personal rights can be circumscribed by techniques of statutory construction,[51] by insistence on the adjudicatory procedures of due process,[52] or by a careful review of authorizing legislation or the scope of a given committee's investigatory authority.[53] Substantive infringements on individual rights by Congressional actions are explicitly subject to judicial review,[54] and the Supreme Court has not hesitated to limit the scope of legitimate legislative purposes within the confines of the Fourth and Fifth Amendments.[55]

These limitations on Congressional action were forged in the context of the claims of an individual against his government, rather than in the conflict between two coordinate branches of that government. But the limitations exist as powerful weapons against most significant legislative excesses. The factor which distinguishes the inquiries of a Senate Select Committee investigating the Watergate scandals from the inquisitions of a Joseph McCarthy is neither the substantive reach of investigative power nor the subject matter of investigation. Rather, it is the growth in intervening decades of a greater judicial sensitivity to Constitutional limitations favoring personal freedoms.

2. The Plea for Candor in Executive Deliberations

The policy basis for the judicial decisions in *In re Subpoena to Nixon* rests explicitly on an acknowledgement that the President might be deprived of candid advice were his advisors to be subject to later questioning. Two points are immediately apparent. First, this appears to be a consideration of legislative policy rather than constitutional prescription. It is analogous to the policies underlying testimonial privileges created by statute and the common law which apply to confidential communications arising out of certain important relationships. It suggests that any such privilege is the proper subject of congressional statutory definition, rather than an inherent attribute of executive power.

Second, if the privilege focuses on personal advice of this nature, the policy would dramatically and properly restrict past executive assertions about the scope of executive privilege and limit it to personal relationships of advice to the President.

The conclusion which follows, then, is that executive privilege as to judicial process is in reality a non-constitutional doctrine relating to the exercise of judicial discretion. The doctrine is one of special deference to unique needs of an institutional presidency. It is a principle of judicial discretion which, because of these concerns, calls for a more exacting demonstration of need for disclosure. These are concerns to be evaluated in arguments on the return of court process, as in *United States v. Burr*,[56] not reasons for fusing its issuance. Proper focus on the demand for relevance and a special showing of necessity prevents a judicially unmanageable inquiry into the substantive kinds of executive information which privilege is said to protect beyond disclosures otherwise prohibited by law.

Although courts could forge a broad, judicially-created doctrine of immunity, as was acknowledged in *Barr v. Matteo*,[57] the competing policies which favor disclosure of relevant information to Congress and courts must preclude such a conclusion.

In short the plea for candor cannot constitute the basis for an unreviewable and absolute privilege for executive discussions. Still less could this be true in the impeachment process, where the very function of the constitutionally authorized legislative process is investigation of executive misconduct.

3. Policies of Governmental Privileges Against Disclosure

The District Court in *In re Subpoena to Nixon* commendably rejected the absolutist theory of executive privilege and properly asserted a judicial role in evaluating the claim.[58] However, it erred seriously in accepting *United States v. Reynolds*[59] as sound authority for an *executive* privilege.[60] *Reynolds* explicitly dealt with a governmental, not an executive privilege. Although the executive branch asserts the claims in court proceedings, the privilege itself descends from the evidentiary doctrine of state secrets, and is thus a matter the substance of which is fully within the legislative power to define. This point is of particular importance since the fine line of demarcation between disclosures which involve "national security" as opposed to mere political embarrassment should be subject to congressional scrutiny.

This essay cannot examine all of the evidentiary doctrines relating to state secrets, the identity of informers, and the confidentiality of investigative files.[61] However, to the extent that the bases of such privileges do not rest securely on statutory authority which Congress has the power to grant or modify, they are based implicitly upon arguments respecting desirable policy, not inherent executive authority to withhold information.

III. THE JUDICIAL ROLE

The evidentiary doctrines applicable to executive privilege in court processes are similar in rationale to those urged to deny disclosure of information to Congress. Congress, no less than the courts can show a necessity for information, since it functions as a "grand jury to the nation."[62] And since the power of congressional inquiry has no limitation to "case or controversy," some authority suggests that congressional power to seek information is even more sweeping.[63]

But it does not follow that the Federal Courts should necessarily always be arbitrators of the appropriate flow of information between the President and Congress. The doctrine of executive privilege against disclosure to Congress has little theoretical foundation. But the considerations respecting the Constitutional duty to assist Congressional inquiry are analytically independent of issues concerning the appropriate method for enforcing such an obligation.

In an earlier era a conflict of this magnitude between Congress and the Executive would quickly have occasioned invocation of the "political questions" doctrine. However, on the basis of the Court's decision in *Baker v. Carr*,[64] a leading authority has argued elaborately that the executive privilege question is appropriate for adjudication.[65] Moreover, the Court has shown an increasing willingness to demarcate the boundaries of Congress and the Executive, and even to adjudicate with respect to their allegedly "internal" affairs.[66]

Justice Rehnquist, in his former capacity as Assistant Attorney General, acknowledged that an executive officer who refuses to appear or supply information is subject to contempt citation for refusal to honor a Congressional subpoena.[67] The issue might well be posed to the courts, for example, in the case of an executive branch official subject to conflicting directives regarding disclosure of information in his possession. It is therefore important to consider certain principles of judicial discretion, analogous to those respecting the evidentiary privilege, which can limit and define the judicial role, even if they do not deny jurisdiction to the Court.

First, it is obvious that many questions concerning access to information can be settled by political accommodation between the two branches of government. To the extent that such accommodation succeeds, it furthers the purposes of the constitutional separation of powers theory.[68]

Second, contrary to the problems faced by a court in enforcing compulsory process, Congress has powerful political means to enforce its demands. Senator Kennedy recently stated the point accurately:

"Congress already has subpena and contempt powers. It can presently hold up nominations, cut off funds, or withhold authorizations. Until it has utilized, much less exhausted, its existing powers to require testimony or documents from the executive it need not develop more powerful arsenals for enforcing its will."[69]

A doctrine of "exhaustion of Congressional remedies" which abdicated a judicial role unless Congress had resorted to the draconian power of impeachment would ask too much, in view of practical political realities. But a demand that Congress speak with clarity, and as an institution, is surely an appropriate consideration for argument on the return of compulsory process issued by Congress.

This consideration is especially significant in affording time for accommodation, in permitting issues to be cast in sharper relief, in permitting political accommodation without judicial intrusion, and in forcing Congress as an institution, rather than in one of its committees, to determine the appropriate occasion for a Constitutional confrontation.

Third, to the maximum extent possible, Congress, by statute, should codify the interwoven evidentiary doctrines which are now called executive privilege into coherent statutory law. Such action would clarify, if not resolve, many legal issues, present questions more clearly for eventual judicial resolution, and provide Congress with more refined techniques by which to confront the executive.

Fourth, and finally, courts should, where possible, resolve questions of privilege and inquiry by traditional techniques of a non-constitutional nature. Judicial examination of authorizing resolutions or the statutory authority of Congressional committees is one such method. Together with a sensitivity to questions of relevance and the possibility for harassment and inconvenience, these techniques for the exercise of judicial discretion permit resolution of many vital questions without creation of a constitutional crisis.

IV. CONCLUSION

The question of executive privilege presents a myriad of important issues which are beyond the scope of this essay to relate. Questions concerning the amenability of executive officials to court process, the types of persons entitled to assert privilege, and the applicability of the doctrine of waiver call for immediate attention. Yet surely most important is the threshold issue concerning the Constitutional basis of the asserted privilege.

Our generation has debased the superlatives of its political rhetoric by overuse. But surely one conclusion does not distort the use of language. The fate of representative government in the United States will hinge on the ability of our legislative and judicial institutions to resist an uncontrolled executive prerogative over the life blood of a democratic society: access to information.

FOOTNOTES

[1] Senate Select Committee v. Nixon, 42 U.S.L. Week 2212 (D.D.C. Oct. 17, 1973)

[2] See, *e.g.*, In re Subpoena to Nixon, 360 F. Supp. 1 (D.D.C. 1973), *aff'd sub nom.* Nixon v. Sirica, 42 U.S.L. Week 2211 (D.C. Cir. Oct. 12, 1973) (en banc)

[3] See Schlesinger, Executive Privilege: A Murky History, Wall Street J., Mar. 30, 1973, at 8, col. 3

[4] See generally, Berger, Executive Privilege v. Congressional Inquiry, 12 U.C.L.A.L. Rev.

1043, 1288 (1965); Schwartz, Executive Privilege and Congressional Investigatory Power, 47 Calif. L. Rev. 3 (1959)

[5] I Hearing before the Subcomm. on Intergov't Rel. of the Comm. on Gov't Operations and the Subcomms. on Separation of Powers and Administrative Prac. and Proc. of the Senate Comm. on the Judiciary on S. 858, S. Con. Res. 30, S.J. Res. 72, S. 1106, S. 1142, S. 1520, S. 1923, and S 2073, 93d Cong, 1st Sess. 20 (1973) [hereinafter cited as 1973 Executive Privilege Hearings]. Kleindienst argued that the President could assert the privilege claim with respect to proposed testimony by any of the 2½ million employees of the executive branch *Id.* at 46

[6] *Id.* at 41.

[7] C. Rossiter, The American Presidency (2d ed. 1960); E. Corwin, The President: Offices and Powers 1787–1957 (4th ed. 1957) R. Neustadt, Presidential Power (1960).

[8] A. Schlesinger, Jr., The Imperial Presidency (1973).

[9] Corwin, The Constitution and What It Means Today (13th ed. 1973).

[10] R. Berger, 1973 Executive Privilege Hearing 234, 244.

[11] See, *e.g.*, Younger, Congressional Investigations and Executive Secrecy: A study in the Separation of Powers, 20 U. Pitt. L. Rev. 755 n. 1 (1955). However, Younger's conclusion that the "political doctrine of executive secrecy" should be sharply distinguished from the "evidentiary rule of executive privilege" seems less persuasive when the executive branch invokes the identical rationale, the protection of candor in presidential advice, for denying both legislative and judicial access to evidence of the internal deliberations of the White House.

[12] 8 Wigmore, Evidence § 2367 (McNaughton rev. 1961).

[13] An Assistant Attorney General recently could cite only six cases even remotely bearing on the executive's alleged right of nondisclosure: Unted States v. Reynolds, 345 U.S. 1 (1953); United States v. Curtiss-Wright Export Corp., 299 U.S. 304, 319–20 (1936); New York Times Co. v. United States, 403 U.S. 713, 729–30 (Stewart, J., concurring); Environmental Protection Agency v. Mink, 93 S.Ct. 827, 834 (1973); Soucie v. David, 448 F.2d 1067, 1071 n. 9 (D.C.Cir. 1971); and Ethyl Corp. v. Environmental Protection Agency, Civ. No. 72–2355 (4th Cir. 1973). Hearings on the Freedom of Information Act (H.R. 5425, H.R. 4960) Before a Subcomm. of the House Comm. on Gov't Operations, 93d Cong., 1st Sess. 171–72 (1973). See also Kaiser Aluminum & Chem. Corp. v. United States, 157 F. Supp. 939, 944, 141 Ct.Cl. 38 (1958).

[14] R. Berger, 1973 Executive Privilege Hearings at 245.

[15] U.S. Const. art. I, § 5, cl. 3.

[16] U.S. Const. art I, § 6, cl. 1. See generally, Ervin, The *Gravel* and *Brewster* cases: An Assault on Congressional Independence, 59 Va. L.Rev. 175 (1973); Reinstein & Silvergate, Legislative Privilege and the Separation of Powers, 86 Harv.L.Rev. 1113 (1973).

[17] 273 U.S. 135 (1927).

[18] See Memorandum prepared in 1971 at the request of Senator Stevenson of Illinois, "The Doctrine of Executive Privilege," 1973 Executive Privilege Hearings 104, 105–106.

[19] See Schwartz, *supra* note 4 at 40.

[20] C. Black, Structure and Relationship in Constitutional Law (1969).

[21] Statement of Hon. Richard G. Kleindienst, 1973 Executive Privilege Hearings 18, 20.

[22] See, *e.g.*, Frohnmayer, The Separation of Powers: An Essay on the Vitality of a Constitutional Idea, 52 Or. L. Rev. 211, 215–20 (1973); In re Subpoena to Nixon, 360 F. Supp. 1, 8 (D.D.C. 1973) *aff'd sub nom.* Nixon v. Sirica, 42 U.S.L. Week 2211 (D.C. Cir. Oct. 12, 1973) (en banc):

"The Special Prosecutor has correctly noted that the Framers' intention to lodge the powers of government in separate bodies also included a plan for interaction between departments. A 'watertight' division of different functions was never their design. The legislative branch may organize the judiciary and dictate the procedures by which it transacts business. The judiciary may pass upon the constitionality of legislative enactments and in some instances define the bounds of Congressional investigations. The executive may veto legislative enactments, and the legislature may override the veto. The executive appoints judges and justices and may bind judicial decisions by lawful executive orders. The judiciary may pass on the consitutionality of executive acts." (Footnotes omitted)

[23] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579 (1952).

[24] See Schwartz, Executive Privilege and Congressional Investigatory Power, 47 Calif.L. Rev. 3, 8 (1959).

[25] Berger, Secrecy and the Presidency, Wash. Post, July 24, 1973, at A20, col. 5. (Emphasis in original).

[26] Opinion of the Justices to the Senate, 328 Mass. 655, 102 N.E.2d 79 (1951).

[27] See Mass. Const. art. XXX (1780).

[28] C. Rossiter, 1787—The Grand Convention 288 (Mentor ed. 1966). See also Wofford, The Blinding Light: The Uses of History in Constitutional Interpretation, 31 U.Chi.L.Rev. 502 (1964).

[29] See, *e.g.*, Wolkinson, Demands of Congressional Committees for Executive Papers, 10 Fed.B.J. 103 (1949); The Power of the President to Withhold Information from Congress, Memorandum of Attorney General Rogers compiled by the Subcommittee on Constitutional Rights of the Senate Committee on the Judiciary, 85th Cong., 2d Sess. (1958); Statement of Attorney General Kleindienst, 1973 Executive Privilege Hearings, 18, 20–26.

[30] See, *e.g.*, authorities cited notes 4, 14 and 18, *supra*.

[31] See, *e.g.*, *Ex parte* Grossman, 267 U.S. 87, 108 (1925); Powell v. McCormack, 395 U.S. 486, 522–31 (1969).

[32] See Berger, *supra* note 4 at 1053–78.

[33] Berger, 1973 Executive Privilege Hearings 243, 244.

[34] See Memorandum of Attorney General Rogers, *supra* note 28 at 71.

[35] Statement of Attorney General Kleindienst, 1973 Executive Privilege Hearings at 19.

[36] Berger, *supra* note 4 at 1078–97.

[37] See Frohnmayer, *supra* note 21 at 227 n. 69.

[38] Schwartz, *supra* note 4 at 22.

[39] *In re Nixon*, *supra* note 2.

[40] 273 U.S. 135 (1927).

[41] W. Wilson, Congressional Government (Meridian ed. 1956).

[42] See, *e.g.*, T. Taylor, The Grand Inquest (1955).

[43] See *e.g.*, Statement of Senator Adlai E. Stevenson III, 1973 Executive Privilege Hearings 90, 92:

"[Eisenhower] was . . . provoked by the persistent demagoguery of Senator Joe McCarthy, and we who are skeptics about executive privilege must face responsibly the question such demagoguery raises."

[44] Public Papers of the Presidents: Dwight D. Eisenhower 483 (1954).

[45] Roe v. Wade, 93 S.Ct. 705 (1973); Griswold v. Connecticut, 381 U.S. 479 (1965).

[46] *Cf.* Doe v. McMillan, 93 S.Ct. 2018 (1973).

[47] Ely, The Wages of Crying Wolf: A Comment on *Roe* v. *Wade*, 82 Yale L.J. 920 (1973); *Cf.* Tribe, Foreword: Toward a Model of Roles in the Due Process of Life and Law, 87 Harv. L. Rev. 1 (1973)

[48] 376 U.S. 254 (1964)

[49] *But cf.* Time, Inc. v. Hill, 385 U.S. 354 (1967)

[50] In re Subpoena to Nixon, 360 F. Supp. 1, 5 n. 8 (D.D.C. 1973)

[51] *E.q.*, Tenny v. Brandhove, 341 U.S. 367 (1951)

[52] *E.q.*, Powell v. McCormack, 395 U.S. 486 (1969)

[53] See, *e.q.*, Barenblatt v. United States, 360 U.S. 109 (1959); Watkins v. United States, 354 U.S. 178 (1957); United States v. Rumely, 345 U.S. 41 (1953); Sinclair v. United States, 279 U.S. 263 (1929)

[54] Gravel v. United States, 408 U.S. 606, 620 (1972)

[55] See Doe v. McMillan, 93 S. Ct. 2018, 2031 (1973) (Douglas, J., concurring)

[56] 25 Fed. Cas. 30, 34 (No. 14, 692d) (1807)

[57] 360 U.S. 564 (1959).

[58] In so doing, the court followed the precedent of all common law countries including, more recently, England. See generally, Cappelletti & Golden, Crown Privilege and Executive Privilege: A British Response to an Amercan Controversy, 25 Stan. L. Rev. 836 (1973).

[59] 345 U.S. 1 (1953).

[60] 360 F. Supp. at 5.

[61] See generally authorities cited *supra* note 4.

[62] Schwartz, *supra* note 4 at 24, 31.

[63] *Id.* at 28–30.

[64] 369 U.S. 186 (1962).

[65] Berger, *supra* note 4 at 1349. However Schwartz questions whether article III permits such a result, *supra* note 4 at 45.

[66] See *e.g.*, Powell v. McCormack, 395 U.S. 486 (1969); Doe v. McMillan, 93 S.Ct. 2018 (1973).

[67] II Hearings before a Subcomm. on Foreign Op. and Gov't Info. of the House Comm. on Gov't Op. on the Pentagon Papers 379, 385 (June, 1971).

[68] See generally Frohnmayer, *supra* note 21.

[69] Opening Statement of Senator Kennedy 1973 Executive Privilege Hearings 15, 17.

CITY OF COMPTON'S CINCO DE MAYO CELEBRATION

Mr. TUNNEY. Mr. President, I am pleased to inform my colleagues of the extensive preparations and plans being formulated by the city and citizens of Compton, Calif., to observe Chicano Awareness Week. The highlight of their observance will be the Cinco de Mayo celebration being held in conjunction with their sister city, Puebla, Mexico.

Puebla's significance to our sister republic's struggle for liberty is unique. On May 1, 1862, the French General Laurencez and his mercenary army—considered to be the strongest in the world—arrived at Mocameo Beach on the coast of Veracruz. President Henito Juarez, a Zapotecan Indian, had assigned Gen. Ignacio Zaracosa to lead a peasant army, composed of Mestizos and Zacofoaxtia Indians, to defend the flag and the Mexican people against injustice and tyrannical influence.

General Laurencez, considering it a simple and amusing military maneuver, marched toward Puebla. In a tremendous show of raw force, Gen. Ignacio Zaracosa led his followers, many armed with machetes, to victory."

Throughout the years the 5th of May, El Cinco de Mayo, has become to the Mexican people of the Republic and Atzlan—southwestern United States—a memory of national pride and emotion. On this day General Zaracosa sent the following message:

"The national defenders have covered themselves with glory."

In 1970, California Gov. Ronald Reagan proclaimed the first week in May

as "Chicano Awareness Week." In 1971, Compton College Movimiento Estudiantil Chicanos de Atzlan (M.E.Ch. A.) with the support of the community, moved and received approval of El Cinco de Mayo as a legal holiday for the college district. These efforts snowballed until early 1972, when the Compton Unified School District and the Compton City Council followed suit. Thus, Compton is the only city in the entire United States to have proclaimed this an official holiday.

In Compton, this day symbolizes for the Mexican his heritage of a noble race of people, as in spirit of Benito Juarez's statement, "El respeto al derecho ajeno es la paz." "The respect of another's rights is the peace."

Much work is being put forth by el comite civico patriotico, the sister city committee, and city hall staff, that the 1974 Cinco de Mayo celebrations will be the best ever. It is sincerely hoped that the entire community will join in the festivities, honoring dignitaries from the sister city of Puehla, expected to arrive May 1, 1974.

Celebrations will be taking place throughout the city for the entire week. Among those planned by the committee and the city are:

April 27, 1974, the Cinco de Mayo queen's dance at the English Square.

May 1, 1974, the reception of Puebla dignitaries at City Hall.

May 4, 1974, the cohost banquet—honoring the dignitaries and the queen and her court—at English Square.

May 5, 1974, the Cinco de Mayo parade, followed by grand festivities at Lueders Park.

These impressive activities are worthy of our notice and commendation and it is with this in mind that I extend best wishes to the respective sister cities of Compton and Puebla, el comite civico patriotico, the sister city committee, and city hall staffs, and the following dignitaries: Mr. Lorraine Cervantes, chairperson of the sister city committee; Miss Volanda Berumen, El Cinco de Mayo queen; Princesses Rossana Colrea, Barbara Soteco and Maria Consuelo Corareubiaz; the visiting dignitaries from the city of Puebla: Regidor Miguel Bautista; el sechetario del regidor, Licenciado Arel Tobar Campo; ayumtamiento Licenciado Pacheco; Ayudante Del Licenciado Pacheco, Licenciado Toquedo; el director de governacion, Licenciado Manuel Merino.

Finally, I respectfully convey my warmest personal regards to the Gobernador of the State of Puebla, Mexico, Don Guillermo Morales Blumenkron; the presidente municipal of the city of Puebla, Dr. Louis Basquez la Puente, to Mayor Doris Davis and the City Council of Compton, Calif., for their encouragement and support of this most worthwhile endeavor.

THE ENERGY SHORTAGE

Mr. BARTLETT. Mr. President, it is important to note the increase in activity of exploration and development of oil and gas as a result of the current price levels of oil and gas.

The oil royalty in Osage County, Okla., is owned by the Osage Indian Tribe. Quoting from an editorial in the April 19, 1974, issue of the Tulsa Tribune:

OSAGE BOOMLET

The location may have been symbolic, but the crisp bidding for oil and gas leased on the grounds of the Osage Tribal Museum in Pawhuska Wednesday was for real.

And for the first time in 18 years, the bidding topped the $1 million mark. "Maybe it was the weather," one oilman told Tribune Reporter Keith Griffis, "Or more likely it was the attractiveness of $10 crude oil."

Bidding took place under a tall elm tree, and it seemed like old times in the Osage. It was also under a tall elm that money changed hands when the oil boom was going strong and fortunes were made by the bold.

Today it is more a matter of simple economics. Squeezing more oil out of the once rich pools had been unprofitable until the price of crude began to climb.

It is more boomlet than boom but the new surge of interest in Osage oil is good news for Oklahoma.

DÉTENTE: SOME QUALMS AND HARD QUESTIONS

Mr. BROCK. Mr. President, Gen. Matthew B. Ridgway, one of our most distinguished military commanders in Korea and in World War II, has offered some important thoughts about the inherent risks of détente and about the future of this Nation. His call for the widest public debate on these fundamental issues, as it appeared in the New York Times, is expressed in the same inimitable language with which he used to inspire his troops in combat.

As a contribution to the suggested public debate, I herewith ask unanimous consent that General Ridgway's article, "Détente: Some Qualms and Hard Questions," be printed in the RECORD.

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

DÉTENTE: SOME QUALMS AND HARD QUESTIONS

(By Matthew B. Ridgway)

PITTSBURGH.—"Détente," I believe, poses the potentially gravest danger to our nation of all the problems we face. Whether it is to prove a siren's call to lure us to our destruction, or the first long step toward defusing the terrible threat of nuclear warfare and worldwide holocaust, no man can today predict with any assurance.

But what any reasoning person can clearly perceive is the distinct possibility that treaties can be abrogated or ignored, that solemn undertakings by the Soviet leadership can be deliberately flouted or repudiated and that an overnight reversion to the hard-line policies of a former Soviet Government can take place.

Against these possibilities this country must have ample safeguards, for we are dealing not with the fate of our own nation, though that may well be what we are doing, but with the fate of a civilization, the fate of the fundamentals on which our nation and the free world have built that civilization through two millennia.

What must be done is to critically and coldly examine and analyze every facet of this problem through the widest practicable public debate and then to make basic decisions and formulate policy guidelines.

Fortunately, it appears that an assessment of where we may be going, for what reasons, and for what guarantees of national benefits, is being made constructively, by highly qualified individuals, in and out of Government, whose intellectual honesty, integrity, competence and devotion to our country command respect.

There can be no real lessening of tensions, except in an atmosphere of mutual trust. Such trust does not exist. Positive action, not mere words, by the Soviet Government will be required over an extended period to create such trust. For America's part, I fail to see how it can exist in view of the unrelieved evidence of the actions taken and the courses pursued by the Soviet Government over the last fifty years, the frequently expressed fundamental objective of spreading its form and concept of government throughout the world—in short, of its aim of world domination.

Would it be in our national interest to extend long-term credits to the Soviet Union for the development and marketing of Siberian oil and gas reserves in exchange for Soviet promises to let us share them at fair prices years hence; to furnish technology that we have developed and that the Russians lack and eagerly seek; to continue to pare our military strength while the Soviet Union continues to augment its own in the nuclear and conventional fields, as it has been doing for the last five years; to consent to the present disparity in nuclear capabilities brought about by our 1972 agreement on limiting strategic weapons; to agree to a common percentage in the reduction of armed forces in Europe, leaving the Soviet Union in its present position of greater strength—another Soviet proposal?

These are hard questions of immense significance to us and to the free world. They demand hard thinking.

Under the vision of those who established our form of government, mankind's fires of imagination were kindled. They burned with an intense flame and spread over much of the world. They have yet to be extinguished. But now in the continuing erosion of morals and ethics, and in the apathy and muddled thinking of many of our own people today, they have been allowed to burn dangerously low.

We now have before us in our greatest hour for two centuries, an opportunity to show the world whether we are determined to keep those fires burning; whether we shall be found too lacking in integrity, too weak in moral courage, too timid in planning, too irresolute in execution to set before Almighty God and mankind an example of those principles, faithfully adhered to, on which our Founding Fathers staked "their lives, their fortunes, and their sacred honor"—whether we will show the world an example of what in our hearts we know is eternally right.

In this Bicentennial era, the choice is ours to make.

VOLUNTEERS IN MINNESOTA JUVENILE COURTS

Mr. MONDALE. Mr. President, a worthwhile, innovative program has been developed in Minnesota to help deal with the serious and growing problem of juvenile delinquency. At a time when experts predict that 1 out of every 9 youngsters nationwide will have been to juvenile court by age 18, the Parent-Teachers-Student Association in Hennepin County, Minn., has offered to assist the courts in working with juvenile offenders. The response of the volunteers in the courts program, a project of the PTSA, is an encouraging expression of concern for the very real need to pro-

vide guidance to young people in trouble. Over 700 volunteers are serving in Hennepin County, giving support to the juvenile courts in handling young offenders.

The Albert Lea Evening Tribune recently carried an article describing this commendable, cooperative effort by the PTSA and juvenile courts in Hennepin County. I ask unanimous consent that it be printed in the RECORD.

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

JUDGE ASKS VOLUNTEERS' HELP WITH TROUBLED KIDS

(By Mike Bulger)

"We're naturals for each other," said Judge Lindsay G. Arthur of Minneapolis today addressing a Volunteers in the Courts Project seminar in Albert Lea.

Volunteers in the Courts is a project of the Parent-Teachers-Student Association (PTSA) and is an attempt to assist juvenile courts. An all-day seminar was held today at the Kahler Motel.

PTSAs and juvenile courts should work closer together, Arthur said. "We're naturals for each other because we do have the same general object. We have kids in mind.

"We're concerned, both of us, with children in trouble. We need you to come in and look at the courts to tell us how to do a better job. Your outside view could be helpful to us.

"We should be getting closer and closer together in the function of helping children. I think if we can get closer together we can reduce crime and delinquency, we can reduce divorce rates, and a whole lot of other things," Arthur suggested.

"The real challenge is that they are tomorrow. They will make decisions in the next generation. We have to find new resources so juveniles don't have to come to court at all," he asserted.

About 75 per cent of juveniles arrested do not reach court in Hennepin County. They are diverted by police or court services personnel, according to Arthur. Volunteers can assist greatly in diverting others, Arthur said.

"Our theory is if a child can get the help he needs elsewhere, and will get the help he needs elsewhere, why bother the court, why spend the taxpayers' money, why stigmatize the child?" he challenged.

The PTSA can be especially helpful in working with schools, Arthur said. He stated that nearly all of those brought to juvenile court have a reading problem which could be corrected with special programs.

"The parents of America, more and more, are turning over to the schools the job of giving moral values," he added.

"We're having a hard time not saying that two-thirds of the crimes in America can't be solved way back in grade school."

Over 700 volunteers in Hennepin County work with juveniles. Arthur said some are used for "hand-holding" while others develop social histories. Some work with probation officers; others are used as guardians when the parents are incompetent.

"It's a cop-out to say 'we're just a small community and we can't afford all these wonderful things,'" Arthur said. Small counties can afford them, he said, and many are already spending more per capita than the Metropolitan area.

CURRENT U.S. POPULATION

Mr. PACKWOOD. Mr. President, I would like to report that, according to current U.S. Census Bureau approximations, the total population of the United States as of today, May 1, is 212,057,998. In spite of widely publicized reductions in our fertility levels, this represents an increase of 1,393,578 since May 1 of last year. It also represents an increase of 151,755 since April 1 of this year—that is, in just the last month.

Over the year, therefore, we have added enough people to fill two cities larger than San Diego, Calif., and in just 1 month, we have added the equivalent of a new Lansing, Mich.

UNIFORM NOTARY ACT

Mr. TUNNEY. Mr. President, I would like to bring to the attention of my colleagues and the governing officials in each of their States an important development in the modernization of notary laws. A California-based organization, with a national membership, the National Notary Association, has prepared, with the assistance of the Yale Law School Legislative Service, a Uniform Notary Act.

The Uniform Notary Act, the first major notary legislation initiated in over two centuries, would bring a marked advance to the current practices of the Nation's nearly 2 million notaries public if adopted by all the States. This advance will ultimately result in all Americans being better and more responsibly served.

In this age of instantaneous communication networks and all the miracles of technology, isolationist State notary statutes have become obsolete appendages hindering society. The Uniform Notary Act suits more than just the needs of one State; it serves the needs of the Nation at large. Obviously, the interest of national unity would be more abundantly served by standardized notary law and practices.

This uniform law would not only bring the disparate practices of notaries public into conformity in each State, but would also upgrade and professionalize the notary office, which is rooted in man's earliest history. The modern notary public performs an important function in the conduct of today's business and society as did the "Notarius" of the Roman period of history.

The Uniform Notary Act, written and promoted by the National Notary Association in the public interest, is the culmination of their many years of research and inquiry. They, along with a National Uniform Law Advisory Committee, composed of respected public officials, attorneys, law schools, and legislators, donated countless hours to the research, development and drafting of this act. The dedication of all these parties has resulted in an act that truly reflects the needs of all sectors of American society.

I am pleased to be able to announce that my home State has taken the lead in introducing this measure in both houses of the legislature. In the opening weeks of the 1974 California Legislature, the Uniform Notary Act was introduced by State Senator Alan Robbins and Assemblyman Daniel Boatwright as S.B. 1603 and A.B. 2881, respectively. These progressive legislators have set the precedent for adoption of a Uniform Notary Law by each of the United States.

In fact, many other States are currently reviewing and preparing the Uniform Notary Act for legislative introduction. Recently, the act has also been introduced in Maryland.

Among the provisions of the Uniform Notary Act are the standardization of notary stamps and seals and the requirement that these identifying symbols appear on all notarized documents. Notaries will also be required to keep a detailed journal of all notarial acts. This journal would describe the pertinent circumstances of each notarization as well as contain the signatures of the parties to the transaction.

Recent national events have pointed out the importance of this type of detailed journal. The propriety of the President's gift of papers to the National Archives was called into question precisely because the circumstances of the notarization were not clearly stated. Had the Uniform Notary Act been in effect, the notary involved would have been required to keep a written record of the grant deed notarization in his journal including the date of the document, the date of the notarization and the President's signature executed in the journal. This record would have prevented the present confusion about the nature and dates of that particular notarial act.

The cumbersome "certificate of authority" once required on all interstate documents has been eliminated in the Uniform Notary Act. With the standardization of notarial procedures and identification, documents will be able to flow freely from one State to another, promoting and encouraging interstate commerce.

All notaries must be bonded by responsible surety companies to provide financial recourse to parties should they be damaged by a notary's wrongful acts. If the public must depend on a notary's acts in the conduct of their business, it is imperative that the public be protected against improper performance of those acts.

The Uniform Notary Act clearly defines the limits of notarial authority and strengthens the distinction between notarial acts and legal acts. It imposes penalties for wrongful conduct as well as promotes a code of the highest level of notarial conduct.

Another important contribution of this legislation is the language in which it is written. Difficult and obscure legal interpretations have been discarded in favor of clear, nontechnical language which can be understood by the notaries public—most of whom are not attorneys—who much implement the provisions of this act. It is always important to design laws that are comprehensible to those they govern.

Mr. President, I hope my colleagues will take heed of this interesting new development. Modernization of the Nation's notary laws, and the adoption of a uniform law among all the States, would certainly be of great benefit to all Americans. I commend the National Notary Association and all the individuals and or-

ganizations with which it acted in drafting this model legislation.

OUR TRANSPORTATION POLICY

Mr. BROCK. Mr. President, I have long felt that our transportation policy has been lacking in balance and imagination. This feeling is obviously shared by Mr. Willard F. Rockwell, Jr., of Rockwell International, a company heavily involved in the aerospace and transportation fields. In a recent article, he very aptly points out the need for us to take an overall view of the transport problem and to construct our policies on that basis. I am afraid we are still a long way from that rather commonsense goal. At this moment, for example, the question of whether we should subsidize bulk ocean shipping between Canada and Florida is to be made totally in isolation, without any consideration of other transportation alternatives.

Unfortunately the Maritime Subsidy Board's position in refusing the railroads to present their case may be legally correct. If so, the fault is largely ours in Congress, for we have failed to construct a full national transportation policy and the institutions to properly implement it.

In his article, Mr. Rockwell also draws our attention to the vitally important questions of financing transportation improvements and the need for cooperative action to effectively meet our transport needs. I believe these are significant points and I ask unanimous assent that the article be printed in the RECORD.

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

RIDING THE RIVERS OF MOBILITY IF WE ARE GOING TO HAVE A BALANCED TRANSPORTATION SYSTEM, WE NEED VISION

(By Willard F. Rockwell, Jr.)

Transportation is synonymous with livability—the freedom to move about anywhere we wish and as quickly as we wish in a common safety with our neighbors. To achieve that freedom we need new and improved ways of getting people and freight into, out of and around our cities.

Mobility has been a prominent characteristic of the American people for more than 200 years—from the days when pioneers first crossed the Allegheny Mountains, paused a while, then literally raced down the Ohio River, to the period just following World War II, when the move to California developed into the greatest short-time migration in the 600,000-year history of man. C. L. Dennis, head of the railway clerks' union, summed up that 200-year sweep of mobility in one sentence: "The American West has won and the continent conquered far less by force of arms than by transportation."

The river of mobility flows today just as strongly as it did 200 or 100 or 25 years ago. People simply will not accept an immobile America. They will not accept as a vision of the future the current waist-high weeds on train tracks in some major passenger terminals throughout the country. Economic history has shown us, time and time again, that the demands for mobility are always met.

President Abraham Lincoln anticipated the demands of the people for mobility more than 100 years ago when he standardized the railroad track gauges of America. Back in 1928, East and West Coast aircraft manufacturers foresaw a similar demand at a time when there were only 2,000 tons of air freight, 53,000 passengers and 3,500,000 pounds of mail each year. The national interstate highway builders were answering that demand in 1939 when Americans at the New York World's Fair saw for the first time the concept of superhighways sweeping from city to city.

The demand is still here; but sometimes, amidst the clamor of protest, dissent and obstruction, can the voices of the people always be heard? For example, big trucks too often have been made villains in the mobility drama. But trucks cannot be legislated off the highways, any more than passenger cars can be legislated out of existence. Both are major, integral parts of the American way of life and of our transportation future. We have the finest domestic air service in the world, but it must not be shackled forever to a 600-mph speed. And yet the supersonic jet transport becomes meaningless if it does not mesh into a system of roads or rails that carries people. The National Railroad Passenger Corporation (Amtrak) concept should be offered every encouragement to succeed. A railroad right-of-way is a heritage of the American people, an essential part of American mobility; and it must be woven into the pattern of a national transportation system.

There are big obstacles on the road ahead. Magazines such as *Business Week, Newsweek, Time, U.S. News and World Report,* and *Harper's* in addition to our daily papers, have taken turns—and sometimes acted simultaneously—in lamenting the chamber of transportation horrors. According to the articles—and most of them are factual—we are drowning in a sea of negatives: traffic congestion, air pollution, environmental degradation, soaring traffic deaths and inadequate transportation.

We don't need a repetition of the statistic that one third of every American city is dominated by businesses that cater exclusively to the motorcar. We all know about the fissures that are appearing in Roman monuments because of traffic vibrations, and another story of airport terminal traffic jams such as those that exist in Los Angeles International, is a waste of time. Quite correctly, urban mass transit holds a prominent place in planning for livability. But *Fortune* magazine recently pointed out that the land-people ratio in the United States is 11 acres per person. If the whole present world population—3.7 billion people—were put inside the United States' borders, the resulting density would not be much greater than that of England today. Our abundance of land mass emphasizes the need not for urban transit alone but for *all* kinds of transportation, a system that embraces autos, subways, trains, trucks, aircraft, buses, barges, even bicycles. Each is related to the others.

These areas have occupied the time and energy of countless talented and dedicated citizens. What must be emphasized is the need to consider all the areas and all at the same time. We cannot continue devoting our concern on Monday to the railroads, on Tuesday to the trucking industry, on Wednesday to the bus lines, on Thursday to urban mass transit and on Friday to the airlines. It's all one problem, and it demands one concentrated effort for solution.

There's no denying the intramural fights in the industry. The trucking industry has a chip on its shoulder when it comes to the rails, the bus lines are ready to take on both the railroads and the airlines at the drop of a hat; steamship lines feel that they're orphans of the storm. Business Week has emphasized the necessity of bringing harmony to the warring highway and mass transit lobbies and cooling the emotional energies not only of the suppliers of transportation but also of the political bodies embroiled in the fight. The major industries concerned should approach the overall problem with far more enthusiasm and cooperation, and less consideration for single industry views, than they have done in prior years.

We must devise the finest balanced transportation system in the world, one that will carry 210 million Americans into the 21st century. It's embarrassing to go to a foreign country today and find far better surface transportation than is offered at home. To achieve this balance, we'll need a national commitment in money, in community cooperation and in technical talent. Of the three, some people consider the problem of financing the most difficult. The sheer size of the necessary investment in transport systems in the cites alone is awesome, especially if we are to approach this overall problem in the broad, sweeping manner in which it must be treated.

Highway construction costs of the past are an indication of what awaits in the future. In the past 17 years alone we've spent $40 billion on our 34,000-mile network of interstate highways. Since the day we started to make the switch from dirt to macadam, we've spent $500 billion (according to former Undersecretary of Transportation James Beggs). With that money we have constructed the finest highway system of any nation in the world.

When we move from highways alone to all transportation on a national scale, the problem of financing becomes monumental. Funding for urban mass transit in four years has quintupled from $200 million to $1 billion. Next year, the funding will be increased to $2 billion, as more and more cities prepare their plans for participation in the federal program.

Increased incentive in the form of research and development funding, along with definitive prospects for long-term hardware programs, must be made available for priming revolutionary new concepts in all areas of transportation. Congress is the keeper of the national purse, and the pressure of priorities is endless. But to encourage serious planning in any national area, whether it be in defense or people mobility, we must have funding that will make commitments effective. We must not, for example, treat our engineering and scientific teams as so many Yo-Yoes on a string—a situation that has become a way of life in our defense industries. Perhaps one of the solutions in this most difficult area will come, as the *Harvard Business Review* has pointed out, from a totally new concept of financing. Just a few years ago a major milestone in financing created the Comsat satellite; and as a result of that innovative financial thinking, the communications industries of the world leaped ahead. Perhaps business, government and the general public—through the sale of stock—will participate in the funding of a balanced national transportation system. Hopefully, our innovative financial planning did not stop with Comsat.

Many people think that funding ranks second, not first, among our problems. And they have a point. In the past decade we've seen many cases where funding for transportation systems was available, but that availability was completely ignored in local jurisdictional disputes. So, to these people, cooperation—among government, business, labor and local jurisdictions—is the most critical problem facing us today. President Richard M. Nixon, in a recent letter to the National Defense Transportation Association, acknowledged that problem when he urged that the country find new ways in which labor, industry and the government can achieve solutions of transportation problems.

IT TAKES 20 YEARS TO GO FROM A CONCEPT TO COMPLETION OF A MASS TRANSPORTATION SYSTEM

But how do we get total cooperation between government and industry, between industry and labor, between state and state, city and city, community and community?

The patience of the country, in the interest of fairness, has been monumental. We've witnessed all-out struggles between local governments and Washington, between bus systems and subway systems, between advanced hardware and existing equipment. We've become hardened to delay—but delays that last for a good portion of a man's adult life are intolerable.

It takes about 20 years to go from the concept stage to completion for a mass transportation system. It's been almost 25 years since the first discussions began on San Francisco's Bay Area Rapid Transit System (BART), and the first train has yet to roll beneath the bay. And 25 years isn't the record—it takes even longer to plan highways. Construction on the interstate highway system was started in 1956, but the actual planning began in the '30s, and portions of that system still are incomplete.

We put a man on the moon slightly more than eight years from the day we received the go signal. Why was it possible to do something that was so apparently impossible, and do it with such flawless precision and within such a relatively short time span?

Part of that answer is that the Apollo spacecraft was pointed in the right direction—toward the moon and away from the interminable conflicts on earth. A handful of major contractors moved with remarkable precision in planned increments, answering to one central authority, The National Aeronautics and Space Administration.

We did not have delegations from the dark side of the moon protesting our choice of landing sites.

No one chained himself to our spacecraft.

None of the astronauts threatened to go on strike in mid-voyage.

We had a goal.

We had adequate funding.

We had the unstinting support of more than 50,000 subcontractors.

We had the complete cooperation of the American people—they wanted to achieve the goal.

We had the greatest technical talent ever assembled.

After eight years and two months, the results were Neil Armstrong and "one small step for man." We were fortunate. Once the launch vehicle was 10 feet off the pad at Kennedy Space Center at Cape Canaveral, we had the entire universe spread out for us. From then on we had a virtually unhindered journey with the cheers of the world to spur us on.

In other words, if we can put a man on the moon, why can't we get the commuter trains running on time? The answer is: We can, but it won't be easy.

We can't apply those Apollo precision tactics to an earthbound national transportation system. The planners will have neither the authority nor the temerity of Georges Haussmann, who literally bulldozed through the streets of Paris the present wide boulevards that are a monument to his genius.

Our planners—and correctly so—must constantly be aware that current transportation routes within our major urban areas cannot be altered immediately in any drastic way without disastrous long-term results. We can't destroy buildings, homes, utilities or centers of employment. That's why the stress for a 27-year long-term program; we must have time to evaluate the total impact. Transportation selection must not only meet current needs, it must also have the growth potential to meet broad changes in requirements for transportation of the future. In short, to fulfill our present needs while adequately preparing for the future will require a kind of genius from every one of the hundreds of local jurisdictions that must be involved in the planning, building and operation of effective public transportation. Finally, we come to the technical aspects of future transportation systems. Advanced technology is an important part, but only a part, of the overall transportation picture. Metroliners, hovercraft, hydrofoils, high-speed bus systems, innovative trolley energy systems, electric cars, vertical and short-takeoff aircraft, skybuses, BART—all of these and others will play a part in the ultimate national transportation system.

Literally hundreds of companies, large and small, are now actively engaged in efforts the end products of which will ultimately be meshed into the entire picture. The future of transportation vitally affects many industries—not just the automobile manufacturers, the subway builders, the railroads, the buses, the trucking industry and the airlines, but also other groups not normally associated with transportation. It's to our advantage to get every segment of American society and industry involved in solving the transportation needs of this country. It should be obvious that it's the only way it can be accomplished.

The leadership that made the Apollo program a reality has given us an unshakable confidence in our ability to cope with any technical problem on any scale—local, national or global. With a balanced transportation system serving the needs of *all* Americans, we can move back from the rivers that built Pittsburgh and St. Louis and back from the sea that gave us New York and San Francisco. We can look to the mountains or out to small islands, or wherever the human spirit moves a group of people to live and work together.

Mobility is a necessity—almost a right, and certainly a pleasure, particularly when it's good. For that reason *we will have*, within this century, a balanced national transportation system for both people and cargo in the air, on the land and on the sea which will rank, along with the landing on the moon, as one of the greatest scientific achievements of all time.

THE ETHICS OF HUMAN SURVIVAL

Mr. MONDALE. Mr. President, on April 19, the distinguished Senator from New Hampshire (Mr. McINTYRE) gave an important address before the New Hampshire Council on World Affairs and the International Center of New England.

In this thoughtful speech, Senator McINTYRE addressed the two principal challenges we face in the world today—the ability to avoid nuclear catastrophe and the ability to recognize and deal with a society of shortages. His incisive linking of these problems, and his stress on international cooperation and a new spirit of conservation, are imaginative and should be carefully considered. And his plea for greater stress in the development of renewable sources of energy for the decades ahead must be heeded.

I commend the distinguished Senator for this address, and recommend it to all my colleagues.

Mr. President, I ask unanimous consent that the text of his address appear in the RECORD.

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

THE ETHICS OF HUMAN SURVIVAL

(Address by U.S. Senator THOMAS J. McINTYRE)

A funny thing happened to me on the way to re-election in 1972. I found myself defending President Nixon against the attacks of my Republican opponent—and the publisher of the largest newspaper in our State.

Today I find it tragically ironic that in the aftermath of Watergate, the energy crisis and economic shambles, the one element in the Nixon record that I chose to defend remains the single accomplishment that still has some validity.

I speak of detente, an achievement that however overblown by White House rhetoric, however attacked by the Powells and the Loebs as a sell-out, remains the last bit of disintegrating evidence that there was a time when Richard Nixon thought more of his country than he did of himself or his political fortunes.

Detente with the two largest Communist nations in the world, a detente reached by an American president who built his political career on Red-hunting, underscores Walter Lippman's thesis that the quantum leaps in history can only be made by leaders who are converts to a cause.

No Democratic president—and surely no liberal Democratic president—could have persuaded our country that it was in our best interests—and the world's best interests—to thaw the Cold War and cool the arms race.

Richard Nixon did this. And whether one accepts the cynical explanation that it was a grandstand play for the history books, or whether one believes he was sincere in his expression that the world is safer when the leaders of conflicting ideologies remain on speaking terms, the reassuring fact remains that detente helped ease our way out of Vietnam—contributed to heading off a big power confrontation in the Middle East last Fall—opened the door to strategic arms limitation agreements—and increased opportunity for greater trade and cultural exchange.

But to say that is not to say that detente is somehow *more* than it is—a trap White House enthusiasts frequently fall into.

Detente, purely and simply, is nothing more than an unspoken understanding between the United States and the Communist titans that every caution must be taken to avoid blundering into a nuclear war that no one could win.

In short, detente merely keeps the lines of communication open in order to exercise that caution—but that alone is worth respecting—and preserving.

I believe now as I did in 1972 that this is Richard Nixon's crowning achievement.

For what it's worth, I believe that his motivation was more noble than self-seeking.

And despite the fact that so many other Nixon endeavors have been soiled by scandal, suspicion and failure—I believe the President is determined to keep this achievement clean for the history books.

Unlike some on the radical right, I do not believe the President will go to the Moscow summit and make disastrous concessions just to save his image as a peacemaker. And unlike some on the liberal left, I do not believe the President will go to the Moscow summit with a hard-line posture aimed at winning back the conservatives in the Senate who could save him from an impeachment conviction.

But no matter how noble and selfless his motivation going into that Moscow summit conference, he will represent his country not as a strong leader riding on an overwhelming mandate—but as a leader who has forfeited the trust and confidence of three-quarters of his people.

That is the *real* tragedy of Watergate, my friends. But that tragedy will only be compounded—that leader only further weakened—the hopes for continued detente and mutual disarmament only diminished—if we let suspicion and distaste divide us along the *only* road that can indeed lead the world to a generation of peace.

We must—as one people—make it clear to the Soviet Union that however weakened Mr. Nixon is he still speaks for our desire for

peace, for an end to the arms race, for communication and international cooperation—and that he has our united support in seeking those goals without compromising our security, our integrity or our dedication to the principles of individual freedom and national self-determination.

My friends, the events of the year and a half since the election in 1972 have made those goals more important than ever before.

For in that year and a half, the Damoclean sword that has hung over mankind's head since the invention of the atom bomb has been honed to a double-edge.

Now we are threatened not only with the unthinkable in terms of life destruction—*but with the unthinkable in terms of running out of those precious resources that sustain life.*

In the past 18 months all of mankind has been brought face to face with the shattering realization that this planet earth simply cannot meet our *needs*—unless we curb our *demands.*

Now Mr. Loeb and his kind can scream all they want about fear-mongering "eco-freaks," but the truth is that the best minds around the world agree that the day of the "frontier mentality" is over. Man cannot continue to ravage the earth, its skies and its waters in the blind confidence that just over the horizon there is more earth and skies and waters to exploit. There isn't.

And time is running out on the opportunity to change our ways before it's too late. Consider these unhappy facts:

Almost every country in the world is plagued with the problem of fresh water supply.

In many regions all arable land is already under cultivation. Much of what remains is eroding into desert or can be turned into productive acreage only by a heavy application of money and technology. Witness the tragic drought, land devastation and starvation in Ethiopia, and the Sahel countries of Mali, Mauritania, Senegal, Upper Volta, Niger and Chad.

Man's careless polluting has not only soiled the air and fouled the rivers, but threatens the oceans so essential to life and the very *climate* of the earth.

In the face of this, we are told to expect a doubling of the earth's population by the end of this century—which means we must double our food production and build enough houses, hospitals, ports, factories, bridges in the next thirty years to equal *all* the construction work since the beginning of man's time on earth!

Now this would be awesome enough, but when we inject into this scenario the fact that energy is the instrument which makes all work possible and we consider that two of the fossil fuels that are the major sources of energy may be near exhaustion by the year 2000—then we can understand why the seventh decade of this century may be the most significant crossroads in all history.

The experts may disagree on exactly how soon we're going to run out of oil and natural gas, but run out we will. And the longer this country insists upon doubling its energy consumption every 15 years, the sooner that day will be.

Let me digress here for one minute to give you an example of what this insatiable demand implies. The recent discovery of a 10-billion barrel oil field at Prudhoe Bay on the Alaskan North Slope excited the entire petroleum industry.

But what does it mean—this tremendous 10 billion barrels windfall of oil? It means less than a two-year supply for the United States!

What I'm saying, then, is that it is not only futile to tie our hopes of survival to an energy source that sooner or later will be gone forever more—it courts disaster from another front—a global scramble for ever diminishing supplies that could touch off open warfare.

We saw what happened this Winter. For all of Mr. Kissinger's determined efforts to promote international cooperation among the consumer nations, there was a frenzied race to reach separate agreements for oil supplies from the Arab countries.

Crude oil prices soared. Result? Not only were we inconvenienced for a time. Not only are we smarting under higher gasoline and oil prices. Not only is there little hope that we'll ever get substantial price relief. But the have-not countries, already poor, are being stretched to the breaking point to buy the oil they so desperately need to inch forward into the 20th Century.

And now, we have heightened international tensions, a widening gap between rich and poor, dangerous alliances born of desperation, and a blueprint for global disaster.

So I come full circle to my original point—the crying need to preserve the spirit of detente—and to build upon that spirit. In short, to make detente *more* than a mutual determination to avoid blundering into war—to make it include a mutual determination to avoid *any* unilateral action that would aggravate the energy crisis and its consequences.

This will require infinite patience and skill, for the challenge pits mankind's infinite capacity for greed and instant gratification against the moral and intellectual capacity that distinguishes him from the animals.

While there is still time, man must impose a discipline upon himself that he has not felt since the Industrial Revolution. If he refuses to accept that discipline voluntarily, a steadily worsening situation may impose it abitrarily—and I'll get to that point in a minute.

For now, I say man needs every break he can get in this crucial challenge to the worst and the best that is in him, and for a start I would urge as emphatically as I can that he be relieved of the temptation to take the easy path and forget the consequences.

In my judgment, this means emancipation from dependence upon all nonrenewable sources of energy, for as those sources are used up the struggle for what remains will grow ever more intense—and ever more dangerous.

I not only believe the seeds of disaster are sown into any situation where such precious resources are located only in certain regions—I believe the events of the past Winter prove that they are also planted in a situation where a handful of giant, multi-national companies controls the supply, the distribution and the price of those commodities!

I am convinced, my friends, that the sooner man frees himself from that dependence the better will be our chances for a stabilized world economy, for lasting peace—and for the survival of the species.

And I believe that the only way this can be done is for the richer nations of the world to undertake crash research programs to develop alternative sources of energy—and to make the resultant technology available to all nations as quickly as possible.

To do this means clearing three great hurdles and the first of these is tied once again to the importance of maintaining the spirit of detente.

The crash programs I'm talking about—programs to develop practical, economical and effective means of drawing energy from the sun, the wind, the tides, the earth's inner heat, ocean currents, hydrogen and waste—will cost a great deal of money.

But if the United States and the Soviet Union insist upon pouring $1.5 trillion into the arms race in this decade, and another $2 trillion into that senseless pursuit in the eighties how much will be left to spend on alternative energy sources?

This, then, is another compelling reason to keep detente alive and make the second round of disarmament talks a success.

Beyond this, there are two more hurdles to overcome, each reinforcing the other.

The first of these is the kind of conventional wisdom that dictates using first what is most easily available.

Thus in the first pinch of the energy crisis the Nixon Administration laid out a program that concentrated not on developing the exotic energy sources—sun, wind, water, geothermal—but on coal, which is still in relatively abundant supply, oil shale, and offshore oil deposits.

This is understandable to some extent, for the technology was advanced enough to encourage further development, and the supply was there.

But it is even more understandable when one recognizes the petroleum industry's ceaseless efforts over many, many years, to ridicule and discourage any effort to look for energy sources beyond fossil fuels.

Remember, the giants of that industry not only control oil, they own great shares of the Nation's coal and uranium supplies—and they were in ready position to bid for offshore drilling rights and leasing of oil shale deposits, most of which are located on Federal lands owned by you and me, the taxpayers of this country.

These are the same giants of the industry, my friends, who were equally quick to use the fuels crisis to increase their profits by 52 percent in a single year and use the same crisis to attack environmental protection standards and regulations.

And these are the self-same giants of the industry who refused to build up domestic refining capacity in time to ward off a supply crisis that would have come even without the Arab oil embargo.

I bring this up not to castigate Big Oil, though it richly deserves castigation, but to point up how Big Oil's greed, arrogance and influence in the highest seats of government will make the third and final hurdle even harder to clear.

Let me explain:

As we enter what is becoming known as "The Scarcity Society," a challenge even greater than developing new technology is what Harper's Magazine this month calls the challenge of restoring "civic virtue."

In brief, this civic virtue is the willingness of the individual in the Scarcity Society to discipline himself to sacrifice for the *sake* of the society. This means voluntarily cutting back on demands for the kind of creature comforts that waste energy and other precious resources that must be shared as fairly as possible.

I believe people will respond to this challenge. I believe people showed that they would when they turned down their thermostats, formed car pools, observed lower speed limits—and did all this because they believed they were doing it for the greater good of all society.

But the question is this: Will they *continue* to exercise this civic virtue if they feel they are being ripped off by an industry profiting at their expense? If they feel that their government's plan to get them through the energy crisis plays right smack into the hands of that self-same rip-off industry?

Couple that suspicion with fears, legitimate or exaggerated, of the environmental risks associated with concentrating on the development of the more traditional sources of energy and that third hurdle looms even higher.

People *do* worry about the consequences of off-shore oil drilling. And they're bound to be concerned about the impact of extracting oil from shale and surface-mining for coal. If it takes more than a ton of shale to produce only a barrel of oil, that means that a plant

producing 50,000 barrels of oil a day will have to dispose of more than a ton of shale waste every *second*. As for surface coal mining, that process is now denuding 4,650 acres a week and has already stripped-out the equivalent of an area twice the size of Connecticut!

With regard to nuclear power to generate electricity, it's obvious that progress has been disappointingly slow and that the optimism of the 40's has been disappointing. Right now there are only some three dozen operating fission reactors and they supply only five percent of the Nation's electrical capacity. Nuclear fusion remains perhaps the most attractive of all energy possibilities, but there are those who believe the process will never be perfected.

So with all these handicaps, large or insignificant, to pursuing traditional paths toward more energy, it seems to me that we must break free of this pattern to restore public confidence, win cooperation, and ease concerns.

I believe the leadership of this country must take two actions and take them quickly.

First, the emphasis must be switched from developing more fossil fuel energy sources to developing the renewable, non-polluting, non-exploitable, easily-shared sources.

Right now the Administration plans to spend $11 billion over the next five years on energy research and development. Of that total, 96 percent is earmarked for nuclear power and fossil fuels, leaving but a pittance for examining the vast potential of solar energy, wind, tides, and geothermal sources. I find this unthinkably shortsighted.

Second, we must ease our way out of Big Oil's stranglehold on our government, our economy, our foreign policy, yes, and even in our very way of thinking about energy.

The tax breaks given this most pampered of industries need a thorough review (and thank goodness, they're finally getting it!) And something must be done to break the well-to-customer control the industry giants exert. Some would make these giants get rid of all but one operation. Some would make them divest themselves of tankers and pipelines. I introduced the first of the new wave of break-up-the-industry bills, a measure to make the big companies get rid of their retail outlets, and I think political reality dictates that this measure may have the best chance of passage at this time.

Does all this mean I'd like to see the oil industry destroyed overnight? Dismantled? Abolished completely? Of course not.

We have to be practical. We have to keep in mind that even if we launched crash programs tomorrow it will still take many years and many dollars to replace traditional energy sources with clean and renewable alternatives—not so many years and dollars as the oil industry would like you to believe, of course, but enough so that common sense tells us we're going to have to live with oil for a time to come.

But besides the time lag factor, we have to remember, too, that it takes energy to produce energy. So it will take fossil fuel energy to create the technology to produce renewable source energy.

So if this means a refinery in New Hampshire—if this means drilling for oil off the shores of New England—then what must be must be.

But not without a firm commitment to escape from an oil-dominated economy as quickly as possible.

Not at the cost of irreparable environmental damage.

And not over the wishes of those most immediately affected!

And the last brings me to my final point:

We have two choices of how we can all survive in a society where clean air, clean water, arable land, oil, natural gas, certain crucial minerals and metals are in ever diminishing supply.

We can discipline ourselves away from a lifestyle of wasteful consumption and toward a lifestyle of conscious conservation—or we can have that more ascetic lifestyle forcefully imposed!

Make no mistake about it, ladies and gentlemen, if scarcity becomes the rule rather than the exception, you can expect to see your individual liberties erode as more and more must share less and less—and the authority to allocate is gathered into fewer and fewer hands.

The people of Durham have had a foretaste of what I'm talking about.

With the threat of empty fuel oil tanks, with irritating price differentials, with long lines at the filling stations, an over-ambitious governor and his publisher mouthpiece pulled out all the stops to shove a refinery down Durham's reluctant throat.

They didn't succeed. In part because of their own heavy-handed crudeness. In part because the people of Durham argued their case so effectively. In part because the pro-refinery zeal overlooked something more precious to New Englanders than fuel oil—the sanctity of the town meeting and its decisions.

Even in a Society of Scarcity that sanctity can be preserved, because New Englanders understand the wisdom of frugality and they'll practice frugality. Especially if failing to could cost them their cherished liberty.

Let me sum up then:

Our world is more one world than ever—and smaller, more precious, and in greater danger than ever.

That world—and we who live in it—can only be saved by cooperation, mutual respect and selflessness at every level from the individual to the community to the entire world.

On the global level, the preservation of detente is as important to preserving and protecting earth's life sustaining resources as it is to preventing a nuclear holocaust.

And finally, as important as developing alternative sources of clean and renewable energy is the need to build public confidence in the fairness of energy policy by making that policy fair. If the people are satisfied that it is fair, if they are satisfied that it is properly directed, then they will exercise the civic virtue of self-sacrifice for the common good.

There are those who believe man is destined to live in a Society of Scarcity from now to the end of time—including the author of the disturbingly impressive article in Harper's that I referred to earlier. I do not share that pessimism.

If the world will tighten its collective belt for the long pull—

If the spirit of detente not only lives but flourishes—

If the richer nations of the world will pool their ingenuity and their capital to develop a wide diversity of cheap, plentiful, clean and non-exploitable sources of new energy—then I can see the day when mankind will enter a new era in a new society—an era not only marked by ready access to enough energy to meet all reasonable needs, but an era marked by a great lessening of international threats and tensions—a society not only distinguished by the health of its ecology, but rich in its opportunities for the full expression of the human potential.

We can have that—if we want it enough to work for it.

COST CONTROLS

Mr. HANSEN. Mr. President, we have discussed at great length whether the economic stabilization cost controls should expire tonight, or whether the President ought to be given standby authority to renew the controls if inflation becomes serious. An admendment has been offered by my distinguished colleagues that would extend the authority of the President to stabilize prices when he makes specified findings of serious inflationary trends.

The rationale behind the effort to extend controls cites an expected inflationary bulge when controls are lifted. Proponents say that inflation is continuing to increase at the present time, and that abandonment of authority to deal with inflation could produce even worse results.

It is true that we are presently experiencing in the economy significant inflationary price increases. During the first quarter of 1974, the Consumer Price Index increased at a 14.5 percent annual rate. However, this is not to say that prices will continue throughout the year to increase at this rate. Significantly, 88 percent of the economy has been decontrolled during the last few months. The recent price increases reflect an expected "catch-up" in prices of industries as they were decontrolled. I expect that the rate of inflation in these industries will now level off.

This opinion is shared by administration economists. George Shultz comments:

> If you think of this as a balloon, we're trying to let the air out gradually without having it pop with a big explosion.

Assistant Treasury Secretary Edgar Fiedler says:

> We've gotten such a large part of the economy out from under price controls already that much of the price bubble has been taken.

And furthermore:

> You can safely say the (price) indexes will be rising at a slower rate after April 30, predicts Don R. Conlan, associate director and chief economist at the cost council. Mr. Conlan asserts that the worst of the food and fuel price jumps of the recent months are behind us.

We have thus far seen the most gradual decontrol of the economy over a long period in this Nation's history. We may thus expect a more restrained increase in prices following decontrol.

It is true that we may expect further price increases in the health and construction industries as controls are lifted. This is inevitable, for these institutions must be able to compete on the market with suppliers that have raised prices, and with other wage earners.

I am concerned with the rate of inflation in this country. I agree that something should be done. However, I am convinced from our past experience with cost controls that artificial price ceilings and controls will not work. After all the rhetoric and rationale, these facts remain:

1. Cost controls have not controlled inflation. In the period before cost controls we were experiencing inflation at a rate of about 4.0%. In 1973, inflation surged at a rate of 8.8%, the highest increase in 25 years. We are now experiencing inflation at a yearly rate of 14.5%. This is a poor record for the effectiveness of presidential authority to stabilize prices.

Dr. John Dunlop, Cost of Living Council Director, has himself conceded that cost controls have had dubious effects on the econ-

omy. I quote from his testimony before the Senate Committee on Banking, Housing and Urban Affairs:

There are wide differences of views to the independent effects of controls: some believe controls have had no perceptible effect while others seem to think that direct controls can and do significantly contrain the rate of inflation. Still others urge that while controls may have a short-term restraining influence, wages and prices tend to bounce back in a short time to levels they would have achieved without controls . . .

Price controls probably have had a very limited impact on food prices . . .

Controls may have reduced the increase in prices by one or two percentage points by the end of 1972, and the impact on wages was smaller . . .

The presence of controls contributed to a greater fiscal stimulus through Congressional appropriations than was appropriate . . .

The outlays of the federal government on controls have been at the annual rate of about $100 million; several studies of the costs to business of complying with the regulations have produced estimates between $721 million and $2 billion a year . . .

Most business leaders and their spokesmen argue that price controls have now introduced something called serious "distortions" and shortages . . .

In my view, controls may have a small and incremental effect to constrain inflation for short periods . . . Their potential for adverse effects on output and efficient production needs always to be watched carefully . . . Controls tend also to have an adverse effect on responsible collective bargaining.

2. Cost controls have caused distortions, shortages, and have caused more problems than they have solved. Controls have inhibited commitment of capital needed to expand supply; supply in many areas has dwindled causing shortages. Workers have suffered, while wages have been held down as prices have soared.

Quality of health care has been seriously jeopardized by controls. I quote from one constituent: "Hospitals are experiencing extreme difficulties now with the personnel situation with the restrictions of a 5.5% in wage increases . . . The hospitals are again facing personnel problems, and without recourse, we are watching salaries again shrink in comparison to other salaries in the community to a non-competitive level. I have over 400 employees that are very disgruntled over this wage situation and are convinced that they are being discriminated against because they happen to work for a hospital . . . The Cost of Living Council and the President are driving our industry straight into unionism! The only means left for us to comply with the revenue-expense controls is to face the possibility of lay-off of employees and to cut back vitally needed community services."

3. The people of this country do not want controls. I have several hundred letters from people in Wyoming, and 99 out of 100 are *against* extension of controls in any form. These letters are from workers, housewives, farmers, ranchers, doctors, hospital administrators, laborers. This is the voice of the people, and we as elected representatives ought to comply to that voice.

The unpopularity of cost controls was reflected in the recent unanimous vote of 15–0 of the Senate Banking Committee to dispense with all cost controls after April 30.

I object to the present amendment for several additional reasons:

The amendment is an open door to further reimposition of cost controls. It does not differ significantly from the original authority given to the President. The criteria for extending control are too broad and vague. In a complex and multifaceted economy such as ours, shortages and inequities are bound to exist some place at any time. Inflation will continue as world inflation continues. "Severe hardship," "a need for controls to moderate hardship or deprivations" are vague terms that will be used to rationalize imposition of controls.

Political pressures could lead to reimposition of controls, regardless of legislative intent. We need not delude ourselves that just because the language expresses a spirit of restraint, the power will not be used.

Historical precedents also clearly indicate that controls are not likely to work. I quote from a study entitled "A Brief Survey of Price and Wage Controls From 2800 B.C. to A.D. 1952," by Mr. Robert Schuettinger, Heritage Foundation, Washington, D.C.:

The record of government attempts to control wages and prices is clear. Such efforts have been made in one form or another periodically in almost all times and all places since the very beginning of organized society. In all times and in all places they have just as invariably failed to achieve their announced purposes. Time after time an historian has laconically concluded ". . . the plan to control rising prices failed utterly." Or ". . . the laws were soon repealed since no one paid any attention to them,"

In Egypt, government controls over the grain crop led gradually to ownership of all the land by the state. In Babylon, in China, in Greece and Rome various kinds of regulation over the economy were tried and usually either failed completely or produced harmful effects . . .

During the American War of Independence, Washington's army nearly starved at Valley Forge largely due to what John Adams called "That improvident Act for limiting prices (which) has done great injure, and (which) in my sincere opinion, if not repealed will ruin the state and introduce a civil war." As one economic historian explained, "The regulation of prices by law had precisely the opposite effect to that intended; for prices were increased rather than diminished by the adoption of the measure."

Even in the Organized State *par excellence* (the Kaiser's Germany) economists pronounced price and wage controls to be ineffective.

If an historian were to sum up what we have learned from the long history of wage and price controls in this country and in many others around the world, he would have to conclude that the only thing we learn from history is that we do not learn from history.

And finally, above and beyond all of the arguments thus far cited, I believe that to artificially and arbitrarily regulate prices by the Government is not in harmony with the tradition and spirit of freedom in America. It appears to me that the philosophy reflected by mandatory Federal cost restraints is incompatible with values of personal freedom and self-reliance. It is incompatible with the traditional American way represented by private enterprise and the free market. I firmly believe that if we would let private enterprise and the free market work without interference, many of our most serious problems would solve themselves. The competitive nature of the free market and the numerous checks and balances supplied by varied interests will ultimately lead to a more equitable balance.

BILLIONS MORE—FOR 900 FEET MORE?

Mr. HASKELL. Mr. President, I call to the attention of my colleagues an editorial from the May 1, 1974 issue of Forbes magazine, entitled "Billions More—For 900 Feet More?" In this article M. S. Forbes, Jr., argues that Defense Secretary Schlesinger's request for upgrading the accuracy of American nuclear warheads is unwise in light of the limited benefit likely to be derived from such a program.

In the midst of galloping inflation that reached 10 percent last year and promises to go as high as 14 percent in 1974 it is more incumbent than ever that we subject every budget proposal to the most careful cost-benefit scrutiny. There is no area in which this is more true than in defense.

This does not mean that we should ignore our Nation's defense posture, for certainly we do not wish to obstruct equitable and meaningful arms limitations agreements or remove an American President's strategic options. But it does emphasize the importance of maintaining a rational balance between the dictates of our national security and the urgent domestic requirements of our people. Today we must ask ourselves if the addition of 900 feet of accuracy to our nuclear warheads is really worth an eventual expenditure of billions of dollars—dollars which might better be spent in areas of urgent domestic concern.

I think that Mr. Forbes goes a long way in his article toward establishing the balanced perspective with which defense expenditures should be viewed. I ask unanimous consent that Mr. Forbes' article be printed in the RECORD.

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

BILLIONS MORE—FOR 900 FEET MORE?

(By M. S. Forbes, Jr.)

The U.S. may be heading for a hugely expensive arms race with the Soviet Union.

For fiscal 1975, the Defense Department is earmarking approximately $300 million to develop technology to build more highly accurate missiles. If this program were followed through from drawing board to launching pad, the cost could run to billions of dollars.

According to Defense Secretary James Schlesinger, the U.S. needs missiles with greater target accuracy to increase the ability of the U.S. to deter limited nuclear attacks and to wage a limited nuclear war. As things stand now, imply past Presidential statements, the President has little flexibility in responding to a limited Soviet nuclear attack except with an all-out nuclear onslaught against Soviet cities. In short, suicide or surrender.

By retargeting more missiles from Russian cities to military targets, and by developing accurate missiles to hit those targets on the bull's-eye, Schlesinger suggests, the U.S. increases its nuclear credibility among its allies and the Kremlin, while possibly saving civilian lives as well.

The Defense Department is also worried about Russia's arms buildup, fearing the Soviets may surpass the U.S. in nuclear capability sometime in the 1980s.

Alas, the case for more accurate, deadlier missiles is not entirely convincing.

First of all, the U.S. already has the ability

to strike at a variety of Russian targets, and plenty of these targets are not near cities. Greater missile accuracy is not needed to avoid large numbers of civilian casualties—we can hit multiple bases, dams, utilities many miles from concentrated city centers.

Second, U.S. missiles possess excellent accuracy now; our warheads are capable of striking within 1,500 feet of their targets. Schlesinger's program would only reduce that to 600 feet. Is a saving of 900 feet worth $billions?

The Pentagon's assertion that the U.S. is falling behind the Soviet Union is open to question, too. The U.S. today has over 7,000 warheads compared with Russia's 2,300. By 1977 the respective numbers will be 10,000 and 4,000.

Increasing nuclear strength, Winston Churchill observed, serves only to "make the rubble bounce."

What could be the Kremlin's reaction to the Pentagon's plans? Just what the reaction of our own hawks would be—more, deadlier weaponry.

In waging nuclear war, we have the means and the flexibility. What's to be gained trying to get more of what we've already got?

PROFIT PERFORMANCE OF MAJOR OIL COMPANIES

Mr. MONDALE. Mr. President, an editorial in yesterday's New York Times highlighted the incredible profit performance of the Nation's major oil companies during the first quarter of 1974. And it correctly points up the outstanding work of Representative JOE KARTH in the House Ways and Means Committee in fashioning a tax measure which will help end the unjustifiable increases in oil company profits, increases which go beyond what is needed to encourage domestic exploration and development.

I commend the New York Times editorial for its recognition of JOE KARTH's important role in shaping this measure, and I ask unanimous consent that the text of the editorial be printed in the RECORD.

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

OIL: FAT CITY

The first-quarter profit returns of the oil companies are coming in, and the results are staggering—a mirror image of the prices that consumers are paying. Exxon was, in a sense, low with a gain of only 39 per cent and first-quarter earnings of $705 million. Texaco was up 123 per cent to $589 million. Gulf up 76 per cent to $290 million, and Indiana Standard up 81 per cent to $121 million. Occidental Petroleum, a relatively pygmy, increased its first-quarter earnings by 718 per cent.

The new head of the Federal Energy Office, John C. Sawhill, has managed to take these oil earnings in stride; he finds them "reasonable," and indeed "vital to our future well-being." With professorial equanimity, Mr. Sawhill told a Senate Committee, "Where price elicits new supply, it serves a useful economical function and benefits consumers with increased supply, which ultimately results in lower prices."

It is difficult to argue with anyone's "ultimately," but what has actually happened to date is clear enough. As the price of this nation's domestic crude oil has nearly tripled in the past eight months, domestic crude oil production has scarcely increased. In fact, in the last two months, domestic crude output has been 2 per cent less than a year ago.

The explanation appears to be that crude oil stocks are now slightly higher than a year ago, and producers are being careful not to let prices break downward. Refinery runs are also lower than a year earlier. Thus, if the oil companies continue to be careful not to give consumers too much oil, prices should hold up nicely. So, for 1974, oil profits promise to double over 1973 and reach about $8 billion.

The Administration continues to champion a so-called "windfall profit tax," but the version of this tax likely to emerge from the House Ways and Means Committee would not yield much revenue after its first year. This is because a "plowback" provision would permit the oil companies to recapture their windfall tax payments if they reinvested them in oil production—as they are likely to do anyway.

Thanks to an amendment introduced by Representative Karth of Minnesota, the plowback rule would not apply in 1974 and the windfall tax would thus yield about $500 million this year. But the effect would be cut in half in 1975, and thereafter the oil companies could recapture the whole of any remaining windfall taxes.

Ways and Means has voted to phase out the 22 per cent oil depletion allowance by 1977—but with a string of exceptions for natural gas, small "stripper" wells, the first 3,000 barrels a day of other wells and the Alaska pipe line. The Alaska project is being given until 1979 to get in on depletion allowances before the goodies run out.

With the kind of profits the oil industry is making, it needs no special tax breaks any longer—if it ever did. The plowback provision of the proposed windfall tax should be eliminated entirely, not just in 1974. And Congress should act now to abolish oil depletion allowances without a long phase-out—and without exceptions.

NATIONAL HEALTH POLICY

Mr. HANSEN. Mr. President, national health insurance is an important issue. In the hearings and debate, it is vital that we be well-informed of the facts of health care. I hope that this statement will contribute to that goal.

Mr. President, a new legislative proposal, by Senator EDWARD KENNEDY and Representative WILBUR MILLS, is before the Congress. It is called the Comprehensive National Health Insurance Act of 1974.

This is an attractive one to some; it has incorporated ideas of several other plans and has new mechanisms that some believe are admirable; it will be well received by a number of people, for it offers comprehensive, universal health coverage. In fact, it seems almost too good to be true. But is it really the answer?

Experience with vast governmental programs has taught us that we must be careful of far-reaching and comprehensive initiatives that could end up changing the very nature of American life. The Great Society programs of the early 1960's, medicare and medicaid, and other Government programs have shown us that often these programs can create more problems than they solve. Unless the proposed program is consistent with basic economic principles, it could cause more problems than originally existed.

In considering national health insurance, we must be careful not to repeat the mistakes of the past. We must build the new legislation according to tested principles.

I submit that the Kennedy-Mills proposal, although attractive to some, is actually built upon a foundation of brightly-colored sand, that will crumble when subjected to the rigors of actual implementation and use. Let me say why.

Mr. KENNEDY and Mr. MILLS describe American health care as a "crisis" of unprecedented proportions. They speak of a system that is fragmented, unable to deal with the needs of the American people, the effects of which has been "to price millions of Americans out of health care, as well as to create a general feeling of helplessness in dealing with the situation."

They claim that "private health insurance has not proven adequate protection against costs for most Americans."

Our present health system is not perfect, nor is it without serious problems. It must be improved, but I do not believe that the situation merits the hyperbole expressed by the proponents of the new bill. May I point out:

First, the life expectancy of Americans is higher than ever before.

Second, there are more physicians per person in America than ever before—nearly 175 per 100,000 persons.

Third, most Americans are covered with some kind of health insurance. According to Health Insurance Association of America figures of 1972, some 182 million Americans, or nearly 9 out of 10 of the civilian resident population, were protected by one or more forms of private health insurance. Another 17.4 million low-income persons were covered under the medicaid program, and 21 million persons over 65 by medicare benefits.

A total of 182 million—90 percent of the population—had hospital expense insurance; 143 million were protected against regular medical expenses; 5 out of 9 of those under age 65, according to 1972 estimates, were protected by some form of catastrophic coverage; and 73 million persons were covered by some form of disability income coverage. This is an impressive record, indeed.

Fourth. Martin S. Feldstein, a widely known and universally recognized expert on American health care delivery, has concluded that:

> Contrary to a widespread impression low-income families do not receive less medical care than the rest of the population. Even in the period before Medicaid . . . the evidence indicates that the poor got as much hospital care as people with higher incomes. . . . The use of physicians' services now shows almost no relation to income . . . The evidence thus suggests that the difference among income groups in the use of health care are relatively unimportant.

Facts supporting this are conclusive.

Fifth, Dr. Harry Schwartz, a member of the editorial board of the New York Times, and the university professor at the New Paltz Branch of the State University of New York, states:

> Insofar as medical science can control illness and death, the United States in the 1970's has a population enjoying the best health and the greatest longevity in the nation's history. To improve health and longevity further the primary need is for more

knowledge to cure presently incurable diseases, for individual life styles and life patterns that will prevent the self-inflicted injuries and deaths that are now so prevalent, and for radical improvement in the material conditions of the most deprived groups of Americans.

Sixth, people in large part are generally satisfied with the medical care that they receive. A recent Louis Harris poll, commissioned by a Senate subcommittee, rated health care as 15th on the list of the Nation's most serious problems, with only 3 percent indicating it to be a top priority. A 1971 University of Chicago poll, based on a nationwide sample, found 84 percent of the people satisfied, and 10 percent dissatisfied. The Washington Post poll of March 1974 showed that people are generally satisfied with their medical care—again indicating no strong grassroots pressure for health care reform. Six of every seven local residents were found to be at least pretty satisfied with their medical care. Only 1 person in 10 expressed a strong measure of discontent.

Never in history has there been such a wealth of knowledge and understanding as now. Artificial kidneys, heart surgery, brain surgery, artificial lungs, emergency treatments—all demonstrate the real quality of modern American medicine.

Senator KENNEDY and Representative MILLS have endorsed four basic principles of health care. Each sounds fine, but let us consider them carefully:

1. America has a responsibility to offer every American family quality health care whenever they need it, regardless of income, where they live, or any other factor.

This new proposal is built from the assumption that health care is a basic right that should be enjoyed by everyone—one level of health care for all Americans.

It appears to me that it would be excellent if we could all enjoy the same health and medical care benefits.

But if we expect these things from the Government at low cost, we are deluding ourselves. These benefits are largely the result of positive individual action, and are difficult to legislate.

2. The Federal Government should assume this responsibility by establishing a system of compulsory national health insurance which covers all Americans with a standard comprehensive set of basic benefits supplemented by protection against catastrophic costs.

Let me point out that this new comprehensive benefit plan actually pays only one-half of a medium-income family's health costs, leaving the rest available for private insurance supplementation. The cost of that benefit is a new 4 percent payroll tax, which will make the total social security tax a whopping 15.7 percent upon the working man of this country.

I agree that Americans should have access to health insurance and adequate catastrophic coverage. However, whether the Federal Government should assume the role and require compulsory participation is another question. Compulsory enrollment in a health insurance plan does not mean that the people will embrace the benefits of the plan. It will not teach good health care habits, nor will it send doctors to rural and ghetto areas. Furthermore, I do not believe that the people of this country want to be forced into an inflexible, single health insurance scheme.

One of the prime responsibilities of government is to contribute to the betterment of the people. We are trying to improve the living conditions of our people. We are trying to help them to develop to their full capacity.

But the idea of giving every American a guaranteed income, or buying each a new house or a new car, or providing free medical care, is fundamentally at cross-purposes to the larger goal of improving his life condition. In our society, these benefits are the result of individual initiative. To propose an approach that does not encourage traits of self-reliance is to defeat the intended purpose. Dependence upon the government, the suppression of individually, incentive and dignity—in short, the ethic of getting-something-for-nothing is encouraged by such sweeping promises.

We must not lead the American people into false expectations, which when not met, will only promote further disillusionment and discontest.

The health system that we adopt must reaffirm the traditional American values of hard work, self-reliance, and responsibility to provide for one's self what one can. It must encourage people to be responsible for their own health care. The way to help the poor is not to do it for them, but to help them do it themselves. The system must provide positive incentive to the underprivileged to improve their condition.

3. The national health insurance system should incorporate incentives and controls, (a) to assure that all health services are of high quality, well-organized and efficiently delivered, and (b) to slow down inflation of health care costs.

Currently popular plans of prospective budgeting, health planning, HMO's, and professional peer review have must merit, and should be encouraged, in my view. However, this must be done privately under the direction of Federal guidelines. Artificial cost controls and restraints have not worked in the past and can be expected to be unworkable in the future.

The high cost of health care today is due largely to demand that outstrips supply. The rapid increase in demand for health services immediately following medicare and medicaid exceeded the immediately available supply of health services. To provide the services in quantity and quality to match this demand, health costs rose rapidly. The increased technology necessary to provide these services caused them to become an expensive commodity, and prices rose.

However, even after costs rose, the demand still continued to rise, and because of the prepaid insurance concept, the actual out-of-pocket expenditures of the patient remained small. The cost-plus retrospective reimbursement procedure embodied in medicare and medicaid and insurance plans encouraged liberalized utilization and prescription of health services.

It is interesting to note that the cost of a total stay in a hospital, the real cost with which the patient is concerned, has been rising more slowly than the cost per day. More tests and other services are being performed, but in a shorter number of days, according to Stuart H. Altman, Deputy Assistant Secretary for Planning and Evaluation-Health, Department of HEW.

The American people cannot expect to receive sophisticated medical care at high intensity levels without paying for it.

We must recognize the law of supply and demand as controlling the costs and prices of services. It is inevitable that costs will rise when the demand exceeds the supply.

4. The national health insurance system must provide needed health service resources and develop higher quality, better organized and more efficient health services.

Let us be sure to build upon the strengths of the present system. Such policy will encourage healthy competition between providers; it will promote private enterprise. The Kennedy-Mills bill envisions Federal control over State and local planning through the direct authority of the Secretary of Health, Education, and Welfare and a national health insurance resources council dominated by nonprofessional consumers. With the heavy club of Federal funds, the Government will be able to control health planning and other aspects of health and medical care delivery. This would be unfortunate.

Mr. KENNEDY and Mr. MILLS offer four guarantees with regard to free choice:

1. The Federal Government must not remove the freedom of every physician and every patient to choose where and how they will give or receive health care.

This new health insurance bill is an open door to complete governmental control and regulation of the health care system. While stopping short of complete regulation, it leaves little room for free choice. It is not a voluntary program; every person is required to contribute. He may not choose instead a private insurance policy, except in addition to the comprehensive government policy. The private insurance industry is relegated to an administrative intermediary role with the option only to offer supplemental policies covering the first $1,000 of family medical expenses incurred under the Government plan. Doctors who participate, and there are compelling incentives to do so, essentially become employees of the Government. They bill the Government for patient services and are paid by the Government.

2. The Federal government must not take over ownership of the various elements of the health care system.

The Kennedy-Mills proposal swings open the door to governmental ownership of the health care system. With control over all health care funds spent in the country, the Government would have virtual authority over all health care delivery institutions.

3. Neither the Federal Government, nor any of its agents, should make any medical judgments in a patient's care; this function is reserved solely to the responsible physician and his peers.

The proposed legislation is such that it will promote the concept of physician and institutional medical care monitoring through bureaucratic mechanisms that preclude individual and personal judgments, and contribute to established norms of accepted care that physicians will be required to follow. It is a stifling prospect, using artificial structuring that can hardly be expected to work in the real world.

4. The Federal Government should not make community policy, but should offer financial and technical support, and information and guidelines based on national planning to support local policy formulation.

This principle is a good one and I support it wholeheartedly. Mr. KENNEDY and Mr. MILLS are aware of the need for health care planning at regional and local levels, in accordance with Federal guidelines and principles only.

It is my belief that the "medicredit" bill, introduced by Senator VANCE HARTKE of Indiana, and cosponsored by myself, more than any other bill, is fundamentally sound and will do more than any other proposal to promote and improve the good health of the American people. It is widely supported by Members and represents a strong consensus in Congress. It is consistent with fundamental principles of health care. Here are some of its prominent features:

It reaffirms the traditional American value of self-reliance and responsibility to provide for one's own self what one can. It encourages people to be responsible for their own health care by providing them the means to purchase health insurance.

It would not require any additional taxes upon the working people, or any other group. The Kennedy-Mills proposal before us would mean the burden of an additional 4 percent payroll tax—that is $411 on the median family income of $10,285—1971. This hits hardest the low- and middle-income worker. The tax credit feature of medicredit gives taxes back to families based on need.

Assistance is based on financial need. Medicredit would provide comprehensive health insurance for those with no income; for the more wealthy, medicredit would provide help on a decreasing scale.

Medicredit is wholly a voluntary program, making health care available to those who want it. It is an incentive program, not a compulsory one.

Medicredit preserves freedom of choice in the selection of a doctor, hospital, and insurance company or policy.

Medicredit builds upon that which is best in our present system. It encourages healthy competition between providers; it promotes private enterprise, individuality, and inventiveness.

Medicredit is the only health bill that provides unlimited benefits for psychiatric care.

Catastrophic coverage is included for everyone—includes unlimited inpatient hospital care, skilled nursing facility care, and prosthetic aids. Physicians' services continue without limit under basic coverage provisions. Maximum liability amounts roughly to 10 percent of taxable income.

Medicredit provides incentive for employer-employee plans, which are more economical and efficient than separate individual plans.

Medicredit recognizes that high medical costs are caused by insufficient supply and high demand. It does not seek to impose artificial cost controls upon medical services; rather, it seeks to stimulate the development of medical care resources through the best and most-proven way known: the capitalistic incentive.

Medicredit preserves the rights and responsibilities of physicians to practice good medicine while being directly accountable to the public.

I do not claim that this proposal will solve all of our health care delivery problems. But I do believe it to be the most realistic legislation before the Congress.

It makes sense.

We can afford it.

It deserves careful attention and thoughtful consideration.

EXTENSION OF STANDBY WAGE AND PRICE CONTROL AUTHORITY

Mr. HASKELL. Mr. President, last Thursday a decision was made to press for a temporary extension of standby wage and price control authority. Yesterday, an amendment of which I am a cosponsor, was introduced by Senators MUSKIE, STEVENSON, and JOHNSTON to accomplish this.

The amendment was designed to provide for temporary standby economic control authority, enforcement of decontrol commitments, and continuation of an economic monitoring agency. Under its provisions, standby controls could be imposed only if the President ascertained, by a set of predetermined criteria, that the economic situation was serious enough to warrant them. These criteria include violations of decontrol commitments, serious inflation in a particular industry or sector, and determination that the need for controls to moderate particular hardships outweighs the possible adverse supply consequences of their application.

The authors of this amendment have taken great pains to insure that controls will not be applied arbitrarily, and that both labor and business will be given every opportunity and incentive to exercise self-regulation. The carefully designed trigger mechanisms come largely as the result of the increasingly strong criticism of controls by elements of both labor and business, who oppose an extension of authority on the grounds that controls are basically discriminatory and distort the equilibrium forces of the free market.

At this point, I would like to emphasize my agreement in principle with these arguments. Past inequities have indeed, plagued the program, and it has become abundantly clear that indefinite and sporadic application of such controls has distorted the price mechanism and aggravated many of the supply problems in the economy. Therefore, I do support a complete phaseout of wage and price controls at the earliest possible date, since to continue them indefinitely while a growing body of evidence attests to their adverse consequences would, in my view, be unwise.

But in the same sense, to completely dismantle the Cost of Living Council in the face of rampant inflation and without adequate provision for enforcement of decontrol agreements would not only be unwise—it would be irresponsible. One need only note the statistics just released by the Commerce and Labor Departments which show that increasing inflationary pressures could lead to an annual inflation rate in excess of even last year's record 10 percent to see the dangers inherent in a complete discontinuation of controls.

As evidence of this danger, and in anticipation of the ultimate demise of the COLC, the Federal Reserve recently raised its discount rate to a record 8 percent, prompting an immediate response by most major banks who further tightened the money supply by raising their prime lending rates to 10½ percent, as high as they have ever been.

The theory behind the Fed's action apparently is that in the absence of any wage and price controls, restrictive monetary policy becomes the major strategy for coping with spiraling inflation. But under the circumstances, the Fed's policy of tightening the money supply, while helping to control inflation, will also exacerbate the unemployment and production problems that plagued the economy in the first quarter of 1974. With productivity registering a drop of 5.5 percent at an annual rate, total output of goods and services in the private sector off at an annual rate of 6.5 percent, and real income per man hour—compensation minus inflation—declining at an annual rate of 5.6 percent, there are few free market mechanisms left to take up the economic slack of a reduced money supply. More precisely, in an economy in which both high unemployment and high inflation are interacting in a categorical denial of classical economic principles, classical economic policies, pursued dogmatically, may only increase our economic dislocation. As Dr. Walter Heller succinctly stated in last week's Wall Street Journal:

Interest rates are soaring as Arthur Burns and the Fed man their lonely ramparts in the battle against inflation. With wage-price controls headed for oblivion in the face of seething inflation, the Fed apparently views itself as the last bastion of inflation defense. So it is adding to the witch's brew by implicity calling on unemployment and economic slack to help check the inflation spiral.

In light of this it would seem ill-advised, regardless of our economic predispositions, to discontinue controls completely at this time. Rather, while working toward the earliest possible phaseout, we must reconcile ourselves to equitable and temporary standby authority to act in those areas which in the future show unusually strong inflationary pressures.

Let us hope, of course, that this control authority granted by the Muskie-Stevenson-Johnston amendment will not, in fact, have to be used. If everyone exercises due restraint there is reason to believe that only a short transition pe-

riod toward decontrol will be necessary. But in the interim, if incentives to the private sector for self-regulation prove inadequate, we must have alternative courses of action available. We must not write a blank check for those who would erase decontrol commitments or indiscriminately hike wages and prices against the best interests of us all, while the Federal Government sits by with its hands tied. Such a course is both economically unsound and politically unwise.

It seems highly incongruous, then, that the Congress should be contemplating an incontrovertible end to wage and price controls at a time when inflation threatens to reach the highest levels in American history. Underlying economic currents demand a serious reconsideration of the question of extension of control authority. These temporary standby controls, accompanied as they are by adequate safeguards against unwarranted application, are one of our most important tools in the fight against a repetition of the troubling performance of our economy in the first quarter. Therefore, I strongly urge your support of the Muskie-Stevenson-Johnston amendment.

ECONOMIC STABILIZATION

Mr. MATHIAS. Mr. President, I rise today in support of an amendment I offered yesterday to the Muskie amendment to S. 2986. The Muskie amendment would provide for continuation of wage-price controls. I have offered this amendment jointly with Senator ERVIN, Senator JAVITS, and Senator HUDDLESTON in the belief that any further extension of wage-price controls should be accompanied by adequate procedural safeguards to insure the fairness and due process which have been lacking in the program to date.

It can safely be said that the wage-price program has not been a popular one. One reason for its unpopularity has been its lack of success. We have witnessed galloping inflation despite the existence of controls. I submit, however, that there are additional reasons for the unpopularity of the program, and these lie in the manner in which it has been run.

In October of last year, we held hearings in the Subcommittee on Separation of Powers on problems of procedure before the Cost of Living Council. We were concerned with the fairness of the operation of the program. The hearing record is now available and it demonstrates, through the testimony of business, consumers, labor experts, academics and lawyers, that changes in the procedural requirements accompanying controls are badly needed if the program is to be extended.

The amendment that I have offered, together with Senator ERVIN, Senator JAVITS, and Senator HUDDLESTON, is designed to correct some of the problems revealed in those hearings.

First. The amendment would require any agency administering a control program to publish any internal rules and guidelines upon which it bases its decisions. We found that the Cost of Living Council was using secret standards to make decisions. Some were in the form of an internal manual used to train personnel charged with making these decisions. As a result of the hearings held in the Subcommittee on Separation of Powers, the basic manual in use by the Cost of Living Council was eventually published. Without a statute, we cannot be sure that all information and all standards in the agency which are being used are being disseminated.

Second. The amendment would require any agency to assign reasons for its decisions and to publish them as a useful body of precedent. Persons regulated by a wage-price control agency should have available to them this source of advice as to what the law may require of them. Aside from basic fairness, the availability of such information should allow a more efficient program. In addition, I believe that any agency administering a control program should be bound by its own past decisions. This provides a very real limitation on its discretion and helps prevent the possibility of arbitrary decisions.

Third. The amendment would require 10 days notice and opportunity for comment. Using the loophole contained in section 553 of the Administrative Procedures Act, the Cost of Living Council has generally failed to give such opportunity, using boiler plate language to establish "cause" for failure to give notice. The program has been in existence for some time now and the "emergency" justification for rushing orders into effect is rarely, if ever, applicable. In view of this, the basic fairness of notice and opportunity for comment should be given precedence. Moreover, many errors in the formulation of regulations, errors which later come back to haunt both the public and the agency, might be avoided by providing a thorough process for the exchange of views in advance.

Fourth. The amendment would require public hearings on rules which are likely to have substantial impact on the Nation's economy or on large numbers of individuals or businesses. The amendment would require such hearings on matters which meet this standard even if the hearings had to be held after the implementation of the order.

Fifth. The amendment would require the issuance of a statement of exhaustion of administrative remedies within 60 days of a request for one. Our hearings demonstrated that in case after case, the decision of the Cost of Living Council was to make no decision at all. Parties would petition the agency for action and instead of receiving a grant or denial, they would receive no answer at all. This left them hanging in limbo and served to elevate the tactic of Government delay into a national policy. I believe that this is wrong and that people should have the right to a speedy determination of their rights and obligations.

An amendment similar to the one offered today has already been offered and accepted by the Senate. That amendment was directed at procedural problems posed by the various energy bills before the Congress. These provisions were accepted by a vote of 79 to 7 on that occasion and are now a part of the conference report on the Federal Energy Administration Act which the Senate will soon consider.

If the Congress determines that an extension of a wage-price program in some form is necessary, I believe that the procedural safeguards set forth in this amendment constitute a minimum set of requirements.

This much seems clear—no program will long retain, or deserve, popular support if its decisions are not arrived at by a process which appears open, fair, consistent, thorough, rational, enforceable, and necessary.

S. 3066: HOW IT HELPS THE ELDERLY

Mr. WILLIAMS. Mr. President, as chairman of the Subcommittee on Housing for the Elderly, I receive numerous letters detailing the shabby housing conditions that older Americans must face every day. Again and again the elderly of this country cry out for a comprehensive program that will answer their needs.

Two years ago the Senate passed S. 3248, the Housing and Urban Development Act of 1972, which contained many provisions of special interest to the elderly. Unfortunately, no final action was taken on that proposal by the House. This year, under the able leadership of Senator SPARKMAN, the Senate passed S. 3066, the Housing and Community Development Act of 1974, which also included several important provisions for older Americans. We now await the progress of housing legislation in the House.

Mr. President, the need for new legislation to authorize the building of units for the elderly is critical. All the programs that have produced successful housing units for older Americans have been frozen. We have waited over 3 years to pass housing legislation, and many elderly cannot afford to wait any longer.

I have prepared an analysis of the Housing and Community Development Act of 1974 (S. 3066) as it relates to the critical needs of the elderly, and I ask permission to have it printed in the RECORD.

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

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (S. 3066): AN ANALYSIS OF SECTIONS RELATING TO THE ELDERLY

I. NEW CONSTRUCTION

The need for new units is the No. 1 issue in the field of housing for the elderly, and the new Senate bill authorizes funding for four major programs that provide for new construction. The 1971 White House Conference on Aging recommended an annual minimum production of 120,000 units specially designed for the elderly. I am very pleased to report that this bill, S. 3066, would provide an estimated 117,550 units for older persons in fiscal year 1975, a level that comes very close to meeting this important recommendation.

Based on the best available information, here is an outline of the programs that could provide new construction if this bill were to become law:

UNITS OF NEW CONSTRUCTION FOR THE ELDERLY AS CONTAINED IN THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (FISCAL YEAR 1975)

Program	Total units authorized	Units for the elderly
1. Traditional public housing	92,000	[1] 36,800
2. Sec. 502 multifamily	[2] 150,000	[3] 37,500
3. Revised sec. 23 leased housing	133,000	[4] 33,250
4. Sec. 202 (as revised)	5,000	5,000
Plus revolving fund		5,000
Total	380,000	117,550

[1] 40 percent of total units authorized.
[2] Includes carryover.
[3] 15 percent of total units authorized.
[4] 25 percent of total units authorized.

Revised section 202 housing for the elderly

Once again the Senate has seen fit to renew one of the most successful housing programs in the history of Federal involvement in this field: the Section 202 Housing Program for the Elderly and Handicapped. As originally created by the Housing Act of 1959, this program provided direct loans to sponsors to be paid back at 3 percent interest. The funds for the program were provided by appropriations, and the payments were paid into a "revolving fund" to be used again. Because the full amount of every loan had to come directly from appropriations, the financing of this program had a heavy impact on the Federal Budget. For this reason, the program never produced a large number of units in any given year. Four years ago the 202 Program was phased out in favor of the Section 236 Program of interest subsidies. The reason for this change was very simple: the 202 Program, a direct loan approach, had too costly an impact on the Budget.

I have attempted to meet this objection to the 202 Program by suggesting certain revisions which have been included in the final version of S. 3066.

First, a new National Elderly and Handicapped Housing Loan Fund is established. This fund would pick up the old "revolving fund" money that still exists in the dormant 202 Program (an estimated $100 million), and it would also receive money from the Treasury Department. The Secretary of the Treasury would be authorized to borrow money ($100 million for fiscal year 1975) which would then be turned over to the fund to be loaned out as 3 percent loans through the 202 Program. All receipts and disbursements in and out of the fund would be excluded from the accounting for the Federal Budget. The direct loans are not expenditures; they are investments that will be paid back with interest. These investments are backed by mortgages which are in turn backed by land and improvements.

It is important to point out, however, that this revised 202 approach does not avoid the appropriation process. The Treasury borrows the money at one rate (today about 7½ to 8 percent) and the 202 loans are paid back at three percent. Therefore, there must be an appropriation to make up the interest differential. The bill would authorize an appropriation of $3 million to make up this difference for fiscal year 1975.

Approximately $100 million exists today in the old 202 "revolving fund." If this amount is added to the $100 million authorized by S. 3066, there would be enough funds to build approximately 10,000 units. This amount is reflected under item four in the chart shown above.

Traditional public housing

Public housing is one of the victims of the housing freeze. The Senate bill would unlock that freeze by authorizing the Secretary of HUD to enter into contracts for annual contributions of $720 million for fiscal year 1975. Included in this figure would be $175 million for new construction which would support approximately 92,000 units. The bill does not set aside a certain percentage of these units for the elderly, but recent experience in public housing has indicated that about 40 percent of all new units are built for older Americans. If this trend continues, the bill would then provide 36,800 units for the aged.

Section 502 multifamily housing assistance and rent supplement

The Section 502 program is essentially a revised version of the Section 236 program of interest-subsidy. The Senate bill calls for an estimated 150,000 new units for Fiscal Year 1975. The authorization is set at $180 million, but there is also a carry-over of $50 million from the old Rent Supplement program which has been combined with Section 236 in the new Section 502 program. The overall intent of Section 502 is to secure a mix of incomes within projects. The Secretary is required to make additional payments (rent supplements) with respect to 20 percent of the units in each project. A special exception is made on behalf of the elderly allowing up to 100 percent of the units to receive additional payments.

The funds authorized under Section 502 have a special amount set aside for the elderly. At least 15 percent but not more than 25 percent of all 502 funds must be used for projects reserved for the elderly. This section would provide 37,500 new units if 25 percent of the funds are used for housing older persons.

Section 23 leased housing

New construction under Section 23 Leased Housing program is heavily favored by the Administration. The Senate bill calls for approximately 200,000 units under Section 23 covering existing units, new construction, and substantial rehabilitation. Indications from HUD are that at least 50 percent of all Section 23 funding will go to new construction, perhaps more. If two thirds of the units authorized under the Senate bill were new units, the funding would yield approximately 133,000 units. Secretary Lynn has indicated that 25 percent of Section 23 funding will be set aside for the elderly. One fourth of the projected 113,000 new units would provide 33,250 units for older persons.

The feasibility of utilizing Section 23 for the elderly (especially on the part of nonprofit sponsors) still remains questionable. Final regulations were issued as late as April 22, 1974, and it is not yet clear what direction this program will take in a final housing bill approved by both House and Senate.

II. RELATED HOUSING PROGRAMS

Security from crime

Crime in housing has been an important issue before my Subcommittee on Housing for the Elderly. On July 13, 1974, I introduced the Housing Security Act of 1974 (S. 2180). I am pleased to report that my proposal has been incorporated into S. 3066. An authorization level of $10 million has been set for fiscal year 1975. The bill establishes an Office of Security at HUD and authorizes funding to assist security programs in federally financed housing. Ten million dollars is especially earmarked for this purpose as part of operating subsidies and cannot be used for any other purpose.

Congregate housing

S. 3066 also authorizes the Secretary to encourage public housing agencies to construct congregate housing, which is defined as "low-income housing (a) in which some or all of the dwellings do not have kitchen facilities, and (b) connected with which there is a central dining facility." The Secretary may use up to ten percent of the amount of annual contributions each year for this purpose.

Intermediate housing

Today a great need exists for living arrangements which provide meaningful alternatives to institutional care, especially for the elderly. One of my bills, S. 2181, called for a program to provide "intermediate" housing based on the successful experiments at the Philadelphia Geriatric Center. Under this program single family homes across the street from the Center were converted into three-unit apartments for those elderly who had difficulty living independently but did not need full institutionalization. The proximity of these converted units to the Center made needed supportive services readily available.

This innovative use of existing housing stock should be expanded. My bill called for just such a program, but no language was adopted in the final Senate bill. The Housing Subcommittee felt that this program could be pursued under the Section 502 or the Section 202 programs (see above) which they approved. And therefore, there was no need to amend the law. Nevertheless, in their report on S. 3066, the Banking, Housing, and Urban Affairs Committee expressed their full support of intermediate housing and similar attempts to provide alternatives to institutional care.

Supplemental loans: Neighborhood outreach

Section 504 of the Senate bill provides for supplemental loans for expanding and improving housing opportunities. More specifically, it allows the Secretary to insure supplemental loans to enable sponsors of Section 502 projects for the elderly to add space to common facilities to accommodate elderly persons living in the neighborhood. The Secretary is authorized to make periodic assistance payments on behalf of any owner of an elderly project who receives an insured supplemental improvement loan. Reasonable fees will also be charged nonresident elderly families who utilize the facilities.

The object of this program is to expand the common facilities (such as central dining) of existing elderly projects so that older residents of the neighborhood may take advantage of the various opportunities provided.

Section 312 rehabilitation loans

The three percent Federal rehabilitation loan program (Section 312) is retained in a revised version in S. 3066. These low-interest loans are provided to owner-occupants whose incomes are 50 percent or less of the median income for the area, or who otherwise could not afford rehabilitation without paying more than 25 percent of their income for housing. The authorization for this program remains at $150 million for each fiscal year.

III. OTHER SECTIONS OF INTEREST TO THE ELDERLY PROTOTYPE COSTS

The Secretary is required to determine prototype costs for construction under Section 402 (single-family) and Section 502 (multi-family). The Senate bill does not specifically refer to the added cost necessary for design for the elderly. However, there is language in the Committee report that recognizes the need for special costs for older persons.

Restrictions on high rise construction for the elderly

Section 805 of the Senate bill permits the Secretary of HUD to approve construction of high rise buildings for the elderly only if he determines, on the basis of land costs, safety and security factors, and the availability of community services, that such construction is appropriate.

Housing for the elderly: Integrated by age

Under the provisions for Multi-family Housing Assistance (Section 502), not less than 15 percent nor more than 25 percent

of the funds available are reserved for the elderly (see discussion above). Of the amounts that are set aside under this provision, not less than five percent must be available for use only with respect to "integrated projects." The bill defines integrated as "any project in which not less than ten per centum nor more than 50 per centum of the dwelling units are planned for occupancy by elderly or handicapped families.

CONTROL OF GOVERNMENT SNOOPING

Mr. MONDALE. Mr. President, last Wednesday the distinguished Senator from Wisconsin (Mr. NELSON) gave the opening testimony before a House Judiciary subcommittee which is considering legislation to control Government snooping.

The Senator from Wisconsin has been concerned with this issue long before Watergate became a household word, and has been a leader in the Senate in helping to secure protection for American citizens from the unwarranted interference of Government surveillance. In his testimony, Senator NELSON explained the source of his deepseated concern and the measures which Congress should enact to meet the problems of Government spying.

One measure discussed in detail is S. 2820, a bill introduced by Senator NELSON to prohibit the use of warrantless wiretaps in national security cases. I am proud to be a cosponsor of this legislation, and share my colleague's hope that Congress will consider it carefully.

Mr. President, I ask unanimous consent that the Senator's testimony before the House Judiciary subcommittee be printed in the RECORD.

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

STATEMENT BY U.S. SENATOR GAYLORD NELSON

The time is long past due for Congressional action to check the dangerous abuses of government wiretapping and other surveillance activities. Indeed, continued inaction by Congress in this area would be inexcusable.

The need for action, and therefore the importance of this subcommittee's inquiry, are clear. Uncontrolled government wiretaps and other surveillance activities constitute an intolerable threat to fundamental constitutional rights and liberties. Individual freedom—the cornerstone of our democratic system—is but an illusion in a society where the government can invade an individual's privacy at will.

Until recently, most of the public did not appreciate the inherent dangers of government snooping. Now the public understands that government snooping poses a real threat to everyone, regardless of his or her station in life. Now 77% of the public favors legislation to curb the abuses of government wiretapping and spying.

The explanation for this shift in public opinion is easy to understand. The Watergate scandals and other events have underscored the dangers of government snooping in a dramatic fashion.

Hearings by the Senate Watergate Committee and other Congressional bodies, as well as reports by various periodicals, exposed in sordid detail how the government could and did invade the privacy of law-abiding individuals. Reference to just a few recent examples is sufficient to illustrate the magnitude of dangers of government snooping:

On April 14, 1971, it was revealed that the FBI had conducted general surveillance on those who participated in Earth Day celebrations in 1970. These activities involved tens of thousands of citizens, state governors, representatives of the Nixon administration, and members of Congress. As the one who planned that first Earth Day, I cannot imagine any valid reason for spying on individuals exercising their constitutional rights of speech and assembly in a peaceable manner. There is still no satisfactory explanation of the surveillance. Nor is there any guarantee it could not be repeated in the future.

A 1973 Senate subcommittee report detailed the extensive spying secretly conducted by 1500 agents of the U.S. Army on more than 100,000 civilians in the late 1960's. This surveillance was directed principally at those suspected of engaging in political dissent. No one in the Congress knew about this spying. No one in the executive branch would accept responsibility for it. Again, there is no guarantee that this sorry episode could not be repeated. In fact, a Senate committee learned recently that in the last three years—after the administration assured the public that the military would no longer spy on civilians—the U.S. Army has maintained numerous surveillance operations on civilians in the United States. And an article in *The New Republic* magazine of March 30, 1974 detailed the U.S. Army's use of wiretaps, infiltrators, and other surveillance techniques to spy on American citizens living abroad who supported the presidential candidacy of George McGovern. The Army's spying was reportedly so extensive that it even intercepted a letter from a college librarian in South Carolina who requested information about a German publication;

On December 5, 1973, Retired Rear Admiral Eugene LaRoque revealed the existence of a secret unit in the Pentagon which engages in the same kind of activities conducted by the White House "plumbers";

Testimony before the Senate Watergate Committee and the Senate Judiciary Committee documented White House efforts to use confidential tax returns of thousands of individuals to spy on and harass its "enemies."

For many years Constitutional authorities and other citizens have repeatedly expressed alarm over the rapidly expanding practice of governmental invasions of privacy by wiretapping, data collection, and other forms of surveillance. In 1967 I made a lengthy speech on the floor of the Senate on this issue and in 1971 introduced legislation to establish a joint congressional committee to control government snooping. In this session of Congress I have introduced three separate bills designed to remedy the abuses of government spying. One of these measures—a bill to prohibit the use of wiretaps without approval of a judicial warrant in so-called "national security" cases—has been introduced in the House by the Chairman of this subcommittee.

Because this last bill, entitled the "Surveillance Practices and Procedures Act of 1973," is presently before the subcommittee, the remainder of this testimony will be devoted to a discussion of it.

The bill is a direct response to wiretap abuses in so-called "national security" cases. Last May it was revealed that in 1969 the White House by-passed established procedures and authorized wiretaps on the telephones of seventeen government officials and newspapermen. The purported basis of these "taps" was a concern that sensitive information was being leaked to reporters by government officials. The government, however, did not obtain a judicial warrant before installing the taps. The government alone decided whom it would tap and for how long.

Subsequent investigation showed that some of the government officials tapped did not have access to sensitive information. It was also learned that two of the taps were maintained after the individuals involved had left government service and joined the presidential campaign staff of Senator Muskie. In none of the cases was the individual suspected of having violated the law.

These were not isolated incidents. Warrantless taps based on so-called "national security" reasons were placed on the telephones of newspaper columnist Joseph Kraft in 1969 and in 1971 on friends of a Navy yeoman suspected of passing sensitive information to the Joint Chiefs of Staff. Again, none of these individuals were even suspected of having violated the law.

The use of so-called "national security" taps, however, has not been confined to the present administration. Democratic and Republican administrations since the 1930's have used such taps to spy on law-abiding individuals. Various government reports indicate that since that time thousands of individuals have had their telephone conversations intercepted for so-called "national security" reasons.

From the very beginning, those sensitive to civil liberties recognized the dangers of warrantless wiretaps. Such taps enable the government to exercise unchecked and unreviewed power over the individual. There is no opportunity for a court, the Congress, or the public to demonstrate that the taps are unreasonable. For this reason, Supreme Court Justice Oliver Wendell Holmes called them "dirty business." In my view, such taps are also unconstitutional.

To understand the basis of this opinion it is necessary to examine the language and judicial interpretation of the Fourth Amendment. That amendment states quite simply that

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

One need not be an historian or a lawyer to understand the essential purpose of this amendment. It is intended to protect the individual's privacy from unreasonable invasions by the government. To afford this protection, the amendment contemplates that a neutral court—not the government—will determine whether any search and seizure planned by the government is reasonable. Otherwise the government would be both advocate and judge of its own case.

The Fourth Amendment thus limits the power of the government. Like the other amendments in the Bill of Rights, it reflects the Framers' intention that individual liberty, rather than unrestrained governmental power, be the hallmark of our political system. In his dissent in the 1928 Olmstead case Supreme Court Justice Louis Brandeis articulated the importance of the Fourth Amendment in our scheme of government:

"The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone—the most comprehensive of rights and the right most valued by civilized men.

To protect that right, every unjustifiable intrusion by the Government upon the privacy of the individual, *whatever the means employed,* must be deemed a violation of the Fourth Amendment." (Emphasis added).

The Fourth Amendment's protections apply to all government searches and seizures. No exception is made for national security cases or any other kind of circumstance. The absence of any expressed exceptions, moreover, cannot be interpreted as an oversight or a failure of the Founding Fathers to appreciate future developments in which world affairs would be overshadowed by the nuclear sword of Damocles.

When the Constitution was drafted in 1787, our country was only 11 years old. The new American citizens had recently concluded a long war with England to preserve their country's independence. That independence was not entirely secure. That threat of foreign attack and subversion remained ever present. Despite the existence of this threat, the Founding Fathers adopted the Fourth Amendment and made no exception to its application.

In the 1967 *Berger* and *Katz* cases, the Supreme Court held that the Fourth Amendment applies to wiretapping for criminal purposes. In effect, these decisions required the government to obtain an approving judicial warrant before it could install a wiretap in a criminal investigation.

In the 1972 *Keith* case the Court, by an 8-0 vote, decided further that the government could not wiretap individuals without a judicial warrant even when the individual's activities threatened the nation's "domestic security." Again, the Court made clear that wiretaps must adhere to the safeguards delineated by the Fourth Amendment:

"Though physical entry of the home is the chief evil against which the wording of broader spirit now shields private speech from unreasonable surveillance."

The Supreme Court has not yet decided whether the Fourth Amendment's protections apply to cases involving the intelligence activities of foreign powers and their agents. In the *Keith* case, the Court stated explicitly that it did not consider those situations where American citizens have a "significant connection" with foreign powers and their agents.

Because the Court has not ruled on these "national security" taps, the present administration maintains that it may install warrantless wiretaps in certain situations. In a September 1973 letter to Senator William Fulbright, Chairman of the Senate Foreign Relations Committee, then Attorney General Elliot Richardson stated that the administration would continue to install warrantless wiretaps against American citizens and domestic organizations if the administration believes their activities affect "national security" matters.

Mr. Richardson's comments apparently still reflect administration policy. Last January the Justice Department reported that it had authorized three warrantless wiretaps for national security reasons—an average week's quota according to the department. The department did not explain to any neutral party the justification for the taps or identify the subjects of the taps.

The continued use of warrantless wiretaps for so-called "national security" reasons underscores the need for Congressional action. People in our country should not be afraid to speak to one another on the telephone, never knowing whether the government is listening or how the government might use any information obtained. Every citizen should be assured that the privacy of his or her telephone conversations will not be invaded unless a neutral court first determines that the invasion is justified.

The Surveillance Practices and Procedures Act is designed to provide that assurance. The bill includes three principal provisions.

First, before it could wiretap American citizens for national security reasons, the government would have to obtain a judicial warrant based on probable cause that a specific crime has been or is about to be committed. This provision would thus protect an individual's privacy against unjustified national security wiretaps.

Second, before the government could wiretap a foreign power or its agents, it would have to obtain a judicial warrant based on the belief that the tap is necessary to protect national security interests. The warrant standards for foreign powers and their agents would thus be less rigorous than those required for American citizens. This warrant requirement will in no way undermine the government's ability to protect against foreign attack or subversion; the government will be able to wiretap foreign powers and their agents any time there is a need for such surveillance.

The justification for this second warrant procedure is plain. The government's desire to wiretap should be reviewed by a court. There should be no exceptions. Otherwise the exceptions may be stretched to sanction an unreasonable invasion of an individual's privacy—a situation which would violate the rights and liberties guaranteed under our Constitution.

Third, every American citizen wiretapped would be informed of the surveillance within 30 days after the last authorized interception. This provision would assure every wiretapped American citizen the opportunity to protect against violation of his or her constitutional rights. The disclosure of the wiretap could be postponed however, if the government satisfies the court that the person wiretapped is engaged in a continuing criminal enterprise or that disclosure would endanger national security interests.

The need for legislation such as this should be beyond dispute. Warrantless wiretaps—whether for "national security" reasons or other purpose—pose a grave danger to individual rights of speech and privacy. Such taps invest the government with an aboslute power over the individual. They enable the government to pry into an individual's private affairs without justification. They foster the reality of an Orwellian state in which the government becomes a monster to be feared rather than a servant to be trusted.

That is not the kind of government envisioned by our Founding Fathers. The underlying and fundamental premise of our Constitution is that all government power is limited by checks and balances. This is no less true of the government's power to protect "national security." That power is not so absolute that it can excuse infringements of the right to privacy and other constitutional liberties. It would indeed be ironic if the government could invoke "national security" to violate those individual freedoms which the government is obligated to defend.

The public apparently agrees that invocation of "national security" cannot excuse violations of constitutional rights and liberties. A recent Harris opinion poll found that 75% of the public believes that "wiretapping and spying under the excuse of national security is a serious threat to people's privacy."

More than 20 years ago, Justice Felix Frankfurter voted with a majority of the Supreme Court to condemn as unconstitutional President Truman's seizure of the steel mills, an action which that President also tried to justify in terms of "national security." In explaining his vote, Justice Frankfurter observed that

"The accretion of dangerous power does not come in a day. It does come, however slowly, from the generative force of unchecked disregard of the restrictions that fence in even the most disinterested assertion of authority."

The observation is equally true of warrantless wiretaps in so-called "national security" cases. Over the past few decades, the use of these taps has generated an unchecked power in the executive branch. The danger has now been exposed. In wiretapping, as in other matters, unchecked power can be and often is exercised in an arbitrary and abusive fashion.

It is not a question of good faith. Even the best of intentions can lead individuals—and their government—astray. If Congress wants to insure respect for constitutional limitations and constitutional liberties, it should not rely on the good will of government officials; it should enact legislation which defines clearly the government's obligations and the individual's rights. This is at least one lesson of Watergate. Time will tell how well Congress has learned the lesson.

THE THREAT OF NUCLEAR THEFT AND SABOTAGE

Mr. RIBICOFF. Mr. President, over the weekend I released a report prepared for the Atomic Energy Commission which finds that the AEC's present system of safeguarding explosive uranium and plutonium in the nuclear power industry is "entirely inadequate" to meet the threat of theft by terrorist groups and the subsequent manufacture of nuclear bombs.

This internal report, prepared by a team of four outside consultants and one AEC official, stresses that even the new safeguards regulations implemented by the AEC last month are inadequate and must be strengthened immediately. The study group makes several recommendations including the establishment of a Federal Nuclear Protection and Transportation Service to provide an immediate Federal presence wherever the use of force may be needed to protect these incredibly dangerous materials from falling into the hands of would-be saboteurs and blackmailers.

The report also declares that "acquisition of special nuclear material remains the only substantial problem facing groups which desire to have such weapons." It further states that "the potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible powerplant accident," including a meltdown of the core and a breach of the containment vessel of a nuclear plant.

As serious as the safeguards problem is today, the report makes clear that it will magnify manyfold unless we come to grips with it now. It takes only 20 pounds of plutonium to make a crude bomb. The AEC estimates that by 1980, there will be more plutonium in the commercial sector than the Government sector, including the Government weapons program. The present generation of light-water nuclear reactors will produce 60,000 pounds of plutonium a year by 1980. The next generation of reactors—the so-called fast breeder, which produces more plutonium than it consumes—will generate 600,000 pounds of plutonium annually by the year 2000. The basic message of the report is that

we must design effective nuclear safeguards before it is too late.

I released this report, Mr. President, because the general public is entitled to know of the serious danger posed by the failure of the AEC to institute an adequate safeguards system. The report is written in such a way as to highlight the dangers in the present system without suggesting specific ways that nuclear materials can be stolen or bombs made. There is a separate section listing scenarios for breaching the present safeguards systems, which has been classified by the AEC and is not made public.

The clear danger detailed in this report makes it one of the most important documents ever to come out of the AEC. It was transmitted to AEC Licensing Director John F. O'Leary as a working paper for the Commission.

The team of consultants reports:

It seems to us that the present system of protecting facilities and transportation which handle special nuclear materials is inadequate.

In assessing the present system, the group says:

The factors involved in preventing the illegal acquisition of special nuclear material and the subsequent manufacture of nuclear weapons have received a great deal less attention than those associated with power plant accidents. The relevant regulations are far less stringent and we feel they are entirely inadequate to meet the threat.

The study also finds:

Even though safeguard regulations have just been revised and strengthened, we feel that the new regulations are inadequate and that immediate steps should be taken to greatly strengthen the protection of special nuclear materials.

The safeguards problem detailed in the report confirms the findings of a safeguards inquiry by the Subcommittee on Reorganization, Research, and International Organizations, which I chair. The report represents the first confirmation from within the AEC of criticism of its safeguards system by outside experts, including Dr. Theodore Taylor, a distinguished nuclear physicist and former designer of atomic bombs at Los Alamos. Dr. Taylor testified before the subcommittee on March 12. His testimony and the reply of AEC officials the next day on safeguards, were inserted in the RECORD by me on March 21.

In response to the safeguards danger, the subcommittee adopted my amendment to establish a Bureau of Nuclear Materials Security in a new Nuclear Safety and Licensing Commission—NSLC. This should lead to setting up a security force within the Bureau for protecting commercial nuclear materials in transit and in storage, as the study group recommends.

The amendment is a key provision in S. 2744, the Energy Reorganization Act of 1974, which divides the AEC into separate development and regulatory agencies: a new Energy Research and Development Administration—ERDA, and the new NSLC respectively. I am hopeful that the bill will be considered by the full Government Operations Committee and will reach the Senate floor by the end of May.

The bill contains several provisions to insure the safety of the new nuclear power technology, but perhaps the most basic question it addresses is the protection of plutonium and highly enriched uranium from theft and diversion. The present safeguards system is now fragmented among 99 personnel in three directorates of the regulatory division of the AEC. The AEC has a total of 7,439 employees. There is no single safeguards director to coordinate licensing, regulations, research, and inspection activities aimed at preventing theft and internal division of weapons-grade materials.

The new Bureau of Nuclear Materials Security would pull these fragments together into a high-level, high-visibility unit under a strong director. As such, the bureau would have the capability to immediately tighten all aspects of safeguarding commercial nuclear materials and installations against threats, theft, accidents, and sabotage.

Among the other study-group recommendations are:

"A dynamic testing system," including the use of "blackhat" infiltration teams, to determine whether safeguards systems now being used in individual nuclear fuel and power facilities can withstand actual attempts to breach them.

Apply the same "rigor and depth" in safeguarding nuclear materials as is now used in examining the safety of nuclear powerplants.

Establish a continual and strong liaison between the AEC and the FBI, CIA, and other appropriate agencies so that a level of resources is expended on the nuclear safeguards problem that is commensurate with the importance of the issue.

Upgrade and refine materials accounting systems to block sneak thieves from diverting weapons-grade materials from inside nuclear reprocessing, fabrication and storage facilities.

The study group finds that uncertainties in present materials accounting systems "make it impossible to say that an explosive mass has not been diverted." Furthermore, the study finds that—

The time delay in the inventory system is long enough to allow a skilled diverter to have constructed an explosive device before the system can reach a conclusion that a diversion has taken place.

The study group cites three major factors as increasing the danger of nuclear theft:

The widespread and increasing dissemination of information on how to make homemade bombs;

Increasing numbers of people with varying psychological attitudes who have worked in the nuclear industry and are experienced in processing weapons-grade materials;

The Patricia Hearst kidnaping, which if not firmly met, "may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history."

The AEC study group consisted of: Dr. John Geogin, Union Carbide Nuclear Division; Robert Jefferson, Sandia National Laboratory, AEC; Dr. Daniel Kleitman, professor of mathematics, MIT: William Sullivan, former Assistant Director of the FBI and former Director of the Office of National Narcotics Intelligence; and Dr. David Rosenbaum, consultant on terrorist threats to technology and former assisant to Mr. Sullivan at ONNI. Dr. Rosenbaum wrote the report.

Mr. President, so that Congress and the public can be fully informed of the AEC's inadequate safeguards system, I ask unanimous consent that the following materials be printed in the RECORD at the conclusion of my remarks: Excerpts of major findings, recommendations and problems in the report; the report itself; the official AEC comments on the report; section 204 of S. 2744, establishing a Bureau of Nuclear Materials Security; news articles from the New York Times, Washington Post, and Washington Star-News on the report; and an editorial in the Hartford Courant on the safeguards problem, which appeared before the AEC report.

I also ask unanimous consent that an article from the Christian Science Monitor entitled "AEC Safeguards of Nuclear Fuels Called Inadequate," and an article from the Hartford Courant entitled "Availability of N-Bomb Goods Hit" be printed in the RECORD.

Mr. President, the lessons of the report are clear for all Americans. If we are someday to confidently rely on nuclear power as a main source of our electricity, we must begin now to make the handling and transportation of nuclear materials airtight and foolproof. Otherwise we will be held hostage by the very technology that is supposed to give us self-sufficiency and prosperity.

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

SAFEGUARDS REPORT

MAJOR FINDINGS

The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident, including one which involves a core meltdown and subsequent breach of containment. (p. 4).

Acquistion of special nuclear material remains the only substantial problem facing groups which desire to have such weapons. (p. 4).

The budget allowed for safeguard reviews and the number and qualifications of the people concerned with safeguards will have to be substantially increased. (p. 10).

It seems to us that the present system of protecting facilities and transportation which handle special nuclear materials is inadequate. (p. 11).

The uncertainties in the accumulated material balances of the atomic energy operation of the country already make it impossible to say that an explosive mass has not been diverted, and if reliance is placed solely on material balance methods that statement will have to be expanded many, many fold in the near future. The current use of these techniques is probably not worth their cost. (p. 16).

One can do something about safeguards by the use of accounting and measurement, but this will require a new approach to the subject. It will be necessary to direct the accountability effort not toward detection of diversion. (p. 17).

The time delay in the inventory system is long enough to allow a skilled diverter to have constructed an explosive device before the system can reach a conclusion that di-

version has taken place. On the basis of timeliness as well as one the basis of sensitivity the calculation of inventories as exemplified in the MUF (Materials Unaccounted For) and LEMUF (Limit of Error/Materials Unaccounted For) concepts fail to provide safeguards. (p. 24).

It is our hope that this study will contribute to a new understanding of the level of danger represented by the potential acquisition quantities of special nuclear material by malevolent people. We feel that the danger is large and growing due to the widespread and increasing dissemination of precise and accurate instructions on how to make simple nuclear weapons, and due to the increasing professional skills, intelligence networks, finances, and level of armaments of terrorist groups throughout the world. (p. 35).

The factors involved in preventing the illegal acquisition of special nuclear material and the subsequent manufacture of nuclear weapons have received a great deal less attention than those associated with power plant accidents. The relevant regulations are far less stringent and we feel they are entirely inadequate to meet the threat. (p. 35).

It will be necessary to direct the accountability effort not toward computing an overall balance as it now is, but toward the detection of diversion. (p. 34).

Even though safeguard regulations have just been revised and strengthened, we feel that the new regulations are inadequate and that immediate steps should be taken to greatly strengthen the protection of special nuclear materials. (p. 34).

MAJOR RECOMMENDATIONS

It is necessary to adopt the same framework for safeguarding protection as is normally used in examining the safety of power plants and to apply it with the same rigor and depth. (p. 4)

The seriousness of the problem demands a clear commitment by the AEC to bring the risk to the public from safeguards problems down to the level of public risk associated with the operation of nuclear power plants. (p. 5)

We recommend the establishment of a federal nuclear protection and transportation service. We further recommend that all protection functions which could require the use of force be direct federal responsibilities . . . an upgraded system ought to be adopted *immediately* as a temporary measure. (p. 13)

The AEC should establish a continual and strong liaison with the CIA, FBI, and other appropriate agencies, and should exert every effort to see that these agencies expend a level of resources on safeguards problems commensurate with the importance of the issue. (p. 14)

In addition to conventional compliance inspections to determine adherence to regulations, a dynamic testing system should be devised to provide a realistic examination of the overall safeguards afforded SNM by each licensee. (p. 15)

Every attempt should be made to employ measurement techniques that yield material balance consistency checks within a period of one day. (p. 29)

The effort against diversion should be based on a continuing "diversion path analysis" so that the means of detection are continually tuned to the problems posed by diversion . . . We recommend the establishment of a continuing effort on "diversion path analysis" by the AEC with the objective of insuring an increasingly effective application of advanced measurement techniques to the solution of safegards problems. We further recommend that the licensees be required to perform such analyses in their facilities, and to formulate measurement schemes to protect against every potential diversion path discovered. (p. 31)

MAJOR PROBLEMS

Even though safeguard regulations have just been revised, two factors have appeared in recent months which make necessary a new and fundamental look at the problem. The first of these is the widespread and increasing dissemination of precise and accurate instructions on how to make a nuclear weapon in your basement. . . . larger and larger numbers of people with experience in processing special nuclear materials and with varying psychological attitudes are dispersed in the overall industrial community. (p. 2) . . . The second new factor is the recent start of political kidnappings within the United States. It is our opinion that the kidnapping of Patricia Hearst does not represent an isolated and passing incident, but is rather the precursor of a wave of such incidents. If not firmly and completely met, these kidnappings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history. (p. 3)

We believe these new factors necessitate an immediate and far reaching change in the way we conduct our safeguards programs. (p. 3)

It is our strong feeling that the point of view adopted, the amount of effort expended, and the level of safety achieved in keeping special nuclear material out of the hands of unauthorized people is entirely out of proportion to the danger to the public involved . . . (p. 4)

Our estimate of the maximum credible threat to any facility or element of transportation handling special nuclear materials is fifteen highly trained men, no more than three of which work within the facility or transportation company from which the material is to be taken. (p. 6)

Protection of the common defense and security against significant armed attack is not a responsibility which is reasonable or equitable to assign to private industry. . . . There is also a substantial question as to when private guards can legally use their weapons. (p. 11)

Perhaps the greatest problem with the present inventory and material balance control system is the lack of timeliness of the data. (p. 18)

A SPECIAL SAFEGUARDS STUDY

ATOMIC ENERGY COMMISSION,
Washington, D.C.

JOHN F. O'LEARY,
Director of Licensing:

Approximately two months ago you asked me to form and direct a Special Safeguards Study. Our instructions were to "say what ought to be done about safeguards." This study group consisted of myself, Dr. John Googin of the Union Carbide Nuclear Division, Mr. Robert Jefferson of the Sandia Laboratory, Professor Daniel Kleitman of the Massachusetts Institute of Technology, and Mr. William Sullivan, formerly Assistant to the Director of the F.B.I. and Director of the Office of National Narcotics Intelligence.

We have tried to do an independent and professional job. Because of the short time allowed we decided to concentrate our efforts solely on the problem of diversion of explosive quantities of special nuclear material. While we restricted our study to licensed facilities, we believe it may have implications for other facilities as well. We could not have done our study as well without the considerable help we received from people and offices throughout the Atomic Energy Commission. I would particularly like to mention the outstanding guidance, cooperation and help we received from Ralph G. Page, Chief, Materials and Plant Protection Branch. Mr. Page's knowledge of the safeguards problems and the respect his name carries in all of the facilities we visited made our task much easier.

DAVID M. ROSENBAUM.

INTRODUCTION

This document is the result of a short intensive look at safeguards problems by five knowledgeable people who have no vested interest in the system as it now operates. Our mandate was "to say what ought to be done." We restricted our attention to the unauthorized acquisition of special nuclear materials in quantities necessary for the manufacture of nuclear explosives. Because of the short time allowed, we have taken a very broad brush view of the problem. A considerably longer study might, of course, lead us to modify some of our conclusions; but we doubt very much that we would change them in any fundamental way, regardless of the time and depth allowed. Readers of this paper may be interested in the classified paper, *Diversion Scenarios*, written by the same authors, which contains some examples of ways in which special nuclear material might be diverted under present regulations.

In recent years the factors which make safeguards a real, imminent and vital issue have changed rapidly for the worse. Terrorists groups have increased their professional skills, intelligence networks, finances, and levels of armaments throughout the world. International terrorist organizations, particularly those of the Arabs, probably have the ability to infiltrate highly trained teams of 10 to 15 men into this country without detection. In addition, a number of groups in Latin America have graphically shown the ability of urban terrorist groups to operate with near impunity for long periods of time. These groups are quite different in character from those more traditional rural movements which operate in close conjunction with the peasantry. Urban groups are normally led and largely staffed by upper middle class members of the establishment who hold, or have held, important jobs in the community. Such groups can have an enormous impact on a society even when they lack the strength to take power themselves.

Even though safeguard regulations have just been revised, two factors have appeared in recent months which make necessary a new and fundamental look at the problem. The first of these is the widespread and increasing dissemination of precise and accurate instructions on how to make a nuclear weapon in your basement. While such information may have always been available in the unclassified literature it was masked by a great deal of irrelevant and incorrect information, also readily available. There is a slow but continuing movement of personnel into and out of the areas of weapons design and manufacturing. These moves are sometimes forced and can create very strong resentments in the people involved. As a result, larger and larger numbers of people with experience in processing special nuclear materials and with varying psychological attitudes are dispersed in the overall industrial community. In addition, the psychological effect on terrorist groups of widespread dissemination of such information should not be overlooked.

The second new factor is the recent start of political kidnappings within the United States. It is our opinion that the kidnapping of Patricia Hearst does not represent an isolated and passing incident, but is rather the precursor of a wave of such incidents. If not firmly and competently met, these kidnappings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history. These groups are likely to have available to them the sort of technical knowledge needed to use the now widely disseminated instruction for processing fissile materials and for building a nuclear weapon. They are also liable to be able to carry out reasonably sophisticated attacks on installations and transportation. We believe these new factors necessitate an im-

mediate and far reaching change in the way we conduct our safeguards programs.

THE ESSENCE OF THE PROBLEM

The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident, including one which involves a core meltdown and subsequent breach of containment. Because of the widespread dissemination of instructions for processing special nuclear materials and for making simple nuclear weapons, acquisition of special nuclear material remains the only substantial problem facing groups which desire to have such weapons.

Not only do illicit nuclear weapons present a greater potential public hazard than the radiological dangers associated with power plant accidents, but the factors involved in preventing their potential manufacture have received a great deal less attention and consequently the relevant regulations are much less stringent. It is our strong feeling that the point of view adopted, the amount of effort expended, and the level of safety achieved in keeping special nuclear material out of the hands of unauthorized people is entirely out of proportion to the danger to the public involved and to the point of view, effort, and safety achieved in radiological matters, particularly those associated with power plants. We believe that it is necessary to adopt the same framework for safeguards protection as is normally used in examining the safety of power plants and to apply it with the same rigor and depth. In particular, the threat and the system designed to meet that threat, should be viewed in terms of *design basis incidents*. We need to design safeguard systems to assure that *no single failure* of an active or passive feature of any system will lead to the inability of that system to perform its function. Only by viewing the problem in this framework can we take realistic and adequate steps to meet it.

The seriousness of the problem demands a clear commitment by the AEC to bring the risk to the public from safeguard problems down to the level of public risk associated with the operation of nuclear power plants.

THE THREAT

Our estimate of the maximum credible threat to any facility or element of transportation handling special nuclear materials is fifteen highly trained men, no more than three of which work within the facility or transportation company from which the material is to be taken. We believe that the "insiders" can include anyone up to the higher levels of management of the organization involved. This threat estimate is by nature both subjective and imprecise, but we believe it to be informed and conservative. It was arrived at after informal discussions with the FBI and CIA, and based on those discussions and on prior relevant experiences of the members of this study.

While any estimate of a maximum credible threat will be subjective and uncertain, we recommend that the AEC periodically ask the FBI and the CIA for formal written estimates of the maximum credible threat from both domestic and foreign groups. We do not believe that there is any need for the AEC to fund any group outside the government to make a study to determine the threat, as such a group is unlikely to have the capabilities and experience in this area which reside in the FBI and the CIA and, in any case, would have to get most of their current information from those two agencies.

We have not made any attempt to discuss the threat imposed by particular groups, although we considered many such groups in making our estimate, . . . which might carry out those threats.

DIVERSION SCENARIOS

A wide range of scenarios was considered by the group. They included those presented by Theodore B. Taylor in the December 1973 articles in the "New Yorker" and his testimony before congressional committees, those suggested during extensive conversations with the technical and management staffs of organizations actively involved in the production of fuel elements, and those known to the members of the group from their own extensive involvement with security problems. The set of scenarios was certainly not complete, but it represented the types that we felt should be used as the basis for developing an effective safeguards system. Some of these scenarios are given in the classified paper, "*Diversion* Scenarios," by the same authors.

Recommendations

The fundamental recommendation

By far the most important recommendation we have to make concerns the structure within which safeguards problems are viewed. Once the Commission adopts the same framework for safeguards safety as is normally used in examining the safety of power plants, and applies it with the same rigor and depth, the public hazard associated with the unauthorized acquisition and utilization of special nuclear materials will be quickly brought to the level of the hazard associated with nuclear power plant accidents. At present we believe safeguards hazards to be many times greater.

Recommendation

We recommend that the threat represented by unauthorized acquisition of special nuclear materials and the adequacy of systems to meet that threat, should be viewed in terms of *design basis incidents*. Safeguard systems should be designed to assure that *no single failure* of an active or passive feature of a system will lead to the inability of that system to perform its function. The regulations and the level of review should be sufficient to reduce the hazard to the public from unauthorized acquisition of special nuclear materials to the same level as that from nuclear power plants.

In order to carry out this recommendation the budget allowed for safeguard reviews and the number and qualifications of the people concerned with safeguards will have to be substantially increased.

Federal protection of special nuclear materials

Protection of the common defense and security against significant armed attack is not a responsibility which it is reasonable or equitable to assign to private industry. Private companies have neither the capability nor the desire to meet the sort of threats described in our document on diversion scenarios, much less those posed by the maximum credible threats. There is also a substantial question as to when private guards can legally use their weapons. We were told by one transportation company that it had written to the Attorneys General of the 48 contiguous states asking whether their uniformed guards can carry arms across the state border. They were informed in every case that they could not do so without a license. The company does not plan to license its guards to carry guns in any except its home state even though, because of AEC requirements, its guards will carry weapons across the country and will be instructed to do what is necessary to protect the SNM. Other companies have instructed their guards not to use their weapons to stop theft of special nuclear material, but only in defense of their lives. *It seems to us that the present system of protecting facilities and transportation which handle special nuclear materials is inadequate.*

There are a number of other physical security problems that should be handled directly by the Federal government. An example of the sort of thing we have in mind is a Federal organization that would:

(a) Carry and protect all shipments of significant quantities of licensed special nuclear material.

(b) Approve (in addition to the regular licensing approval) the physical protection plans for fixed sites handling significant quantities of special nuclear material.

(c) Provide the armed guards for fixed sites handling significant quantities of special nuclear material.

(d) Make prior standing arrangements to get an adequate response team (not necessarily of its own personnel) to the site of any attempted diversion in a timely manner. Sometimes this might involve a response by air as well as by road. In open areas, for example, it is vital that escape by air as well as by surface vehicle can be monitored and interdicted. Depending on the locality this might involve fighter planes, radar equipped search planes, and/or helicopters. Where necessary, prior arrangements will need to be made with the Department of Defense for emergency assistance.

(e) Include a Special Response Force which would respond to incidents of diversion with special equipment and trained personnel, much as the Joint Nuclear Accident Coordinating Center teams respond to weapons accidents. The Special Response Force would also have the responsibility to contact and coordinate any other federal, state and local agencies needed.

Recommendation

In order to limit the responsibility of licensees for the national defense and in order to insure a properly graded capability against the diversion of special nuclear material, we recommend the establishment of a federal nuclear protection and transportation service. We further recommend that all protection functions which could require the use of force be direct federal responsibilities. There are many possible ways to do this and the alternatives ought to be studied in a systematic and careful way, but an upgraded system ought to be adopted *immediately* as a temporary measure. If a small federal force is formed now it will help to meet the present pressing need and can be enlarged and improved as the need grows.

The need for better intelligence

The first and one of the most important lines of defense, against groups which might attempt to illegally acquire special nuclear materials to make a weapon, is timely and in-depth intelligence. Such intelligence may involve electronic and other means of surveillance, but its most important aspect is infiltration of the groups themselves. It is not the AEC's business to conduct this sort of intelligence, but it is the AEC's business to see that those agencies of the United States Government which have intelligence gathering responsibilities, including the FBI, CIA, and NSA, focus their attention upon this particular threat to our national defense and security. While it is true that if any of them came upon such information in the course of their general intelligence duties they would communicate it to someone in the Atomic Energy Commission, unless they are frequently prodded they will not focus more than pro forma attention on safeguards problems and their resources will be invested elsewhere in response to other pressures.

Recommendation

The AEC should establish a continual and strong liaison with the CIA, FBI, and other appropriate agencies, and should exert every effort to see that these agencies expend a level of resources on safeguards problems commensurate with the importance of the issue.

Dynamic testing

Recommendation

In addition to conventional compliance inspections to determine adherence to regulations, a dynamic testing system should be devised to provide a realistic examination of the overall safeguards afforded SNM by each licensee. We suggest the use of gaming analysis, including "blackhat teams" such as those used by Sandia Labs, to study sabotage and diversions involving weapons. Licensing should use the existing capability of AEC contractors to perform theoretical "blackhat" studies of fixed facilities and transportation. These studies should develop threat scenarios and detect systems weaknesses so that safeguards can be evaluated on a more realistic basis than that which can be accomplished by inspecting only for compliance with regulations. The resulting threat scenarios could form the basis for a simulated but dynamic testing of a licensee's SNM safeguards, and the modification of regulations to close loopholes.

Accountability: Discussion

The strong emphasis on material balance techniques for the control of special nuclear material has roots going back to the early days of the Manhattan Project. The extremely high unit values of the first materials produced made process control of manufacturing at the high level of analytical laboratories easily justifiable on economic as well as strategic grounds. Even in these early days, the percent of uncertainty was of the same magnitude as can be obtained at the present; but because of low throughput and inventories, the actual quantities of materials involved in the uncertainties were in fact very small.

The feeling that material balance techniques can yield uncertainties in the weight quantities of SNM on hand comparable to the early days still persists despite the fact that it is really the percent inaccuracy that is unchanged. This percent of uncertainty applied to present and projected inventories and throughputs makes the use of the inventory and material balance much too gross a technique for detection of diversions which are large enough to be of critical importance. *The uncertainties in the accumulated material balances of the atomic energy operation of the country already make it impossible to say that an explosive mass has not been diverted, and if reliance is placed solely on material balance methods that statement will have to be expanded many many fold in the near future.* The current use of these techniques is probably not worth their cost.

Material balance techniques do have positive value: they are essential to process control and their existence has great deterrent value for those who are unaware of its limitations.

Although inaccuracies of measurement will lead to total LEMUF's above critical masses this is not to say that the measurement techniques and concepts of current regulations and similar existing technology could not be used to detect diversion. In fact we believe the opposite: *one can do something about safeguards by the use of accounting and measurement, but this will require a new approach to the subject. It will be necessary to direct the accountability effort not toward computing an overall balance as it now is, but toward detection of diversion.*

There are some significant obstacles in the use of accountability for safeguards. A serious problem with inventory and material balance control systems is the ease with which they can be confused by bad data. Just the normal errors of transposed figures and misread instruments are a continuing problem, and the confusion which can be introduced by a person skilled in the analytical arts and the physics and chemistry of a process is frightening. The standard samples to labs can be altered to force a bias on the whole process. Interfering materials can be added to samples and process lines. Instruments can be made to give erroneous results. The very complexity of the process invites tampering of a kind which defies detection.

Another serious problem with using MUF's and LEMUF's as a safeguard is that there is no reasonable procedure for going from an observed MUF to a conclusion that a theft has occurred. Current procedure involves rechecking measurements, performing a new inventory, waiting for an error to be found, and then cleaning equipment to recover material not inventoried.

Perhaps the greatest problem with the present inventory and material balance control system is the lack of timeliness of the data. For large plants the best that is done is to give results every month. In cases where there are problems in closing a balance, it is often weeks more before a resolution of the difficulty and its assignment to error, loss or diversion is possible. From the point of view of safeguards, where the critical time to trace materials may be in hours if not in minutes, this historical information is only of very limited value. It can never say that an explosive critical mass has not been diverted. It can only put a reasonable limit on how many might have been.

The goal of accountability in safeguards

Traditional forms of industrial theft involve concealment of the acts of theft so that the thief can continue his employment and normal life. Accounting systems provide a deterent to such theft by rendering its exposure probable. They may also, if timely, provide aid through the discovery of theft to apprehension of the thief and the recovery of material.

In the present context one can distinguish two kinds of theft having accountability relevance. First there is an individual or group that seeks to continue employment supplementing its income from theft and therefore is trying to avoid exposure. For this group the goals of accounting usually are deterrence and capacity for ultimate disclosure and traceability of loss. Secondly there is a thief seeking a one-time diversion of a large quantity of material. Such a thief can only be affected by a type of accounting that can quickly disclose the theft and indicate his guilt. He will seek to hide his theft only long enough to give him time to avoid pursuit or, if the quantities he has stolen are insufficient for his purposes, to steal more.

Two of the most crucial roles of accountability are thus related to its deterent effect and its timely ability to detect large but subcritical concealed diversions of a kind such that the thief will desire to steal more within a short time.

A third crucial role of accountability is the ability to detect very large diversions of material in the time period between its removal from "where it should be" and its physical removal from the plant to a place of concealment. This is the most difficult task since it may require detection in hours or less.

The explicit needs of accountability required by these goals are:

1. Deterrence of the long-term thief: high probability of ultimate detection and high probability of tracing of losses. Rapid detectability is of value primarily for tracing.

2. Detection of subcritical thief: high probability of discovery. The time scale needed depends upon the frequency with which thefts can be made.

3. Detection of gross theft: timeliness is crucial and daily information would be desirable.

It is not sufficient that an accounting system provide that a shortage in material show up in the measurements. Measured shortages may rise from faulty equipment, reading errors, recording errors, computer failures, accidental misplacement of materials, accidental spillage, misalignments and many other sources. It is necessary that the accounting system have, in addition to a timely ability to detect shortage, a timely ability to trace the shortage to specific areas, batches of material, work shifts, or other categories in order that it can serve as a credible deterrent, facilitate elimination of other causes, and make possible timely detection of the theft.

A plan to immediately tighten the physical security of the plant, and interviewing of staff, etc., in the event of a large measured shortage is also needed. If accounting procedures give daily checks they may discover inplant diversions before physical removal from the plant is completed. They have little value if they are delayed until after removal.

In developing effective accountability procedures one can distinguish two kinds of stealable items that require sharply different approaches. There are:

1. Removal of container, substitution of content in containers, removal of identifiable objects, content of vaults, etc.

2. Removal of material in bulk state from processes or between processes, removal of unpackaged scrap.

Detecting the former represents a straightforward accounting problem, that can be attacked by standard procedures, as discussed in the recommendations below. They involve such measures as redundant measurement, redundant measurement responsibilities, remote files, tamper checking as well as tamper safing, frequent counting and spot checking.

Safeguards against the latter may require ingenious measurement techniques tailored to the diversion vulnerabilities of the particular process line in question. We recommend below that in the latter case both the AEC and licensees continually analyze for diversion paths and measurement technique needs in each individual plant on a continuing basis.

Accountability: Recommendations

Emphasis on MUF and LEMUF

Because of the finite errors in the methods of analysis; because these errors cannot be reduced to a size which is much smaller than has been experienced in the past; because of the way in which errors must accumulate in the calculation of an inventory based on many measurements; because of the human factors and the statistics of the system; there does not appear to be any way in which the measurement of the total inventory of an operating plant, or even a large segment of that inventory, can ever be known to better than one tenth of one percent. At the present time the real possibilities are much closer to a one percent error in the complex systems used to generate fuels containing SNM. Much of the difficulty with plutonium is related to its complex chemistry and the extreme health hazard presented by the element. The same error, of near to one percent, can be expected in the more advanced uranium systems where efforts are being made to generate fuels which can operate at very high temperatures. These uranium fuels will be complex composites of refractory materials which require many operations to generate and each complexity introduces a new element of irreducible error. With the expected throughputs of thousands of kilograms per year these errors are too large to allow any significant safeguards dependence on MUF and LEMUF data.

Beyond the lack of sensitivity of the data generated is its lack of timeliness. Even on a monthly basis Inventories are difficult to finish before the next inventory begins and the detection of a diversion after a month's time removes much of the significance of the detection. Even when an inventory change is detected, it is really necessary to check the whole inventory process for error and to

redo the inventory to generate a better statistic before a declaration of diversion is justified. This process takes several weeks more. In the meantime any feeling of confidence is based on the physical protection system and the evidence that it has not been violated. The time delay in the inventory system is long enough to allow a skilled diverter to have constructed an explosive device before the system can reach a conclusion that diversion has taken place. On the basis of timeliness as well as on the basis of sensitivity the calculation of inventories as exemplified in the MUF and LEMUF concepts fail to provide safeguards.

Recommendation

We recommend that the concept of a periodic measure of material balance around large flows and inventories as expressed in the current concepts of MUF and LEMUF be abandoned as a basis of safeguards.

Double contingency in measurement

One of the more likely techniques for diversion is the falsification of measurement either by a direct entry into the record of false numbers, alteration of instrumentation, the changing of the contents of a measured batch after measurement, or the substitution of one material for another of similar properties. In those instances where measurements are made by single individuals it would seem that there could well be another check of the same measurement in the normal operations of the process, especially if it was a simple determination, such as mass. A container of material could be weighed as it left one process area and weighted again as it entered the next. Some change in the recorded weights would be expected, due to the absorption of moisture for example, but a comparison of the measured change with that routinely expected would be a valid and useful check for tampering.

Where duplication of a measurement would not be an easy process, it should be possible to have representatives of two separate parts of the plant system observe the taking of a single set of measurements as a check on the accuracy of the step and the recording of the data. In many instances one can measure two or more properties of the batch with high precision so that tampering or replacement can be more easily detected. Precise measurements can be made of the weight and neutron radiation from a container of material so that plutonium can not as easily be replaced with inert material. The results of the neutron radiation measurement can be kept inaccessible to the operator in a remote data bank for use in rechecking the container at a later time. With two or more precise measurements of the nature of a batch one can check accurately for changes in the contents without the need for an accurate measurement of the contents.

Recommendation

We recommend the adoption of a philosophy of double contingency in measurement through the scheduling of measurements out of and into process or storage steps, the observation of measurements by two independent individuals with redundant responsibilities, and, where possible, the precise measurement of two or more parameters of a given batch for tamper checking purposes.

Counting of objects

In many of the production operations involving SNM very large numbers of similar objects, like fuel pellets, are made. Because of the small size of the critical mass, large numbers of small batches of material are generated in all operations involving SNM. The large numbers of items and containers offer a means of adding to the amount of information about the production process and hence to the safeguards information. It should be possible to count the numbers of fuel pellets passing through a given step in the process, the number going into product, and the number going into salvage, in the way a bank counts coins.

The number of containers moved from one area or process step to another should be collected. The adoption of containers with easy to differentiate characteristics, colors, or shapes would allow the establishment of classes of containers, which could increase the information content of container counting.

The numbers of objects of different types moving about the system are easily subjected to analysis against an established model. Any deviation can serve as an indication of a change which might be part of an internally generated diversion.

Recommendation

We recommend that any object generated in operations involving SNM be counted as soon as an identifiable shape is established and that a number count of movements of these items be maintained as they progress through the process until identity is lost.

Frequency of measurement and analysis

For the detection of diversion there needs to be special emphasis on the timeliness of the data collected. The larger the rate of diversion the shorter the time to detection needed. For the diversion of large amounts of materials, several kilograms in the case of plutonium and several 10's of kilograms in the case of uranium-235, detection is needed within hours at the very most. Those measurements which can aid in the detection of diversions of large quantities of materials should be made frequently, but their cost can be low. Among them would be numbers from the counting of containers, the measurements of mass; and measurements which indicate the operating inventories of equipment on a continuing basis, such as liquid level, neutron and gamma background. These easy and frequently taken numbers, when combined with the numbers generated in the transfers between processes, can be of great importance in the detection of diversion. There should also be some measurements of the contents of storage areas and vaults on a continuing basis. While these measurements might not include the whole inventory on any given day, they should include a significant portion, say ten percent on a random basis, so that all containers would be checked within a month after they were introduced into the process.

The flow of data from all measurements, large and small, should be compared to expectations on a daily basis. Much of the data should be put into a computer data bank and immediately checked against expectations.

Recommendation

We recommend that emphasis be given to the frequent collection and analysis of easily obtained numerical information about SNM processing plants. This information should be compared against a working model of the system on a daily basis and where possible should be compared against expectations immediately. Every attempt should be made to employ measurement techniques that yield material balance consistency checks within a period of one day.

Direct detection of diversion by measurement technique

Because of the relatively large percentage errors inherent in most of the measurements systems which can be applied to the detection of the diversion of SNM on a timely basis, it is necessary to apply them directly to the process stream. The use of by-difference techniques between the flows in large streams is sure to result in a lack of sensitivity. In a manner analogous to the way door monitors are used to detect the diversion of small amounts of SNM moving through the entrances of a building, there should be measurements of the possible small flows out of the main processing lines to salvage operations through direct and expected routes like the collection of grinding swaf, or through indirect routes like the materials collected on filters in the ventilation system. These methods do not have to be too sensitive to be useful if the method of diversion are anticipated. For example, one problem is the passing of SNM through portals opened for a test or real emergency situation. Here the only requirement is the ability to detect the diversion of a gross amount through an infrequently used path. The effort against diversion should be based on a continuing "diversion path analysis" so that the means of detection are continually tuned to the problems posed by diversion.

Recommendation

We recommend the establishment of a continuing effort on "diversion path analysis" by the AEC with the objective of insuring an increasingly effective application of advanced measurement techniques to the solution of safeguards problems. We further recommend that the licensees be required to perform such analyses in their facilities, and to formulate measurement schemes to protect against every potential diversion path discovered.

Safeguards as an organization function

Since safeguards are really the protection of the system against events which are determined more by people and their attitudes from day to day than by the outcome of many fixed decisions of some time past, what is done on one day affects the nature of the result on the next. To assure the dynamic character of safeguards activities they must be the primary activity, even if not the sole activity, of at least one organizational position of authority in all groups which are involved with SNM. This position needs to be structured so that there is a very frequent reexamination of the basis of the ongoing safeguards program in cooperation with all of those involved in production, physical protection, accounting, quality assurance, safety, and personnel in order that the condition of the operation and its people can be treated as part of the whole problem. There must also be an ongoing analysis of the attitudes of the people in the plant and the community around the plant.

Recommendation

We recommend that an organization be established by each licensee with the duty of examining all of the data which relates to safeguards, including material flow information and information about personnel. We further recommend that as part of its responsibility this organization should make a daily determination of the most likely deviation from measurement expectations which could have safeguards significance and investigate it. The committee should have the duty to suggest changes which might be made in the materials flow measurement, the physical protection technique or the assignment of personnel that could promote safeguards efficiency.

CONCLUSION

It is our hope that this study will contribute to a new understanding of the level of danger represented by the potential acquisition of explosive quantities of special nuclear material by malevolent people. We feel that the danger is large and growing due to the widespread and increasing dissemination of precise and accurate instructions on how to make simple nuclear weapons, and due to the increasing professional skills, intelligence networks, finances, and level of armaments of terrorist groups throughout the world.

The essence of the problem as we see it is the following. The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any

plausible power plant accident, including one which involves a core meltdown and subsequent breach of containment. The factors involved in preventing the illegal acquisition of special nuclear material and the subsequent manufacture of nuclear weapons have received a great deal less attention than those associated with power plant accidents. The revelant regulations are far less stringent and we feel they are entirely inadequate to meet the threat. *The seriousness of the problems demands a clear commitment by the AEC to bring the risk to the public from safeguards problems down to the level of public risk associated with the operation of nuclear power plants.*

The report contains a number of specific recommendations. By far the most important is that the threat represented by unauthorized acquisition of special nuclear material and the adequacy of systems to meet that threat, should be viewed in terms of *design basis incidents*. Safeguards systems should be designed to assure that *no single failure* of an active or passive feature of a system will lead to inability of that system to perform its function. In addition to this general recommendation we have made specific recommendations about physical protection, the need for better intelligence, and the use of dynamic testing.

We feel that the use of MUFs and LEMUFs have very little if any value for safeguards and that the current use of these techniques is probably not worth their cost. We do believe that one can do something about safeguards by the use of accounting and measurement, but this would require a new approach to the subject. It will be necessary to direct the accountability effort not toward computing an overall balance as it now is, but toward the detection of diversion. *We recommend that the current concepts of MUF and LEMUF be abandoned as a basis of safeguards and that they be replaced by a different type of accounting and measurement system, which we have sketched out in the report.*

Even though safeguard regulations have just been revised and strengthened, we feel that the new regulations are inadequate and that immediate steps should be taken to greatly strengthen the protection of special nuclear materials. We hope tLat this paper will contribute in a positive way to the speedy implementation of such steps.

AEC COMMENT ON SAFEGUARDS REPORT

The safeguards study made for the Atomic Energy Commission and released by Sen. Ribicoff is part of a total new review of the safeguards required to protect nuclear materials from theft. This new critical self-appraisal is designed to assure that safeguards are continually upgraded to protect the growing quantity of these materials being used by private industry.

The AEC's most recent action in this area was taken just last November to significantly strengthen the existing safeguards requirements for AEC licenses. The new safeguards study, prepared by an independent group at the request of the AEC's Director of Licensing, was begun before the deadline for implementing all of the November requirements.

The fuel used in practically all of the nuclear power plants in operation today or expected to go into operation over the next several years consists of low-enriched uranium which cannot be made into a bomb. Plutonium is being used in the breeder reactor development program. Highly-enriched uranium is used in the naval programs and in the civilian High Temperature Gas Reactor program. A very small amount of plutonium is being used for demonstration purposes in light water cooled nuclear power plants. However, light water reactors are not contributing significantly to the safeguards problem at this time.

The Commission is taking a hard look at the study to determine what additional measures should be taken to further strengthen the requirements to safeguard nuclear materials from theft.

A copy of the study was provided to Sen. Ribicoff, at his request, earlier this week.

FROM S. 2744

BUREAU OF NUCLEAR MATERIALS SECURITY

SEC. 204. (a) There is hereby established in the Nuclear Safety and Licensing Commission a Bureau of Nuclear Materials Security under the direction of a Director of Nuclear Materials Security, who shall be appointed by the Commission and who shall serve at the pleasure of and be removable by the Commission.

(b) Subject to the provisions of this Act, the Director of Nuclear Materials Security shall—

(1) enforce, on behalf of the Commission, regulations which he shall recommend and the Commission promulgates relating to the safeguarding of special nuclear materials and high-level wastes resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(2) monitor, test, and recommend upgrading internal accounting systems for special nuclear materials licensed under the Atomic Energy Act of 1954, as amended;

(3) develop, in consultation and coordination with the Energy Research and Development Administration, contingency plans for dealing with threats, thefts, accidents, and sabotage relating to special nuclear materials and high-level radioactive wastes resulting from all activities licensed under the Atomic Energy Act of 1954, as amended;

(4) conduct a thorough review of the desirability and feasibility of establishing a security agency within the Bureau to execute some or all of the functions of the Bureau, and report his recommendations to the Commission within one year of the effective date of this Act; and such report shall be transmitted to the Congress by the Commission as soon as it is received;

(5) engage in or contract for research which the Director of Materials Security deems necessary for the discharge of the functions of the Bureau.

(c) Nothing in this section shall be construed to limit in any way the functions of any office of the Energy Research and Development Administration relating to the safeguarding of special nuclear materials and high-level wastes resulting from all activities within the jurisdiction of the Administration pursuant to this Act.

[From the New York Times, Apr. 28, 1974]

AEC REPORT WARNS OF PERIL OF TERRORISTS STEALING URANIUM

(By Anthony Ripley)

WASHINGTON, April 26.—An internal Atomic Energy Commission study released today contains a warning on what it called "entirely inadequate" safeguards to prevent the theft by terrorist groups of uranium and plutonium for the manufacture of homemade atomic bombs.

"We feel that the danger is large and growing," the report said. It cited "increasing dissemination" of precise and accurate instructions on how to make simple nuclear weapons and "increasing professional skills, intelligence networks, finances and level of armaments of terrorist groups throughout the world."

The report was prepared by three scientists and two law enforcement specialists and sent this week to the commission's director of licensing.

A copy of the report was sent to Senator Abraham A. Ribicoff, Democrat of Connecticut, and was released late today by the Joint Committee on Atomic Energy.

"In recent years the factors which make safeguards a real, imminent and vital issue have changed rapidly for the worse," the report said.

CITES KIDNAPPING

It cited the growth of Arab terrorism, urban terrorist groups in Latin America and the so-called Symbionese Liberation Army in the United States.

"It is our opinion that the kidnapping of Patricia Hearst does not represent an isolated and passing incident, but is rather the precursor of a wave of such incidents," it said.

"If not firmly and competently met, these kidnappings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history."

STEPS FOR SAFETY

Steps recommended in the study to increase safeguards included the following:

Designing a system to protect "our estimate of the maximum credible threat," which was set as an attack by 15 highly trained men on a facility storing or transporting nuclear material.

Setting up of a Federal nuclear protection and transportation service and upgrading of the present protection system by forming a "small Federal force" trained to respond to theft.

Setting up of an intelligence network with "continual and strong liaison" with the Central Intelligence Agency and the Federal Bureau of Investigation.

Development of "threat scenarios" to test the adequacy of protection through "gaming analysis."

Tightening of accounting procedures to locate losses immediately.

Development of "double contingency" when measuring plutonium and uranium in and out of processing steps with two independent observers to check each other.

Development of a system of daily, precise measurements and counting of nuclear materials.

"The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than from any plausible power plant accident, including one which involves a core meltdown and subsequent breach of containment," the report said.

Senator Ribicoff also released the report, saying, "The general public is entitled to know of the serious danger posed by the failure of the A.E.C. to institute an adequate safeguards system."

The Senator is sponsor of a bill to reorganize the agency and upgrade the protection of uranium and plutonium.

He withheld a section of the report that listed possible scenarios for breaching the system of protecting nuclear materials. He said that the section was classified.

[From the Washington Post. April 28, 1974]

AEC ANTITHEFT MEASURES CALLED GROSSLY INADEQUATE

(By Thomas O'Toole)

The Atomic Energy Commission spends $50 million a year safeguarding its uranium and plutonium against theft, a figure an AEC study team says is grossly inadequate.

"The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident," the five-man study team told the AEC in a 35-page report released by Sen. Abraham A. Ribicoff (D.-Conn.). "It is our strong feeling that the . . . level of safety achieved in keeping special nuclear material out of the hands of unauthorized people is entirely out of proportion to the danger to the public involved."

The study team was made up of one AEC official and four outside consultants, including William Sullivan, former assistant di-

rector of the FBI and director of the Office of National Narcotics Intelligence. Their language was low-keyed, but there was no mistaking the threat they see in the rise of terrorism around the world.

"These groups are likely to have available the technical knowledge needed to process fissile materials and for building a nuclear weapon," their report states. "They are also liable to carry out reasonably sophisticated attacks on installations and transportation.

"We believe," the team concludes, "these factors necessitate an immediate and far-reaching change in the way we conduct our safeguards programs."

One of the first changes the study team recommends is the establishment of a federal force to protect and transport uranium and plutonium, a kind of nuclear Brinks service guarding fissionable metals instead of money.

The report criticizes the way private concerns are asked to guard and transport uranium and plutonium, declaring flatly that private industry should not even be asked to take on such a job.

"Private companies have neither the capability nor the desire to meet the sort of threats" posed by terrorists, the report says, "much less those posed by maximum credible threats." The report describes the maximum credible threat as an attack by 15 highly trained men, three of whom work inside the organization making, handling or shipping the uranium or plutonium.

"We believe the 'insiders' can include anyone up to the highest levels of management," the report said. "This threat estimate is by nature both subjective and imprecise, but we believe it to be informed and conservative. It was arrived at after informal discussions with the FBI and CIA, and based on those discussions and on prior relevant experiences of the members of this study."

The study says there is a serious question as to when private guards can legally use their weapons defending nuclear shipments. It says some companies employ guards who have no bullets in their guns, while others have instructed their guards to fire their guns only in defense of their lives and not in defense of the uranium or plutonium.

"We were told by one transportation company that it had written to the 48 contiguous states asking whether their uniformed guards can carry arms across the state border," the report says. "They were informed in every case that they could not do so without a license . . ."

In a recent study released by the General Accounting Office, the sloppiness in shipment of nuclear materials was seriously criticized.

The GAO said that one shipment of uranium was made on a flatbed truck with an open bay. It said the truck had no alarm system or radio and was driven by one man, who was unarmed. It also said the driver had no pre-planned route; he chose his own route.

Just as serious as the shipping problem, the AEC report goes on, is the accounting problem of making sure that whatever uranium and plutonium go into a factory come out again in the right form and bound for the right place.

"The uncertainties in the accumulated material balances of the atomic energy operation of the country already make it impossible to say that an explosive mass has not been diverted," the report states, "and if reliance is placed solely on material balance methods that statement will have to be expanded many, many fold in the near future."

Earlier this year, Congress was told that the AEC had spent $5 million investigating the disappearance of 132 pounds of uranium-235 from a fuels fabricating plant at Apollo, Pa. The metal had disappeared over a period of years, and for a while the Peoples Republic of China was a suspect in the investigation.

How serious is the disappearance of 132 pounds of uranium 235?

That is precisely the amount of uranium in the bomb that destroyed Hiroshima in 1945. It is far more than is needed to fashion a weapon these days, when the AEC privately says that 11 pounds of uranium-235 is all a sophisticated engineer needs to make an atomic bomb.

The AEC concluded that the missing 132 pounds had been lost through spillage, bad inventory methods, bad weighing techniques and human accounting errors. This alone was enough for the AEC study team, which recommends that the present accounting system in nuclear plants "be abandoned as a basis of safeguards.

[From the Washington Post, Apr. 27, 1974]

HILL STUDY WARNS TERRORISTS COULD GET OWN A-WEAPONS

(By Thomas O'Toole)

The world-wide increase in terrorist group activity, the rash of political kidnapings and the proliferation of nuclear power plants raises a serious threat that uranium might be stolen in large enough quantities for terrorists to build their own atomic weapon.

That is the conclusion of a special safeguards study done for the Atomic Energy Commission. The study was released yesterday by Sen. Abraham Ribicoff (D–Conn.) in his capacity as chairman of the Senate Subcommittee on Executive Reorganization. Ribicoff's panel has been conducting hearings on the proposed separation of the AEC into two separate organizations.

Ribicoff released the study over objections by the AEC, which asked him as late as yesterday morning not to make the study public. Ribicoff originally embargoed the study until Sunday, then angrily moved it up one day when the Joint Committee on Atomic Energy put out excerpts of the report yesterday afternoon.

"That was a courtesy copy they got and they put it out as if it was their own," an aide to Ribicoff said. "The senator is deeply disturbed by this move, which he regards as a tactic to keep the full story from the people."

The report was prepared for the AEC's director of licensing by a team of four outside consultants and one AEC official, who together concluded that safeguarding nuclear weapons materials has become a far more difficult task than it used to be.

The study blamed the rise of terrorist groups as one factor in the growing risk of nuclear theft.

"International terrorist organizations, particularly those of the Arabs, probably have the ability to infiltrate highly trained teams of 10 to 15 men into this country without detection," the study warned.

"In addition, a number of groups in Latin America have graphically shown the ability of urban terrorist groups to operate with near impunity for long periods of time," it said.

The study said that today's terrorists are vastly different from their ancestors, a difference that makes them far more skilled at terrorism.

"These groups are quite different from those more traditional rural movements which operate in close conjunction with the peasantry," the study said.

"Urban groups are normally led and largely staffed by upper-middle-class members of the establishment who hold or have held important jobs in the community. Such groups can have an enormous impact on a society even when they lack the strength to take power themselves," it said.

The study said that while nuclear safeguards had been strengthened in recent years, more recent events made further strengthening a necessity.

"The first factor is the widespread and increasing dissemination of precise and accurate instructions on how to make a nuclear weapon in your basement," the study group said. "While such information may have always been available it was masked by a great deal of irrelevant and incorrect information, also readily available."

The growth of nuclear power has also greatly increased the number of people around the world who have the knowhow to make a basement bomb.

"There is a slow but continuing movement of personnel into and out of the areas of weapons design and manufacturing," the study went on. "These moves are sometimes forced and can create very strong resentments in the people involved, and as a result larger and larger numbers of people with experience in processing special nuclear materials and with varying psychological attitudes are dispersed in the overall industrial community."

The study said the second factor forcing a stronger safeguards program is the recent rash of political kidnapings in the United States.

"It is our opinion that the kidnaping of Patricia Hearst does not represent an isolated and passing incident," the study team concluded, "but is rather the precursor of a wave of such incidents. If not firmly and competently met, these kidnapings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history."

The study team recommended the establishment of a federal nuclear protection and transportation service, whose sole job would be the protecting and shipping of nuclear materials. It suggested that such a force be set up now, "to help meet the present pressing need for such a force."

It also recommended that the U.S. intelligence network devote more time to infiltrating terrorist groups and more money in studying the ways that terrorists might conceive to steal nuclear materials.

[From the Washington Post, Apr. 27, 1974]

REPORT WARNS OF ATOMIC THEFTS

(By Roberta Horning)

An internal Atomic Energy Commission report warns that safeguards against thefts of extremely hazardous nuclear materials and the subsequent manufacture of homemade nuclear bombs are "entirely inadequate."

The document, which was prepared by four outside consultants and one AEC official, strongly recommends the immediate establishment of a special federal nuclear protection cadre and transportation service to safeguard nuclear materials moving about the country.

Some of the recommendations have a science fiction-like quality.

The consultants recommend, for instance, creation of a Special Response Force to respond to "incidents." The force would get emergency help from the Defense Department, including the use of fighter planes and setting up "black hat teams" to develop contingency plans for dealing with sabotage or diversion of nuclear materials.

"The potential harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident," the study says.

Moreover, it says, the potential for sabotage and theft has received a great deal less attention from the public and the AEC than has power plant safety.

"The seriousness of the problem demands a clear commitment by the AEC to bring the risk to the public from safeguards problems down to the level of public risk associated with the operation of nuclear power plants," the study says.

The study group said that "in recent years the factors which make safeguards a real, imminent and vital issue have changed rapidly for the worst."

As examples, the study team cites the increase of terrorist groups and their greater professional skills, intelligence networks, finances and levels of armaments throughout the world.

In addition, the report says, two new factors have emerged in recent months "which make necessary a new and fundamental look at the problem."

The first of these, it says, is the widespread and increasing dissemination of "precise and accurate instructions on how to make a nuclear weapon in your basement."

The second, it says, is the recent start of political kidnapings in the United States, the Patricia Hearst case.

The study team said it does not believe the Hearst kidnaping represents an isolated or passing incident, but is rather the precursor of a wave of such incidents. "If not firmly and competently met, these kidnapings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history," it says.

The safeguards study was ordered by the AEC two months ago and apparently was considered an internal document to be used in future policy making.

However, a copy of the report was obtained by Sen. Abe Ribicoff, D-Conn., who decided to make it public tomorrow.

But late yesterday, Rep. Melvin Price, chairman of the Joint Congressional Committee on Atomic Energy, released a copy and announced he plans to hold hearings as soon as possible on what the AEC plans to do about safeguards.

The study group consisted of Dr. John Googin of Union Carbide Nuclear Division; Robert Jefferson of the Sandia National Laboratory, AEC; Dr. Daniel Kleitman, professor of mathematics at the Massachusetts Institute of Technology, William Sullivan, former assistant director of the FBI, and Dr. David Rosenbaum, former assistant to Sullivan when he was with the Office of National Narcotics Intelligence.

[From the Hartford Courant, Apr. 16, 1974]

LOCK THE NUCLEAR BARN DOOR

The threats of terrorists blackmailing the United States and other countries with homemade nuclear devices made from stolen nuclear materials will increase in the next few years.

The increasing prospect of that threat was recently voiced by a Ford Foundation-sponsored study; testimony before a U.S. Senate subcommittee chaired by Connecticut's Senator Ribicoff; and by State Rep. Russell L. Post, Republican of Canton.

The Ford Foundation study concluded that nuclear bombs or devices that would disperse lethal radio-active materials could be built by one person or a group of persons using non-nuclear materials obtained at hardware stores or scientific supply houses. The nuclear materials that could be used in such devices will be widely transported between atomic facilities within four years, and some of the materials could be obtained by organized terrorists now, according to the report.

Recently Assemblyman Post raised several questions about the safety of atomic plants and shipments, warning that they are vulnerable to sabotage and political blackmail.

The Ford Foundation study states that commercial and military facilities do not maintain an accurate inventory of atomic materials, and that very strict accounting procedures are needed, linked together by computers and alarm systems to prevent the loss of even minute amounts of the materials that, in total, could be used to make atomic devices.

Present inventory systems are so uncoordinated that even atomic hoaxes can be at least temporarily successful because government and industry officials can't be certain that some materials might not in fact have been stolen.

In 1970, the mayor of Orlando, Florida, received a written threat that the city would be destroyed with a nuclear explosive if a demand for $1 million was not met. The threat was accompanied by a diagram showing the exploding device, accurate enough to cause officials to take the threat seriously. And for a time local officials were not certain where to go to determine whether any atomic materials had been stolen. Later, the perpetrator of the hoax, a local high-school boy, was arrested.

A recent study of "non-conventional nuclear threats" for the Department of Defense concluded that there is a need for coordinating federal, state and local agencies to quickly assess the credibility of any threats when they occur. An expert on nuclear safety, Dr. Theodore B. Taylor, who testified before Senator Ribicoff's committee, commented that the need for coordination is of such high urgency, and the possibility of threats is so great, that the work of coordination should be under the National Security Council.

Dr. Taylor also told Senator Ribicoff that the risks are "international in scope. Special nuclear materials stolen in one country could be used for nuclear threats in other countries . . ."

According to the Ford Foundation study, there is little time left to tighten security and perfect safeguards to prevent atomic materials from being stolen from the expanding and increasingly more complex nuclear market.

The many warnings on the growing danger of atomic theft and blackmail should be heeded by international federal, state and local authorities, and security measures should be established as soon as possible.

The time to lock the nuclear barn door is now—not after a blackmail attempt is made, or after an atomic device has been constructed by terrorists who managed to steal fissionable material from commercial or military atomic supplies.

[From the Christian Science Monitor, Apr. 30, 1974]

AEC SAFEGUARDS OF NUCLEAR FUEL CALLED "INADEQUATE"

(By Monty Hoyt)

WASHINGTON.—A major study—the second in three weeks—has found U.S. safeguards to prevent possible nuclear theft or blackmail by terrorist groups "entirely inadequate to meet the threat."

A report prepared for the Atomic Energy Commission by a team of outside consultants was released by Sen. Abraham Ribicoff (D) of Connecticut last weekend, over the AEC's objection. The Senator, chairman of the Senate subcommittee on executive reorganization, has been holding hearings on his bill to reorganize the AEC into two separate agencies.

The report said: "The harm to the public from the explosion of an illicitly made nuclear weapon is greater than that from any plausible power plant accident."

The widespread growth of urban terrorism coupled with the "increasing dissemination of precise and accurate instructions on how to make a nuclear weapon in your basement" make it imperative to have an "immediate and far-reaching change" in the nuclear safeguards program, the report finds.

A study by the Ford Foundation Energy Policy Project, released earlier this month, came to the same conclusion.

The wave of political kidnappings in the U.S. characterized by the Patricia Hearst case, "may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history," the AEC report warned.

"These groups are likely to have available to them the sort of technical knowledge needed to use the now-widely disseminated instructions for processing fissile materials and for building a nuclear weapon. They are also liable to be able to carry out reasonably sophisticated attacks on installations and transportation," the report states.

Senator Ribicoff, in releasing the study, said he was doing so because "the general public is entitled to know of the serious danger posed by the failure of the AEC to institute an adequate safeguards system."

Nonetheless, the study found even the newly revised and strengthened AEC safeguard regulations to be "inadequate."

"The seriousness of the problem demands a clear commitment by the AEC to bring the risk to the public from safeguards problems down to the level of public risk associated with the operation of nuclear power plants."

Among the recommendations made by the report:

Establish a federal nuclear protection and transportation service, bringing all protection functions requiring use of force under direct federal responsibility.

Set up strong links between the AEC and the CIA, FBI, and other intelligence-gathering agencies to focus on the safeguards problem as it affects national defense and security.

Devise dynamic testing systems for nuclear licensees, including "blackhat" infiltration teams, to determine if safeguard systems in individual plants can withstand attempts to breach them.

The AEC, which earlier this year instituted more stringent regulations to protect nuclear materials, has consistently defended its safeguards system.

"The system is complete for the level of risk today," an AEC commissioner told this newspaper prior to the release of the report. However, he acknowledged that as quantities of nuclear materials in the private sector increased, "existing safeguard requirements may in the future need to be upgraded."

Upgrading materials accounting systems to thwart would-be thieves from diverting weapons, grade materials from nuclear facilities.

The report states that "safeguard systems should be designed to assure that no single failure of an active or passive feature of a system will lead to the inability of that system to perform its function."

Criticisms in the Ford Foundation study said that despite the current inadequacies in the system, further safeguards could be implemented to reduce the risk of nuclear theft to "an acceptable level."

While the threat of nuclear theft is low, the results could be catastrophic, the Ford study warned. Terrorists or criminals could use the materials to threaten groups, governments, or even whole communities.

"It [the problem] will magnify many-fold unless we come to grips with it now," Senator Ribicoff warns.

[From the Hartford Courant, Apr. 27, 1974]

AVAILABILITY OF N-BOMB GOODS HIT

(By Robert Waters)

WASHINGTON.—A report to the Atomic Energy Commission (AEC) made public Friday by Sen. Abraham A. Ribicoff, D-Conn., claims that the AEC is using an "entirely inadequate" system to safeguard nuclear explosives from terror groups capable of building their own bombs.

The report, made by a team of four outside experts and one AEC official, claims that the threat "to the public from an illicitly made nuclear weapon is greater than that from any plausible power plant accident."

Ribicoff said he was making the report public because the American people are "en-

titled to know . . . the serious danger posed by the failure of the AEC to institute an adequate safeguards system."

The report specifically says the recent Patricia Hearst political kidnaping case is an example of the dangers the nation may face if a better safeguard system isn't set up.

"It is our opinion" the report says, "that the kidnaping of Patricia Hearst does not represent an isolated and passing incident but is rather the precursor of a wave of such incidents.

"If not firmly and competently met, these kidnapings may lead to a rise of urban terrorist groups in this country of a sort without precedent in our history.

"These groups are likely to have available to them the sort of technical knowledge needed to use the now widely disseminated instructions for processing fissile materials and for building a nuclear weapon. They are also liable to be able to carry out reasonably sophisticated attacks on installations and transportation.

"We believe these new factors necessitate an immediate and far-reaching change in the way we conduct our safeguards programs."

PARTLY SECRET

Ribicoff said that the AEC report he was releasing was only part of the complete document submitted by the experts. Another separate section is being kept secret, he said.

This section lists "Scenarios" for specific examples—of how uranium and plutonium used in the nuclear power industry may be seized. Ribicoff said the section of the report he was releasing contains no specific outlines or suggestions on how materials can be stolen or bombs produced.

In assessing the AEC's present safeguard system, the consultants said:

"The factors involved in preventing the illegal acquisition of special nuclear material and the subsequent manufacture of nuclear weapons have received a great deal less attention than those associated with power plant accidents. The relevant regulations are far less stringent and we feel they are entirely inadequate to meet the threat."

The experts contended that even though safeguard regulations had recently been strengthened, these new regulations too were inadequate.

"Immediate steps should be taken to greatly strengthen the protection of special nuclear materials."

A major recommendation by the experts is "the establishment of a federal nuclear protection and transportation service . . ."

RIBICOFF BILL

Ribicoff noted that his own bill, awaiting committee approval, calls for a reorganization of the AEC and the establishment of a "Bureau of Nuclear Materials Safeguards."

The study group found that uncertainties in present materials accounting systems, "make it impossible to say that an explosive mass has not been diverted." Furthermore, the study found that "the time delay in the inventory system is long enough to allow a skilled diverter to have constructed an explosive device before the system can reach a conclusion that a diversion has taken place."

Ribicoff termed the report "one of the most important documents ever to come out of the Atomic Energy Commission."

"Its lessons are clear for all Americans. If we are someday to confidently rely on nuclear power as a main source of our electricity, we must begin now to make the handling and transportation of nuclear materials airtight and fool proof," Ribicoff said. "Otherwise we will be held hostage by the very technology that is supposed to give us self-sufficiency and prosperity."

Ribicoff added:

"As serious as the safeguards problem is today, it will magnify manyfold unless we come to grips with it now. It takes only 20 pounds of plutonium to make a crude bomb. The AEC itself estimates that by 1980, there will be more plutonium in the commercial sector than the government sector, including the government weapons program. The present generation of light water nuclear reactors will produce 60,000 pounds of plutonium a year by 1980. The next generation of reactors—the so-called fast breeder, which produces more plutonium than it consumes—will generate 600,000 pounds of plutonium by the year 2000. We must act before it is too late."

The AEC study group consisted of: Dr. John Googin, Union Carbide Nuclear Division; Robert Jefferson, Sandia National Laboratory, AEC; Dr. Daniel Kleitman, professor of mathematics, MIT; William Sullivan, former assistant director of the FBI and former director of the Office of National Narcotics Intelligence (ONNI), and Dr. David Rosenbaum, former assistant to Sullivan at ONNI.

[From the Hartford Courant, Apr. 27, 1974]

RIBICOFF SAYS AEC TRIED SUPPRESSION

WASHINGTON.—An angry Sen. Abraham A. Ribicoff, D-Conn., charged Friday that the Atomic Energy Commission (AEC) attempted to suppress a report outlining "entirely inadequate" AEC systems for safeguarding nuclear materials.

Ribicoff said an AEC member called him Friday morning after learning that the Connecticut Democrat planned to release the story. Ribicoff said he was asked "to sit on it."

"I told them 'you can't do that'", he said. "You just can't keep this report from the public, I told the AEC," said Ribicoff.

Ribicoff's comments came after his staff learned early Friday evening that the Congressional Joint Commitee on Atomic Energy, apparently forewarned that Ribicoff was releasing the report himself, distributed copies of it Friday evening in the House of Representatives Press Gallery.

Members of Ribicoff's staff said the premature release of the report was obviously intended to undercut Ribicoff's comments and statements on the report.

Ribicoff himself said he was "deeply disturbed" that the joint committee had launched "this last minute tactic to keep the full story from the people." Ribicoff said he had earlier scheduled the report for Sunday publication in order to give both newsmen working on the story and the AEC itself time to complete a "well-rounded story" on the report.

The Connecticut Democrat said that he had personally ordered copies of his own statement together with the AEC report to be sent into the AEC Friday so that they would have ample time to comment on it.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, S. 354, which will be stated by title.

The second assistant legislative clerk read as follows:

A bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. MOSS. Mr. President, is the bill now open to further amendment?

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. MOSS. Mr. President, it is our expectation that at least three amendments will be presented today, although under the unanimous-consent agreement, the rollcall votes on at least two of those amendments will go over until tomorrow. For the presentation of those amendments, we will be prepared very shortly.

At this time, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOSS. Mr. President, I understand that the bill at the present time is open to further amendment.

The PRESIDING OFFICER (Mr. JOHNSTON). The Senator is correct.

Mr. MOSS. Mr. President, I will in a few moments offer an amendment that I have submitted. It is printed and lying on the desks of each Senator.

First I would like to say a word or two about the general purposes of the bill.

One question that is often asked about S. 354 is: Why does the No-Fault Automobile Insurance Act limit a person's right to sue for his intangible damages in certain cases.

In order to provide every automobile accident victim timely compensation for economic loss—up to certain limits—while at the same time reducing the average cost of automobile insurance. To decide whether or not such a limitation is sound, one must first examine and understand the way in which the present automobile accident compensation system works.

I have at my desk—and I will submit it for the RECORD—a tabulation from the Department of Transportation report on the automobile compensation system which summarizes vividly the working of the present system.

This is a comparison of the reparations received by fatally or seriously injured persons with or without tort recovery by size of loss.

In a case where there is total economic loss of less than $500, 54 percent receive recovery with tort. However, the ratio of net recovery to loss with tort

is 4.5 percent, whereas without tort it is 0.8 percent.

Going up to the highest category, 25,000 and over, the ratio becomes even more warped—with tort, it is .3, and without tort, it is also .3.

The table shows what happens to automobile accident victims whose injuries result in various levels of economic loss—both those with recovery based upon fault—tort recovery—and those without such recovery. The overall picture is very bleak. Those with fault-based tort recovery—only 48 percent of the automobile accident victims—recover only 60 percent of their economic loss. Those without fault-based recovery obtain only 40 percent of their economic loss. The inescapable conclusion is that the present compensation of automobile accident victims, either those at fault or those not at fault, is inadequate. The inadequacy is particularly significant when a person is seriously injured and sustains a large amount of economic loss.

This table depicts certain distortions in the present compensation pattern for automobile accident victims. As stated in the Department of Transportation study:

> When the economic loss was small, *i.e.*, less than $500, the victims recovering under tort received an average of 4½ times their economic loss; but, at the other end of the loss spectrum, when loss was $25,000 or more, even successful tort claimants recovered a net recovery of only ⅓ of their economic loss.

In fact, when economic loss exceeded $25,000, the individual, on the average, recovers only 30 percent of his economic loss whether he has or does not have a fault-based claim.

There is a further irony with regard to the performance of the present automobile compensation system. Those automobile accident victims with tort recovery who are theoretically entitled to compensation for both tangible and intangible losses are likely to receive compensation for intangible damage only when their economic loss is small. As the Department of Transportation study notes:

> Furthermore, while tort theory says that qualified, innocent victims are entitled to compensation for all their losses, both tangible and intangible, even successful tort claimants with serious injuries, who presumably also suffered serious intangible losses, do not on the average recover even their economic loss.

How would S. 354 change the automobile accident victim compensation as depicted in table 9?

S. 354 would assure each and every automobile accident victim—whether he had fault-based lawsuit recovery or not—100-percent compensation of his or her economic loss up to about $25,000. All medical and rehabilitation expense would be paid for, no matter how great that expense. In addition, payment for pain and suffering would be made to the most seriously-injured victim, not the least seriously-injured. This table depicts the compensation picture as it would be under S. 354.

It shows that those with serious injuries and valid claims, if they have a small claim, receive more than their intangible loss, while those with a large claim for serious injuries receive less.

Additional recovery for noneconomic detriment would be available to persons seriously and permanently injured or laid up for more than 6 months. Under the bill as it has now been modified, it is 90 days, laid up for more than 90 days. Survivors of deceased victims would be able to sue for their noneconomic detriment in accordance with State law. Recovery for noneconomic detriment would not be related to economic loss, although persons with the greatest economic loss on the average are those with the most serious injuries. But a small child who lost an eye would receive all its small economic loss—that is, medical expenses—and still be entitled to sue for noneconomic detriment—pain and suffering, et cetera.

When we compare the above table to the preceding table describing the present compensation system. The automobile accident victim has gained a great deal by merely eliminating the overpayment of small claims.

The automobile insurance premium payer has also gained a great deal. The independent actuarial firm of Milliman & Robertson, Inc., which was commissioned by the National Association of Insurance Commissioners to develop an accurate no-fault costing model, has presented the best available actuarial information on S. 354. It discloses that average premiums will go down in every State which enacts a State no-fault plan in compliance with the minimum Federal standards in S. 354. The chart I shall submit for the RECORD shows the percentage decreases in average personal injury insurance premium and the dollar savings of the individuals that such a savings makes.

For example, in California, under their legislation, with the new amendments which have been tacked on on the floor, the amount has been recalculated. The amendments which were adopted on the floor changed the 90-day threshold and eliminated the deductible of $2,500 for noneconomic detriment. It has been changed so that the premiums are varied now.

California would go down 22 percent with these amendments included.

For example, my State of Utah would go down 11 percent in premium costs, and so it goes through the whole list. The corrected tabulation is as follows:

TABLE 9.—COMPARISON OF REPARATIONS RECEIVED BY FATALLY OR SERIOUSLY INJURED PERSONS WITH AND WITHOUT TORT RECOVERY BY SIZE OF LOSS

Total economic loss	Percent with tort recovery	Ratio of net recovery to loss	
		With tort	Without tort
$1 to $499	54	4.5	0.8
$500 to $999	63	2.6	.5
$1,000 to $1,499	49	2.4	.7
$1,500 to $2,499	47	2.0	1.0
$2,500 to $4,999	44	1.6	.6
$5,000 to $9,999	44	1.1	.6
$10,000 to $24,999	52	.7	.4
$25,000 and over	42	.3	.3
Total	48	.6	.4

Total economic loss	Ratio of net recovery to loss	
	With tort	Without tort
$1 to $499	1.0 +	1.0
$500 to $999	1.0 +	1.0
$1,000 to $1,499	1.0 +	1.0
$1,500 to $2,499	1.0 +	1.0
$2,500 to $4,999	1.0 +	1.0
$5,000 to $9,999	1.0 +	1.0
$10,000 to $24,999	1.0 +	1.0
$25,000 and over	.9 +	.8
Total	.99+	.9

Note: Percent with tort recovery: Those with serious injuries and a valid negligence claim.

BILL AS AMENDED ON THE FLOOR—I.E.—NO DEDUCTIBLE OF $2,500 AND 90-DAY THRESHOLD

State	
Alabama	16.0
Alaska	3.0
Arizona	14.0
Arkansas	14.0
California	22.0
Colorado	6.0
Connecticut	15.0
Delaware	6.0
District of Columbia	15.0
Florida	13.0
Montana	5.0
Nebraska	2.0
Nevada	17.0
New Hampshire	8.0
New Jersey	23.0
New Mexico	12.0
New York	16.0
North Carolina	2.0
North Dakota	.1
Ohio	13.0
Georgia	18.0
Hawaii	19.0
Idaho	7.4
Illinois	11.0
Indiana	6.0
Iowa	5.3
Kansas	11.0
Kentucky	7.0
Louisiana	17.0
Maine	1.2
Maryland	4.2
Massachusetts	20.0
Michigan	.5
Minnesota	9.0
Mississippi	15.0
Missouri	14.0
Oklahoma	11.0
Oregon	5.0
Pennsylvania	14.0
Rhode Island	14.0
South Carolina	2.0
South Dakota	7.0
Tennessee	13.0
Texas	17.0
Utah	11.0
Vermont	0
Virginia	0
Washington	10.0
West Virginia	14.0
Wisconsin	1.7
Wyoming	.5

But every State, every single State in the Union, would be able to reduce its premium cost under this plan, S. 354, when the State puts it into effect.

Some persons argue that while the compensation requirements make sense, the right to sue should not be restricted. I have a table which shows that the value of the right to sue is not that significant and that most pain and suffering dollars go to persons with small economic loss—and less serious injuries in most cases. The following table from the Milliman and Robertson study shows what would happen to auto insurance premium costs

under S. 354 if the bill did not limit a person's right to sue:

State	
Alabama	+1
Alaska	+17
Arizona	+4
Arkansas	+3
California	−3
Colorado	+14
Connecticut	+3
Delaware	+15
District of Columbia	+9
Florida	+7
Georgia	+6
Hawaii	+2
Idaho	+9
Illinois	+9
Indiana	+12
Iowa	+12
Kansas	+7
Kentucky	+10
Louisiana	+6
Maine	+16
Maryland	+16
Maine	+2
Michigan	+19
Minnesota	+11
Mississippi	+1
Missouri	+6
Montana	+12
Nevada	+16
Nevada	−1
New Hampshire	+9
New Jersey	−4
New Mexico	+6
New York	+4
North Carolina	+17
North Dakota	+17
Ohio	+7
Oklahoma	+9
Oregon	+13
Pennsylvania	+7
Rhode Island	+7
South Carolina	+20
South Dakota	+10
Tennessee	+7
Texas	+1
Utah	+9
Vermont	+17
Virginia	+19
Washington	+11
West Virginia	+3
Wisconsin	+17
Wyoming	+12

In nearly every case they would go up significantly.

In summary, S. 354 limits a person's right to sue for his intangible damages in certain cases. This limitation is justified because:

First, the present right to sue for intangible damages does not insure even the auto accident victim with a fault-based lawsuit adequate compensation for major economic loss much less anything for pain and suffering;

Second, S. 354 provides a much more substantial compensation system for all auto accident victims—even those with tort recovery under the present system—at a lower cost than the present system; and

Third, to the extent insurance dollars are paid to auto accident victims for their pain and suffering under S. 354, the recipients will be those with serious injuries rather than those with slight injuries.

The National No-Fault Motor Vehicle Insurance Act limits a person's right to intangible damages which are not to his economic detriment as defined in the bill, and this enables a more equitable recovery for those who sustain injury by reason of the operation of a motor vehicle. It not only makes it sure that every person with injury will receive compensation, but he will receive it promptly and without long delays occasioned by investigation and court suits; and for that reason, the cost of the insurance will be less, but nevertheless, the person's recovery will be certain and swift, and there will be substantially more dollars paid back to the premiumpayer, rather than being utilized for other administrative purposes, lawsuits, investigations, and all of the other costs.

In fact, the study of Milliman & Robertson showed that only 44 cents of every premium dollar paid in for injury insurance arising from automobiles goes back in payment to those who are injured. That means that a person who pays his premium has a chance at only 44 cents on every dollar he pays if he gets injured. Of course, if he does not get injured, the premium is divided elsewhere; that is the insurance principle. But even in the worst circumstances, only 44 cents back to those who pay the premiums and support the insurance industry.

AMENDMENT NO. 1220

Mr. President, I call up for consideration Amendment No. 1220.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. Moss' amendment (No. 1220) is as follows:

On page 98 between lines 14 and 15, insert the following two new subsections:

(g) FINANCIAL ASSISTANCE TO STATES.—The Secretary is authorized to provide grants to any State for the purpose of reimbursing such State for any governmental cost increases resulting from the implementation or administration of a no-fault plan for motor vehicle insurance in accordance with this Act. The Secretary shall, by regulation, establish procedures for awarding such grants on a fair and equitable basis among the States.

(h) AUTHORIZATION FOR APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out his responsibilities under this Act such sums as are necessary, not to exceed $10,000,000, such sums to remain available until expended.

Mr. MOSS. Mr. President, this amendment would authorize the Secretary of Transportation to make financial assistance available to the States to help them meet the cost of converting to a no-fault motor vehicle insurance system and the cost of implementing the national standards in S. 354. Specifically, the Secretary is authorized to provide grant money "for the purpose of reimbursing any State for any governmental cost increases resulting from the implementation or administration of a State no-fault plan for motor vehicle insurance in accordance with this Act." The amendment requires the Secretary to establish fair procedures for making such grants on a fair and equitable basis among the States. Ten mililon dollars is authorized to be appropriated for this purpose, in a single authorization to remain available until expended.

Mr. President, there is no question but that this bill, S. 354, imposes obligations on the States, the obligation to comply with the national standards for no-fault motor vehicle insurance. It is within the power and duty of Congress under the Constitution to set these standards and it is wise policy to set these standards for the States to meet rather than to have the Federal Government take over the whole business of regulating and administering insurance from the States. But even though it is in the best interest of our Federal-State relations to merely set national standards, it does not seem fair for one level of government—the Federal Government—to set the standards and for another level of government—the State governments—to have to pay all the costs and carry all the financial burdens of converting to the system mandated by those standards.

This amendment cures any potential unfairness by, in essence, directing the Federal Government to hold harmless the insurance departments and commissions of the 50 States. And there are costs involved in converting to a no-fault auto insurance system, primarily the educational and public information program costs in acquainting agents, brokers, and drivers with the provisions of the new law and with instructions on its operation, and in answering questions from private citizens as well as companies.

Mr. President, let me make it perfectly clear that this limited financial authorization is not a device, like some grant-in-aid programs, through which the Federal Government will take over State insurance departments. There is absolutely no provision for continuing financial assistance to State insurance regulators. Once the no-fault plan in accordance with national standards is implemented and functioning, there will be no need for Federal appropriations.

This amendment will ease the transition to nationwide no-fault and pledge the Federal Government toward paying its fair share of the cost of implementing this system which can save so many lives, restore so many traffic victims through rehabilitation, speed up compensation, eliminate discrimination against senior citizens and poor people, and raise public respect for the legal profession by taking away the incentive for "ambulance chasing." The driving force in this great enterprise will be the 50 States and their insurance commissioners, but there is no reason why they should be forced to incur extra expenses to the extent that it is Congress that has set the standards.

Mr. Justice Douglas, in his new book "Go East Young Man," writes:

I came out of my five-year tour of duty in the Executive Branch convinced that while national standards were needed to eliminate discrimination, produce equity and raise the level of our county courthouses, the driving forces should be local. The standards, in other words, should come from the center—whether it be setting minimum wages on one hand, or the ban on warrantless arrests

. . . on the other. But the execution has to be local.

Mr. President, I agree with that observation with the qualification that we should help pay the cost of that local execution when it directs the change in policy.

Mr. President, I note on my amendment that there are two small errors in the designation of the subsections to be added, and I ask unanimous consent to modify the amendment as follows:

On line 1, page 1, of the amendment, change the "(g)" to "(h)", and at the beginning of line 3, on page 2, change the small "(h)" to "(i)".

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. MOSS. Mr. President, I know of no opposition to the amendment. As a matter of fact, I think it would be welcomed by those who have some reservations about the States taking over the no-fault and, therefore, I think it would not be opposed. I think that those who have any reservations about the amendment will see it as an opportunity to save the States harmless so no increase in cost would be put on their insurance department by shifting over to the no-fault system.

Mr. TAFT. Mr. President, I have no personal objection to the amendment, so far as I know. I understand that the senior Senator from Nebraska is anxious to be heard on the subject of the amendment and, in the absence of the senior Senator from Nebraska, I suggest the absence of a quorum if the Senator from Utah does not object.

The PRESIDING OFFICER (Mr. HATHAWAY). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MOSS. Mr. President, I move that the Senate stand in recess, subject to the call of the Chair, but no later than 2 p.m. today.

The motion was agreed to; and, at 1:09 p.m., the Senate took a recess, subject to the call of the Chair.

At 2 p.m. the Senate reassembled when called to order by the Presiding Officer (Mr. ALLEN).

Mr. MOSS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is on agreeing to the amendment of the distinguished Senator from Utah (Mr. Moss) No. 1220 as modified.

Mr. MOSS. Mr. President, I had about finished my discussion on that. I had understood there was perhaps going to be some discussion by the Senator from Nebraska but I do not see him here at this moment. I have been informed that the Senator from Minnesota (Mr. MONDALE) will be over here very shortly to call up his amendment.

I move, therefore, that the pending amendment be temporarily laid aside until we can give the Senator from Nebraska the opportunity to indicate whether he intends to speak against it or not.

The motion was agreed to.

Mr. MOSS. Mr. President, it is my understanding that there may be a speech or two on the bill. Senator MONDALE has indicated that he would be here within 10 minutes and, for that reason, I think I should suggest the absence of a quorum, and I do suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DOMENICI). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALLEN. Mr. President, in the short span of 3 years since the Department of Transportation completed its study of the auto accident reparations system more than 400 no-fault bills have been considered by the States. Virtually every State has been carefully studying the problem and 21 States representing more than 42 percent of the country's population have taken affirmative action in the area of no-fault legislation. In the 1974 sessions of the State legislatures, 39 of them are again considering the subject and a number of these no-fault bills have a reasonable chance of enactment this year. I believe that this graphically illustrates real progress toward achieving the ultimate goal of total reform in this area. While these plans may not be as uniform as some would desire, they reflect the needs of individual States as determined by their elected lawmakers. This demonstrates that the individual States can do the job in conformity with the wishes of their people without a Federal program being forced upon them.

For those who believe the only way to reform long-standing systems and institutions is to tear them down overnight, this response by the States may be criticized as too slow. But I think this legislative batting average is very good, considering the great complexity of the problem, the wide range of viewpoints as to how best to deal with it, and the fact that any substantial changes will abrogate fundamental, long-established human rights and prerogatives.

The officially stated policy of the Congress insofar as regulation of insurance is concerned is set forth in the McCarran-Ferguson Act, as follows:

> The Congress hereby declares that the continued regulations and taxation by the several states of the insurance business is in the public interest. . . .

I perceive no public outcry to change this policy and yet S. 354 attempts to do so by a flanking maneuver under the guise of "improvement" in auto reparations. The bill presents the carrot of continued State regulation by stating specifically in section 109 that—

> The commissioner, in accordance with applicable state law, shall regulate restoration obligors providing security covering a motor vehicle in his State. . . .

This carrot is on a Federal string, however, because in section 201, this authority is taken back by providing for preemption and initial and periodic review of State no-fault plans by the Federal Government. Right now, States have the right to regulate rates, establish residual market plans, approve forms, oversee assigned claim plans and many additional regulatory prerogatives. Under the national no-fault scheme, these rights would be subject to "periodic review" by the Federal Government. A straitjacket of conformity would be imposed on the States, regardless of local needs or desires, by a group of Federal bureaucrats.

I submit that this is neither necessary nor desirable. States are already responding to the need for reform of the reparations system. These changes are being made on the basis of local requirements and preferences. Congress has spoken through the McCarran-Ferguson Act, to which I have just alluded, that the regulation of insurance by the several States is in the public interest. I see no reason to change this policy directly or indirectly. The States have evidenced expertise and ingenuity in regulating insurance and the no-fault issue should not indirectly do what Congress has not seen fit to do directly—erode away another cornerstone of State authority that has served the public responsibly over the years.

Several constitutional questions have been raised during the course of the hearings on this bill. Some of them were made a part of the CONGRESSIONAL RECORD of December 22, 1973, by Senator HRUSKA and dealt primarily with the testimony of Dr. Mitchell Wendell. Included were questions dealing with the power of Congress to authorize States to enact no-fault laws; the authority of a State to administer a Federal no-fault law different from or in preference to the State law; then the effect of mandating particular kinds of State administrative structures and relationships in the likely result of enactment of S. 354. In addition, several State bar association officials have raised the issues of equal protection and due process of law particularly in regard to the threshold concept.

I do not hold myself out as a constitutional expert although I am concerned particularly about the State-Federal relationship questions that have been discussed. For example, I cannot help but wonder where the State agencies are to obtain the money to administer the various portions of the act if they are forced to come under title III. I envision substantial administrative costs under title II also, which will have to be budgeted for in the State no-fault legislation to be adopted. Since it is in effect a Federal act not needing approval of a State legislature, is the Federal Government authorized to raid the State treasuries to administer the act? And that would be the effect of the act. Or must the States pass legislation even for title III? Similar questions have arisen with respect to the 55 miles per hour speed limit and it is my understanding that several States will not put

this limit into effect until it is approved by their State legislatures.

I might state that in my home State of Alabama the 55-mile-an-hour speed limit has been put into effect by executive order without waiting for the legislature to act and it is working very efficiently and effectively.

The same could be true with respect to title III here.

In any event, I do share the concern of many over the constitutional issues raised here, not only from a philosophical and legal standpoint but from an economic one as well. In this period of rampant inflation and public concern over costs, the economic consequences of the possible invalidation of S. 354 should make us pause. These consequences would fall most immediately, of course, upon insurance companies but that is not my primary concern. I am worried about the inevitable rate increases that would be passed on to the public in the event that S. 354 increases the companies' losses and expenses.

We have no way of telling in advance what those increases might be, but the experience of Illinois and Florida might give us some guidance.

In 1971, Illinois passed a no-fault law providing modest no-fault benefits and a very limited restriction on tort rights. A constitutional challenge was anticipated, but companies were obliged to develop plans for implementing it well before the law went into effect on January 1, 1972—Normally, companies need at least 60 to 90 days before the effective date of an act of this nature to program their computers, develop and submit policy forms and rates, train agents and adjusters, and educate their policyholders. In addition, policyholders whose contracts expire in the first month of the new law will have their renewals processed before the act goes into effect—in the fall of 1971, a taxpayer's suit was filed in the Circuit Court of Cook County challenging the constitutionality of the law and seeking an injunction against the various State agencies to stop them from administering it. On the day before the law was to go into effect, the trial court held it unconstitutional and issued the injunction. The companies had already made the necessary and, I might add, costly preparations to implement the new law. In addition, the companies had issued their policies with the broader benefits at the same rates as before, in anticipation of some saving from the tort limitation. Technically, in view of the notice of appeal, the law was still in effect until a final determination by the Illinois Supreme Court.

The companies were forced to continue providing no-fault benefits at the same rates until a final decision came down 4 months later. It was estimated that this period of uncertainty cost companies in Illinois some $10,000,000 in "tooling up" costs and approximately $65,000,000 in losses incurred without offsetting premium.

In Florida, the property damage portion of the law was invalidated last year, almost 2 years after the law went into effect. Here the companies were forced to go back and review all of their old cases in order to segregate and renegotiate those that could be reopened because of the invalidity of the threshold. While no overall estimates have been made of the cost involved, it is certain it could run into millions of dollars.

These illustrations show the detrimental economic effects that can occur should a no-fault law be held invalid. This concern can be multiplied one-hundred fold with respect to S. 354. Florida and Illinois no-fault laws had very modest benefit levels and were confined to single States. S. 354, on the other hand, has unlimited medical benefits and substantial wage loss, loss of services and survivors benefits in both titles II and III. Should these laws be held invalid after the implementation period and after policies have been issued, the results could be catastrophic. With no cost-saving features and very broad benefit levels, companies would be "on the hook" for many hundreds of millions of dollars. Such a decision could create serious financial problems for many companies, particularly the smaller ones. But more important, rate increases for the public are rendered likely if not inevitable.

This is one more reason for supporting State-by-State solutions rather than a national program. There is no way that the constitutionality of a no-fault law, Federal or State, can be determined with finality in advance of its actual implementation. Individual State constitutional determinations, while burdensome, will not create as much havoc as a nationally imposed system such as proposed in S. 354.

The rights and obligations of motorists and accident victims have long been defined, enforced, and governed by State law. But S. 354 would change all that and put it on a national basis. A strong presumption therefore exists in favor of State responsibility and prerogative for changing that system. Only a showing of callous indifference or disregard by a State for the best interests of its citizens should rebut that presumption. No such showing can be made, and, on the contrary, we are witnessing an ever-increasing amount of serious study and action by the States on this issue.

It is rather easy for everyone—academicians, lawmakers, and insurance people included—to criticize the existing fault system on a variety of counts. It is not so easy, on the other hand, to design a new program to supplant it. The reordering of an entire system of intricately balanced rights and responsibilities in a way that is fair, equitable, and workable, is a truly monumental task. In my opinion no one has the know-how to accomplish it overnight by adequate experimentation and experience-gathering, in a real-world framework.

The State-by-State process may not immediately produce as uniform a pattern of no-fault laws as S. 354 would mandate, but there cannot be genuine experimentation without reasonable flexibility to test out different approaches. Out of the crucible of State experience, the best reparation systems will emerge. Most important, a defect arising in the law of one State will do only one-fiftieth the mischief it would do in a nationally mandated program before it can be corrected.

One area of concern that has been of major importance is the cost aspects of S. 354. Certainly, the estimates of cost by different actuaries have varied considerably. This occurs because the only statistics available are those generated under the liability system, and because many judgmental assumptions must be made as to what will happen under a real world no-fault program. The truth of the matter is that no one can provide any really dependable assurances or guarantees as to how much a program of this magnitude will end up costing.

Even Milliman and Robertson, the proponents' own actuaries, have placed many caveats on their cost estimates. They say:

> Although the conclusions presented in this report are probably the best estimates available, it should nonetheless be recognized that they are subject to a high degree of uncertainty as well as being very susceptible to misinterpretation. It thus becomes essential to specify that those conclusions neither be used nor released except in conjunction with a thorough understanding of the following caveats.

The points listed can best be summarized as follows:

First, premium changes will vary by size of vehicle;

Second, the study does not deal with changes in territory or classification which may be substantial;

Third, cost implications of the input assumptions and supporting data base to model should not be underestimated or overlooked;

Fourth, no attention was given to existing premium rate levels;

Fifth, the study is confined to the auto system and not the effects of changes in the system on other types of insurance; and

Sixth, there is no attempt to predict the effects of other influences on auto premiums such as auto safety or the energy crisis.

It is confined to the cost of a single bill.

Many of the particular problems alluded to by Milliman and Robertson worry me. For example, aggregate or average figures do not tell the story for individual groups of insureds.

This bill effectively abolishes the difference between right and wrong, between fault and no fault, and imposes a liability without regard to who was to blame.

S. 354 mandates a sudden, almost 180-degree swing from a fault base to a near-total no-fault system, which abolishes loss-shifting by tort, the mechanism by which those who cause the most accidents and losses are required to bear the

greatest share of the premium burden. The overall effect will be to thrust the biggest proportionate share of the cost of the new system on the shoulders of those who least deserve a premium boost.

The low-mileage, private-passenger car owner, for example, will be paying a relatively bigger share of the total premium burden and the trucking company less than at present. The careful, law-abiding motorist will pay a relatively bigger share and the habitually negligent driver a small share because there will no longer be loss shifting through tort. The middle-aged family man will pay more in relation to the young, unmarried hot-rodder because the former will have to insure his entire family while the latter normally pays for himself alone. Rural residents will, as is brought out in the Milliman and Robertson report, pay relatively more and urban residents less because the impact of the threshold is more in urban areas with their high incidence of lawsuits than in rural areas.

Milliman and Robertson also cites the cost implications of the input assumptions including psychological factors affecting tort action rates and large first-party loss projections. Along these lines, I am concerned about cost escalation with many of the interworking provisions of the bill, particularly the unlimited benefit provisions and the penalty sections.

No comparable precedent exists in the way of private or social insurance which affords such completely openended benefits. Both medicare and Blue Cross have built-in limitations on benefits. Yet, the inflationary impact even those programs have apparently had on utilization and cost of hospital facilities and services is well known. We must assume S. 354 will have at least as serious an inflationary effect in the area of vehicle injury cases, both as respects medical/hospital care and rehabilitation services.

Add to these considerations the fact that the ability of companies to identify and resist claims involving overtreatment or overutilization of medical/hospital facilities will be handicapped by the severe sanctions imposed by S. 354 on insurers for not paying each and every claim within 30 days of presentation. The penalties for any delay beyond that period are such that insurers may not be willing to risk questioning many doubtful claims. The end result will be an increase in costs, which must ultimately be reflected in rates.

A selected portion of the final results of the Milliman and Robertson study has been vaunted by the proponents as the greatest thing since the internal combustion engine. Interestingly enough, even the author of the study took issue with this and sought a retraction because it misled the public. For some motorists who now have sizable rates because of their extraordinary hazard, the subsidy by their fellow citizens under this law will be very pleasing. But for the many other responsible citizens, whose rates are increased, this law will generate a hostility that will know no bounds, particularly when they learn that the major reason for the increase is the subsidy for the careless. The final result of this could be regrettable for all.

S. 354 will also have an unfortunate, perhaps lethal effect on small insurance businesses. Many of these companies have operated for many years in the best tradition of American small business enterprise, serving capably and progressively the insurance needs of important segments of the motoring public. Historically, they have pioneered new innovations, new coverages and lower cost products in the true spirit of the American free enterprise system.

These companies do not have national operations. Most of their exposure to loss is localized in a State or small group of States. I am fearful that the unlimited, open-ended exposure mandated countrywide by this bill could seriously jeopardize the ability of many of these small but good companies to grow and furnish capacity and competition in the auto insurance market—perhaps even to remain in the market. This reading comes straight from managers of such companies, a number of whom testified before the Judiciary Committee. Reinsurance costs for the unlimited benefits and the reserving requirements when the cost is indeterminate or where the duration of the loss is unknown are of considerable concern to them. As small companies they must have reinsurance, regardless of cost, and the reserving must be done in order to maintain any semblance of financial stability.

The Congress has always favored the entry and growth of small entrepreneurs and has disfavored heavy economic concentration within an industry. The effect of S. 354 upon the insurance industry would, I believe, be just the opposite of this policy.

In conclusion, I would ask my colleagues to remember that few systems for handling socioeconomic problems are either all good or all bad. It therefore makes sense to try to combine the best features of the existing and the proposed.

While the American public would undoubtedy like to see many changes for the better in the automobile accident reparations picture—and, as well, in a host of other systems in this country affecting their pocketbook—I am unaware of any strong wave of sentiment for total or near-total overturning of the whole system. In fact there are many solid indications that the prevailing sentiment is for more moderate reform.

In other instances where prudent government has embarked on journeys into essentially uncharted waters with new benefit programs, they have not felt it either necessary or wise to try to jump all the way from home base to theoretical infinity in terms of totally covering every conceivable risk or hazard of loss. I see no warrant for singling out auto accidents to be the sole exception.

Mr. President, I ask unanimous consent to have printed in the RECORD an appendix showing the cost increase of S. 354, together with an article that appeared in the Journal of Commerce; a letter from Gov. George C. Wallace of Alabama addressed to me in opposition to the no-fault insurance bill on the theory that it would infringe upon the rights of the States, a statement by the Honorable Francis H. Hare, one of the most eminent attorneys in Alabama, before the Committee on the Judiciary of the Senate in opposition to the no-fault auto insurance plan, which is dated January 31, 1974.

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

APPENDIX E: STAFF TABLE SHOWING COST INCREASE OF S. 354 WITH LOW BENEFIT, LOW THRESHOLD, AND $2,500 PER CLAIM DEDUCTION COMPARED TO TOTAL SYSTEM CLAIM COSTS

Ratio of increase

	Percent
Alabama	31.0
Alaska	9.2
Arizona	16.6
Arkansas	29.4
California [1]	3.9
Colorado	20.0
Connecticut [2]	−2.7
Delaware	19.2
Florida	9.9
Georgia	30.1
Hawaii [1]	−5.2
Idaho	34.0
Illinois [2]	11.8
Indiana	20.8
Iowa	20.9
Kansas	23.3
Kentucky	24.5
Louisiana	23.4
Maine	18.7
Maryland	7.2
Massachusetts [2]	−9.3
Michigan	17.6
Minnesota	12.4
Mississippi	28.6
Missouri	11.1
Montana	27.9
Nebraska	23.9
Nevada	22.2
New Hampshire	8.1
New Jersey [1 2]	−11.1
New Mexico	24.4
New York [1 2]	−11.1
North Carolina	13.5
North Dakota	34.4
Ohio	15.7
Oklahoma	20.4
Oregon	21.6
Pennsylvania	8.0
Rhode Island [1]	4.6
South Carolina	14.2
South Dakota	31.0
Tennessee	14.8
Texas	19.4
Utah	14.6
Vermont	21.2
Virginia	21.8
Washington	14.8
West Virginia	19.9
Wisconsin	13.3
Wyoming	29.3

[1] State temporary disability law.
[2] Tort propensity.

APPENDIX F

RECASTING BY VEHICLE TYPE (CALIFORNIA PREMIUM MODEL—1972)

Item	Premium in millions		
	Total	Private passenger	Commercial
1. California liability premium	1,326.2	1,077.5	248.7
2. Less property damage	(349.0)	(269.4)	(79.6)
3. Personal injury premium	977.2	808.1	169.1
4. Less medical	171.5	161.6	9.9
5. Available for tort remedy	805.7	646.5	159.2
5a. Tort percentage of premium	(100.0)	(80.2)	(19.8)
6. Threshold savings (45 percent, line 5)	(362.5)	(290.9)	(71.6)
7. No fault added coverages	409.2	490.2	0
8. Total no-fault benefits	852.4	764.8	87.6
9. Percentage of premium after threshold use	(100.0)	(90.0)	(10.0)
9a. Percentage change after threshold use	(+5.8)	(+18.3)	(−45.0)
10. Social security, UCD offsets, etc. (15.8 percent line 5: 65 percent PP: 35 percent Comm)	(127.7)	(83.0)	(44.7)
11. Net no-fault benefits after offsets	724.7	681.8	42.9
12. No-fault percentage of premium	(100.0)	(94.1)	(5.9)
13. Savings—No fault over tort	(−10.0)	(+5.5)	(−73.0)
EFFECT OF INCOME TAX DEDUCTIONS			
14. Liability premium tort remedy (1972)	805.7	646.5	159.2
15. Payable after 40 percent income tax deduction (1972)	?	NA	95.5
16. No-fault premium (net) (1977)	724.7	681.8	42.9
17. Premium payable after 1977 tax deduction			25.7
18. Premium savings from no fault (1977)			69.8

Source: Herbert F. Wells, chief product research specialist, Farmers Insurance Co.

WILL FEDERAL LAW HAPPEN? "HOPE NOT," SAYS PRODUCER

(By Lynn Brenner)

Although the passage of federal no-fault by the Senate Commerce Committee last week was greeted hopefully by such industry associations as the American Insurance Association, a spokesman for New York producers last week told The Journal of Commerce that he hopes federal no-fault legislation will not become a reality.

Abraham Eisenstein, president-elect of the New York State Association of Insurance Agents said that "I honestly and sincerely hope it does not" become a federal law.

FAVORS NEW YORK LAW

Mr. Eisenstein emphasized that he is all in favor of the New York no-fault law, and that the question of federal no-fault must be taken "in proper context.

"If all they're saying is that unless the states come up with a reasonable facsimile of their standards, they'll have to pass legislation, that's good—if it helps to spur the states to pass their own no-fault laws."

But Mr. Eisenstein stressed that while in favor of possible guidelines, on a federal level, he feels that government in general "has discovered that by virtue of its authority, it can stick its two cents into any field. I don't want them not to be interested—but they don't know when to get out of a business."

MAIN OBJECTION

Mr. Eisenstein went on to explain that his primary objection to federal no-fault legislation would be that it would have to be based on "a least common denominator".

The New York law, for instance, of which he is an advocate, has a limit of benefits which, he said, would be far too high for Puerto Rico. (New York's limit of benefits under no-fault is $50,000. Puerto Rico's law has a limit of $2,500.)

Guidelines are all right, Mr. Eisenstein said, "they're a legitimate governmental interest. But nobody knows New York needs like we do."

Citing another example of what he feels is New York's more-than-average performance, the agent referred to the fact that under New York law, "the producer must learn through an educational process what his responsibility to the public is."

In some other states, Mr. Eisenstein said, requirements for licensing of agents and brokers do not mandate a formal training period. "Standards are lower elsewhere," he said.

Mr. Eisenstein made a point of emphasizing that he favors the no-fault concept, and believes that the New York law is working well.

EXPERIENCES AIRED

Explaining that he had recently returned from the Boston Eastern Agents Conference, a meeting of producers from Maine to Delaware, Mr. Eisenstein said he had the opportunity to discuss the progress of no-fault in states where the law has been in operation longer than it has in New York.

In Connecticut, he said, the insurance department has found, through a recent survey of the no-fault law, that there have been far fewer complaints from insureds under the new system than there were under the old tort system.

Mr. Eisenstein pointed out that this success is encouraging, especially, he added, since the Connecticut no-fault law is inadequate compared to New York's. The Connecticut law has a benefits limit of $5,000.

Mr. Eisenstein further pointed out that Connecticut went to compulsory auto insurance at the same time as no-fault, hoping to eliminate a 10 per cent segment of uninsured drivers.

The ratio of uninsured drivers in Connecticut had not really been improved, he said. "But in New York, we learned that 15 years ago.

"But our percentage of uninsured drivers is impressively lower, even with the greater volume of cars."

SERVE CLIENTS BETTER

In Massachusetts, Mr. Eisenstein said figures show that agents can serve their clients better under the no-fault system. Massachusetts has had a no-fault law for three years. Mr. Eisenstein quoted a high source in the Massachusetts Insurance Department as saying that under no-fault, the complaint ratio from the public is "phenomenally low"—one complaint a month.

Mr. Eisenstein expressed the hope that a survey of New York no-fault would be possible in September, after the law has been in operation for a number of months.

He added that New York's standards in this area have been high. No-fault, he said, also gave the companies a chance to demonstrate a sense of "corporate citizenship", in which they had all too often been backward.

"Companies shouldn't be ashamed to show their face in public and live up to their civic responsibility. And this gives them a chance to demonstrate it," as well as giving the producer a greater opportunity to serve his clients.

MARYLAND BILL KILLED IN HOUSE

ANNAPOLIS.—Legislation that would have yielded about $1.2 million extra annually to firms that finance auto insurance policy payments in Maryland was killed in the House of Delegates earlier this week by a 57 to 52 vote.

The bill would have allowed an increase of up to 50 per cent in the interest that could be charged on the so-called "premium finance" loans.

This would have amounted to about $1.50 for each $100 lent out.

FORCED TO BORROW

According to delegate Martin S. Becker, D-Montgomery, the bill's floor manager, about 250,000 Marylanders each year are forced to borrow money to finance their automobile insurance policies.

Without the interest rate increase, he said, many of these motorists would not be able to find financing, and thus will not be allowed to drive, since auto insurance, is compulsory in Maryland.

STATE OF ALABAMA,
GOVERNOR'S OFFICE,
Montgomery, Ala., March 19, 1974.

Re. S. 354—National No-Fault Motor Vehicle Insurance Act.

Hon. JIM ALLEN,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR ALLEN: The above bill proposing a Federal No-Fault Insurance Program is presently pending in the U. S. Senate. I strongly oppose passage of that bill and, likewise, the National Governors Conference and the Council of State Government are both on record as opposing this legislation.

In testimony before the Senate Judiciary Committee, Professor Norman Dorsen, Professor of Constitutional Law at New York University School of Law, said in part, "What we have in Title III is a detailed plan imposed on states that will not, or constitutionally cannot pass, their own no-fault law. Title III commands state officials to perform their duties according to a Federal mandate, even if the state has not authorized these officials to act in the indicated manner.

"I know of no other Federal law that purports to employ state officials in this way. In the light of the entire statutory scheme, the net effect of S. 354 could be to impair the essence of statehood under our Constitution. If it is enacted, there is reason to believe that the Congress will have 'overlept the bounds of power,' *Steward Machine Company vs. Davis* 301 U.S. 548, 587 (1937), and intruded in state autonomy in a manner not contemplated by our basic charter."

It is my strong belief that if no-fault is to become law, it should be enacted by each state individually tailored to meet the needs of its increase in coverage upon the citizens of Alabama resulting in increased premiums which many cannot afford to pay. Insurance coverage and rates should be established in accordance with the loss experience and driving records in each state. To force upon the citizens of Alabama coverage and premiums which reflect the driving habit and loss experience of states such as California and New York would be a grave disservice to our people.

I strongly urge that you oppose S. 354 and that you contact your colleagues in the Senate and request that they do likewise.

With best wishes and kindest personal regards, I am

Sincerely yours,

GEORGE C. WALLACE,
Governor.

STATEMENT BY FRANCIS H. HARE

Mr. Chairman, my name is Francis H. Hare. I am a resident of Birmingham, Alabama. I am a trial lawyer.

I confess to a great feeling of deference. First, because I am addressing the distinguished Judiciary Committee of the United States Senate and, second, because I have the honor to speak in behalf of the Association of Trial Lawyers of America and in part for the International Academy of Trial Lawyers and, finally, because the subject involves the most important question of legislative principle and conscience of any bill that has been before this body in my lifetime.

I came here to invite you to test the so-called No-Fault Bill. You have already heard, or will presently hear, that Bill subjected to the test of economics by using the expertise of actuaries and men familiar with statistics and financial problems. The Bill fails that test, but that problem is not within my assignment here.

You will test the Bill alongside the terms of the Constitution of the United States. As a lawyer, of course, I have an opinion on that matter. I am convinced that the Bill is unconstitutional. But neither is that aspect of the Bill within the scope of what I came here to say.

I am here because to my knowledge no serious and searching effort has been made to lay down against the text of this Bill the ancient and accepted, the cardinal commandments of statesmanship, of legislation—the test of right and wrong.

THE BILL IS UNCONSCIONABLE

I will not insult you gentlemen by citing reason or authority for the proposition that the first commandment in making laws is justice and that the definition of justice is "right and wrong." I hasten to apply that test to this No-Fault Bill. We do not have long to wait—no longer than it takes to read the title, "No-Fault."

The essential philosophy of the Bill is to abolish in courts of law any difference between right and wrong, any distinction between the guilty and the innocent in automobile cases. The bold and brazen war cry of the Bill is that it equates the good with the bad, the wrongdoer and his innocent victim.

The purpose of a law is to do justice. The very definition of justice is the difference between right and wrong. Any so-called law that announces at the threshold that it is too expensive or too much trouble for the courts of justice to distinguish between who is right and who is wrong offends the basic and eternal standards and principles of jurisprudence which you lawmakers are here assembled to protect.

At the risk of repeating myself, I ask that we look again at the basic essence of the proposed Bill. No English-speaking country, no civilized nation west of the Iron Curtain, not even Russia has abolished the concept of justice itself by denying the innocent relief against the wrongdoer on the theory that it is a matter of indifference or difficulty to the law to distinguish between right and wrong.

The proponents of this Bill have spent perhaps a hundred million dollars in advertising and propaganda to gain acceptance of it from the American public. Those who will be defendants in automobile cases in the future know they will be defendants and are organized. The victims of the future, those who will be plaintiffs, have no way of knowing that fact and they are not organized. But the verdict of history on this No-Fault proposition will come when the years bring their toll of 60,000 dead, a half million seriously injured and millions who suffer property damage and when they find that the greedy insurance companies have robbed them of two of the most precious rights a citizen can have: These two same rights which I have named: The right in the name of justice to demand a difference between right and wrong and the right of every human being to remedy against a wrongdoer who has mangled his body and inflicted pain and suffering upon him.

THE IMPORTANCE OF PAIN

Bear with me a few minutes and let me discuss pain with you. The high-handed authors of the Bill would sweep aside the idea of pain as if it were the invention of lawyers and not anything really important in the deliberations of Senators and Congressmen or among the rights of citizens.

Very few people who have been the victims of intense and prolonged pain ever receive a jury verdict that is anything like adequate for what they have suffered. Pain is not only unpleasant to endure; it is unpleasant to think about. The only chance of fair consideration for the victims on the issue of pain and suffering is to persuade the lawmakers to steel themselves to the disagreeable task of looking at the shocking reality of what pain is and what it does to a man. It is human nature to keep our minds from the impact of other people's troubles as we much keep our minds from the thought of our own eventual death. If we did not have this "mental block" we would all be the victims of such anxiety and concern that we could not stand it. We would become insane. You gentlemen, like the trial lawyer and the trial jury, have the duty to overcome that abhorrence and look at pain and see it for what it is. It is like opening a window into Hell.

Portia observed that mercy is an attribute of God. Pain is an attribute of the Devil. Pain is the blood brother of death. They are partners and allies and the chief enemies of man. A man in great pain has asked for death to give him peace, but no man ever asked for pain.

Pain is a cruel monster—choosing as its victims the helpless and sick who are the least able to bear it. It loves to prey on children. It attends every human birth, and it torments the last minutes of the dying who have little enough time to make their peace with God and say goodbye to their loved ones.

When the time comes for a defendant to pay for the misery he has inflicted, he asks that you take an attitude of tolerance toward pain as if it were nothing really worth a lot of money. He is asking that your mind tolerate pain, which is something your body will never do. An hour of pain is a sample of hell. It is this sickening horror, this tool of torturers, this scourge of mankind that you are asked to belittle and ignore.

If you believe in religion, you believe that an Omnipotent God thought nothing worse as a supreme punishment in hell than to make it a place of pain. If you don't, then you believe that the accumulated imagination of man could imagine nothing worse.

Look at the law's attitude toward pain—wherever it arises outside of an action for damages. The law forbids cruel and unusual punishments. The law says to the state:

"You can inflict any other punishment, but you cannot use the lash on any man. Many say you can take a man's life so long as you do it without pain. You can kill him, but you may not hurt him."

What about the men who invented anesthesia? The men of medicine who taught us how to get rid of pain for an hour during an operation are immortal. They are heroes of science because they taught us to push back pain for an hour.

I do not see how a man can ask you to make friends with the idea of pain, or to tolerate it or belittle it any more than he would ask you to accept and fraternize with a murderous enemy of your country, or to say of a malignancy in your body—"It is nothing but a cancer."

Penology will not tolerate pain for murderers and criminals. By the same token, the innocent victim of an accident is not unreasonable in insisting that when it comes to payment in dollars, his pain should be considered with the same enormity as it is considered by God and man, by law and medicine, by human experience, and as you will one day come to measure it when your time comes.

Sir Geoffrey Jefferson, in his foreword to "Pain," by White and Sweet, said:

"Pain works to such a degree on man's emotions, so reduces his usefulness to himself and others, so shakes his morale, that we must rehabilitate him if we can."

The finger of pain leaves its own traces on the human face, with a look in a man's eyes and the very way he carries himself. Long continued pain enervates and saps the life and strength from a man and his organs.

Dr. C. M. MacBryde [1] has said:

"Continued pain has been demonstrated to have deleterious action upon vital organs, such as the heart and kidneys . . . elevation of arterial blood pressure, cardiac arrhythmias, cardiospasm, disturbances of gastric and colonic function . . . the facial expression of true pain—the pinched features, the pallor, the clammy skin, the dilated pupils, the knotted brow—cannot be imitated by the malingerer: These, with the intermittent involuntary cry or groan and the characteristic writhing or bodily contortions, present an unmistakable picture of suffering."

On page 17, he says:

"Pain may * * * cause profound disturbance in the function of vital organs. Shock from pain may be so profound that death results. * * *"

Pain is the opposite of pleasure, the antithesis of comfort. A man thinks nothing of spending as much money as he can get for an evening of pleasure or a day of comfort, but it is hard for him to see how heartless it is to deny some miserable wretch a few dollars a day compensation for suffering pain the rest of his life.

The judge can only say to the jury:

"I can give you no yardstick by which you can measure pain in dollars."

Judges have no yardstick to measure pain, but man has measured pain in the laboratories of human experience in many ways. And everywhere that mankind has had occasion to put pain in one side of the scales and money in the other, he has not hesitated to decide that pain tilts the scales as men count values. We pay the dentist or the surgeon a lot of money for an anesthetic to escape pain for a short while.

I had a friend whose little child had an aliment which caused constant and daily pain. Fortunately there was a medicine that could relieve this pain, but which cost $5 a day's supply. Can you imagine her parents sitting with her one morning almost feeling her pain themselves and saying to her:—

"$5 a day is excessive even for severe pain. We will withhold the medicine today and invest the $5 in some practical investment such as common stock in a railroad or in an insurance company."—

No parent would insist on that position while the child suffered ten minutes, and any parent who did so would be unworthy to have the child's custody.

The bank robber who points his pistol at the teller and says—"Your money or your life."—knows what the answer will be. When a criminal inflicts pain upon his victims, there is never any doubt about the choice

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[1] *Signs and Symptoms*, 2nd Ed., J. B. Lippincott Co., 1952.

between giving up his hidden money rather than suffer.

The court room is the only place in all human experience where anybody contends that pain is of less account than money. We administer justice in a court room by the same standards and the same values that rule the outside world of men and affairs. The man who says that a few dollars a day are too much to award for pain, because it comes to a large amount in a lifetime, stands utterly alone and without precedent or support in human experience.

They have sought to desensitize you to the precious human value of freedom from pain and ask that like Pontius Pilate you wash your hands of this troublesome subject.

On January 14, 1974 on Channel 10 at 7:30 PM, Dr. Alon P. Winnie of the College of Medicine at the University of Illinois gave a television program in the series "Consultation." The subject was medicine's attempt to relieve uncontrollable pain. The contents of this program dramatically parallel the dedicated effort of our sister profession of medicine to realize the importance of pain and the callous indifference of lawmakers that would be evidenced if we enacted a bill that would substantially deny compensation for pain.

In a word, Dr. Winnie explained that medicine regards pain by human beings as the most important thing on earth and the No-Fault legislation regards pain in the eyes of lawmakers as relatively minor—as if pain is something invented by lawyers.

The No-Fault plan will pay for doctor bills and possibly for dented fenders, but substantially denies relief for the most exquisite and intense pain or limits it by the entirely irrelevant yardstick of the doctor bill.

It is dramatically important that Dr. Winnie stated that probably the most intractable and exquisite pain known to man is that which results from trauma referring to the reflex sympathetic distrophy as one sort of pain and causalgia as another and finally pointed out a peculiar persistent pain syndrome before which doctors are relatively helpless. The pain being caused by a blow to an elbow or other sensitive place which causes the messages of pain to be sent to the brain for the indefinite future.

He was asked about acupuncture and replied that to the extent of his knowledge this was unproven but he said—"Anything that will offer any hope of relieving the pain of human beings is on the side of the angels and must be fully explored. It is the highest duty of our profession to relieve pain."

The contrast is accentuated when we see the dedicated attitude of medicine taking affirmative steps to relieve pain and compare the attitude of lawmakers who not merely stand indifferent against the challenge of pain with reference to the duty of lawyers, but are asked to take affirmative steps to deprive citizens of their right to relief against wrongdoers for pain contrary to the standards of Western civilization.

THE READER'S DIGEST ARTICLE

We are told that when lawyers quote somebody else's literary product that it is not plagiarism but research. Let me quote verbatim to you some passages from a vivid article published in the Reader's Digest first in 1953 and re-published about ten years later. The name of it was "And Sudden Death." The Automotive Safety Foundation said of this article that "it succeeded as no other piece of writing has in stirring the nation into realization of the traffic accident problem." The portions which I quote deal with this business of pain. It begins by saying of dry statistics:

"Figures exclude the pain and horror of savage mutilation which means they leave out the point ... what is needed is a vivid and sustained realization ... that single horrible accident you may have witnessed is no isolated horror ..."

"That picture would have to include motion-picture and sound effects too—the flopping, pointless efforts of the injured to stand up; the queer, grunting noises; the steady, panting groaning of a human being with pain creeping upon him as the shock wears off. It should portray the slack expression on the face of a man, drugged with shock, staring at the Z-twist in his broken leg, the insane crumpled effect of a child's body after its bones are crushed inward, a realistic portrait of an hysterical woman with her screaming mouth opening a hole in the bloody drip that fills her eyes and runs off her chin. Minor details would include the raw ends of bones protruding through flesh in compound fractures, and the dark red, oozing surfaces where clothes and skin were flayed off at once. . . .

"It's like going over Niagara Falls in a steel barrel full of railroad spikes. . . .

"The driver is death's favorite target. If the steering wheel holds together it ruptures his liver or spleen so he bleeds to death internally. Or, if the steering wheel breaks off, the matter is settled instantly by the steering column's plunging through his abdomen."

Then it tells about "a man, walking around and babling to himself, oblivious of the dead and dying, even oblivious of the daggerlike sliver of steel that stuck out of his streaming wrist; a pretty girl with her forehead laid open, trying hopelessly to crawl out of a ditch in spite of her smashed hip. A first-class massacre. . . .

"Overturning cars specialize in certain injuries. Cracked pelvis, for instance, guaranteeing agonizing months in bed, motionless, perhaps crippled for life—broken spine resulting from sheer sidewise twist—the minor details of smashed knees and splintered shoulder blades caused by crashing into the side of the car as she goes over with the swirl of an insane roller coaster—and the lethal consequences of broken ribs, which puncture hearts and lungs with their raw ends. The consequent internal hemorrhage is no less dangerous because it is the pleural instead of the abdominal cavity that is filling with blood.

"Flying glass—safety glass is by no means universal yet—contributed much more than its share to the spectacular side of accidents. It doesn't merely cut—the fragments are driven in as if a cannon loaded with broken bottles had been fired in your face, and a sliver in the eye, traveling with such force, means certain blindness. A leg or arm stuck through the windshield will cut clean to the bone through vein, artery and muscle like a piece of beef under the butcher's knife, and it takes little time to lose a fatal amount of blood under such circumstances. . . .

"None of all that is scare-fiction; it is just the horrible raw material of the year's statistics as seen in the ordinary course of duty by policemen and doctors, picked at random. The surprising thing is there is so little dissimilarity in the stories they tell.

"It's hard to find a surviving accident victim who can bear to talk. After you come to, the gnawing, searing pain throughout your body is accounted for by learning that you have both collarbones smashed, both shoulder blades splintered, your right arm broken in three places and three ribs cracked, with every chance of bad internal ruptures. But the pain can't distract you, as the shock begins to wear off, from realizing that you are probably on your way out. You can't forget that, not even when they shift you from the ground to the stretcher and your broken ribs bite into your lungs and the sharp ends of your collarbones slide over to stab deep into each side of your screaming throat. When you've stopped screaming, it all comes back—you're dying and you hate yourself for it. That isn't fiction either. It's what it actually feels like to be one of that 36,000." (now 60,000)

This sort of permissive legislation which admittedly in the field of automobile trauma begins by abolishing the difference between right and wrong is a part of the present day trend away from standards or morality. We view "permissiveness" with alarm but where could it conceivably be more dangerous than when it expressly at the threshold abolishes the difference between right and wrong in a court otherwise a court of justice and does it with reference to a type of accidental injury, the most dangerous known to our people, one which kills over 60,000 a year and seriously injures half a million. If we were going to lower moral standards and extend permissiveness somewhere, we began at the very maximum contraindicated end of the spectrum by abolishing the standards of morality absolutely and entirely with reference to the most dangerous instrumentality in our society.

Our race remembers Magna Carta as a historic advance toward justice and civilization. This Bill will be remembered in history as an equally great step in the opposite direction.

I resent most of all the suggestion that a man is a demagogue who says what I have said. Why is a man a demagogue who opposes a bill which abolishes the difference between right and wrong in a theatre called a court of justice where the difference between right and wrong is the first of the Ten Commandments. Why is a man a demagogue who insists on a citizen's right to relief for pain?

THE BILL IS A FINANCIAL FRAUD

The present system pays only the plaintiff and the proponents of the Bill pretend that they will pay both the plaintiff and the defendant and that instead of doubling the premium to do so, they will reduce the premium. Unless the miracle of the loaves and the fishes is repeated, this is obviously impossible. In order to pay twice as many motorists for the same premium, they will have to cut the compensation half in two. In order to reduce the premium, to say nothing of getting back the one hundred million dollars they have spent pushing this Bill, they must reduce the payments drastically. By eliminating lawyers' fees, they may save 7%. The actual program is to eliminate the two principal losses for which payment is made under the present law. The first is property damage, which accounts for about two-thirds of the premium dollar and the second is pain which is the primary subject of my remarks today. It is a matter of no small importance that to the average man on the street, his automobile is his most valuable piece of property and to deny him a right to recover for property damage when a drunk driver or a speeding truck destroys the car he has sweated blood to pay for. It is a serious thing indeed.

In order to fund and finance the object of the bill to pay not only the victim but the wrongdoer, and thereby pay twice as many people, the average of 7% of the premium which goes to lawyers, is obviously not enough. The place that money is coming from is by taking the benefits that would otherwise go to widows and orphans and cripples. At the same time the removal of the lawyers leaves the plaintiff, the injured citizen, without the power to say: If you don't pay me, I will take you to court. The vast majority of these cases are settled and the principal reason why the plaintiff gets as much as he does in these settlements is the knowledge on the part of both parties that if necessary the plaintiff can get a lawyer. The insurance companies already have lawyers as well as lobbyists.

I still cannot contain my amazement that the most august deliberative body on earth is affording a serious consideration to a Bill that does two terrible wrongs: First, at the threshold, it abolishes the difference between right and wrong and second, it denies any substantial remedy for pain, when pain is the most important enemy of mankind on earth. No civilized nation on earth has

any such law. Why in God's world can statesmen be asked to adopt such a law in the United States of America?

I have tried to express to you in behalf of the bench and bar their profound criticism of this Bill. The proponents of the No-Fault legislation knew from the beginning that it was as much the business of the bar to point out the fallacies and frauds in this Bill as it is the business of their sister profession of medicine to warn of dangers to human life and health. Who else but lawyers have this duty?

Therefore, their first move was to discredit lawyers and say that the savings to the public would be funded and financed by abolishing lawyers' fees. That is not my topic but in a very few words I reply: One, if this legislation imposed great loss and harm to the legal profession that itself is not a desirable or admirable thing. Secondly, since lawyers' fees are a very minor and trifling percentage of the cost of enforcing the tort system, it is ridiculous to say that we can pay twice as many people the substantial amount of their loses by eliminating fees.

And finally, there is another major objection to the No-Fault program concerning which very little has been said. It would involve the virtual elimination of the jury system in civil cases. That jury system which brings every year several hundred thousand citizens into the court room is the last and best example of judicial democracy. Citizens have a very slight connection with elections which occur every few years. But when the jurors sit for a week or so and apply the law given them by the judges and do justice between their fellow citizens, the result is a wholesome transfusion of democracy into the processes of government.

Watergate simply is an example of what happens to government when it is isolated and removed from the influence of people and the deep rooted moral values of our society. The work of juries strengthens and enriches the administration of justice and preserves the standards of law and order in a way that cannot be duplicated otherwise. They certainly cannot be duplicated by a computer that has no wisdom and no judgment and no conscience and no sense of right and wrong.

THE BILL IS NOT CONSTITUTIONAL

I call your deliberative attention to the fact that the Federal Constitution declares void any law which takes away from a citizen his remedy for breach of contract. Unlike the Workmen's Compensation Acts cited by Dean Griswold, this plan would not be elective. Dean Griswold knows that is the only thing that makes the compensation acts constitutional. But I submit to you a more profound reason why this law is just as void as would be a law that impaired the obligations of a contract. I now ask you to compare that with taking away from a man his remedy for the breach of duty imposed by tort law. A tort claim enforces a debt based upon a higher moral and ethical obligation than contract debt. First, a contract arises out of a transaction into which both parties enter willingly and voluntarily, with the expectation of making a profit or deriving a benefit; secondly, the transaction involved in such a claim was lawful. The plaintiff in a tort case did not enter into the "transaction" with the defendant willingly, and the conduct of the defendant was, by definition, wrongful. Thirdly, if the merchant suing for the price of a room full of furniture loses his suit, he has a profit in it and he can recoup his loss by selling another room full of furniture. If he wins, he gets interest.

The tort plaintiff however did not ask to be run over. If he loses, he cannot sell another arm or leg to get his money back, and he did not have any profit in the deal at the start. If he wins, he gets no interest and the best he can possibly expect is to break even, less his costs.

The ancient reverence for property rights did not extend to human rights. The English Lords were rich in property. Corporations have property, but they do not have bodies. Logic and insight will banish the absurd distinction and discrimination against bodily rights. In a decision which is almost set to poetry, William Pitt, Lord Chatham, said of the humble cottage of the lowest man in England:

"The storm and the rain may enter, but the King may not enter, and all the forces of the Crown may not cross the ruined threshold."

Those are stirring and noble words. But what is a cottage for, or why is a home so sacred, except as a place to shelter a human being and keep his body safe? If the storm or the King cannot enter with impunity, can the front bumper of an automobile enter a citizen's skull or rib cage with impunity? Why is it that the law views with less solicitude the temple of the soul, the tenement of a man's life, than it does the clapboard cottage, though it may be a 200-year-old English one?

Yet at the time William Pitt wrote his immortal words which prevented the King from harming the poor man's property, any defendant could have half killed one of his children for ten pounds sterling. That was the climate in which relief from a broken contract regarding property was written into the Constitution.

A generation from now, I would hate to be the statesman of whom it could be said that it was I who wanted the United States, of all nations on earth, a nation with a motto, "In God We Trust," at a time when probably the greatest danger to our institutions is the danger of a permissive society, at such a time that I was among those responsible, I say, for the proposition that America alone in the civilized world, would deny to crippled men, woman and children any substantial, practical remedy for pain, by making the first law in history that abolished the difference between right and wrong.

What would you think of a proposal to impose upon the whole nation a state religion that began by announcing: There is no God? How does that differ from a proposal to take down the ancient monuments of the common law and substitute in the name of law the announcement that Justice is dead?

Mr. MOSS. Mr. President, I ask unanimous consent that the Senate return to the consideration of the amendment that was temporarily laid aside, amendment No. 1220.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MOSS. Mr. President, I had just about completed my discussion of the amendment and I asked that it be temporarily laid aside to provide an opportunity for Senators who were not present on the floor of the Senate to express themselves on this amendment, if they care to do so. Then, I intend to move the adoption of the amendment.

Does the Senator from Nebraska have any comments that he wishes to make on my amendment?

Mr. HRUSKA. I thank the Senator. Mr. President, as currently drafted, the bill (S. 354) provides that a State may enact a no-fault plan in accordance with the requirements of title II. However, if the State fails to enact the plan under title II, title III will impose a federally designed and contrived no-fault plan to be funded and administered by the States. Federal funds are not made available to implement a program under title II or title III.

Now we have the amendment offered by the Senator from Utah (Mr. Moss) which would establish a one-shot $10 million program in order to authorize the Secretary of Transportation to make a grant of not to exceed $200,000 per State in order to defray the costs of implementation and administration. This amendment has some defects to which attention should be called.

In the first place, it is discriminatory and not mandatory. There are no standards, there are no guidelines set out; grant allocation would be within the total discretion of the Secretary of the Department of Transportation.

The Secretary is authorized by regulation to establish procedures for awarding the grants on a fair and equitable basis. Whatever he determines to be fair and equitable would be the standard. Second, it provides for only one shot of funding. Third, the funding levels are simply not realistic.

The fundamental objection to the entire bill, and title III in particular, is recognized by this amendment that the Senator from Utah proposes since it recognizes that duties and responsibilities are placed on the States that they do not now have.

In regard to point three, attention is called to the fact that section 108 of S. 354 calls for the establishment of a State-assigned claims bureau, if the State does not have one already. The cost of administering and implementing such a bureau would not, of course be confined to the first year in order to make the change. It is going to cost money to maintain and to continue this operation for years to come.

Section 109 of the bill would require a State evaluation of medical and rehabilitation services, and the charges therefor. Section (E) sets out a State reporting function that requires reports to be made regularly to the Department of Transportation so the Secretary may evaluate these plans. That takes annual administration and maintenance.

Section 111(D) would require the establishment of State rehabilitation agencies, a very expensive operation. Certainly $200,000 would not even commence to draw the plans and set forth requirements for such an agency, let alone maintain and operate it.

Section 201(D) requires the State to file periodic reports to the Secretary of Transportation and to establish procedures. Hearings would be required by the State insurance commissioner and the State insurance authority. All of these items would be within the sum of $200,000 for the one year only. It is not very realistic at all.

If the Federal Government can say to a State that it must create and maintain a State vocational rehabilitation system to comply with the Federal law and pay for it, if they can do that they could order them to build harbors, they could order them to build landing fields, they could have the State comply with any enactment of Congress and say to the State, "You must pay for it."

That is where the fundamental objection on constitutional grounds is based. That kind of approach and result is totally destructive of a Republic of

federated States. There cannot be any question about it. It is a new federalism. It is a brand new concept that does away with State lines, State authority, and State discretion.

Mr. MOSS. Mr. President, the Senator from Nebraska is concerned about the provision for funding for the States. I gathered, first of all, he thought it might be inadequate. Then his argument seemed to change—that States ought to have their independence to decide what they want to do.

Mr. President, at the present time each of the States has an insurance commissioner and a department or staff that works under the insurance commissioner. Each of the States is presently administering the insurance laws of that State, including the insurance on motor vehicles. Consequently, the general structure is in existence now. All this amendment seeks to do is to provide that States which incur additional expenses by reason of converting over to another system may receive grants from the Secretary of Transportation.

The Secretary is required—he shall by regulation meaning that he will have to have a rule in a regular Administrative Procedure Act proceeding—establish procedures for awarding the grants on a fair and equitable basis among the States. The amendment would authorize the appropriation of not to exceed $10 million to be used for this purpose, such sums to remain available until expended.

So it is not a 1-year program. It might be as long as 3 to 4 years.

As the Senate will recall, we adopted the Biden amendment, by which the States that wish to enact no-fault legislation in order to comply will have up to 4 years' time to do it. So it is conceivable that some States might just be getting their programs into effect 4 years hence, but this money will remain available until it is expended. Therefore, it is possible that a grant would be made at that time to a State that was in need.

But the whole idea is not to subsidize the States. It is simply to be an element of assistance to a State that encountered some difficulties by reason of changing its regulatory structure over to that of no-fault, in accordance with the standards laid down here.

Therefore, I think it is an improvement to the bill and should allay the objections of some who fear that, in a way, it puts an extra burden on a State without that State's having first elected to take that burden; and if it does put an economic burden on the State, a grant may be made to help the State meet that burden.

I think a great many of the States would not claim it. For example, we do have some States with no-fault programs now that would qualify, and many that are very close to it would not have to have very much of a change. So I would expect there would be a fair number of States that would not have to apply to get the grant, or would not be eligible for it; only those States that would have financial difficulty.

For that reason, I urge the adoption of the amendment, and I am prepared to submit it to a vote at this time.

Mr. HRUSKA. Mr. President, will the Senator yield for a question?

Mr. MOSS. Yes, I am glad to yield to the Senator from Nebraska.

Mr. HRUSKA. In regard to the fact that some States now have a no-fault system and the allegation that they would, therefore, be under no additional expenses, how would the Senator answer this question? Every one of the no-fault systems, with the possible exception of Michigan's will be scrapped, will be thrown to one side by the subject bill. Every one of these States will have to start from scratch and implement a plan of no-fault insurance such as that described in title II. Thus, there will be expenses, regardless.

Mr. MOSS. The Senator's argument that all the no-fault plans would have to be scrapped I do not believe to be wholly accurate. There are some States that have no-fault procedures now, but simply do not meet the threshold requirements that would be established here, and they would have to make some adjustments on the threshold requirements; but they would be very minor and I think would not involve any appreciable or measureable increased cost of administration. And if a State did not enact no fault and under title III the Federal Government finally, after the 4-year period, preempted it, there would be funding under this section given to the State so that it could come into compliance.

Mr. HRUSKA. Is there any limit for any one State contained in the Senator's amendment?

Mr. MOSS. That would have to be done by regulation establishing procedures for awarding the grants on a fair and equitable basis. Therefore, I would expect the regulations would have to do not only with entitlement to the States, but would have something to do with population, vehicle numbers, and things of that sort, to measure what is fair and equitable for each of the States.

Mr. HRUSKA. So the Secretary would have x amount of dollars for California, for example, with 21 million people, and the neighboring State of Nevada would get——

Mr. MOSS. Much less.

Mr. HRUSKA. Much less.

Mr. MOSS. Yes, and my State would get much less. We are relatively small in population.

Mr. HRUSKA. And the name of the Secretary of Transportation is not Solomon; is it?

Mr. MOSS. No.

Mr. HRUSKA. Yet he is going to have to decide what is fair and equitable just on the basis of this simplistic directive which authorizes him to devise a plan for the distribution of $10 million on a fair and equitable basis.

Mr. MOSS. Well, it is not quite like Solomon. He does not have to decide right there with the mother in front of him. This is a rulemaking procedure, with which the Senator is acquainted, whereby the rule is proposed, has to be published in the Federal Register, those who have comments may be heard, and they go through a regular procedure to try to work it out.

I am not naive enough to believe that a formula can be devised that would be absolutely fair down to the penny so that everybody would say in unison what it would be, but I think, in accordance with the rulemaking power, it can meet the standards that are required for equal distribution of the grants that are needed by the States. As I say, I believe many States would not seek the grant because they can come into substantial compliance with relatively little change in the personnel of their departments. They are already in the business. They are already regulating insurance. They simply would have to adapt it to a system that is a little bit different, where the thresholds are somewhat different. That is all.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah (Mr. Moss). (Putting the question.)

The Chair is in doubt.

Mr. MOSS. Mr. President, I suggest the absence of a quorum. We obviously need more Senators on the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOSS. Mr. President, I again move the adoption of the amendment that is before the Senate.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah (Mr. Moss). (Putting the question.)

The amendment was agreed to.

Mr. MOSS. Mr. President, I move that the Senate reconsider the vote by which the amendment was agreed to.

Mr. ABOUREZK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ABOUREZK. Mr. President, I call up my amendment which is at the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 105, line 13, insert the following: Following "disability" delete the period and insert the following: "or $600 in reasonable medical expenses."

Mr. ABOUREZK. Mr. President, I am offering the amendment as another alternative basis for being able to recover damages for noneconomic detrimental pain and suffering. Six hundred dollars, according to the Milliman & Robertson study, is equivalent to 60 days of minimal disability.

I am not sure as to how the consultants arrived at that figure. Nevertheless, it is the figure they used. It is in line with my belief that anybody who is involved in an automobile accident ought to be entitled to sue for noneconomic damages. I should like to see this particular threshold basis lowered to this amount.

I yield to the Senator from Utah.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MOSS. Mr. President, the amendment offered by the Senator from South Dakota is similar in its import to the one that he presented before this body last week and on which there was a yea-and-nay vote. That was a 60-day threshold vote.

This amendment, I think, is ill-advised. For one thing, it has the potential of raising the cost of insurance. The Milliman & Robertson study showed that a number of States would, indeed, be required to raise the premiums, rather than effect a saving, which the amendment is designed to effect, and which will be the case if we leave the threshold where it is.

Mr. President, the amendment to permit lawsuits in tort for noneconomic detriment—pain and suffering—whenever the injured person incurs $600 worth of medical expenses is ill-conceived and ill-advised. It would increase automobile insurance premium costs for the average consumer, discriminate in favor of cities and urban areas and against rural areas, and it would invite fraud and a new brand of that obnoxious practice known as "ambulance chasing." It might also be declared unconstitutional by the U.S. Supreme Court. Finally, the amendment amounts to another motion for a reconsideration of the rollcall votes on April 24, 1974, with respect to the restrictions on tort lawsuits, inasmuch as the independent actuaries, Milliman & Robertson, found that a 60-day disability threshold and a $600 medical expense threshold are the same from a costing point of view. The Senate voted nay to a 60-day threshold on Wednesday.

First and foremost, this amendment would increase auto insurance premiums in all of the 50 States. It may properly be called a tax on the consumer for the benefit of the trial lawyers since its practical effect is to open the sluice gates of automobile negligence lawsuits and increase contingent fees for trial lawyers by a tremendous amount. Those fees are going to be paid by the average consumer of automobile insurance in the form of higher premiums.

Second, there is an inherent and built-in discrimination in a threshold based on a dollar value rather than a time period of disability. Medical and hospital costs are much lower in some areas and States than in others. I refer you to the Index of Daily Hospital Costs for each of the 50 States in the latest edition of the Statistical Abstract of the United States. What this amendment will do is to make it quite easy for almost any auto accident victim with a sharp lawyer in New York City or Miami or Chicago to recover damages for pain and suffering in tort if he can establish that the other driver was at fault, but it would remain extremely difficult for all but the seriously injured victim in Alabama or New Hampshire or North Dakota to recover damages for pain and suffering. I agree with the concern of the senior Senator from New Hampshire (Mr. COTTON) that the bill must not discriminate against rural States. I submit that this amendment would so discriminate.

Third, this provision invites dishonest lawyers and dishonest doctors to collaborate to "manufacture" $600 worth of diagnostic X-rays, sauna-bath treatments, and rest-home and hospital observation care purely and simply to earn the contingent fees and treatment charges that can be garnered through tort litigation. This is not a paranoid observation based on the tactics the trial lawyers have used to oppose this bill, but a mere deduction from existing experience.

It is not fantasy but a fact that the State of Florida and the district attorney of Dade County have sought and obtained indictments against a substantial number of lawyers and doctors for conspiring to manufacture $1,000 in medical expenses—the threshold under the Florida no-fault law. The Congress should be careful about establishing any provision that might lend itself to abuse by the unscrupulous. "Medical expenses chasing" under no-fault would be no more satisfying than ambulance chasing is today. Even in areas where fraud would be unlikely or easily detected and prosecuted, the effect of the amendment would be to promote overutilization of hospitals and other scarce medical resources, simply for the purpose of crossing the threshold.

Further, I should point out that the dollar figure tort threshold invites a constitutional challenge to the validity of this legislation on the ground that it constitutes a denial of the equal-protection clause of the 14th amendment. It is true that such challenges have been rejected by the highest courts of Massachusetts and Florida, but on a national basis there is at least a possibility that the U.S. Supreme Court might rule that this is not a "reasonable classification" for purposes of compliance with the requirements of the 14th amendment. Where there are alternatives, it is certainly our constitutional responsibility to eschew the course which is the least apt to be declared unconstitutional.

Having summarized the reasons why the Managers on behalf of the bill cannot accept this amendment, I would like to ask, Mr. President, the following questions for purposes of clarification:

Having summarized the reasons why the managers in behalf of the bill cannot accept the amendment, I would like to ask the Senator the following questions for the purpose of clarification.

In computing the $600 are hospital costs to be included, and would the hospital costs include the hospital costs other than treatment and drug expenses, that is, daily room and board costs?

Mr. ABOUREZK. Yes, all medical costs.

Mr. MOSS. In computing the $600, are care in nursing homes, osteopathic hospitals, and self-proclaimed treatment centers to be included? If the victim suffered mental anguish, would the cost of a psychiatric program be included toward the sum of $600?

Mr. ABOUREZK. Whatever is already determined to be a medical cost would be included under this amendment.

Mr. MOSS. And who would define that? Who would define what medical costs were?

Mr. ABOUREZK. That would be determined under each State jurisdiction, and has already been determined. Whatever is a medical cost in a State now would remain so.

Mr. MOSS. It is not defined now under tort law that I know of; but the Senator would have each of the States define, then, what hospital expenses and other medical costs would be?

Mr. ABOUREZK. The State courts, the courts of my State of South Dakota, have already determined, under their decisions, what constitutes medical expenses, and I do not assume that that would change any at all. I do not intend to change the definition of medical expenses with this amendment. What I propose to do is lower the threshold. As to what the Senator from Utah is trying to inquire about, there will be no change so far as this amendment is concerned.

Mr. MOSS. Well, it would be necessary for the person bringing the action in court, then, to establish the various costs and to establish to the satisfaction of the court that they were truly medical expenses?

Mr. ABOUREZK. As they do now. They would have to establish that they are truly medical expenses, and that they are reasonable, as the courts have jurisdiction to do now.

Mr. MOSS. Would the Senator include the cost of diagnosis, of X-rays, for example?

Mr. ABOUREZK. Yes, I think that is included already.

Mr. MOSS. But that is simply for diagnosis, and has nothing to do with treating the injury; is that correct?

Mr. ABOUREZK. Well, I know that when such a lawsuit occurs now, in my own jurisdiction, which is South Dakota, if someone is injured by virtue of the fault of someone else, if he is injured, he has to have some kind of diagnosis. He has to be X-rayed, and presumably that X-ray is not required through his own fault; he is being forced to do that because someone else caused the accident and caused his injuries. So I would assume that in Utah as well as South Dakota, that is all part of the medical expense.

Mr. MOSS. But if we presume that there are medical practitioners who also like to participate in the rewards of tort suits, they might well have a whole body of X-rays, whereas an X-ray of an arm might have been enough to determine whether there had been an injury; is that not correct?

Mr. ABOUREZK I cannot do away with corruption by this amendment. The only thing I can do is change from a barter to a system of dollars by which these people make a living. If some doctor or some lawyer is unscrupulous, there are other laws which exist to take care of that if it happens. This amendment cannot, of course, propose to do that all

by itself. All it proposes to do is lower the threshold, as I said.

Mr. MOSS. I agree with the Senator that he cannot abolish corruption by introducing this amendment; but by offering the amendment, he certainly enlarges the temptation and broadens the field of activity for the unscrupulous. Without the amendment there is a great deal less opportunity for abuse in this area.

The Senate, after having considered the matter at great length and having had optional alternatives, determined against the 60-day threshold, but did meet the Senator halfway by bringing the 180 days down to 90 days. If we go any lower than that, we practically destroy the thrust of the bill, and I do most vigorously oppose the amendment of the Senator from South Dakota. I think it would be ill-advised to do it, and would destroy a large part of the efficacy of the bill. Therefore, I am opposed to the amendment.

Mr. ABOUREZK. Mr. President, I would like to ask for the yeas and nays on this amendment. I understand there is an agreement that there will not be any votes until tomorrow. Is that correct?

Mr. MOSS. Well, as I understand it, the agreement did not specifically forbid votes today, but other votes were set off until tomorrow, on the Helms and Mondale amendments, which are yet to come up.

Mr. ABOUREZK. I would like to ask unanimous consent, in view of that, that it be in order to set aside this amendment until tomorrow, and that tomorrow, as soon as there are enough Senators to provide a second, we may ask for the yeas and nays.

Mr. MANSFIELD. Mr. President, there was no agreement that there would be no votes this afternoon.

If the Senator wants the yeas and nays——

Mr. ABOUREZK. I woud like to ask for the yeas and nays.

Mr. MANSFIELD. Will the Senator withhold for a moment? Are we under controlled time, Mr. President?

The PRESIDING OFFICER (Mr. HELMS). We are not under controlled time.

Mr. MANSFIELD. Will the Senator from Utah yield me 3 minutes for the purpose of suggesting the absence of a quorum?

Mr. MOSS. Yes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Abourezk amendment.

The yeas and nays were ordered.

Mr. ABOUREZK. Mr. President, I am ready to vote.

Mr. MOSS. Mr. President, I am prepared to vote at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from South Dakota (Mr. ABOUREZK).

On this question the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Florida (Mr. CHILES), the Senator from Iowa (Mr. CLARK), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Ohio (Mr. METZENBAUM) and the Senator from Connecticut (Mr. RIBICOFF), are necessarily absent.

I further announce that the Senator from Georgia (Mr. TALMADGE) is absent on official business.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) and the Senator from Iowa (Mr. CLARK) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Oregon (Mr. HATFIELD), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that the Senator from Florida (Mr. GURNEY) is absent due to illness in the family.

I further announce that, if present and voting, the Senator from Connecticut (Mr. WEICKER) would vote "nay."

The Senator from Hawaii, Mr. FONG voted "present."

The result was announced—yeas 24, nays 64, as follows:

[No. 158 Leg.]

YEAS—24

Abourezk	Eagleton	McClellan
Allen	Ervin	McGovern
Brock	Hansen	Nunn
Buckley	Hartke	Stafford
Byrd, Harry F., Jr.	Hathaway	Symington
Byrd, Robert C.	Hollings	Tower
Cotton	Hruska	Williams
Curtis	Johnston	
	Mathias	

NAYS—64

Aiken	Griffin	Nelson
Bartlett	Hart	Packwood
Bayh	Haskell	Pastore
Beall	Helms	Pearson
Bennett	Huddleston	Pell
Bentsen	Hughes	Percy
Bible	Humphrey	Proxmire
Biden	Inouye	Randolph
Brooke	Jackson	Roth
Burdick	Javits	Schweiker
Cannon	Kennedy	Scott, Hugh
Case	Long	Scott, William L.
Church	Magnuson	Sparkman
Cook	Mansfield	Stennis
Cranston	McClure	Stevens
Dole	McGee	Stevenson
Domenici	McIntyre	Taft
Dominick	Metcalf	Thurmond
Eastland	Mondale	Tunney
Fannin	Montoya	Young
Goldwater	Moss	
Gravel	Muskie	

ANSWERED "PRESENT"—1

Fong

NOT VOTING—11

Baker	Fulbright	Ribicoff
Bellmon	Gurney	Talmadge
Chiles	Hatfield	Weicker
Clark	Metzenbaum	

So Mr. ABOUREZK's amendment was rejected.

Mr. MOSS. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MANSFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

STATE SOVEREIGNTY AND THE NATIONAL NO-FAULT BILL

Mr. GOLDWATER. Mr. President, as the debate on S. 354, the national no-fault legislation, has progressed, I have listened carefully to all the arguments presented on both sides of the issue. When I could not be able to attend the debates, I read the discussion printed afterward in the CONGRESSIONAL RECORD. Nothing in all the hours of discussion about this bill has altered in one degree my strong conviction that it is a serious and unconstitutional invasion of State sovereignty.

The debates have only convinced me of one fact, that the bill is being sold under a false label. Time and again as I have sat in the Senate, I heard the proponents of this bill assert that it is going to save the American motorist from the general inflation that racks the country. The claim is made that national no-fault auto insurance could save more than $1.5 billion a year on premiums.

Mr. President, it just is not so. I have gone back through the cost estimates presented in support of this bill and, if there is one thing new that the debate on S. 354 has demonstrated, it is that these original cost figures are wrong. The truth is that when the provisions of S. 354 are analyzed against the facts of real life insurance practice, there is strong evidence to believe that it will increase premium costs for the average driver. In fact, there is a strong likelihood that S. 354 would cause automobile insurance premiums to increase in 44 out of the 50 States.

There would be a considerable savings for commercial owners of taxi fleets, rental cars and so forth, amounting to almost $1 billion a year, but this savings would not benefit or flow directly to the typical American motorist who owns his own car. His premium, that of the private passenger car owner, will rise in nearly every State, including about a 17 percent cost rise in my own State of Arizona.

Mr. President, I also wish to correct the impression, which has been repeated throughout these proceedings, that automobile insurance has generated inflation. It is true that between August of 1971 and February of this year, the overall price index of goods and services has increased almost 16 percent. But, over the same period, automobile insurance rates have decreased 3.4 percent. This information is based on official Bureau of Labor Statistics figures and proves convincingly that the issue is not over "inflated" insurance rates.

Mr. President, the true issue which should be of grave concern, especially in the Senate of the United States, is the conflict between S. 354 and the rights of the individual States. For, if anyone will review the words of the Framers of the Constitution, he will see in the clearest of language their intent to use the Senate—as Madison put it—as a "constitutional recognition of the portion of sovereignty remaining in the individual States, and an instrument for preserv-

ing that residuary sovereignty." Large and small States together, Madison advised, ought "to guard, by every possible expedient, against an improper consolidation of these States into one simple republic."

What we must remember in this body above all others, Mr. President, is that in providing each State with an equal vote in the Senate, the Founders intended for our branch to defend and preserve the residual sovereignty of each State.

Mr. President, the basic purpose of the framers is directly applicable to the national no-fault bill. I have previously documented that the bill imposes at least 10 unproven and untested requirements onto State insurance systems before the States can have a fair period of time in which to experiment and perfect their own remedies in the field. By mandating national requirements in all the States when not a single present State system would appear to conform to the Federal one and when only four State no-fault systems have been in operation as long as 1 year, S. 354 would handicap continued research and work by the States in the automobile insurance area before much is known about the impact of those systems which are already in effect.

In other words, S. 354 would abrogate the insurance systems presently in existence in virtually every State by imposing upon them a new system whose features are generally unknown among any sizable number of the States. Nothing, in my opinion, could be more damaging to the health of the Federal system—in which the several States are to be treated as important governing bodies in their own right.

Instead of abrogating longstanding State practices in traditional State areas, we should be inquiring whether there are adequate precedents in State practice for what we are proposing to require on a uniform basis among all the States. We should be examining whether the proposed Federal requirements have been proven workable at the State level in those States which have had to administer similar provisions in day-to-day practice. Tested by these legitimate principles of federalism, it is obvious that S. 354 falls short of constitutional expectations.

A second area, Mr. President, in which I believe S. 354 invades State sovereignty is its violation of some nine State constitutions which prohibit limits on the right of recovery in tort. For example, article 18, section 6, of our State constitution in Arizona, provides that:

> The right of action to recover damages for injuries shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation.

In direct contradiction of this constitutional provision and of eight similar State constitutions, S. 354 would severely restrict the tort law suit remedy for automobile accident injuries. Whether or not Congress arguably may possess the power to overturn these guarantees of State constitutions, it is clearly an affront to the integrity of States to run roughshod over their individual constitutions in an area, such as automobile insurance, where there is not the slightest infringement by State laws or customs of any right of citizens by the U.S. Constitution.

Third, Mr. President, S. 354 directly infringes upon State prerogatives by compelling each of the 50 States to administer the national insurance system created by the bill. At least eight eminent legal authorities testified at the recent no-fault hearings by the Senate Judiciary Committee to the effect that this feature of the bill would be unconstitutional.

Mr. President, S. 354 would mandate the administration by State officials of a congressionally imposed statutory system in a field of traditional State jurisdiction. The scheme of S. 354 could become a precedent compelling the States to assume the cost and role of administering every conceivable kind of national program. It could transform our constitutional system of several independent State governments into one sweeping, centralized government, operating in every sphere of local operations.

Mr. President, I will repeat what I predicted in my first statement on S. 354. If we allow the civil administrators of the States to be manipulated as puppets of the national government; if we grasp from the States their responsibility over domestic local matters affecting the people in areas which the States are now actively pursuing; and, if we impose upon the States programs which are unproven and untested among any great number of them—there will be no States left as we know them. All powers will have been absorbed into a massive, national creation, devouring of all other governmental units and alien to the designs of the architects of the Constitution.

Mr. MANSFIELD obtained the floor.

Mr. MANSFIELD. Mr. President, I yield briefly to the distinguished Senator from Minnesota for the purpose of offering an amendment, but I would hope that he would just call it up and allow me to make a unanimous-consent request, and then the floor will revert to him.

AMENDMENT NO. 1197

Mr. MONDALE. Mr. President, I call up my amendment No. 1197.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MONDALE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

> On page 109, between lines 17 and 18, insert the following new subsection:
>
> (c) ALLOWABLE EXPENSE DEDUCTION OPTION.—Benefits or advantages that an individual receives or is entitled to receive for allowable expense from a source other than no-fault insurance shall be subtracted from loss in calculating net loss for allowable expense where—
>
> (1) such source other than no-fault insurance provides or is obligated to provide such benefits or advantages for allowable expense, as defined in section 103(2) of this Act, without any limitation as to the total amount of such benefits or advantages obligated to be provided.
>
> (2) such benefits or advantages are provided by such source other than no-fault insurance on terms and conditions which comply wholly with the provisions of sections 103 (6), (7), and (16), 109 (c) and (d), and 111 (d) of this Act and subject to all authority set forth therein;
>
> (3) such source other than no-fault insurance is required by the applicable State no-fault plan for motor vehicle insurance in accordance with this Act to share, on an equitable basis, in the financial burdens and costs of operation of plans established pursuant to sections 105 and 108 of this Act;
>
> (4) such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficaries under such group insurance have received notice that there will be such subtraction; and
>
> (5) the commissioner finds that such subtraction will result in economic benefits greater than those which would result from coordination pursuant to section 204 (f) of this Act on the basis of a hearing in which interested parties present competent evidence.
>
> The commissioner shall promulgate rules to assure that the economic benefits found under paragraph (5) of this subsection are realized. As used in this subsection (A), "group insurance" means any plan of insurance offered or provided to members of a group not organized solely for the purpose of obtaining insurance, under the terms of a master policy or operating agreement between an insurer and the group sponsor, and incorporating group average rating, guaranteed issue with or without minimum eligibility requirements, group experience rating, employer contributions, and any other benefit to the members as insureds that they may be unable to obtain in the ordinary channels of insurance marketing on an individual basis; and (B) "group sponsor" means the employer or other representative entity of an employment-based group. Sections 103 (10), (11), and (12) of this Act are inapplicable with respect to such definitions.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider three nominations which I understand have been cleared, two of them having been reported earlier today.

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

DEPARTMENT OF THE TREASURY

The second assistant legislative clerk read the nomination of David Robert Macdonald, of Illinois, to be an Assistan Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of Mary T. Brooks, of Idaho, to be Director of the Mint.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The second assistant legislative clerk read the nomination of William E. Simon, of New Jersey, to be Secretary of the Treasury.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

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

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to, and the Senate resumed the consideration of legislative business.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

Mr. STEVENS. Mr. President, will the Senator from Minnesota yield for an inquiry?

Mr. MONDALE. I yield.

Mr. STEVENS. Mr. President, it is my understanding that the Senator from Minnesota has called up amendment No. 1197. I have an amendment to his amendment. It is my further understanding that the time for the Senator's amendment expires tomorrow, and there is unanimous consent that after 20 minutes' debate tomorrow a vote is scheduled on his amendment.

Am I correct that I cannot call up my amendment to his amendment until all time has expired?

The PRESIDING OFFICER. The Senator cannot call up his amendment tomorrow until all the time has expired.

However, the Senator could call up the amendment today.

Mr. STEVENS. Is it in order for me to call up my amendment to his amendment before his time has expired under the unanimous-consent agreement tomorrow?

The PRESIDING OFFICER. If the Senator waits until tomorrow it would not be in order. If he proceeds today it would be in order.

Mr. STEVENS. I thank the Presiding Officer. If it is agreeable with the Senator from Minnesota, I shall try to call up the amendment this afternoon, at the Senator's convenience.

Mr. MONDALE. I thank the Senator.

The PRESIDING OFFICER. The Senator from Minnesota may proceed.

Mr. MONDALE. Mr. President, I have called up amendment No. 1197 because I think there is a fundamental and important improvement needed in the pending no-fault insurance bill.

This amendment is a consumer amendment. It is designed to insure that the benefits of no-fault insurance will be available to the consumer at the lowest possible cost. Although no-fault is designed to achieve many goals, we must never lose sight of the important goal of serving the American insurance consumer. This amendment will serve the consumer in an extremely important way—it will save him money.

My amendment will permit health insurers a role in the new nationwide auto insurance system. Specifically, it will allow the health insurers a chance to effectively compete with the auto insurers. The amendment provides, as a national standard, that the obligation of a motor vehicle owner to purchase no-fault insurance can be satisfied in an alternative way with respect to the allowable expense portion of the no-fault package. Allowable expense benefits are those for professional medical treatment and care, emergency health services, medical and vocational rehabilitation services, and funeral expenses in the case of death. Subject to certain conditions, the motor vehicle owner can satisfy this requirement to provide allowable expense protection by having a group health insurance policy provide the allowable expense benefits.

In order for the owner to satisfy the requirement through his group health insurance policy, the nonauto insurer—the health insurer—must, like the auto insurer, pay all reasonable medical, rehabilitative, and other allowable expenses without limitation; must subject itself to the same legal responsibilities as the auto insurer—such as, for instance, the obligation under section 111 (d) of the bill to "promptly refer each victim to whom * * * benefits are expected to be payable for more than 2 months to the State vocational rehabilitation agency"; and must share, on an equitable basis, in the financial burdens and costs of operation of the plans which national standards require for the hard-to-place risk and the victim of an uninsured motorist. In short, all insurers—auto and nonauto—are subject to the same requirements. Only in this way can true competition be fostered.

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

Mr. MONDALE. I yield.

Mr. HATHAWAY. I thank the Senator for yielding. I have to return to a conference on the legal services bill. I would like to ask one question.

I am in favor of the Senator's amendment but I have one problem, and that is with respect to the State insurance commissioner's evaluation. Actually, I have two questions. First, how is the commissioner going to make this evaluation, and second, is there a provision in the amendment for review of that evaluation upon petition by the carrier that loses out in the first instance?

Mr. MONDALE. The determination by the commissioner of insurance must be made at a public hearing in which all interested parties may participate, and that approval must be based on a finding by him that the use of the health insurance option—and I use the words out of the bill—"will result in economic benefits greater than those which would result from coordination pursuant to section 204(f) of this Act, on the basis of a hearing in which the interested parties present competent evidence."

In other words, the commissioner, after hearing, can coordinate against the auto insurance, rather than the other way around, if they find the consumer will make a savings in that way. There are no specific procedural rules concerning appeals and the like but there is nothing to prevent a commissioner of insurance from opening it up and having a rehearing, and so forth.

Mr. HATHAWAY. I wish to ask the Senator's opinion as to whether it would be advisable to amend his amendment to require a State insurance commissioner to hold a review, say, every 2 years.

Mr. MAGNUSON. Mr. President, may we have order so we can hear the discussion? No one can hear. The conference that is going now could take place in the cloakroom. It should not be held on the floor.

Mr. MONDALE. I thank the Senator.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MONDALE. I wish to say to the Senator from Maine that I would like to ponder the question as to additional procedural protection. I will try to respond later.

Mr. HATHAWAY. I thank the Senator.

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

Mr. MONDALE. I yield.

Mr. TUNNEY. Mr. President, I ask unanimous consent that Jane Frank of my staff be granted the privilege of the floor during the remainder of the day.

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

Mr. MONDALE. Mr. President, I ask unanimous consent that Mr. Robert Barnett be given the privilege of the floor during the course of the consideration of this legislation.

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

Mr. MONDALE. In addition, the arrangement or option sanctioned by my amendment can only apply if the benefit source other than no-fault insurance is true group insurance, as specifically defined in the amendment, and if the members of the group are first notified of this option and advised of what steps to take to insure that their auto insurance premiums are reduced accordingly.

Finally, this option, like all others in S. 354, must be subject to and approved by the State insurance commissioner of the applicable State on the basis of full, public hearings by him and a finding by him that use of the health insurance option "will result in economic benefits greater than those which would result" from coordination between auto and health insurance under section 204(f) of the bill. This absolutely guarantees that savings to consumers will be real, and not illusory.

I have heard many arguments with respect to whether or not the consumer will save if health insurance is made "primary." I believe it is only fair to permit health insurers to participate on an equal footing if they can save con-

sumers money without lessening the protection of the buyer of insurance and the victim of highway accidents.

There is another advantage to allowing the option of health insurance as "primary." The entire free-enterprise system of insurance will benefit. The amendment will foster competition in the insurance industry. It is consistent with the overall philosophy of this legislation which is to provide protection to the American motorist at the lowest possible cost in his role as a consumer of auto insurance and in his possible future role as a victim of an automobile accident.

I am happy to add that Prof. Jeffrey O'Connell, the coauthor of the principal work on no-fault insurance, supports the concept embodied in my amendment.

Mr. President, this amendment involves a great deal of complexity, but the principle is very simple. Under the present bill it is possible to coordinate in instances in which there is duplicate insurance—that is, insurance under an auto insurance policy which covers health and rehabilitation costs, and another policy for which one is paying full premiums but covers the same costs under health insurance, so that, in effect, one has double coverage.

Under the pending bill as it now reads, it is possible to reduce the health insurance premiums to avoid duplication, but it is not possible to reduce the auto insurance. In other words, one can coordinate against health coverage, but one cannot coordinate against the auto insurance coverage. What this amendment tries to do is simply this: Where one can save more money, yet receive the same coverage, by reducing the auto insurance premiums, rather than the health insurance premiums, he ought to be able to do it that way.

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

Mr. MONDALE. I yield.

Mr. HARTKE. Under a national health insurance program, what would be the effect of it under the bill as now written, and what would be the effect under the Senator's amendment?

Mr. MONDALE. The way the bill reads now, any government required health insurance is primary. In other words, right now, under the pending bill, if one is under medicaid, that is the primary coverage. So when the Senator talks about a national health insurance program that may be passed, that would be primary under the bill.

Mr. HARTKE. So, in effect, the coverage itself would come from the health insurance carrier?

Mr. MONDALE. That is correct.

Mr. HARTKE. And that would mean that, as far as the insurance carrier is concerned, there would be no liability for the health part. Is that correct?

Mr. MONDALE. Yes, to the extent that the Government mandated health coverage and gave one a complete return on the economic loss and health care.

Mr. HARTKE. What about to the extent that there is partial coverage?

Mr. MONDALE. To the extent that there is partial coverage, it would be the primary coverage. Then the auto insurance would take over after that, if there is partial coverage.

Mr. HARTKE. As the bill is written, take the Government employee who goes into the health insurance program. The primary coverage would come from his health policy?

Mr. MONDALE. That is correct, if it is a government-mandated policy.

Mr. HARTKE. If it is a government what?

Mr. MONDALE. Government-mandated or provided policy.

Mr. HARTKE. Or provided, But under the health insurance policy——

Mr. MONDALE. If one is a member of the military forces, for example, he is covered for his health costs. That would be the primary coverage under this bill.

Mr. HARTKE. I am talking about an employee of the Department of Health, Education, and Welfare, for example, who goes into the health insurance program with the Government.

Mr. MONDALE. The Senator is talking about the health insurance coverage for Government employees generally?

Mr. HARTKE. That is correct.

Mr. MONDALE. That is not mandated at this time.

Mr. HARTKE. It is not mandated, but would it not be the primary coverage because it is a government-paid-for policy, and they would give primary coverage to that carrier?

Mr. MONDALE. Under the present bill, it says "coordinated," which would mean that the premiums under the government health insurance policy would be reduced.

Mr. HARTKE. Not would be, could be, reduced.

Mr. MONDALE. Could be.

Mr. HARTKE. There is a difference.

Mr. MONDALE. If there is coordination, the bill under present consideration would require a reduction in that premium.

Mr. HARTKE. Under the Senator's amendment, it would permit or require that the automobile insurance coverage be reduced?

Mr. MONDALE. What it would do is this: As I understand the present bill—I think I have it right; it is very complicated—where there is duplicate coverage between auto insurance and one's private health insurance, he can coordinate in only one way, to prevent duplication——

Mr. HARTKE. By coordinate——

Mr. MONDALE. Let me finish my explanation. One can coordinate—which means eliminate duplicate coverage—by reducing the premium on his health insurance, but he cannot coordinate the other way around, by reducing his auto insurance, even if he gets a better deal on his health insurance than he does on his auto insurance covering the same health problem.

What this amendment seeks to do is this: Where one is a member of a group health policy and the State commissioner of insurance determines that he has the same coverage mandated under this law with a lower premium than he had under the auto insurance policy, he is permitted to keep his health insurance policy, in this case, as the primary coverage for health cost, but then reduce the auto insurance premium accordingly since it would no longer be the coverage for the health cost.

Mr. HARTKE. To that extent, the Senator would change the present bill.

Let me ask the Senator a question with a specific example in mind. Take a union contract where there is group health insurance at the present time. What the Senator is saying is that at the present time the group health insurance would automatically be reduced by the State Insurance Commissioner to the extent that there would be an attributable factor for automobile liability.

Mr. MONDALE. Is the Senator talking about the pending bill or about my amendment?

Mr. HARTKE. I am trying to get the bill straightened out.

Mr. MONDALE. But is the Senator talking about the bill or my amendment?

Mr. HARTKE. I am talking about the bill first.

Mr. MONDALE. The Senator is correct. If the question is directed to the pending bill, the answer is "Yes."

Mr. HARTKE. If there is a negotiated contract between the union and the employer, the insurance commissioner would have authority to go in and reduce that premium under the bill.

Mr. MONDALE. If there is coordination, that is correct.

Mr. HARTKE. If there is coordination.

Mr. MONDALE. That is correct.

Mr. HARTKE. That would mean that the insurance carrier, as far as the group policy is concerned, would have automatic rejection of the contractual obligation which had been entered into by the union.

Mr. MONDALE. There is no mandated coordination. It would have to come about as a result of an agreement of the two parties.

Mr. HARTKE. My understanding is that the insurance commissioner could mandate the reduction under the bill.

Mr. MONDALE. Only if there is coordination.

Mr. HARTKE. So what we are faced with at this time is the possibility of paying for two coverages. Is that right?

Mr. MONDALE. Mr. President, at present that is often the case. We have automobile insurance coverage and private health insurance coverage which is duplicative.

Mr. HARTKE. That would mean that we would have in effect, as far as union contracts are concerned, an operation which would force the insurance carrier for organized labor to forfeit part of his premium income——

Mr. MONDALE. Once again, the Senator is talking about the pending bill?

Mr. HARTKE. I am talking about the present bill. We could not force it. However, that would be the effect.

Mr. MONDALE. That would be for 5 percent. The Senator is correct.

Mr. HARTKE. The 5 percent factor is not necessarily a determinative factor at the moment. Is that correct?

Mr. MONDALE. That is basic, accord-

ing to the best estimate. It is not based on any actuarial determination. It is based strictly on an estimate.

The group health concerns, which are the ones that we are talking about, report that 5 percent is their figure of the business they have that is attributable to this.

Mr. HARTKE. I understand. However, what the Senator is saying is that the so-called coordination, which is really the remainder of the insurance premium, could be applicable in either direction.

Mr. MONDALE. The Senator is correct.

Mr. HARTKE. But it would still be voluntary and it would have to be arranged between the parties.

Mr. MONDALE. The Senator is correct.

Mr. HARTKE. What the Senator is doing is going to the carriers and asking them to give up a part of their business?

Mr. MONDALE. Where there is duplicative coverage, the bill provides that there can be coordination only in one direction by reducing the premiums paid to a group health plan.

Mr. HARTKE. I understand.

Mr. MONDALE. That would be true even if one could save money if he coordinated in the other direction.

Mr. HARTKE. I understand that.

Mr. MONDALE. What we are saying is that obviously, since the key purpose underlying this bill is to give the coverage mandated at the lowest possible cost to help the consumers, we ought to be able to go in a direction which would save the consumer the most money. That is why the amendment I am proposing permits coordination against the insurance companies in those circumstances where it can be determined to the satisfaction of a State insurance commissioner that there will be a saving to the group health policyholder by such procedure.

Mr. HARTKE. But under each circumstance, the operation would be permissible.

Mr. MONDALE. It has to be permissible.

Mr. HARTKE. That is where we get into the question of coordination. It is necessary to coordinate the whole operation. What the Senator is saying is that if it is fair for the insurance carrier to be permitted to be a secondary carrier, it should be fair the other way around.

Mr. MONDALE. The Senator is correct.

Mr. HARTKE. The net result is that it will have the effect of establishing who will pay the premium.

Mr. MONDALE. The Senator is correct. It is really a squabble that is necessary. I am proposing that it be the most important person, and we say that the most important person is the person who pays the premium. It is his money or her money, and we want to be sure, when we are at it, that the American public can buy insurance and get the best possible coverage under the lowest prices. This amendment is designed to do just that.

Mr. HARTKE. Mr. President, I am not arguing the merits of the amendment as the Senator explains it because I think the Senator is right. However, the difficulty is that it is permissible and not mandatory. Why does not the Senator make it mandatory and provide that the person buying the coverage shall pay the lowest possible cost as determined by the State insurance commissioner.

Mr. MONDALE. Mr. President, we state that the option must be available and that the State insurance commissioner on the basis of a full public hearing and a finding by him that the health insurance option will result in health insurance benefits at his option greater than those which would result from coordination against the insurance company than in the alternative where that savings has been established. I think that is the way to do it.

Mr. HARTKE. Then the Senator is making two changes in the bill. He is making it coordinate to run in both directions, and he is also changing it from a permissive to a mandatory character. Is that correct?

Mr. MONDALE. It mandates the existence of the option. That is what it does.

Mr. President, I yield to the Senator from Washington, the chairman of the committee.

Mr. MAGNUSON. Mr. President, the Senator talks about health insurance programs, about national health insurance. I hope Congress will pass national health insurance in some form, and quickly. But in the meantime, as long as it does not exist, this program can be called upon to save the American public many dollars in premiums until the other legislation shows up. Then they can make a choice.

If one is a member of the union, he has pretty good medical coverage. At any rate, most of them do. They also have taken out auto insurance.

If the no-fault insurance legislation becomes law, what the Senator is suggesting means that a person who belongs to a group may be able to avoid spending as much money for auto insurance. But only if the group health insurer pays the same unlimited benefits, meets the same standards, will the consumer save more money than he would by coordination under section 204(f).

There is the option that a lot of people in this country have right now, the option of having double coverage. We in Congress have a health insurance program. We all contribute to it, both in the House and the Senate. Also, I suppose that many of us carry a medical payments rider on our auto insurance policies. We can get double payment now, triple payment if we also have a good tort lawsuit. I have that double coverage now.

Mr. MONDALE. Mr. President, let me comment on another point which the Senator from Indiana wants to raise. It seems to me that one of the approaches I am suggesting is that it will get auto insurance companies to provide health insurance coverage and have the insurance companies compete with one another and get the premiums down. That is what we want. We want competition in order to reduce the premiums to the lowest extent possible, and thus benefit the consumers. Under the pending bill, there will be some competition. However, I think that this amendment will improve it.

Mr. HARTKE. Mr. President, I will take up the national health measure in a moment, but I will drop it for the moment. However, I think I understand it. The point still is that under the bill as the Senator proposes it, if we had a group health insurance program which provides all the benefits and covers medical and hospital expenses——

Mr. MONDALE. It has to give the benefits mandated under the bill.

Mr. HARTKE. Then we would have no need to have any automobile insurance for personal injuries whatsoever. Is that right or wrong? I understand what the Senator wants.

Mr. MONDALE. It depends on what one wants. If some group wants the option, all we do is to mandate the option.

Mr. HARTKE. But it would apply to the same program.

Mr. MONDALE. But we want the option. One could have duplicate coverage, if he wants it, or single, primary coverage, if he wants that. He could then go either way. However, we want to mandate the options so that one could have his choice, which he cannot have today.

Mr. HARTKE. Mr. President, will the Senator from Minnesota yield?

Mr. MONDALE. I yield.

Mr. HARTKE. Let me state my understanding of the situation and the Senator from Minnesota may correct me if I am wrong. Under the bill as it is now written, the primary coverage really comes from the nonautomobile insurance carrier; is that not correct?

Mr. MONDALE. Under the bill, the primary insurance comes from the auto insurer.

Mr. HARTKE. Under the bill, yes. Under the situation or under such a circumstance, in the event there is apparent duplicate coverage found by the insurance commissioner to be duplicate coverage, there could be a reduction of the premium cost so far as the nonautomobile insurance carrier is concerned; is that not correct?

Mr. MONDALE. That is correct.

Mr. HARTKE. That would have to be done with the consent of the parties and not enforced by this legislation; is that not correct?

Mr. MONDALE. That is correct.

Mr. HARTKE. What the Senator from Minnesota proposes to do is to make that work in both directions; is that not correct?

Mr. MONDALE. That is correct.

Mr. HARTKE. It would permit the insurance carrier—the automobile insurance carrier and the nonautomobile insurance carrier to work, so far as they are concerned, to reduce the premium in accordance with whichever provided the best benefits at the lowest possible cost as found by the insurance commissioner; is that not correct?

Mr. MONDALE. That is essentially correct, under the bill, at the lowest premium cost.

Mr. HARTKE. That cannot be done in either case under the mandatory form—both the bill and the amendment by the Senator from Minnesota still are permissive and not mandatory——

Mr. MONDALE. There are three alter-

natives. One is total duplicative coverage. The second is that the auto insurer has primary coverage; and the third alternative is a group health policy as the primary coverage. There are three possibilities, depending on the group. There may be groups which want health coverage, and they should have that right. Other groups may want auto insurance coverage—others a health policy coverage. What this does is to mandate that all three options will be available. It does not seek to predetermine in any particular instance what the consumer of health coverage in the event of an auto accident may want. It leaves it up to the group. What it does mandate is that all the options shall be there under the bill and, as the Senator from Indiana has pointed out, even if the consumer can get a better break through the health insurance route rather than the auto insurance route, it is not possible.

Mr. HARTKE. What I am trying to straighten out are the facts, not the judgment. Under the bill as it is now written, it is permissive. Under the Senator's amendment, it is also permissive. But it is mandated to be permissive.

Mr. MONDALE. It is not permissive in this bill, if we mandate the options of primary coverage under health insurance.

Mr. HARTKE. It is permissive under the bill, too, because there is no way to force, even under the bill, the nonautomobile carrier to forfeit his premium unless there is an agreement.

Mr. MONDALE. Under the present bill, we can mandate the consumer to buy automobile insurance and then his only recourse is to get a break on the health insurance.

Mr. HARTKE. That is right. The consumer has the option of having the benefits if the carriers agree to give it to him.

Mr. MONDALE. Under the bill.

Mr. HARTKE. Under the bill and your amendment, both.

Mr. MONDALE. Our amendment gives the members of a group health organization the option to go to—we mandate the option of going to the State insurance commissioner and if they can establish that they have a better break, to do so, and then there will be a reduction in auto insurance premiums in that amount, with the coverage under health insurance mandated by the State insurance company.

Mr. HARTKE. Is the Senator telling me that they can be mandated to reduce the insurance premium of the automobile carrier, under the Senator's amendment?

Mr. MONDALE. That is correct. That is the idea.

Mr. HARTKE. It may be the idea. I did not understand that it could be mandated.

Mr. MONDALE. Presently they have that authority to adjust rates. Under my amendment, if they determine that the group health insurance carrier is the best bargain for the insured, they would then declare the health insurance as the primary coverer, and they would reduce, by an insurance commission order, the auto insurance premiums accordingly.

Mr. HARTKE. I say to the Senator from Minnesota that I intend to support the amendment. It is better than the bill. I think that if the Senator will read that carefully, he will find that it is not the consumer who has the option in this field; but I am willing to go ahead and accept that for the moment, because I am going to vote for the amendment, anyway.

If the national health insurance bill becomes law and if it provides the same basic benefits as are required under the bill, then who becomes the primary carrier, if the Senator's amendment becomes the law?

Mr. MONDALE. The health insurance.

Mr. HARTKE. The Government. So, if we have a national health insurance program, what the Senator has done, in effect, is to completely eliminate all tort liability and insurance carrier necessity so far as automobile insurance for personal injury is concerned.

Mr. MONDALE. I think the Senator is getting into another area. We are talking here only about what is called allowable expense benefits. We are talking specifically about professional medical treatment and care, emergency health services, medical and vocational rehabilitation services, and funeral expense in case of death. We are not talking about pain and suffering and the intangible returns. That comes under different provisions.

Mr. HARTKE. At the present time, even to recover hospital expenses and medical expenses and loss of earnings, that is a tort liability.

Mr. MONDALE. Under the present law.

Mr. HARTKE. And the Senator's amendment would abolish that part of the present law.

Mr. MONDALE. That is correct.

Mr. HARTKE. If we have a national health insurance bill which provides for the same basic benefits, there is absolutely no need for this law whatsoever, because the national health insurance becomes the primary carrier. Under such circumstances, there is no need for the secondary carrier to be there, because you will have all the coverage.

Mr. MONDALE. National health insurance, as proposed, does not cover disability income, replacement services loss, survivor's loss, or residual tort liability. In other words, there are areas in the proposed national health insurance, even if it is passed—and one of the problems in answering the Senator's question is that we do not know whether it is going to pass or if anything will pass. I know of the Senator's deep interest in this matter, but even if it does pass, it will not take care of all the costs envisaged in this measure.

Mr. HARTKE. My understanding is that as the amendment by the Senator from Minnesota is written, it would permit coordination against a national health insurance program, too, unless we specifically excluded that and reverted to the original provisions of the bill as it is now written.

Mr. MONDALE. That is not correct.

Mr. HARTKE. What is wrong with that?

Mr. MONDALE. Under the bill, the Government-provided benefit is primary to the auto insurance. Under our amendment, it would be subtracted from the health insurance coverage.

Mr. HARTKE. So what we have here, in effect, if we have a national health insurance bill, is a bill left with a limitation on tort liability for pain and suffering, with the continuation of the tort liability for enonomic loss, with limitation upon that. Is that not correct?

Mr. MONDALE. The wage losses are substantial.

Mr. HARTKE. I understand that.

Mr. MONDALE. They are covered under this bill.

Mr. HARTKE. I understand that. I am not saying that the wage losses are not substantial. There is a limitation on wage losses, is there not?

Mr. MONDALE. Yes.

Mr. HARTKE. There is a limitation on wage losses. There is a limitation on tort liability for pain and suffering above a certain amount, upon a limitation of days.

So what we have here is a bill which, for all intents and purposes, is going to take that section which is the ordinary primary cost—that is, the hospital expenses, the doctors' expenses, and those incidental to that—those items, if they are covered by national health insurance, become primarily covered under national health insurance, and then you have just that much segment left with property damage and a limitation section on automobile liability insurance. Is that a fair statement?

Mr. MONDALE. Except for the wage loss protections. It is probably a much larger portion of the primary than the Senator indicates.

Mr. HARTKE. I am not arguing against the amendment of the Senator from Minnesota. I hope he understands that. I am just showing him the trap he is getting into and the whole trap of no-fault. All the options are given to the insurance companies.

Mr. MONDALE. We want the consumer to have more options, to get the best bargain, and we do so by providing that if he can get better coverage for his health costs under this bill through his private health insurance carrier than he can under auto insurance, he ought to be able to do that.

Mr. HARTKE. But the consumer ought to be able to do it, and the insurance carrier ought not be able to preempt that consumer option.

If the Senator wants to make it really effective, why does he not make it mandatory? I can give the Senator the answer, I think, but I want to know the answer of the Senator from Minnesota.

Mr. MONDALE. I think there should be options. In other words, some groups may want duplicate coverage; they may want both. Some groups may want auto insurance rather than private. They have to have an option. That is why we mandate the option but leave it up to the groups to decide what they want.

Apparently, the Senator from Indiana

suggests that we should decide what is best for them and mandate under all circumstances what that result ought to be. My amendment does not go that far. Perhaps the Senator from Indiana is correct. I do not think we should mandate it to that degree of specificity.

Mr. HARTKE. All I am saying is that if the Senator really wants to treat the consumer right, he should not make him pay twice for the same benefit if he can collect only once.

Mr. MONDALE. But suppose he wants to have double coverage. He can collect twice.

Mr. HARTKE. No. He has a primary coverage.

Mr. MONDALE. The primary does not mean that he can collect twice.

Mr. HARTKE. Under most policies they are exclusionary.

Mr. MONDALE. That is what coordination is about.

Mr. HARTKE. He is going to collect twice for his hospital bill?

Mr. MONDALE. That is what coordination is about.

Mr. HARTKE. I thank the Senator.

Mr. MAGNUSON. I point out to the Senator from Indiana that any State can exceed the national standards if it wishes. We leave it open. This is only a minimum standards bill, and any State can go upward. I hope these States will exceed the minimum. This bill will only take effect after 4 years, with the amendment, offered by the Senator from Delaware (Mr. BIDEN), in States that are doing something already.

Mr. HARTKE. My understanding is that this cannot be made mandatory, that it still has to be permissive, and that the insurance carrier would have to agree. Am I correct in that? If the Senator from Washington is correct, that is an entirely different ball game. That is not my understanding of the amendment.

Mr. MONDALE. If an insurance carrier will not do it, then the policyholder will change policies and go where he can get the break.

Mr. HARTKE. He might; but if he is working for General Motors in Detroit, I cannot see how he is going to change his group policy very easily and get another carrier.

Mr. MONDALE. That comes under collective bargaining.

Mr. DOMENICI. Mr. President, will the Senator yield for a question?

Mr. MONDALE. I yield to the Senator from New Mexico.

Mr. DOMENICI. I wish to ask the Senator whether I understand correctly what he is trying to do. I certainly want to indicate first that I favor any broadening of the options to give the alternative in terms of primary coverage, but I have a couple of observations and I would like to share them with the Senator from Minnesota and see if I am correct.

The Senator's amendment deals only with group health policies that would supply all or some of the coverage required by the no-fault bill as it is before the Senate.

Mr. MONDALE. The Senator is correct.

Mr. DOMENICI. On the other hand, the bill makes all no-fault policies primary coverage for medical coverage. If individuals have another policy they are nonetheless required to take out primary coverage on themselves, covering them for injury to themselves to the extent this bill mandates unlimited medical coverage in its present form.

Mr. MONDALE. The Senator is correct.

Mr. DOMENICI. I suggest the Senator's concern for group coverage that could become primary in whole or in part, if as the Senator indicated the consumer benefits from that, is that there is a significant void because no procedure is provided—if I am correct, if I am not correct I hope the Senator will correct me—for the insurance commissioners of States to permit private coverage, non-automobile in nature, to cover for that same medical that we are requiring under no-fault.

If we could find a way to do that it would seem that one could comply without the fear I have, and I have shared it with the Senator, that if we put this bill into effect, we are going to find millions of Americans who for a substantial period of time are going to be paying two substantial premiums without understanding why and they are going to get unlimited medical coverage, and they will have some individual policy covering them for the same thing. There is no mandate other than under section 204(F) that anyone can do anything about that. Does the Senator agree it is a serious problem and is there any way we could further protect against double coverage, the primary responsibility being on no-fault?

Mr. MONDALE. There is a practical reason for the limitation on my amendment to apply to group policies. That is the only way that makes administrative sense. Otherwise it would be an administrative impossibility to administer at the State level. It should be observed, however, that this double coverage involves about only 5 percent of the premium cost, and if there is duplication, it entitles a person to double coverage in the case of loss. I think that reality has to be borne in mind. This is the best we could do to bring the consumer the best possible coverage.

Mr. DOMENICI. I have one last observation. I understand it is very difficult administratively. On the other hand, it is obvious we are talking about primary coverage on one's own person; it is really medical coverage on one's self that we are talking about. I know it is a difficult problem administratively but it seems to me if we are looking to the individual to find some way to cover himself and certify to the insurance commissioner he has such coverage, the point is it is on himself and not on other parties, and I wonder if we would be remiss in not considering that matter even if it is difficult administratively.

Mr. MONDALE. In effect, there would be no savings if anything other than group policies were considered. Reference was made to 5 percent. This amendment is operative only in those circumstances where premiums will actually be less than they would be with primary automobile insurance coverage. If you proceed on an individual basis other than the true group policies, it is believed that possibly all savings would not exist. That is a fact that should be kept in mind.

Mr. DOMENICI. I thank the Senator.

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

Mr. MONDALE. I yield.

Mr. STEVENS. I would like to have a discussion with the distinguished Senator as to the cause for my amendment. I would like to relate for the RECORD a bit of history.

When this bill was first presented to the Senate, it was presented as a Federal no-fault bill. That bill would have preempted the States entirely in terms of their insurance programs in the automobile insurance field. It was at my request that the chairman of our committee authorized us to go into, and we went into a special type session with the insurers and the various consumer groups. We worked out a concept which is in the bill now, a concept which deals with national standards for State no-fault motor vehicle insurance. We are not dealing with health insurance. We are dealing with motor vehicle insurance on a concept of a total reparation plan so that the automobile insurance system that is prevalent in this country would cover the losses that come from the utilization of the system.

It is a different concept than in the original bill, although title III contains most of the original bill which becomes applicable if the State does not see fit to adopt the State plan.

In this bill we set standards for State action. We did not mandate State action.

The Senator from Minnesota's option is really not an option to the State. It is an option to allow a particular group of citizens covered by a State plan to take action. Therefore, would not the Senator from Minnesota agree with me that his amendment mandates that a State must include in its plan the provisions contained in his amendment?

Mr. MONDALE. There are three possible options. First, duplicate coverage of health and automobile; second, auto insurance primary coverage; and the third alternative, which is mandated by this amendment, is that the States must allow primary coverage by group health where, after a hearing, the commissioner determines those covered would have a lower cost by that alternative than the others. When he does, it mandates the existence of a third option.

Mr. STEVENS. But under the Senator's approach every State plan that is adopted pursuant to title II would have to contain the provisions of those three options. Is that correct?

Mr. MONDALE. That is correct.

Mr. STEVENS. The Senator does not conceive of any circumstances under which a State might decide that any one of those options should not be available under this plan because of other circumstances that exist in the insurance field in that State?

Mr. MONDALE. The pending bill, in effect, mandates the absence of an option that would save the consumers money. So there is a mandate against the consumer. We are mandating avail-

ability of all the options, not to the exclusion of the others. It depends on how one wants to define the word "mandate," but we are broadening the availability of the options under which the consumer will get the best bargain in each of the States.

We see no reason why a State should be able to deny an option under a national no-fault bill which would have the effect of allowing the consumer to pay lower premiums than he would have to pay otherwise.

Does the Senator from Alaska know any reason why we should have a bill that artificially causes higher premiums because of that objective?

Mr. STEVENS. I would say to my friend from Minnesota that he does not understand the bill.

Mr. MONDALE. I understand it, and I think I understand the amendment of the Senator from Alaska. What it means is that, if a State legislature was close enough to the auto insurance industry that it wanted to keep higher premiums by denying the third alternative, it could get away with it. That is what that amendment would do.

Mr. STEVENS. If the Senator from Minnesota understood the bill, he would understand the concept involved of trying to get the insurance coverage for the automobile system to be all-inclusive so that a portion of that system was not borne by people outside of it.

Under this system, if one has an automobile, he carries his own insurance for himself and the people in his automobile. He knows whether he has insurance which is health insurance. The Federal Congress does not know that.

The Senator from Minnesota asked: Can I imagine a Federal no-fault bill which would mandate what the Senator says is double coverage? This is not a Federal no-fault bill. This is a bill setting standards for State action. It says any State which has a no-fault system which meets certain minimum standards would not be subject to title III, which is a Federal no-fault system.

If the Senator wants to put a mandate in, under his interpretation of what protects a consumer, he should put it in title III. My amendment would leave it to the States. It does not leave it to the States to double the consumer's cost; it leaves it to the State legislatures to devise the best standards possible in that State—which is entirely consistent with the concept of the insurance system.

It so happens that most of the people the Senator is talking about covering here would come under group coverage. There are some States that do not have much group coverage—my State, for instance. There are not large groups of people covered by group insurance. We are individuals. We carry individual policies. Most of the people are not covered by group innsurance, although the Government employees are.

I invite attention to what the Senator's amendment would mean in terms of Government employees. We have a system which is based on a biannual review of insurance costs. Under my amendment, if a State has adopted a system which makes that insurance the primary one and a person is covered by a group policy which does take the loss experience concept into consideration in the premiums, the premiums are going to go down; they are not going to go up. Groups are not going to be hurt. Again, it is a system for each State to adopt under title II.

Senator from Minnesota says "no." He says we want to mandate each State so that it must have in any plan a provision that makes health insurance the primary one, and if there is a duplication, it means that the nonautomobile insurance must pay for the losses in the accident field.

Mr. MONDALE. That is wrong. What we are talking about in my amendment is a very simple proposition. As we pass this bill, we say that the consumer should come first with this insurance, it is his money, and we ought to mandate a system which brings all possible savings to consumers.

The present bill says that, in instances where an owner of a group health insurance policy could buy the health coverage mandated by this bill for a lower premium that he could buy through an auto insurance policy, then he should have the right to save that money .

The Senator from Alaska's amendment says he should not have the right to save that money in States where the insurance industry is strong enough for the State legislature to deny it to them. I do not see any reason for that amendment, because what we want to do here is to give the consumer the best possible break.

The bill that is here right now mandates a requirement which goes part of the way, because it gives two of three options, but it does not mandate the other option, namely, the mandate of the less expensive coverage under mandated group health insurance policies.

I do not see any merit at all to a measure which says, let us turn this issue over to the State legislatures and makes the consumers fight this issue as to whether they can get the best break for their money. After all, we are mandating a no-fault insurance system in every State of the Union. We are mandating a policy coverage against economic loss in every State of the Union. We have gone that far. Why do we not also mandate that the people paying the premiums get the best possible bargain?

Mr. STEVENS. I will answer, if the Senator will allow me. If the Senator will look at the bill properly, what we are saying to the States is that the people who use automobiles in a certain State are a group and the State legislature should devise a plan under the no-fault system so the people in that group receive the lowest possible coverage so they can cover the people who are in their cars.

What the Senator from Minnesota is saying is that when any group is covered by a health group insurance policy, it can be taken out. The result is, in my State, that the individuals who are not members of a group are going to pay more for no-fault insurance and more for health insurance because groups are going to pay less. I want the State to make that determination.

Mr. MONDALE. The Senator is absolutely wrong.

Mr. STEVENS. I understand the Senator from Minnesota has the floor, but I wish he would allow me to continue.

Mr. MONDALE. All right.

Mr. STEVENS. The Senator from Minnesota is the one who is wrong, because all automobile users are one group, and he is concerned with group health beneficiaries. We are trying to set up a system of automobile reparations so that people in a particular State will get the lowest possible automobile insurance, and the Senator from Minnesota insists that groups as consumers get this benefit, and that any small group, by getting a better price, can get themselves out of the no-fault group. That reduces the bill for certain people, but the people in my State are going to find their no-fault premiums going up.

The State legislatures ought to be able to define that. It may be different in the Senator's State. The experience in his State may be different, but in my State we believe the State ought to be able to determine what is best for the people under a no-fault plan.

My good friend from Washington accepted that approach. Under this bill every State can make up its own mind what is best for its people, consistent with national standards.

My amendment to the amendment simply says that everything the Senator wants is available, subject to the approval of the State legislature. I think that is consistent with a Federal minimum standard approach.

If the Senator's State decides it wants to go that way, fine, but in the States that do not have large industrial complexes covered by large negotiated agreements, the individual States ought to be able to decide if we are better off if everybody buys the same kind of policy and cannot opt to get out because of a very small group on the outside.

If we follow the Senator's approach and do not leave it to the States, and then get a national health insurance program, we will find we have driven out the private carriers in the health insurance field. There may be very few left in the health insurance field in the private sector under the Senator's amendment. That is wrong. That is not what we are seeking under a national health plan. We are not trying to eliminate the private carriers; we are trying to complement them, and I believe the Senator misreads title II.

Title II leaves it to the States subject to the minimum standards. However, the Senator is mandating and not permitting them any option at all.

I really think that if the Senator wants to do this he should put it in title III. Then, if a State wants to do this, it does not have to put in a no-fault insurance plan, and the Federal plan will come into effect.

If the Senator wants to write it that way and take out title II and write a national no-fault insurance plan, he can. I believe that most of the insurance people would prefer that, incidentally. I believe that most national insurance companies

would rather have to deal only with the Federal jurisdiction.

I happen to believe that the States want this to be preserved. Under my amendment it would be preserved. The Senator in his amendment confuses title II with title III.

Mr. MONDALE. Mr. President, I have enjoyed the debate with the Senator from Alaska because my amendment provides that the carrier that can deliver the coverage at the lowest possible cost will be the primary carrier. If an auto insurance company can provide health coverage for a lower premium as the primary carrier in a group health policy, the auto insurance company gets the business.

What the Senator from Alaska is saying in his amendment is that he would still let the auto insurance company have the business, even though the premiums are higher, if the insurance company can get the State legislature to refuse to accede to what I think ought to be the right of those who are being covered, namely, to get a lower premium.

That is what the amendment offered by the Senator from Alaska says. That is what it will do. It will deny to those living in States that have legislatures that will not give them the lowest possible expensive option, the right to have it.

The Senator makes another point, one which I think is answered clearly by the pending measure.

The Senator says that all of the insurance must be included under the same system, a single system of auto insurance. But, of course, if one reads the pending bill, there are several exceptions to it already. There are recognized exceptions in the bill such as workmen's compensation, social security, medicare, and the plans of States that require disability insurance. The reason for such exceptions is that—the aggregate effect is—that they do not eliminate loss of incentive.

The exception which we create in the pending amendment is narrowly drafted and will do no injustice or loss. The provision in the bill is limited to those situations where greater cost savings will result.

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

Mr. MONDALE. Mr. President, I would first like to yield to the Senator from Maine. The Senator from Maine has an amendment to my amendment, which I think makes a great deal of sense.

Mr. HATHAWAY. Mr. President, I thank the Senator from Minnesota very much for yielding.

Mr. President, I call up my unprinted perfecting amendment to the amendment of the Senator from Minnesota and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 3, line 2, strike the period after the word "evidence" and insert the following: ", and such finding is reviewed in a similar procedure by the commissioner not less than once every three years."

Mr. HATHAWAY. Mr. President, I am going to support the amendment of the Senator from Minnesota whether my amendment is accepted or not. I do think, however, that my perfecting amendment that would compel the State insurance commissioner to review his initial findings every 3 years does improve the amendment of the Senator from Minnesota. Under my perfecting amendment, if an insurance carrier was not able to show in the first instance that it could cover the accident insurance involved at a lower cost than its competitor, but later was able to cut its cost during the 3-year period, it would have a second chance to prove that it could do the job for less. This decrease in cost would then inure to the benefit of the insured or the consumer.

Mr. MONDALE. Mr. President, the amendment makes a good deal of sense. It is designed to assure that these determinations by the commissioners are reviewed and it is for the purpose which we approve of and all seek to achieve, and that is an amendment for the benefit of the consumers.

Mr. President, I modify my amendment to incorporate the amendment of the Senator from Maine.

The PRESIDING OFFICER. It will require unanimous consent to do that.

Mr. MONDALE. Mr. President, I ask unanimous consent that I be permitted to modify my amendment to incorporate the due process selection amendment offered by the Senator from Maine.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. MONDALE. Mr. President, I thank the Senator from Maine. His amendment is a strengthening amendment.

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

Mr. MONDALE. Mr. President, I want to comment first on one point; then I will yield to the Senator.

The Senator from Alaska argues that for some strange reason, by persisting in reducing the premiums to persons by offering this standard option, we somehow raise the premiums for those who are not covered by the health group, as I understand it.

That is not the key to the problem. The key is those who are covered under the primary coverage under the third option. The group health policyholders pay premiums for their own coverage. It is still under health insurance coverage for health costs.

Those still under auto insurance coverage for health costs do not pay any of the costs for those who are being primarily covered by group health policies. Neither auto insurance nor primary group health insurance have underwriting policies for the purpose of health costs. So there is no insurance rating differences that would call for a difference in premiums.

Finally, Mr. President, under my amendment the group health concerns would have to pick up the risks along with the other carriers, public or private, of uninsured motorists and the high risks. They would have to spread those risks among all those in the business. Thus, there would be no special experience rating that would dictate a higher premium for the one than for the other.

All this amendment does is to try to deliver a lower premium where the company will produce it, and deliver reduced premiums because it will produce competition. That is the key.

Under the bill in its present form, private auto insurance carriers are guaranteed a monopoly as the primary coverer of health costs. It ignores the fact that we have large health insurance carriers that have the same costs. All it says is: Let us have competition. Let us give the business to the concern which produces the identical coverage at a lower cost.

The Senator from Alaska says: Let us do that only in States where the legislatures will give the consumers a break.

I do not see any reason for that limitation on serving the interests of the consumer. I think the argument for the increased premiums for those who are in the group health plan is, as a result, without foundation.

Mr. STEVENS. Mr. President, I have listened to the Senator from Minnesota as to what my amendment would do.

My amendment merely takes his amendment and makes it optional as to any State plan. The Senator from Minnesota is really criticizing his own approach. All I say is that every State ought to be able to refuse any plan in terms of whether his approach is consistent with the interest of its own people.

The real hooker about the amendment of the Senator from Minnesota is this, and I did not discover this until just now: If a health insurer agrees to participate in the approach set forth by the Senator from Minnesota, it suddenly becomes, even though it is not in the no-fault insurance field, a participant in the assigned risk pool to take care of those injuries that are not covered by any insurance, because there are some people who drive without insurance.

In other words, if you have a person who is driving an automobile and does not have insurance, and strikes a pedestrian, that pedestrian will be paid partially by a health insurance plan that is negotiated, for example, for retired teachers, and has nothing to do with motor vehicle insurance.

The Senator from Minnesota suggests that my approach is going to somehow or other be contrary to the best interests of the consumers. That is a very interesting approach, in view of the fact that I am on the national committee that is dealing with this bill, that provided this bill to meet the consumer demand consistent with the State insurance system. And that State insurance system is based upon a concept of automobile insurance.

What the Senator from Minnesota is saying is, "No, we are not writing an automobile insurance bill, we are writing a health insurance bill," and he wants to put health insurance into a situation where it is primary but only for groups.

If you look at page 2 of the Senator's amendment, it reads:

Such benefits or advantages are provided by such source other than no-fault insurance through group insurance where the individuals who are likely to be the beneficiaries under such group insurance have

received notice that there will be such subtraction;

In other words, no individual can participate. So what we do is, if anyone is lucky enough to be a part of a group that has health insurance, he gets a ripoff, and the ripoff is that the individual who is not a part of a group, the retired person or person who is not part of an organized union or some other group with leverage in terms of negotiation, is going to pay higher premiums for no-fault insurance, and the result will be that no State will pass no-fault insurance unless the overwhelming majority of their people are covered by group health insurance. The net result is that the Senator from Minnesota will kill the bill. If you are really against no-fault insurance, you will support the approach of the Senator from Minnesota.

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

Mr. STEVENS. No, the Senator from Minnesota would not allow me to interrupt. Just 1 minute.

Mr. MONDALE. I thought I did.

Mr. STEVENS. The Senator from Minnesota says my amendment is contrary to consumer interests. What he is doing is so arranging it that the group health insurance people get such a ripoff out of the total no-fault insurance pool that no one will want to stay in the no-fault insurance pool.

If we do that, we will destroy the very concept I have spent two and a half years now trying to work out, and that is a no-fault insurance system that will save the consumers billions of dollars annually, which is consistent with the total rights, and not designed just for those individuals who happen to be a part of a group.

Now I am happy to yield to the Senator from Minnesota.

Mr. MONDALE. Well, the first thing I would say is that the amendment offered by the Senator from Alaska makes the same distinction I do. It applies only to the members of group health policies. So if that argument is so good, and I do not think it is, it runs equally to his advantage against mine.

If we took the amendment of the Senator from Alaska, as amended, it would apply only to members of group health policies.

Mr. STEVENS. That is not so at all. That was the stipulation under the amendment pertaining to motorcycles. When that was offered, I raised the same objection I have raised to the amendment of the Senator from Minnesota, and the sponsors of that amendment realized that it was consistent with the approach of the bill to leave the option up to the States.

If there were States with so much group insurance that members of the group dominate the insurance field, it would be consistent with the total consumer interest to adopt the approach the Senator from Minnesota is talking about. I can think, for instance, of the State of Michigan or Illinois or Ohio, which could probably have that approach. But as you get out West, where people are not members of groups in such enormous numbers as they are in the industrial States, you will find the net effect of mandating that State to follow the Senator's approach is that any group that can go to an insurance commissioner and prove that that group alone would be better off with the approach outlined by the Senator from Minnesota, they can prevail even though everyone else in that State would suffer, and if they suffer they would say no to no-fault insurance; and there is no way you can do it, unless you can do it under the terms of section 2.

Mr. MONDALE. Will the Senator yield?

Mr. STEVENS. I yield.

Mr. MONDALE. Under the terms of my amendment, if the Senator will read it, a group policy that does not follow underwriting principles does not qualify. In other words, it has to be an open group policy; it cannot be a special low-risk group. It has to be a cross-section group policy, or it is not eligible, and it has to have an employer contribution, which means it is a cross-section of employees, and the premium must be lower or they cannot meet the primary terms.

Mr. STEVENS. And the Senator specifically says "lower for that group." He does not say "lower for the consumers as a whole, for the Nation or for a State."

Under my approach, the legislature would look at it and determine whether the consumers of that State would be better with the approach outlined by the Senator from Minnesota, and if in addition it is entirely consistent with the approach of the Senator from Minnesota to adopt the best procedure for that State.

Mr. MONDALE. Will the Senator yield?

Mr. STEVENS. Yes.

Mr. MONDALE. My amendment introduces the principle of competition, which is an old idea in America, that when people compete for business they sometimes lower their profits in order to get it. If you get enough automobiles, you can have double coverage, full health insurance, auto insurance, or just auto insurance, or if it is a better deal for you, health coverage.

What happens under my amendment is that the private insurers and group health programs would be competing with the others to get these health coverages for the lowest premiums.

Competition is a wonderful idea in America. The Senator's amendment would prevent that competition where State auto insurance carriers could prevail on the State legislatures to deny that opportunity.

Mr. STEVENS. I certainly do not agree with the Senator's interpretation of either my approach or his approach, because what the Senator from Minnesota says is that where there is a group that is big enough to dictate the terms of health insurance coverage, it can remove its members from a no-fault insurance plan effectively by proceeding under the procedure set forth in the Senator's amendment.

Where you have individuals who want the protection, and I think there are many individuals in this country who need the protection of no-fault insurance, they will be denied that protection in the States where the groups are so large that they will help insure that covered groups will be weeded out of the no-fault system by the approach of the Senator from Minnesota. I think that is entirely contrary to the spirit of the bill.

I might add that as members of the committee will recall, we explored this question of primacy to a great extent when the matter was before the committee, and all members of our committee who supported agreed at that time that the question of coverage of those injured by the automobile system ought to be first. If you are going to have no-fault insurance, automobile insurance has to be first.

I do not object to the concept of having them paid twice. That is the question of whether they are first or not. If that group insurance policy or health policy is first, in a State that has massive group coverage, you will not have no-fault insurance.

Mr. MONDALE. Mr. President, I will make one more stab at it. The whole idea behind this amendment is to introduce competition. Under the bill as it now stands, it is possible only that auto insurance coverage by private auto insurance carriers will be the primary coverage for health insurers. The only thing my amendment does is say that where the State insurance commissioners can be persuaded that the premium will be lower under group policies, they could order the lower premiums.

That decision would have no effect whatsoever on the premiums of those still covered by the private auto insurer because under the amendment the group policies cannot have special exclusionary rules. The rates would be those for a cross-section of the American public. Under the amendment, they have to participate along with the private insurance companies to pick up the special losses and the high risk of the uninsured motorist, and even with the cost, the premiums must be lowered in order to be eligible.

So I think the concerns of the Senator from Alaska are unfounded. The amendment will strengthen the measure and make it more attractive and, above all, deliver more justice and competition in favor of the American consumer.

Mr. PERCY. Mr. President, after considerable study and discussion, I have concluded that minimum Federal no-fault automobile insurance standards should be enacted and enacted now.

My enthusiasm for this approach has been tempered by my preference for allowing the States to act in this area as they see fit. My earlier question about supporting S. 354 as presently drafted and amended was not due to allegations about its questionable constitutionality. Nor have I felt concern on the grounds that S. 354 will eventually create an enormous new Federal insurance bureaucracy not now contemplated. My initial caution about supporting this legislation has been based on my strong preference for allowing the States, which are the traditional regulators of the in-

surance industry, to adopt genuine no-fault insurance plans tailored to their own special needs.

But the time for action by the Congress is now. Evidence of the unsatisfactory operation of the present automobile liability system is everywhere to be seen. Overpayment of those not seriously injured, underpayment of those seriously and permanently harmed, and low payout ratios are only three of the major deficiencies of the current system. These failings have been noted in all scholarly studies of this subject. The conclusion of Department of Transportation's study of the automobile insurance business as presently constituted was unequivocal:

> In summary, the existing system ill serves the accident victim, the insuring public and society. It is inefficient, overly costly, incomplete and slow. It allocates benefits poorly, discourages rehabilitation and overburdens the courts and legal system. Both on the record of its performance and on the logic of its operation, it does little if anything to minimize crash losses.

The States have been given adequate time to debate, develop, and implement meaningful no-fault insurance plans of their own. Unfortunately, many States have done nothing or have not yet acted in a meaningful fashion.

My conclusion that Federal legislation laying out a basic national framework for State no-fault insurance schemes is now necessary has been buttressed in no small part by the lengthy and learned reports of the Commerce and Judiciary Committees in support of S. 354. These reports clearly indicate that a Federal no-fault insurance system offers the possibility of lower premium rates for most drivers, broader coverage for most victims, and quicker, more equitable payment to those most seriously injured.

During the past week a number of excellent amendments have been offered and passed. Most have been designed to give the States greater flexibility in administering the proposed Federal minimum standards. I have supported most of these proposals enthusiastically for two reasons: their intrinsic merit and the likelihood that their enactment would increase the chances of final passage of the bill.

Today an amendment of an entirely different nature is being offered. This is the Mondale amendment, which would permit group health insurers to be the primary provider of required allowable expense coverage—all medical expenses and funeral expenses up to $1,000—if certain conditions are met. For example, a group health insurer would have to offer unlimited and rehabilitation coverage and the State insurance commissioner, after extensive hearings, would have to find that making group health insurers the primary source of medical benefits would result in cost savings to consumers.

Mr. President, this amendment seems to provide for nothing more than open competition between automobile and group health insurers for the medical insurance premium dollar and for the elimination of overlapping insurance coverages. In reality, it will only complicate the recovery of automobile insurance benefits, vastly increase administrative costs to the insurance industry and the State insurance departments, cause nonmotoring group health insureds to subsidize those who drive, and do all this at a doubtful saving in premium rates.

The Mondale amendment is addressed to the problem of "coordination"—or nonduplication—of insurance benefits. It seems to me that S. 354 handles this problem with admirable efficiency and equity. S. 354, as presently written, basically allows for coordination of overlapping health coverages under automobile and health insurance plans but retains the automobile insurer as the primary source of these benefits. Under section 204(f) of the bill duplicative coverages can be eliminated with a minimum of administrative problems and with an assurance that all savings must be passed on to consumers.

The operation of section 204(f) would have the advantage of ease of administration. Any accident and health insurer is permitted to make its coverage excess over the no-fault benefits provided by automobile insurers. If it does make its coverage excess, there must be a premium saving reflected in the accident and health premium and such saving must be passed on to the policyholder. In cases where the employer purchases accident and health insurance for his employees, the saving must be passed on in some form to the employees.

After thorough study and analysis, the Commerce and Judiciary Committees have concluded that the approach to the question of coordination of overlapping medical benefits provided for in section 204(f) of the bill is best designed to eliminate duplication of benefits and reduce premium costs. The reasons for this conclusion are compelling:

First. The convenience of imposing primary responsibility on automobile insurers for all accident losses.

Accident victims should be able to receive benefits from one source and not have to go to a group health insurer for medical expenses and an automobile insurer for work loss benefits. If automobile insurance pays the primary benefits, compensation can be made swiftly on presensation of evidence of loss—a prime purpose of no-fault automobile insurance. An accident victim need deal with only one entity for compensation of all his losses. In addition, the insurer does not need to go to the added administrative expense of determining what additional sources of insurance the victim might be entitled to receive.

Second. The possibility of greater savings generated by retaining primary responsibility with automobile insurers.

Under the Mondale amendment, if the medical component of automobile accident compensation were carved out of an automobile insurer's responsibility, its total administrative expenses incident to investigating, adjusting, and processing each claim would probably remain relatively constant. In fact these costs could be increased by the necessity for each automobile insurer to compile detailed, up-to-date records as to which policyholders have what group health insurance policies. At the same time, the health insurer would be required to incur new administrative costs incident to coordinating their coverage with the automobile insurer.

If the coordination of benefits approach is used, as provided for in Section 204(f) of the bill, the auto insurer is given primary responsibility for medical as well as other accident costs and this duplication of administrative expense will not occur. Since no-fault insurance provided by S. 354 will cover all citizens, the health insurer will coordinate benefits simply by excluding automobile accident-caused injuries from its coverage.

In short, if a single source—the auto insurer—is primarily responsible for all automobile accident costs, coordination of benefits under section 204(f) of the bill should result in a definite saving on each insured's total health insurance premium. In contrast, if primary responsibility for automobile accident compensation is divided between two insurers, administrative expenses will likely remain constant and may in fact increase somewhat. The net result is greater savings for consumers if no-fault benefits are provided in a single comprehensive package.

The fact that administrative expenses of the automobile insurers remain relatively constant, regardless of whether they are the primary source of medical benefits, makes any comparison of the overall loss ratios of automobile and health insurers illusory and misleading.

Third. The social value of internalizing automobile accident costs to motorists.

From the viewpoint of society, victims, and consumers, an activity that generates costs should bear those costs. In the case of motoring, those who use automobiles should pay for losses caused by their use. By allowing group health insurers to be the primary source of medical benefits, the Mondale amendment would insure that some nonmotorists—primarily the poor and elderly—will be subsidizing a portion of the costs of automobile accidents.

Mr. President, S. 354, as presently written, is a solid piece of legislation, the product of lengthy debate and close analysis. Regardless of the admirable objectives of the Mondale amendment, I feel that all available information indicates that it seeks to meet consumer demands for lower premium costs with a misguided approach. Most who have studied the question of the coordination of duplicative benefits, including the Department of Transportation, the Senate Commerce Committee, and virtually all States that have enacted no-fault statutes, have concluded that automobile insurers should retain their primary role, for paying all no-fault benefits, including medical expenses.

Mr. President, attempting to alter a basic provision of a complicated piece of legislation, only 24 hours before a vote on final passage, is a questionable practice at best. At worst it can lead to irreparable harm to a carefully drafted bill and galvanize opposition to the legislation.

An amendment which works a funda-

mental change in the operation of a bill, such as S. 354, should be closely studied in committee and be the subject of extensive hearings. Now, in the closing hours of debate on S. 354, is not the time to revamp the bill with a provision so complex and so potentially drastic in impact as the Mondale amendment. If such a procedure is to be followed, at this time, it is the proponents of the amendment who must present overwhelming proof of the wisdom of the course they suggest.

The advocates of the Mondale amendment have failed to carry this heavy burden. Senator MONDALE himself, in his statement introducing this proposal, admitted that he is far from certain what the real cost effects would be of allowing group health insurers to be the primary provider of medical benefits for automobile accident victims. Far from offering affirmative substantiation for their departure from S. 354, as reported by the Commerce and Judiciary Committees, supporters of the Mondale amendment have been unable to show that their approach does not do positive harm to the interest of consumers.

Obviously the Mondale amendment is more acceptable if the Stevens amendment to make the State action optional is accepted.

(The following colloquy, which occurred during the discussion of the Mondale amendment, is printed here by unanimous consent.)

UNANIMOUS-CONSENT AGREEMENT

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

Mr. MONDALE. I yield.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that it be in order at this time to ask for the yeas and nays on the Stevens amendment, which will be offered.

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

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays on the Stevens amendment.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. May I ask the distinguished majority leader if there will be a session on Friday?

Mr. MANSFIELD. Oh, yes, and very likely votes, because it is the intention of the joint leadership to take up the supplemental appropriation bill on that day. We will have a pretty full schedule the rest of the week.

Next week we hope to take up the energy bill, providing no obstructions occur along the way. But when we get through with the pending business, then we go back to the bill from the Banking, Housing and Urban Affairs Committee which has the wage-price amendments. That will be followed by the aid to education bill, which will take some time, but we intend to bring in second-track items, and it is the present intention to bring up the military authorization supplemental bill on Friday of this week.

Mr. ROBERT C. BYRD. The supplemental appropriation bill?

Mr. MANSFIELD. The supplemental authorization or the supplemental appropriation, whichever is most conducive at the time.

Mr. ROBERT C. BYRD. The reason I asked, is that I had heard a rumor that the Senate would not be in session Friday, and it caught me somewhat unawares.

Mr. MANSFIELD. No, we will be in session on Friday. We are operating on at least a 5-day basis. I thought the Senate was very much aware of that fact.

There will be no days off, because we have a lot of business to do, and the Lord only knows what will happen later in the year, so the Senate had better be prepared to work a 5-day week and where need be a 6-day week, because we have an election year as well.

Mr. ROBERT C. BYRD. Is it the understanding of the majority leader that there is no assurance that there will not be additional votes today?

Mr. MANSFIELD. None at all. The leadership has not indicated, nor will it indicate on a Tuesday, that there will be no further votes today. If there are votes, if Senators want to offer amendments and request the yeas and nays, the leadership is prepared to support them, because we have a difficult schedule tomorrow.

The Senate has made a tremendous record so far this year. I want to see that record maintained and the responsibility of the Senate upheld.

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

Mr. MANSFIELD. Yes, indeed.

Mr. MONDALE. The Senator from Alaska (Mr. STEVENS) has an amendment which he intends to offer tomorrow. I would propose that we could debate that today, perhaps, and then vote on it just prior to the vote on my amendment tomorrow.

Mr. MANSFIELD. That is perfectly all right——

Mr. MONDALE. There is a time certain for the vote on my amendment tomorrow. It involves the same issues as those raised in the amendment of the Senator from Alaska. So I would hope that can be done.

Mr. MANSFIELD. If the Senator wants to do that, of course, he is within his rights, but that will not preclude the possibility of further rollcall votes this afternoon, if they are requested. And I would point out to the distinguished Senator that the time is pretty compacted tomorrow, and he will have to take his chances if he wants to keep on putting off votes on amendments offered today until tomorrow, because we have a pretty locked-in situation on amendments which are offered or will be offered by the distinguished Senator from North Carolina, the present Presiding Officer (Mr. HELMS), and others.

The final vote will occur on passage at 3 o'clock, and before that there will be a vote on a motion to recommit, I understand, to be made by the Senator from Nebraska.

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

Mr. MANSFIELD. I yield.

Mr. KENNEDY. The majority leader had indicated that there might be additional items which would be worked into the program tomorrow. Has he considered that vessel tariff bill on which the Senator from Minnesota (Mr. MONDALE) and I are offering amendments?

I wanted the leadership to know if I may have the attention of the Senator from Minnesota, that we would be prepared to agree to a time limitation, any time that the leadership felt would be reasonable. We just wanted to raise that. It deals with both a question of a tax cut and some stimulation to the economy, and given the figures and the statistics and information that has been coming out about that subject, which I know the majority leader has been concerned about, I want to assure him that we are prepared to fit this item in at any time of the leadership's preference, and on any time limitation the majority leader would want to request.

Mr. MANSFIELD. Mr. President, the distinguished Senator from Massachusetts (Mr. KENNEDY) has talked with me about this previously. I have looked into the matter. It will not be possible to take it up this week. Perhaps next week. It all depends.

If there is a chance for a time limitation agreement before it is brought up, that would be fine with me. We will see what, if anything, can be worked out. But I would indicate again that when we dispose of the pending business—and we will one way or the other no later than about 3:15 tomorrow—it is then the intention of the joint leadership to return to the consideration of S. 2986 to which wage and price control amendments, or at least one amendment, has been attached.

Whether or not we can finish that bill tomorrow remains to be seen. If not, we will try to finish it on Thursday.

Following that, we will take up the aid to education bill, which will take some time to consider, and at that time the second track items will be S. 3203, a labor bill in which the Senator is interested, the supplemental appropriation bill, S. 3331, the small business bill, S. 411, postal rates, and H.R. 11385, having to do with health.

That is going to be a heavy schedule, so the Senate is on warning that there will be a session on Friday of this week, and there may be votes.

I have heard rumors going around that certain Senators have been told that there will be no votes on Friday. Do not bet on it.

Next week we will have the tariff bill, maybe the energy bill, and we will still be with aid to education.

I hope this explains the situation fully, thoroughly, completely, succinctly, and to the point.

Several Senators addressed the Chair.

Mr. MANSFIELD. I yield to the Senator from Michigan.

Mr. GRIFFIN. Mr. President, I understand that the Senator from Alaska is prepared to go to a vote on his amendment today, and I would say, looking at the clock, that if we are going to have any votes tonight it would probably be on that amendment. I wonder if we could suggest the possibility of an agreement to vote, say, at 4:30 on the amendment of the Senator from Alaska.

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

Mr. GRIFFIN. I yield.

Mr. MONDALE. The distinguished floor manager of this underlying measure (Mr. Moss) is not with us for the remainder of the day. I very much want him here at the time that vote takes place. I would therefore object to a vote this afternoon.

Mr. MANSFIELD. It is possible that other amendments may be called up. Again, as far as the joint leadership is concerned, if there is a possibility of votes this afternoon, they will be undertaken. We feel that we have a responsibility and we cannot be delayed or turned around because of the whims of one Senator, no matter who that Senator may be. We have a lot of business to attend to. We have made an excellent record so far. We do not have too much time left in this session, and we do not know what complications will arise, so I am laying it out for the Senate, and I would hope that the Senate, in its usual manner, would conform.

Mr. MAGNUSON. Mr. President, will the distinguished majority leader yield?

Mr. MANSFIELD. I promised to yield to the Senator from Virginia (Mr. HARRY F. BYRD, JR.) first.

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the Senator from Montana in regard to the tax bill and in regard to the Kennedy amendment to the tax bill, would the leadership consult with the Senator from Virginia before making a time agreement?

Mr. MANSFIELD. I shall be delighted to do so. May I say that I noticed the attitude and the attention the Senator from Virginia gave to the proposal made by the Senator from Massachusetts when it was made. He will be contacted.

Mr. HARRY F. BYRD, JR. I thank the distinguished majority leader.

Mr. MAGNUSON. Mr. President, I appreciate that we want to get the votes out of the way as soon as we can. I do not know of any amendments pending tonight. It will not make much difference time-wise if we go on this tomorrow because we will be through with it anyway by 3 o'clock. The two amendments happen to be right together. We can vote on the Stevens amendment immediately before we vote on the Mondale amendment. It deals with the same subject. There is a time limitation so that time-wise, as I told the Senator from Montana, we will not lose any time by doing it tonight.

There will be some more discussion tonight. I have heard that there are some other amendments not linked to these two so that I would agree we should dispose of them.

Mr. MANSFIELD. The Senator from Washington is considerate, as always. I know that if there was not this connection between the two amendments I would be perfectly willing to have the votes this afternoon. We do not know of any at the moment but we cannot tell when one will show up.

Mr. STEVENS. Mr. President, I am perfectly willing to discuss the amendment this afternoon or tomorrow. My problem is that unless I call it up this afternoon I will not get a vote on it tomorrow.

Mr. ROBERT C. BYRD. The Senator from Alaska is entitled to a vote on his amendment regardless of when it is called up. The catch comes from the fact that he would not have any time to debate it tomorrow. We do not have it clocked out in accordance with the agreement entered into earlier. It may be that Senators on both sides of the question would want a little time tomorrow—5 minutes—to debate that amendment.

Mr. STEVENS. I understand the reason. There will not be any time to explain the amendment tomorrow, so that it must be explained today. Of course, I will be glad if we can vote on it today.

Mr. MAGNUSON. Do what the Senator from Minnesota (Mr. MONDALE) is doing, explain it tonight and vote on it tomorrow.

Mr. MANSFIELD. Mr. President, what is the first amendment to be considered tomorrow?

The PRESIDING OFFICER. If called up, the Stevens amendment will be the first amendment to be voted on.

Mr. MANSFIELD. What time have we decided to come in tomorrow?

Mr. ROBERT C. BYRD. May I state for the leadership a recapitulation of the order already entered.

At 10:30, the Senate will convene tomorrow, with an order for routine morning business up to 11 a.m. At 11 a.m. the Mondale amendment will be resumed. There will be 20 minutes debate on that amendment and then a vote. Following the Mondale amendment, the Helms amendment will be brought up. There is 20 minutes on that amendment and then there is the vote.

Upon disposition of the Helms amendment, there will be a motion to recommit the bill by the Senator from Nebraska (Mr. HRUSKA), with an hour and a half on that motion. Then, upon disposition of that motion to recommit, if the bill is not recommitted, there would be 1 hour—something like an hour and 5 or 10 minutes—remaining for debate, and final passage to occur at 3 o'clock.

The leader should understand that the program as it has been stated could take from the time for debate at the end of the day and allow some time for debate on this amendment prior to the vote on the Mondale amendment.

Mr. MANSFIELD. Would the assistant majority leader work out the picture so that the rights of the Senator from Minnesota (Mr. MONDALE) will continue to be protected and so that the rights of the Senator from Alaska (Mr. STEVENS) will be protected, so that he can make his case this afternoon and that there be the possibility of a 10-minute period tomorrow—with 5 minutes to be controlled by the Senator from Alaska and 5 minutes to be controlled by the Senator from Washington (Mr. MAGNUSON) or whomever he may designate, before a vote would be taken on the Stevens amendment to the Mondale amendment.

Mr. ROBERT C. BYRD. If I may make a suggestion to the distinguished majority leader, I propose the following unanimous-consent request:

I ask unanimous consent that at the hour of 10:45 a.m. tomorrow the Senate resume consideration of the unfinished business. This will allow about 10 minutes for speeches or morning business prior to 10:45. At 10:45 the Senate will resume consideration of the unfinished business. At that time, there will be a 10-minute limitation to be equally divided between the author of the amendment (Mr. STEVENS) and the Senator from Washington (Mr. MAGNUSON) or his designee; at the conclusion of these 10 minutes, a vote will occur on the Stevens amendment; that upon disposition of the Stevens amendment to the Mondale amendment, the 20 minutes for debate on the Mondale amendment would then ensue and the rest of the order would follow as it was ordered yesterday, with the time for the Stevens amendment to be taken out of the time for debate on the bill itself so that the vote would still occur at 3 o'clock.

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

(This marks the end of the colloquy that occurred during the discussion of the Mondale amendment.)

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Hackney, one of its reading clerks, announced that the House had agreed to the amendments of the Senate to the bill (H.R. 8101) to authorize certain Federal agencies to detail personnel and to loan equipment to the Bureau of Sport Fisheries and Wildlife, Department of the Interior.

NATIONAL NO-FAULT MOTOR VEHICLE INSURANCE ACT

The Senate continued with the consideration of the bill (S. 354) to establish a nationwide system of adequate and uniform motor vehicle accident reparation acts and to require no-fault motor vehicle insurance as a condition precedent to using a motor vehicle on public roadways in order to promote and regulate interstate commerce.

AMENDMENT NO. 1207

Mr. HELMS. Mr. President, I ask unanimous consent that it may be in order for me to call up my amendment No. 1207 at this time.

The PRESIDING OFFICER (Mr. HASKELL). Without objection, it is so ordered, and the clerk will state the amendment.

The legislative clerk read as follows:

On page 59, line 10, strike out "or section 304".

On page 68, line 12, strike out "or title III".

On page 83, lines 3 and 4, strike out "or title III".

On page 90, line 14, strike out "or title III".

On page 95, line 7, strike out "or title III".

Beginning on page 96, line 18, strike out all through page 97, line 20.

On page 97, line 21, strike out "(f)" and insert in lieu thereof "(e)".

On page 99, line 20, strike out "or title III".

On page 113, line 8, strike out "or title III".

On page 113, beginning on line 18, strike out all through page 117, line 10.

Mr. HELMS. Mr. President, I should like to ask the cooperation of the leadership in getting the yeas and nays tomorrow, as I realize there are not enough Senators here now.

Mr. President, as I stated last week, on April 23 to be exact, I have a number of reservations about the so-called National No-Fault Motor Vehicle Insurance Act. In my view, the policy underlying the McCarran-Ferguson Act which states that the "continued regulation and taxation by the several States of the business of insurance is in the public interest" is as sound and viable today as it was in 1945, the date of its enactment. Congress should abide by its dictates. I deeply fear that to deviate from the current policy in favor of the course suggested by National No-Fault Motor Vehicle Insurance is to recognize the inevitability of eventual Federal control over all types of insurance. Such a result is to be feared because it is manifestly not in the best interest of the American motorist.

While it is not my primary purpose today to address the constitutional questions presented by the bill, I do feel a duty to register my belief that this proposed legislation may very well be unconstitutional. It would compel the States to create and utilize their own instrumentalities, officials, and facilities to implement and administer the pervasive and far-reaching Federal program contemplated by this bill. Title III provides that in the event a State does not enact conforming legislation, the provisions of title III will be imposed upon the State to be administered and regulated by it. State agencies would be compelled to administer federally established requirements, and they would be required to legislate in response to Federal directions. One may very properly question whether Congress has the power to compel the States to administer a Federal law even if the States are not willing to adopt such provisions.

For my own part, I believe that Congress has a duty to abide by the U.S. Constitution and not enact legislation in derogation of it.

However, it is not my purpose today to debate the constitutional questions presented by this proposed legislation, however meritorious they may be. I am very concerned about the cost consequences which must inevitably result from the approval of this bill. It cannot be said that cost consequences are mere abstractions, or that they are academic considerations only. The increased insurance rates which will surely result from such a plan will be borne by the already overburdened American taxpayer and consumer.

It has been suggested that the impact of this cost increase would fall hardest on the private passenger driver and any savings that might accrue would be to the benefit of commercial vehicle operators. No one wishes to overburden commercial operators, but they do not expect their insurance rates to be subsidized by the private motorists.

Much has been said about the cost estimates of the Milliman and Robertson study. As Senators are aware, this independent actuarial firm was retained to establish credible methodolgy and data bases for costing various no-fault proposals including the Federal proposals. Some would offer the results of this study as evidence that national no-fault will produce lower insurance rates. However, I would urge every Senator to read the caveats on these cost estimates as they appear on page 126 of the Commerce Committee report. Let me quote in part:

> Although our attached conclusions as to the likely cost implications of enactment of S. 354 are probably the best estimates available, it must be recognized that they are nonetheless subject to a rather high degree of variability as well as being susceptible to misinterpretation.

"A high degree of variability" and "very susceptible to misinterpretation." Yet, the proponents of Federal no-fault are willing to base their promise of reduced insurance costs for the American motorists on such uncertain estimates.

On page 50 of the report of the Judiciary Committee, it is stated that:

> The early promise of no-fault insurance was that it would pay all losses of all victims and produce vast savings in automobile insurance programs at a cost to the consumer which was substantially less than the cost of the existing tort system. However, during the ninety-second Congress, the Committee on Commerce received conflicting cost information on the predecessor to the instant bill. Indeed, the only one of the three actuaries actually to conduct a State-by-State survey of projected premium costs at that time testified that forty-two States would experience a total increased premium under no-fault of thirty-seven per cent to sixty-five per cent in the medium coverage category with only one State projecting less than a twenty-five per cent increase. National averages projected a forty-two per cent increase in that category.

In fact, many have suggested that a sound analysis of the Milliman and Robertson study suggests that the no-fault system proposed in this legislation might cost substantially more than the present tort system.

The minority view of the Judiciary Committee concluded that a comparison of the total tort system claim costs to S. 354's low benefit loose threshold and $2,500 per claim deduction makes it apparent that consumers in 44 States will experience an increase in costs. The deletion of the $2,500 per claim deduction will serve to further increase these costs. Only six States could have a decrease. And, of those six States, five have adopted versions of no-fault motor vehicle insurance. Thus, for the most part, any benefit that this legislation might confer in decreasing costs has already been achieved.

The system of motor vehicle insurance for the entire Nation is simply too important and too massive for guess-work. I am convinced that our National interest would be best served by allowing the States to continue to adopt whatever form of insurance they consider to be best suited to the needs of their people. And, I might add, most economical for their people.

Mr. President, the amendment that I have submitted would help alleviate this unwise invasion of the prerogatives of the States. It would delete the alternative Federal plan for no-fault motor vehicle insurance which becomes effective if a State legislature fails to adopt a no-fault plan consistent with the so-called Federal standards. In other words, it would remove the element of compulsion. It reserves the right of the States to experiment with motor vehicle insurance plans. If a State chooses a no-fault plan, it would have to conform to the standards of the bill. But, the States would not be required to establish a no-fault plan if such a plan is considered to be unsuitable to the needs of its citizens. Where no-fault motor vehicle insurance is established, it would be substantially uniform on a national basis. This amendment is compatible with the basic spirit of the legislation, but it removes the element of compulsion. I urge its approval.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

THE KENTUCKY DERBY

Mr. HUDDLESTON. Mr. President, on Saturday, May 4, 1974, the 100th consecutive Kentucky Derby will be run at Churchill Downs in Louisville, accompanied by festivities appropriate to the centennial celebration of an event filled with history, tradition, and lore.

While the "Run for the Roses" does happen to be one of America's great sports spectaculars, attended by some 125,000 to 150,000 persons and viewed by millions more, the derby is more than just a horserace. The derby is people. It is hospitality. It is tradition.

The derby is people—from all walks of life—from every corner of the United States and many foreign countries—people gathered at Churchill Downs for celebration of sport, competition and fair play.

The derby is hospitality. It is Kentuckians welcoming all those that come

into Louisville, with the goodwill and friendliness which pervades the spirit of the State's people all year round.

The derby is tradition. It is meeting friends in the warm Kentucky sun and hearing the masses break into "My Old Kentucky Home" as the horses come onto the track.

But most of all, the derby is a symbol of our State and Nation's heritage and a past we should, indeed, remember and celebrate.

For weeks preceding and following the "most exciting 2 minutes" in sports, thousands of words are written in publications around the globe about this spectacular event. One of particular significance was authored by a former Member of this body, the Honorable Thruston B. Morton, who now serves as chairman of the board of directors of Churchill Downs. The article appeared in the April edition of Antiques magazine.

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

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

THE CENTENNIAL OF THE KENTUCKY DERBY, 1875–1974

(By Thruston B. Morton)

"They're off . . .": that ringing announcement now brings more than 130,000 spectators to their feet at the running of the Kentucky Derby at Churchill Downs every year on the afternoon of the first Saturday in May. The first jewel in racing's Triple Crown, the Derby is the most glamorous, famous, and most publicized horse race in the world. It brings together the nation's finest Thoroughbred three-year-olds who are nominated to the field of this grueling mile-and-a-quarter race on the basis of pedigree and past track performance.

The first Kentucky Derby was run on May 17, 1875; that to be run on May 4, 1974, will mark the one-hundredth consecutive running of the race. It is not the oldest sporting event in the world, nor does it attract as many spectators as the Indianapolis 500 or the Grand National Steeplechase in England, yet it is unquestionably the most famous race of its kind. This was impressed upon me when I served as assistant secretary of state under the late John Foster Dulles. I had the privilege of visiting many capitals of the world with him. We frequently had to attend state dinners where, because of my relatively junior status, I was generally seated "below the salt." When it came out that I was from Louisville, Kentucky, more often than not my opposite number would immediately associate that with the Kentucky Derby and Churchill Downs. It was a happy surprise to me to find it was always the same refrain, whether in Belgrade or Bangkok, Paris or Prague, Manila or Madrid.

How did this come about? Colonel Meriwether Lewis Clark organized the Louisville Jockey Club and Driving Park Association in June 1874—a time when horse racing was at a low ebb in Kentucky and when breeders were considering closing their stock farms because yearlings were selling for around $100. There were only half a dozen race tracks of any consequence around the country at this time. Clark and his associates believed that the formation of the Jockey Club with the purpose of holding a race meet in Louisville might alleviate the depressed situation. They believed that a series of stakes for certain classes and ages would create a renewed demand for Thoroughbreds. Three of these stakes at Churchill Downs—the Derby, the Oaks, and the Clark—will celebrate their hundredth consecutive running this year. The name Derby was first applied to racing in 1780 when an ancestor of the present Lord Derby staged a race for three-year-old colts at his English estate, The Oaks. A companion race exclusively for fillies, first run there in 1779, became known as the Oaks. In 1896 the Kentucky Derby was shortened from a mile and a half to a mile and a quarter and the blanket of roses was awarded to the winner for the first time. The Kentucky Oaks, for fillies only, is held during the spring meet and precedes the Derby by a day; it is run over a course a mile and a sixteenth long. The Clark was originally run in the spring over a two-mile course as a stake for three-year-olds. In 1902 it was changed to a mile and an eighth handicap for three-year-olds and up, and since 1953 it has been included in the fall meet.

Clark leased from his uncles John and Henry Churchill the 180-acre lot then outside the city limits which became the home of the Jockey Club and the Derby. It was called the Louisville Jockey Club Course or the Louisville Race Track until 1886, when an unsigned article in the New York City sporting journal the *Spirit of the Times* referred to it as Churchill Downs, a name which immediately caught on with the public but which did not become official until 1928.

The first Kentucky Derby of 1875 was won by Aristides, a little red horse ridden by Oliver Lewis, a Negro jockey. A crowd of ten thousand watched the race; now a staff of ten thousand is required to take care of the more than 130,000 spectators. More than a thousand of the employees guard and tend twelve hundred Thoroughbreds stabled at the track.

In its first quarter century the Derby grew in prestige. It featured such horses as Baden-Baden, Hindoo, Ben Ali, and Ben Brush; such jockeys as Willie Simms and the incomparable Isaac Murphy; and such owners and breeders as J. B. Haggin, George J. Long, M. F. Dwyer, and William Astor. After the May meeting in 1894 the layout of the track was changed and the old grandstand, almost exactly opposite the present one, was torn down. It faced west and the late afternoon sun glared into the patrons' eyes. The stables now occupy the site of the old grandstand. The present grandstand, capped with the familiar twin spires, was completed in 1895.

Despite the progress made in establishing the Derby as a notable annual event, the twenty-fifth running was overshadowed by the suicide on April 22, 1899, of Colonel Clark, probably because of declining health and financial reverses. The next three years were difficult ones for Churchill Downs. Then the directors appointed a Louisville tailor, Matt Winn, to take over the management of the track. Winn was not a horseman by training but he did have a flair for promotion that he used to good purpose in making the Kentucky Derby the most popular and prestigious race for Thoroughbreds in the world. Nonetheless, the Derby has had its problems: in 1892 and 1905 only three horses went to the post; in 1929 over an inch of rain fell just before the race to create the wettest Derby of all time; in 1932 a field of twenty horses milled around the starting gate for over fifteen minutes as Tick On, the favorite, created most of the disturbance leading to the delay; also in 1932 more than five thousand fans crashed through the backside fence and into the center field; in 1945 the running of the Derby was delayed until June 9, after VE Day.

During the twentieth century the Derby has been enriched with record-breaking achievements. Four jockeys—Earl Sande, Eddie Arcaro, Willie Shoemaker, and Bill Hartack—account for sixteen winning races; three breeders—John E. Madden, E. R. Bradley, and Calumet Farm—for sixteen; and five trainers—the father and son combination of Ben and Jimmy Jones, H. J. Thompson, Max Hirsch, and Sunny Jim Fitzsimmons—for eighteen. Among the winners have been Bold Venture, Bubbling Over, Count Fleet, Determine, Gallant Fox, Halma, Pensive, Ponder, Reigh Count, and Swaps, each of which also had a son who won the Derby. And a salute is due to Regret, the only filly to win the blanket of roses. The managerial skills of Matt Winn were succeeded by those of Wathen Knebelkamp as president and by his successor, Lynn Stone. Together they supervised a number of improvements to the facilities at Churchill Downs.

The second century of the Kentucky Derby undoubtedly will have its own celebrities and establish its own record-breaking statistics. But, with the hundredth running of this classic race on May 4, there are many who will look back with nostalgia to the closing of one era, rich in its own history, and forward with anticipation to the opening of an equally promising epoch.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

ORDER FOR RECOGNITION OF SENATOR McCLELLAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, Mr. McCLELLAN be recognized for a period not to extend beyond 10:45 a.m.

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

Mr. ROBERT C. BYRD. That would mean that Mr. McCLELLAN would have 15 minutes or less, depending on how much time the two leaders or their designees would consume under the standing order.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene tomorrow at 10:30 a.m.

After the two leaders or their designees have been recognized under the standing order, Mr. McCLELLAN will be recognized for a period not to extend beyond 10:45 a.m., which would mean that he would be speaking for a period of 15 minutes or less.

At 10:45 a.m., the Senate will resume consideration of the no-fault insurance bill. The question at that time will be on the adoption of the amendment by Mr. STEVENS to the amendment by Mr. MONDALE, with a 10-minute limitation on the Stevens amendment. A yea and nay vote has been ordered on the Stevens amendment and will occur about 10:55 a.m.

Upon the disposition of the Stevens

amendment, debate will resume on the Mondale amendment as amended, if amended, and under a time limitation of 20 minutes. A yea-and-nay vote will occur then on the Mondale amendment about 11:30 a.m.

Upon the disposition of the Mondale amendment, the Senate will take up the amendment by Mr. HELMS, under a 20-minute time limitation. A yea-and-nay vote will occur on the Helms amendment at 12:05 p.m.

Upon the disposition of the Helms amendment, the Senate will take up the motion by Mr. HRUSKA to recommit the bill, under a time limitation of 90 minutes. If the full 90 minutes are taken, the vote on the motion to recommit the bill will occur about 1:50 p.m.

Upon the disposition of the Hruska motion to recommit, if the recommittal motion fails, the Senate will debate the bill for the remaining time, approximately 55 minutes, until final passage of the bill on a rollcall vote at 3 p.m.

Upon the disposition of the no-fault insurance bill, action will be resumed on the wage and price controls amendment. It is anticipated that yea and nay votes will occur on a division of the amendment, and possibly on other amendments, and hopefully action can be completed on the bill tomorrow. If not, final action will hopefully occur on Thursday.

The Senate will operate on a double track beginning tomorrow and proceeding daily thereafter.

On Thursday, the main track item, in all likelihood, would be the education bill, S. 1539.

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Where would S. 2986 come in, in the event it were not disposed of tomorrow night?

Mr. ROBERT C. BYRD. On Thursday.

Mr. TOWER. It would come in the second track on Thursday?

Mr. ROBERT C. BYRD. It would be one of the track items, with the main track item being the education bill.

I think it would be the intention of the leadership, if at all possible, to finish the wage and price control amendments tomorrow, and hopefully the bill. If not, it would be desired that the action on the bill would then be completed on Thursday.

Possible second track items on Thursday, Friday, and into next week would be the following, but not necessarily in the order listed:

The supplemental appropriation bill which was reported today by the Committee on Appropriations;

S. 3203, the NLR extension to hospital employees;

S. 3331, Small Business Administration;

S. 411, Postal Service;

H.R. 11385, health services;

S. 3267, the energy bill;

H.R. 8217, the bill to exempt from duty certain vessels, equipment and repairs; and

H.R. 12920, the Peace Corps bill.

Conference reports and other measures may be called at any time.

Senators are urged, in arranging their schedules, to consider the strong possibility of rollcall votes daily from here on, keeping in mind that a "glut" of legislation is beginning to accumulate.

ADJOURNMENT TO 10:30 A.M.

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate—and the distinguished assistant Republican leader has indicated he has nothing else for the moment—I move, in accordance with the previous order, that the Senate stand in adjourment until the hour of 10:30 a.m. tomorrow.

The motion was agreed to; and at 5:21 p.m. the Senate adjourned until Wednesday, May 1, 1974, at 10:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 30, 1974:

ORGANIZATION FOR ECONOMIC COOPERATION AND DEVELOPMENT

William C. Turner, of Arizona, to be the Representative of the United States of America to the Organization for Economic Cooperation and Development, with the rank of Ambassador.

CORPORATION FOR PUBLIC BROADCASTING

The following-named persons to be members of the Board of Directors of the Corporation for Public Broadcasting for the terms indicated:

For the remainder of the term expiring March 26, 1976:

Virginia Duncan, of California, vice Thomas B. Curtis, resigned.

For a term expiring March 26, 1980:

Durward Belmont Varner, of Nebraska, vice Jack J. Valenti, term expired.

FEDERAL TRADE COMMISSION

Stephen A. Nye, of California, to be a Federal Trade Commissioner for the unexpired term of 7 years from September 26, 1970, vice David S. Dennion, Jr., resigned.

U.S. TAX COURT

Theodore Tannenwald, Jr., of New York, to be a judge of the U.S. Tax Court for a term expiring 15 years after he takes office. (Reappointment.)

CONFIRMATIONS

Executive nominations confirmed by the Senate April 30, 1974:

DEPARTMENT OF THE TREASURY

William E. Simon, of New Jersey, to be Secretary of the Treasury.

David Robert Macdonald, of Illinois, to be an Assistant Secretary of the Treasury.

Mary T. Brooks, of Idaho, to be Director of the Mint for a term of 5 years.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Tuesday, April 30, 1974*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

If My people, who are called by My name, shall humble themselves, and pray, and seek My face and turn from their wicked ways; then will I hear from heaven, and will forgive their sin and will heal their land.—II Chronicles 7:14.

Almighty God and Father of us all, on this day when the call to prayer comes to us as a nation, teach us to pray and to so pray that in Thee we may find strength for every day, wisdom for every hour, courage for every minute, joy for every second, and love for all of life.

Thou hast promised forgiveness to all those who with hearty repentance turn to Thee. Pardon and deliver us from all our sins as a nation, conform and strengthen us in all goodness, and unite us in mind and heart that we may be one people living with new life, thinking great thoughts, fruitful in our faithfulness to Thee, and compassionate in our concern for one another.

We pray for our President, our Vice President, our Speaker, our Members of Congress, and our leaders in all areas of government, business, and labor. May they feel Thy presence near and in the assurance of Thy love find deliverance from every evil way.

We pray for all the citizens of this free land. May they learn to live together in peace and with good will seeking the welfare of all.

We offer our prayer in the spirit of Him who calls us to pray with Him: "Thy kingdom come, Thy will be done on Earth." 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 agrees to an amendment of the House to a bill of the Senate of the following title:

S. 1647. An act to extend the Environmental Education Act for 3 years.

WATERGATE COVERUP

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

Mr. RIEGLE. Mr. Speaker, the House of Representatives and the American people were invited by the President last evening to join him in the continuing Watergate coverup.

Those censored transcripts from technically unverified tapes are the equivalent of the apple in the Garden of Eden. If we accept such transcripts, no one in America will ever know for sure whether